



STATE OF TEXAS

Impaired Driving Program Assessment

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National Highway Traffic Safety Administration

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This report is intended to assist Texas's efforts to enhance the effectiveness of its impaired driving program by equipping the criminal justice community, prevention and treatment leaders, stakeholders, and law enforcement officials with the knowledge and skills to protect the citizens of Texas from those who drive impaired.

This 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 Texas's roadways, and commends all who are involved in the day-to-day efforts to reduce impaired driving in Texas.

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 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 EMS, occupant protection, impaired driving, traffic records, motorcycle safety, standardized field sobriety testing, driver education, and pedestrian and bicycle safety.

The purpose of the assessment is to provide State management with a review of all components of a given highway safety or EMS program, noting the program's strengths and accomplishments, and noting 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 between 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 a state's program is assessed were developed in accordance with the uniform guidelines and augmented by current best practices.

NHTSA staff facilitates the assessment process by assembling a team of experts composed of individuals who have demonstrated specific expertise in their subject areas. The team reviews all components of a given highway safety or EMS program, notes the program's strengths and accomplishments, and notes where improvements can be made.

The State of Texas requested NHTSA's assistance in assessing the State's alcohol and drug impaired driving countermeasures program to comply with 23 CFR 1300.23 promulgated under the Fixing America's Surface Transportation (FAST) Act and to qualify for the Impaired Driving Countermeasures Grant.

States that have an average impaired driving fatality rate per 100 million vehicle miles traveled (VMT) that is 0.60 or higher are considered high-range states. States are considered mid-range if their average impaired driving fatality rate is lower than 0.60 but higher than 0.30 and low-range if it is 0.30 or lower. Texas is considered a mid-range state and requested to conduct a voluntary NHTSA-facilitated assessment of its impaired driving program.

The on-site portion of the Texas Impaired Driving Program Assessment was conducted at the Embassy Suites Austin Arboretum in Austin, Texas, from August 16-19, 2022. Arrangements were made for program experts (see On-site Agenda) to deliver briefings and provide support materials to the team on a wide range of topics over a two-day period.

STATE BACKGROUND

Texas, the Lone Star State, is in the South-Central region of the United States and borders the states of Louisiana, Arkansas, Oklahoma, and New Mexico and the country of Mexico. Texas sits on the Gulf of Mexico; 367 miles of coastline make up the State's southeastern boarder. At 268,596 square miles and with more than 29.1 million residents in 2020, it is the second-largest U.S. state by both area (after Alaska) and population (after California). Texas has three of the top 10 most populous cities in the U.S. – Houston, Dallas, and San Antonio. Houston is the most populous city in Texas and the fourth largest in the U.S., while San Antonio is the second most populous in the state and seventh largest in the U.S. Dallas–Fort Worth and Greater Houston are, respectively, the fourth- and fifth-largest metropolitan statistical areas in the country. Other major cities include Austin, the second most populous state capital in the U.S., and El Paso. Three interstate highways—I-35 to the west (Dallas–Fort Worth to San Antonio, with Austin in between), I-45 to the east (Dallas to Houston), and I-10 to the south (San Antonio to Houston) define the Texas Urban Triangle region.

Texas is diverse. According to the 2020 census, the racial and ethnic composition of the state was 42.5 percent white (39.7% non-Hispanic white), 11.8 percent Black or African American, 5.4 percent Asian, 0.3 percent American Indian and Alaska Native, 0.1 percent Native Hawaiian and other Pacific Islander, 13.6 percent another race, 17.6 percent two or more races, and 39.3 percent Hispanic and Latino American of any race. The Hispanic population of Texas increased 21 percent from 2010 to 2020. Population projections show the projected growth rate for the Hispanic population in Texas from 2020 to 2050 to be 71 percent.

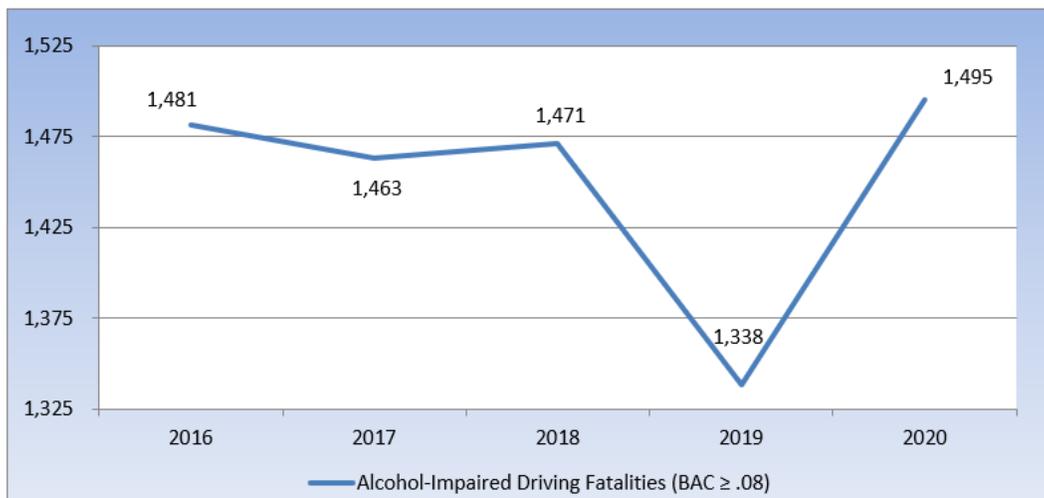
The population of Texas is 49.6 percent male and 50.4 percent female; the Texas Gender Ratio is 99 men to 100 women. Texas's gender ratio is higher than the national average of 97 men to 100 women. The median age has increased slightly in recent years, from 33.5 in 2011 to 34.8 in 2020.

Texas is a state of drivers. The annual vehicle miles traveled in Texas during 2020 reached nearly 261 billion, a decrease of 10.61 percent over the 288 billion miles traveled in 2019. State data shows that traffic-related fatalities in Texas have increased in recent years. On average, from 2016 to 2020, the State of Texas had 3,734 annual fatalities. Fatality Analysis Reporting System (FARS) data shows a downward trend in fatalities, with 3,797 fatalities in 2016 to 3,619 fatalities in 2019. In 2020, Texas recorded 3,874 fatalities. The State attributes the increase to the riskier behaviors people engaged in during the COVID-19 pandemic, shortages in law enforcement personnel, and social unrest observed around the country.

		2018	2019	2020
Number of Texas Fatalities	TxDOT Data	3,656	3,623	3,893
	FARS Data	3,648	3,619	3,874
Miles Driven in Texas (Millions)	TxDOT Data	282,037	288,227	260,580
	FARS Data	282,037	288,227	Not Available
Mileage Death Rate (Persons killed per 100 million vehicle miles traveled)	TxDOT Data	1.30	1.26	1.49
	FARS Data	1.29	1.25	Not Available
Texas Population	TxDOT Data	29,366,479	29,948,091	29,677,668
	FARS Data	28,628,666	28,995,881	Not Available
Population Death Rate (Persons killed per 100,000 Texas Population)	TxDOT Data	12.45	12.10	13.12
	FARS Data	12.74	12.47	Not Available

In 2020, there were 1,495 alcohol-impaired fatalities in Texas. Texas ranked in the top 10 states nationally for the ninth consecutive year for alcohol-impaired fatalities per 100 million vehicle miles traveled and is classified as a mid-range fatality state and is eligible for FAST Act Section 405(d) funding. According to Texas Department of Transportation data, there were 23,224 alcohol-related crashes and injuries in 2020.

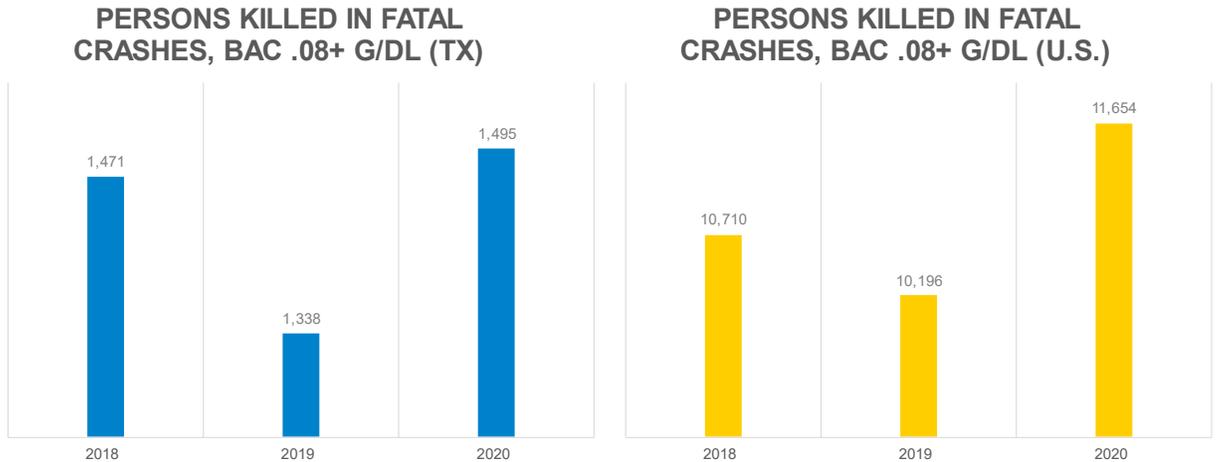
Alcohol-Impaired Driving Fatalities - BAC ≥ .08 (C-5)



Source: Fatality Analysis Reporting System (FARS April 9th, 2022)

However, in comparison to the rest of the country, alcohol-impaired fatalities climbed at a slower rate in Texas compared to the rest of the U.S. in 2020.

Alcohol-Impaired Fatalities



↑ 1.6% alcohol-impaired (.08+) fatalities, 2018-2020

↑ 8.8% alcohol-impaired (.08+) fatalities, 2018-2020

PRIORITY RECOMMENDATIONS

I. Program Management and Strategic Planning

- **Acquire official status by a governor-issued Executive Order officially establishing the Texas Impaired Driving Task Force with the stated intent of validating strategies to combat impaired driving-related vehicle crashes, serious injuries, and fatalities on Texas roadways.**
- **Expand the composition of the Impaired Driving Task Force to fill representation gaps created by the lack of experts in the fields of local public health, emergency medicine, and alcohol and other drug treatment and prevention programs. Other groups to be considered for membership should include representatives from the military, veterans, employers, and community groups, especially those representing diverse populations.**
- **Form a Senior Executive Council for the Strategic Highway Safety Plan, led by the Governor's Representative for Highway Safety, that consists of less than a dozen top-ranking officials from key stakeholder groups including:**
 - **the National Highway Traffic Safety Administration**
 - **the Federal Highway Administration**
 - **the Federal Motor Carrier Safety Administration**
 - **the Texas Department of Transportation's Traffic Safety Division**
 - **select senior law enforcement**
 - **other Commissioners from other agencies critical to implementing the strategies of the plan**

II. Prevention

- **Enact a ten cent per drink tax.**
- **Provide Drug Impairment Training for Educational Professionals (DITEP) to school staff throughout Texas.**

III. Criminal Justice System

- **Enact a statute that establishes a driving while intoxicated (DWI) tracking system by giving strong incentives to all keepers of impaired driving offenses data to make sure that the records systems communicate data to each other to track every DWI offense.**
- **Recruit additional Drug Recognition Experts (DREs) and provide agency priority in counties or jurisdictions with no DREs.**

- **Create and fund driving while intoxicated officer positions to focus on impaired driving enforcement.**
- **Support the expansion of Law Enforcement Advanced Data Reporting System (LEADRS).**
- **Increase forensic laboratory capacity to screen and confirm toxicological specimens submitted by law enforcement AND timely produce toxicology reports.**
- **Write a white paper setting out the requirements and rationale for a complete driving while intoxicated tracking system.**
- **Work with Law Enforcement Advanced Data Reporting System (LEADRS) and other justice information systems to design a path forward to have a driving while intoxicated tracking system.**

IV. Communication Program

No priority recommendations for this section.

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

- **Identify, train, and support qualified assessment and evaluation professionals in underserved areas.**
- **Enact a statute that establishes a driving while intoxicated (DWI) tracking system by giving strong incentives to all keepers of impaired driving offenses data to make sure that the records systems communicate data to each other to track every DWI offense.**
- **Conduct an impact evaluation of driving while intoxicated courts.**

VI. Program Evaluation and Data

- **Enact a statute that establishes a driving while intoxicated (DWI) tracking system by giving strong incentives to all keepers of impaired driving offenses data to make sure that the records systems communicate data to each other to track every DWI offense.**
- **Evaluate the Ignition Interlock Device program to determine if its current processes are effective and consider whether a more centralized approach would provide for broader participation and compliance.**

- **Centralize the monitoring of compliance and establish a single source of records to evaluate the effectiveness of the Ignition Interlock Device program as an impaired driver recidivism reduction program.**

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

The Texas Impaired Driving Task Force (TxIDTF) was officially established in 2012 with its origins dating back to 2005 as a loosely structured group of representatives from enforcement, training, and the Texas Department of Transportation (TxDOT). The TxIDTF's stated mission is to eliminate injury and death caused by impaired driving in Texas. The TxIDTF is officially guided by its charter and is comprised of persons with expertise in associated fields who develop strategies to eliminate driving while intoxicated (DWI) injuries and death. The TxIDTF is a



component of the TxDOT Impaired Driving Program in that it identifies best practices, innovative solutions, and provides recommendations to TxDOT, allied professionals/program partners, state and local government agencies, and the general public. The TxIDTF is co-chaired by a representative from TxDOT and one person from the agency that receives the grant funds supporting the Task Force. Its activities are coordinated by the Texas A&M Transportation Institute (TTI).

The TxIDTF has a specific charter that describes officers, membership, and meeting requirements. It also identifies specific subcommittees necessary to accomplish the task force's goals. This charter designates the primary task of the TxIDTF as being the preparation and maintenance of the Texas Impaired Driving Plan that provides strategic and operational recommendations for the State and TxDOT specifically in terms of eliminating the impaired driving problem on Texas roadways.

In addition to officials from TxDOT, members of the TxIDTF include, among others, representatives from a variety of law enforcement agencies, prosecutors' offices, judicial services, local government, universities, and partner organizations such as the American Automobile Association, the National Safety Council, and Mothers Against Drunk Driving. With the exception of educating specialty treatment courts, the TxIDTF is not currently engaged with treatment and rehabilitation activities. The TxIDTF does work with health care and other professionals related to treatment and rehabilitation.

The TxIDTF appears to be well-organized and very active. It has established its own website with extensive information about the organization and its Impaired Driving Plan, as well as meeting notes, forum details, events, and resources. Due to its large membership and the State's geography, the TxIDTF meets in person tri-annually. The TxIDTF is supported by five subcommittees: Awards Selection, Education, Legislative, Research, and Drug Impaired Driving. In Fiscal Year (FY) 2020, the TxIDTF established the Research Subcommittee with the purpose of reviewing research literature on impairment and driving. The Subcommittee's goal is to inform TxIDTF members about relevant impaired driving literature so they may stay abreast of current evidence-based findings.

Additionally, in February 2022, the TxIDTF coordinated and sponsored the virtual Texas Statewide Impaired Driving Forum. In-depth newsletters are published tri-annually and are available on the TxIDTF website.

In 2021, the TxIDTF developed and approved the Texas Impaired Driving Plan (TIDP). The TIDP catalogs and describes general activities ongoing across the state dealing with the problem of impaired driving including those affiliated with TxDOT's Traffic Safety Division's Behavioral Traffic Safety Section (TRF-BTS) and its partner organizations. This plan is used as a guidance document for the TRF-BTS Alcohol and Other Drug Countermeasures Program, but neither it nor the TxIDTF itself have the authority for specific project selection. A significant portion of the plan includes a detailed review of the previous Impaired Driving Assessment (conducted in 2015) along with any progress on the assessment's key recommendations.

The TxIDTF has not been sanctioned by any enabling legislative action, directive from the Texas Transportation Commission, and/or an Executive Order from the Governor. It seemingly remains as a highly organized work group consisting of qualified subject matter experts in the fields of impaired driving, which is limited to making informal recommendations and providing guidance. Although the TxIDTF has a very diverse membership that form several highly functioning subcommittees, it unfortunately does not have the representation of the most senior executive members of government, nor does it have the validation of the governor's office. This lack of executive recognition limits the authority and impact of the task force. A similar recommendation from a previous program assessment has met with limited success despite letters to the Texas Transportation Commission.

Additionally, within the membership of the TxIDTF there appears to be gaps in representation from related stakeholders such as local/county Public Health Offices, emergency medical providers and hospital trauma centers, addiction and treatment specialists, and ambassadors from community groups representing diverse populations, social influencers, and/or faith-based organizations from within the state.

Recommendations

- **Acquire official status by a governor-issued Executive Order officially establishing the Texas Impaired Driving Task Force with the stated intent of validating strategies to combat impaired driving-related vehicle crashes, serious injuries, and fatalities on Texas roadways.**
- Expand the Texas Impaired Driving Task Force to include an Executive Council consisting of a variety of high-ranking state officials to elevate the profile and status of the task force within the governmental framework.
- Leverage the executive authority of the Texas Impaired Driving Task Force to provide the Governor and key members of the state's Senate and House of Representatives with an in-person account of the group's work along with an educational report on the status of impaired driving-related crashes to include associated data and research regarding the carnage of human lives lost and associated costs.
- **Expand the composition of the Impaired Driving Task Force to fill representation gaps created by the lack of experts in the fields of local public health, emergency medicine, and alcohol and other drug treatment and prevention programs. Other groups to be considered for membership should include representatives from the military, veterans, employers, and community groups, especially those representing diverse populations.**

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

The State recently updated, and has approved, a five-year (2022-2027) Strategic Highway Safety Plan (SHSP). The SHSP is a “statewide-coordinated safety plan that provides a comprehensive framework for reducing highway fatalities and serious injuries on all public roads.” The updated SHSP incorporates elements of the Safe System Approach, including the premise that responsibility for traffic crashes is a shared responsibility requiring all stakeholders to work collaboratively to mitigate the effects of traffic crashes. Toward that goal the State has both the engineering and behavioral safety programs housed within the Texas Department of Transportation (TxDOT) and is also the parent organization for the Traffic Incident Management (TIM) program which leads emergency response and post-crash care initiatives.

Texas first developed an SHSP in 2006 and subsequent SHSPs were built on this initial plan, using new data and input from safety stakeholders to update goals, objectives, and key Emphasis Areas (EA). TxDOT has used the SHSP to help guide many safety initiatives since the development of the first plan, and to provide a comprehensive framework for reducing highway fatalities and serious injuries. Crash data from 2017-

2021 was analyzed to identify the most cited factors to determine the EAs, and impaired driving remains as one of eight EAs in the current plan. This EA is managed by the Texas Impaired Driving Task Force (TxIDTF).

The Texas Transportation Commission (TTC), in May of 2019, adopted Minute Order 115481, directing TxDOT to work toward the goal of reducing the number of deaths on Texas roadways by half by the year 2035 and to zero by the year 2050. Under this direction, the targets within the 2022 revision of the SHSP are aligned with the Road-to-Zero (RTZ) direction by the TTC. As a result of the RTZ Minute Order, the performance target for the number of fatalities is based on the 2019 crash data as the initial point, 50 percent of that number as the mid-point on the line (1,800 by 2035), and the long-term target of zero fatalities by 2050. The linear trend line based on the RTZ targets served as the means of projection for the fatalities. The five primary target types noted in the SHSP are aligned with both the State’s Highway Safety Improvement Program (HSIP) and the Highway Safety Plan (HSP). TxDOT likewise updated its Fatality and Fatality Rate Performance Measure Targets for Fiscal Year (FY) 2022 in its HSP.

Several analytic methods used to explore future fatality levels suggested that the risk of fatal and serious injuries and crashes on Texas roadways was expected to remain relatively constant, and not significantly decline, as projected through terms of economic influences and behavioral laws. For the purposes of near-term target setting, it was determined that targets would reflect a realistic assessment of both the likely amount of exposure (travel), and the potential to reduce risk over the five-year SHSP period given expected levels of resources. Nevertheless, within the SHSP it is stated, “To end the unacceptable streak of deaths on Texas roadways, the state will need to put an increased emphasis on safety in project prioritization, selection and design as well as continuing to address driver behavior through its driver education programs and enforcement.”

The SHSP update process was guided by an Executive Committee (EC) that will provide oversight of the plan’s implementation. The EC is comprised of a diverse set of stakeholders including several from local governments, Metropolitan Planning Organizations (MPOs), and federal and private partners.



The specific roles of the EC are to:

- provide leadership and support to the SHSP revision process
- provide input on EA selection
- approve vision, mission, and performance targets
- review and approve the SHSP
- promote road safety internally and externally

The Management Team of the recently approved SHSP is comprised of officials from TxDOT’s Traffic Safety Division and the TRF-BTS, along with external partners, and focuses on integration of the plan. This team is responsible for facilitating data analysis, coordinating EA team activities, identifying target setting methodology, developing performance targets, and ensuring consistency throughout the plan.

Based on crash data during the five-year period of 2016-2021, impaired driving related crashes constitute 18 percent of all crashes and 19 percent of all fatal and serious injuries. Overlapping factors such as intersections, roadway and lane departure, as well as behavioral factors such as speed and lack of restraint compound the issue of impaired driving. Utilizing the basic principles of the Safe System Approach, the SHSP calls for continued education and enforcement measures while assessing viable options for technology-based interventions on the system and in vehicles.

Texas is considered a mid-range state for FY 2021 because its alcohol-impaired driving fatality rate was 0.51 based on the number of fatalities in motor vehicle crashes involving a driver with a blood alcohol concentration (BAC) of at least 0.08 g/dL for every 100,000,000 vehicle miles traveled, using the federal Fatality Analysis Reporting System (FARS) data from 2017-2019. As stated in the FY 2022 HSP, there were 1,332 alcohol-impaired driving fatalities where a driver had a BAC of 0.08 g/dL or greater in 2019 in Texas. Current FARS data suggests that alcohol-impaired driving fatalities where a driver had a BAC of 0.08 g/dL or greater are trending downward.

Additionally, it was determined:

- Impaired driving crashes occurred equally in rural and urban areas.
- The greatest concentration of impaired crashes occurred on weekends at night from 10:00 p.m. to 2:00 a.m.
- Nearly 60 percent of impaired driving crashes involved a single vehicle running off the road. About 28 percent were speed related.

The Impaired Driving EA Team is led by the TxIDTF and includes a diverse set of federal, state, and local partners. The EA Team is responsible for focusing on specific crash factors and data sets to identify strategies and plan implementation. The Impaired Driving EA Team reduced the number of strategies within the Impaired Driving EA from 5 in 2016 5-year plan to 3 in the current plan.

Strategies for the Impaired Driving Emphasis Area (2022-2027)

NUMBER	STRATEGY
1	Increase education for all road users on the impact of impaired driving and its prevention.
2	Increase officer contacts with impaired drivers through regular traffic enforcement.
3	Increase data, training, and resources for law enforcement officers, prosecutors, toxicologists, judges, and community supervision personnel in the area of alcohol and/or other drugged-driving.

Each of the strategies has its own Implementation Plan with specific action steps.

Additionally, the Texas Impaired Driving Plan addresses a Strategic Planning Recommendation that resulted from the State's 2015 Impaired Driving Assessment. The recommendation cited in the report was, "Develop and fund a driving under the influence (DUI/DWI) tracking system that would link Texas criminal justice agencies databases in order to create a network containing offenders' criminal history, arrests, warrants, photographs, and fingerprints, to ensure access to offenders' previous and/or current DUI/DWI history." This recommendation remains currently valid for effective planning and adjudication purposes and supports a stated strategy within the program's impaired driving program. Background information provided by the TxIDTF, however, indicates that although this continues to be a priority need for TxDOT, the DWI tracking database is not currently being addressed due to prioritization and limited funds.

Recommendations

- **Form a Senior Executive Council for the Strategic Highway Safety Plan, led by the Governor's Representative for Highway Safety, that consists of less than a dozen top-ranking officials from key stakeholder groups including:**
 - **the National Highway Traffic Safety Administration**
 - **the Federal Highway Administration**
 - **the Federal Motor Carrier Safety Administration**
 - **the Texas Department of Transportation's Traffic Safety Division**
 - **select senior law enforcement**
 - **other Commissioners from other agencies critical to implementing the strategies of the plan**
- Develop a regular meeting schedule for the Strategic Highway Safety Plan Senior Executive Council to review the progress of the State in moving toward its stated goals and to hear from Emphasis Area Team Leaders on progress and challenges they face, especially those that might be addressed by the senior executives in the group.
- Expand the standing Strategic Highway Safety Plan Executive Group to include senior representatives from the State's Department of Insurance along with officials from major industries and/or corporations, or their representative professional associations.
- Affect closer coordination of the Highway Safety Improvement Program and the Impaired Driving Plan to identify specific engineering treatments that might be implemented in corridors of over-represented driving while intoxicated-related crashes based on crash causation data. These engineering treatments, once applied, should include collaboration with the appropriate law enforcement partners directing their efforts to the areas of such improvements along with signage and media strategies.

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.¹*

Status

Leadership and Administration

The Texas Behavioral Traffic Safety Program (BTS) is the State's lead agency for its impaired driving program and administers the State's federally-funded behavioral highway safety program. The Executive Director of the Texas Department of Transportation (TxDOT) serves as the Governor's Highway Safety Representative and answers to the Texas Transportation Commission. The TxDOT organizational chart indicates that the BTS is several layers below the Executive Director and is a section within the TxDOT Traffic Safety Division (TRF). The TRF is an organizational component of the Engineering and Safety Operations Division whose director answers to TxDOT Chief Engineer.

Following the retirement of its long-time director, a new TRF-BTS Office Director and Highway Safety Coordinator was recently appointed. The new Director was formerly the TRF-BTS Program Planner, who was critical in program and performance planning, and possesses sufficient highway safety experience. The TxDOT TRF-BTS is headquartered in Austin and includes 30 Traffic Safety Specialists (TSSs) in 25 TxDOT district offices. These TSSs coordinate and manage the Texas Behavioral Traffic Safety Program at the local level, and in some instances, manage statewide programs with direction and guidance from TRF headquarters in Austin.

¹ See "Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Offices," Sixth Edition, 2011.

The TRF-BTS is positioned deep within the exceptionally large TxDOT and is several organizational levels below the Governor's Highway Safety Representative. The TRF-BTS Director meets regularly with the Director of TxDOT's TRF who passes on information about highway safety program progress, issues, and challenges during meetings with the TxDOT Executive Director. This organizational structure may naturally add layers of bureaucracy and possibly inhibits its executive leadership and its public profile.

Problem Identification and Project Selection

The stated mission of the BTS is to implement traffic safety education and enforcement strategies to reduce traffic fatalities in Texas by half by year 2035, and to zero by 2050. These goals were established through a Minute Order by the Texas Transportation Commission in May 2019.

The goals of the TRF-BTS Impaired Driving Program are twofold:

- Reduce the number of alcohol impaired and driving under the influence of alcohol and other drug crashes, fatalities and injuries
- Reduce the number of driving while intoxicated (DWI)-related crashes where the driver is under age 21

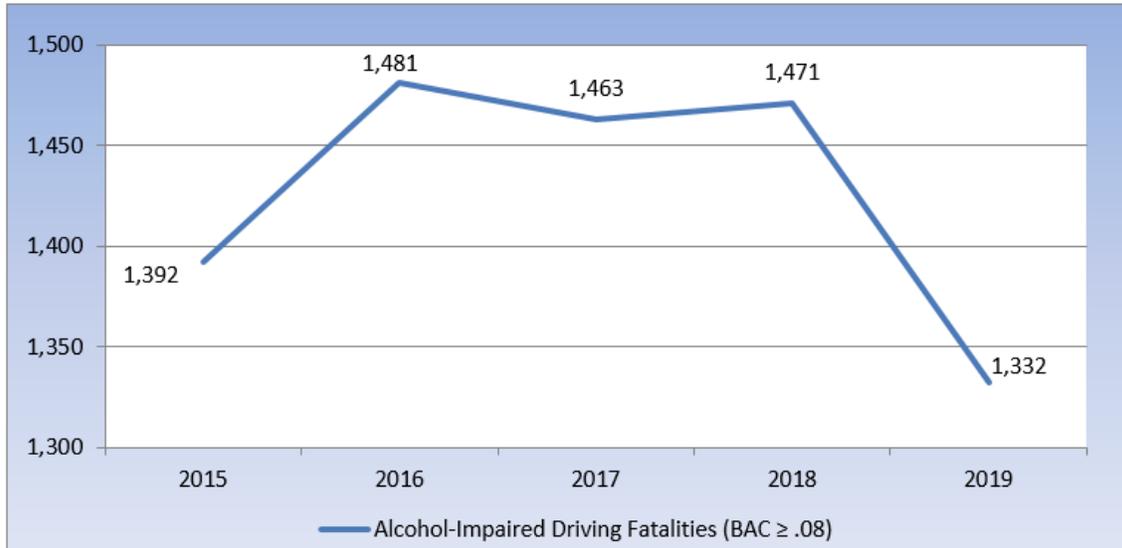
Strategies for achieving these goals are numerous and diverse and include among others:

- Improve adjudication and processing of DWI cases
- Improve and increase training for law enforcement
- Improve anti-DWI public information and education campaigns including appropriate bilingual campaigns
- Increase and sustain high visibility enforcement of DWI laws
- Increase enforcement of DWI by minors laws
- Increase public education and information including parent education on drinking and driving
- Increase the number of law enforcement task forces and coordinated enforcement campaigns

Problem identification and project selection within the TRF-BTS is aided by a wealth of data and analytical tools. Most of this data originates from the TxDOT Crash Information System (CRIS) populated by Texas Peace Officer Crash Reports (Form CR-3). Additional roadway inventory data are merged with crash and injury-related information resulting in a roadway specific analysis. Also collected through this system are driver, vehicle, roadway characteristics, and contributing factor data. Health, injury, and emergency response data are derived from the Texas Department of State Health Services. These data and analytical tools provide the BTS with static, fixed-format reports as well as custom analyses and evaluations used in identifying and quantifying specific local and statewide traffic safety issues.

Based on NHTSA’s Fatality Analysis Reporting System (FARS), it is noted that there were 1,332 alcohol-impaired driving fatalities in Texas in 2019. Texas ranks in the top 10 states nationally for alcohol-related fatalities per 100 million vehicle miles travelled (VMT) for FY 2019 (the most current year for which data is available).

State of Texas: Alcohol-Impaired Driving Fatalities (BAC ≥ .08)



Source: Fatality Analysis Reporting System (FARS May 28th, 2021)

The standardized performance measure (C-5), contained within the Highway Safety Plan (HSP) for Fiscal Year (FY) 2022, indicates a target of 1,591 fatalities in crashes involving a driver or motorcycle operator with a blood alcohol concentration (BAC) of 0.08 and above (FARS). The current data compiled from the State’s CRIS suggests that both fatalities and serious injuries resulting from impaired driving-related crashes (0.08 and above) are declining. For the past two years, FY 2020 and 2021, the State has met its HSP performance targets in this category (C-5). A number of potential reasons for this decline were cited including enhanced Emergency Medical Services, increased enforcement, and improved reporting procedures of blood alcohol concentration (BAC) results.

The development of priority traffic safety performance measures and targets for each program area utilizes a strategic planning process consisting of a three-step cycle including review, assessment, and modification conducted by the BTS Program Planner. The process of developing long- and short-term strategies by the Program Planner, includes input from TRF-BTS project and program managers as well as other program partners. Past and current data trends, along with review of past performance, assists the Program Planner in validating draft strategies and targets. Performance measures and targets are carefully identified during this process. State and local agencies, as well as public and private organizations, then develop projects to support and implement the program’s strategies. Eligible organizations interested in traffic safety issues submit data-

driven project proposals when requested by TRF-BTS, and grants are awarded based on score, merit/performance rating, project relevancy, significance of identified traffic safety problem(s) and solution, and available funding.

In addition to the various law enforcement partners and statewide stakeholder groups funded through BTS, the BTS also supports a Safe Communities Program at the local level. Local coalitions are known to provide critical support of all highway safety programs by elevating the profile and importance of these programs directly to community members through outreach and educational activities. Although Texas has 254 counties, there are only 18 current Safe Community groups actively involved in BTS programs, and only one of those (Brazos Valley) is supported with grant funds. Objectives noted within the Brazos Valley Injury Prevention Coalition project include, among others, the conducting of 25 parent/guardian/educator presentations to educate communities on the risk of impaired driving by September 2022. Plans call for expanding the Safe Communities program to include one in each of TxDOT's 25 districts.

Grant Administration

The TxDOT TRF has developed a web-based manual for establishing program and management procedures for subgrants and contracts in support of the BTS. Included in the manual are descriptions of federally funded projects related to impaired driving as noted within Section 405(d) of the federal legislation, Fixing America's Surface Transportation (FAST) Act.

The TRF-BTS utilizes an eGrants web-based system to support project proposal submission and scoring, in addition to grant cycle project management and monthly reporting to the BTS. This system utilizes electronic signatures and serves as the main repository for the collection and management of program information.

Subgrantees must demonstrate compliance with the Texas Administrative Code (Title 43 §25.906b) by certifying adoption of an internal ethics and compliance program that satisfies the requirements of Texas regulation under Title 43. TxDOT's Compliance Division reviews and approves each agency's Internal Compliance Program prior to any grant execution with limited exceptions.

TRF-BTS Project Managers monitor and evaluate subgrantee performance through site visits, telephone contacts, and/or review of Performance Reports and Requests for Reimbursement. Project monitoring is an ongoing process conducted throughout the duration of the project:

- to ensure compliance with state and federal requirements
- to ensure objectives and performance measures are being achieved
- for detecting and preventing problems
- for helping to identify modifications
- to identify exemplary projects and best practices, among others

Funded projects are evaluated by the TRF-BTS to ensure compliance with state and federal regulations and to identify any potential risks associated with the project. The TRF-BTS has developed a comprehensive eGrants Project Grading System, utilizing specific graded criteria, to assist with the review of project accomplishments (e.g. performance measures completed and targets achieved) to determine whether or not the grant provided a beneficial service to the Traffic Safety Program.

Improvements added to the TRF-BTS eGrants system include:

- modified the mobilization Click It or Ticket and impaired driving mobilization grants program, to capture vehicle stops and target high fatality enforcement zones
- enhanced system features used by staff for the review and approval of project documentation and monthly reports
- delivered eGrants training and assistance to users on navigating processes and using forms, tools, and system features
- modified the supporting document for voucher billing
- updated eGrants' help and instruction files

Personnel and Training

The BTS is comprised of a staff of 49 TxDOT employees and 2 external contractors. One of the three Program Management Branches is dedicated to statewide program areas, and that branch has a Program Area Manager dedicated specifically to the Impaired Driving Program Area and another Program Area Manager is in charge of the Statewide Impaired Driving Campaign. The TRF-BTS additionally has Law Enforcement Liaisons (LELs) under contract and available to meet with law enforcement partners throughout the year. The TRF-BTS also has a grant-funded project with the Texas District and Counties Attorneys Association who employ a DWI Resource Prosecutor as a trainer and liaison who provides regional prosecutor/officer courses, publications, articles, case notes, technical assistance, and a web site.

In FY 2021, TxDOT offered virtual live online trainings for BTS staff that included, among others, such topics as Foundations of Highway Safety, NHTSA Highway Safety Grants Management, Introduction to Impaired Driving Program Management, and Highway Safety Plan Development.

Recommendations

- Schedule regular meetings with the Executive Director of the Texas Department of Transportation, who serves as the Governor’s Highway Safety Representative, with deference to all existing chain-of-command protocols, to maintain the current profile and momentum of the State’s highway safety and impaired driving efforts.
- Expand the Texas Safe Communities initiative to involve more local coalitions in areas of over-represented driving while intoxicated (DWI)-related crashes in each of the Department of Transportation districts.
- Utilize published tools for highway safety office directors, created by the Governors Highway Safety Association, to identify strategies for expanding collaboration with senior law enforcement executives within the Texas Police Chiefs Association and the Sheriffs’ Association of Texas.

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

Texas is classified as a midrange alcohol fatality state (0.51 fatality rate) which makes it eligible for Fixing America's Surface Transportation (FAST) Act Section 405(d) funding. Planned funding by the Texas Department of Transportation (TxDOT)'s Behavioral Traffic Safety Section (BTS) for Fiscal Year (FY) 2022, to support the State's impaired driving program, calls for \$2,733,148.85 in Section 402 funds (with \$336,663.32 dedicated for Local benefit); \$12,418,658.29 in Section 405(d) funds, and a total of \$8,652,387.51 in State Funds, Local Match, and Program Income. These budgeted funds represent the largest dedicated program area funding within the BTS's behavioral traffic safety program.

In FY 2021, TxDOT awarded 397 traffic safety grants to state and local governmental agencies, colleges and universities, and non-profit agencies across Texas. Of these, 77 Alcohol and Other Drugs Countermeasures projects were planned. Funded projects are

based on thorough problem identification that utilizes State and federal crash data, as well as other data related to geographic and demographic aspects of traffic safety and driver behavior.

The following table provides a fiscal summary for FY 2021 – 2022 as noted in the State’s Highway Safety Plan.

SOURCE	FY 2020 Awarded	FY 2021 Awarded	FY 2022 Budgeted
Federal Funds	\$13,807,575.01	\$14,784,697.79	\$15,151,807.14
State Funds	\$0.00	\$300,000.00	\$300,000.00
Local Match	\$25,755,278.16	\$8,219,354.43	\$8,344,387.51
Program Income	\$12,000.00	\$12,000.00	\$8,000.00
Total	\$39,574,853.17	\$23,316,052.22	\$23,804,194.65

Of the projects actually funded and implemented in FY 2021, excluding law enforcement agency STEP mobilizations and mini grants issued for high school prom and graduation events, the median percentage of individual project expenditures was approximately 89 percent of that allocated. Only 42 percent of the Section 405(d) funds originally budgeted under one general project number to individual law enforcement agencies for overtime quarterly impaired driving mobilizations and earned media were expended. This was likely a result of the fact that only 26 agencies accepted the project funds of the original 40 planned. Similarly, 66 percent of the State funds originally budgeted under one general project number to support Project Celebration Mini-Grants for high schools were expended. These grants were distributed to approximately 575 high schools to assist in sponsoring alcohol-free events around prom and graduation time.

No legislation currently exists that diverts funds to the State’s impaired driving program from fines levied against drivers convicted of impaired driving offenses. There is however support of the program from AAA Texas and Mothers Against Drunk Driving (MADD). AAA Texas provides funding for instructional materials, food, lodging, and time off to assist in the training of local law enforcement becoming Drug Recognition Experts (DRE). MADD has been facilitating local outreach and youth programs related to underage drinking.

There is no evidence of the extent of involvement of the Commissioner of the Texas Department of Insurance on either the Executive Committee of the Strategic Highway Safety Plan or the Texas Impaired Driving Task Force (TxIDTF). This lack of involvement by the insurance industry inhibits the acquisition of potentially valuable data sets as well as any possibility of funding, or incentive programs, by the State’s insurance companies in support of the impaired driving program.

Although outreach to the State’s corporate entities is conducted by the National Safety Council (represented on the TxIDTF), there is no evidence of the extent of direct involvement of any of the numerous Texas private industries and corporations, or their representative associations, in the State’s impaired driving program. This too limits the possibility of private resources assisting the program.

Recommendations

- Leverage the executive authority of the Texas Impaired Driving Task Force to provide the Governor and key members of the state's Senate and House of Representatives with a regular educational report on the status of impaired driving-related crashes to include associated data and research regarding the carnage of human lives lost and associated costs.
- Engage private and grassroots local groups to provide education and information to legislators regarding the State's impaired driving problems.
- Dedicate State funding through legislation to the impaired driving program through either existing or increased financial penalties for driving while intoxicated offenses.
- Develop partnerships with major corporations, or their representative professional associations, to expand the reach of the impaired driving program and potential funding and/or incentive opportunities.
- Utilize the Network of Employers for Traffic Safety, in addition to the National Safety Council, to identify strategies for working with the State's employers to provide impaired driving information and materials for their employees to reduce the number of traffic crashes and their related effect both on and off the job.

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:

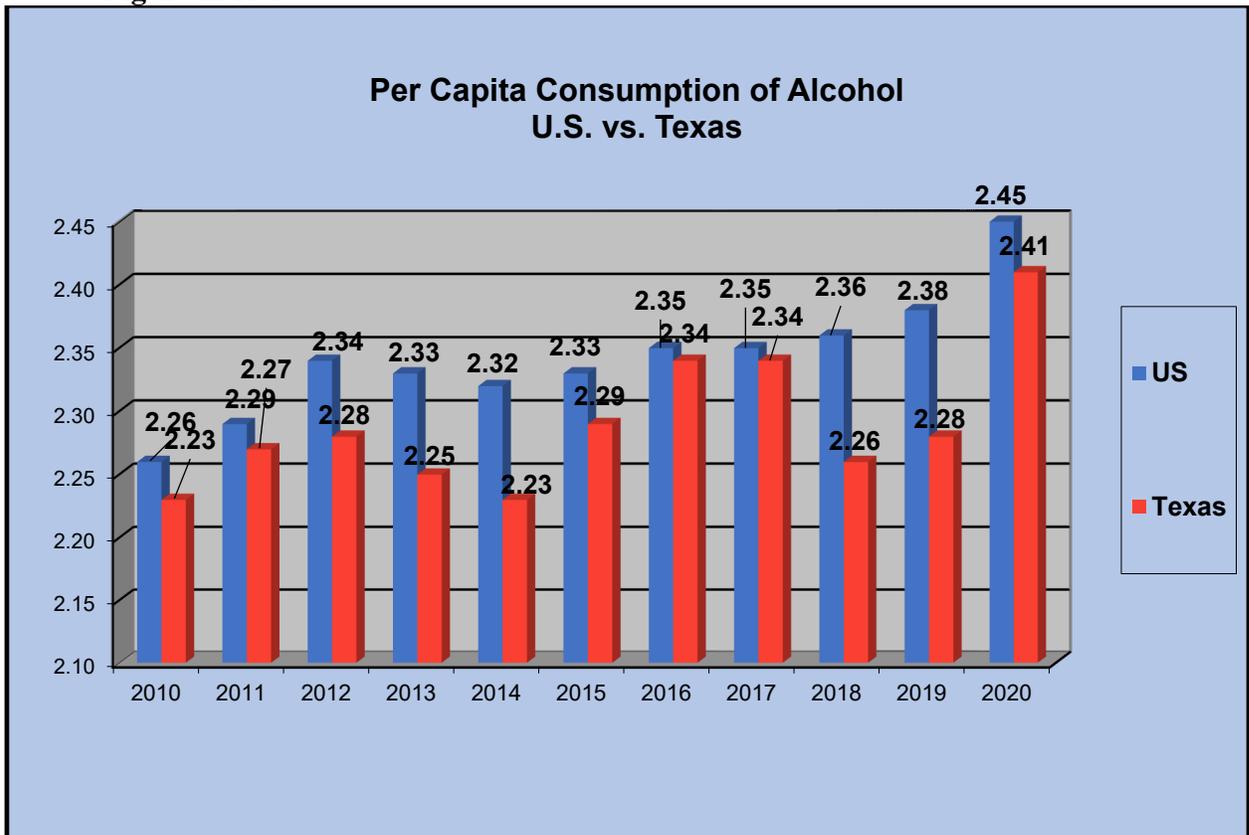
- *Adopt and enforce programs to prevent sales or service of alcoholic beverages to persons under the age of 21. Conduct compliance checks and “shoulder tap” activities and support the proper use of technology in alcohol retail establishments, particularly those catering to youth, to verify proper and 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 II-A-1 indicates, in 2020, the last year for which complete data were available, consumption of alcoholic beverages in Texas equaled 2.41 gallons of ethanol per capita, slightly below the national average of 2.45 gallons per capita. Figure II-A-1 shows that for the past 10 years, alcohol consumption in Texas has generally been below the national average, though, in 2020 that gap narrowed. Between 2019 and 2020, i.e., COVID-19 pandemic period, per capita alcohol consumption in Texas increased 5.7 percent compared to the national increase of 2.9 percent.

Figure II-A-1



Per Capita Consumption of Ethanol

Year	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
US	2.29	2.34	2.33	2.32	2.33	2.35	2.35	2.36	2.38	2.45
Texas	2.27	2.28	2.25	2.23	2.29	2.34	2.34	2.26	2.28	2.41
Difference (Ratio)	0.99	0.97	0.97	0.96	0.98	1.00	1.00	0.96	0.96	0.98

Regulation of alcohol sales is the responsibility of the Texas Alcoholic Beverage Commission (TABC). The Enforcement Division is the agency’s largest and most visible operating component. Staffing consists of a Chief of Law Enforcement, a Deputy Chief of Law Enforcement, 6 majors, and 260 additional commissioned peace officers’ positions which includes 52 peace officers’ positions assigned to the Special Investigations Unit (SIU). There are four Criminal Intelligence Analysts assigned to the Criminal Intelligence Unit (CIU). The division’s primary mission is to detect and deter administrative and criminal violations occurring on or related to a TABC-licensed premises that pose a threat to the safety of patrons and the public.

Agents with the TABC regularly perform Underage Compliance Operations. These operations focus on the reduction of illegal alcohol sales to minors. From January 1, 2022, to now, 3,398 operations have been conducted with 346 Sale to Minor Violations filed. This is an approximate 90 percent compliance rate. State and local law enforcement agencies participate in enforcement activities including underage sales compliance checks.

The Law Enforcement Advanced Data Reporting System (LEADRS) is an online data reporting system that streamlines driving while intoxicated (DWI) report writing for Texas Law Enforcement Officers. LEADRS provides automated notifications to the TABC via email on all DWI arrests reported in the system that involved the following: alcohol, a crash with injuries, or death. The location of the last drink is included in this notification along with the arresting agency, arresting officer, case number, charge, offense type, and type of injury. TABC has also been provided with a unique profile in LEADRS and can obtain last drink reports and case details for follow up investigations. TABC reports that investigations have increased by 30 percent since implementation of LEADRS.

TABC conducts the Target Responsibility for Alcohol-Connected Emergencies (TRACE) program in which TABC officers partner with law enforcement agencies in tracing the source of the alcohol in cases of serious injury resulting from an alcohol-related incident. Examples of these incidents include DWI crashes resulting in death or serious bodily injury, aggravated assaults, and sexual assaults involving overserved customers at TABC-licensed locations. TRACE investigations received directly from law enforcement agencies require immediate response. Violations documented by the TRACE investigation can result in criminal charges against the alcohol server, civil action under the Dram Shop statute, and/or administrative action against the licensed establishment.

The Texas Department of Transportation provides overtime reimbursement to the TABC to conduct overtime enforcement operations on alcoholic beverage establishments as well as educating law enforcement officers and employees at TABC licensed locations about alcohol laws. During Fiscal Year (FY) 2021, TABC was allotted a budget totaling \$706,959.11 for salary and fringe to conduct these overtime efforts. At the end of FY 2021, TABC had conducted 49,388 inspections at licensed locations during overtime status as well as trained 3,660 peace officers on alcohol service enforcement operations and laws, and educated 3,367 employees of TABC-licensed locations on alcohol laws and responsible service.

The Texas Student Survey found that the most common places for young people to get alcohol were parties (29.2%), from friends (18.6%), and at home (14.0%). Fewer than one in 10 (7.5%) said they got alcohol at a store. This might, in part, reflect the deterrence effects of the TABC effort.

Texas has numerous statutes that address responsible service of alcohol.

Responsible server training is not mandatory in Texas. However, TABC developed the Retailer Education and Awareness Program (REAP). The program covers underage and overservice laws, as well as prevention strategies. TABC-approved seller-server schools trained 412,733 people in FY 2021 and 181,913 people September through January of FY 2022. These schools are currently training an average of 32,000 people per month. Certification is valid for two years. TABC regulates third-party seller-server schools throughout Texas and online.

There are some incentives for completion of server training including mitigating penalties for some infractions by licensed establishments. This can include waving civil action against the establishment and/or server.

Selling alcohol to an intoxicated person is a criminal offense in Texas. Texas Alcoholic Beverage Code - ALCO BEV § 101.63. Sale or Delivery to Certain Persons.

- (a) A person commits an offense if the person with criminal negligence sells an alcoholic beverage to an habitual drunkard or an intoxicated or insane person.
- (a-1) A person commits an offense if the person with criminal negligence delivers for commercial purposes an alcoholic beverage to an intoxicated person.
- (b) Except as provided in Subsection (c) of this section, a violation of this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$500, by confinement in jail for not more than one year, or by both.
- (c) If a person has been previously convicted of a violation of this section or of Section 106.03 of this code, a violation is a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000, by confinement in jail for not more than one year, or by both.

Texas Alcoholic Beverage Code Title 1. General Provisions Chapter 2. Civil Liabilities for Serving Beverages Sec. 2.02. Causes of Action, addresses dram shop and social host liability. Licensed establishments can be held responsible for damages when alcohol is served to a patron who is obviously intoxicated, as determined by visual and non-visual signs. Texas statutes also include limited social host liability.

- (a) This chapter does not affect the right of any person to bring a common law cause of action against any individual whose consumption of an alcoholic beverage allegedly resulted in causing the person bringing the suit to suffer personal injury or property damage.
- (b) Providing, selling, or serving an alcoholic beverage may be made the basis of a statutory cause of action under this chapter and may be made the basis of a revocation proceeding under Section 6.01(b) of this code upon proof that:
 - (1) at the time the provision occurred it was apparent to the provider that the individual being sold, served, or provided with an alcoholic beverage was obviously intoxicated to the extent that he presented a clear danger to himself and others; and
 - (2) the intoxication of the recipient of the alcoholic beverage was a proximate cause of the damages suffered.
- (c) An adult 21 years of age or older is liable for damages proximately caused by the intoxication of a minor under the age of 18 if:
 - (1) the adult is not:
 - (A) the minor's parent, guardian, or spouse; or
 - (B) an adult in whose custody the minor has been committed by a court; and
 - (2) the adult knowingly:
 - (A) served or provided to the minor any of the alcoholic beverages that contributed to the minor's intoxication; or
 - (B) allowed the minor to be served or provided any of the alcoholic beverages that contributed to the minor's intoxication on the premises owned or leased by the adult.

There are no statutory restrictions on alcohol advertising except that licensees are prohibited from advertising prices.

Texas has no statutes or rules prohibiting Happy Hours per se except that Happy Hours cannot extend beyond 11:00 p.m. However, providing free drinks, or two-for-one, are generally prohibited at on-premise retailers. There is no similar rule for off-premises establishments such as convenience stores or grocery stores. Rule 45.101(a) says that no retailer may offer an incentive or inducement with the purchase of an alcoholic beverage.

Establishments holding a license or permit authorizing the sale of alcoholic beverages for on-premises consumption is required to display signs warning of the dangers associated with drinking alcoholic beverages during pregnancy.

During the COVID-19 pandemic, most restaurants resorted to take-out service and were allowed to include individual drinks in customer orders. Alcoholic drinks are now permanently available-to-go in Texas. House Bill 1024 allows restaurants and bars with mixed-beverage permits and on-site kitchens to sell beer, wine, and mixed drinks for pickup and delivery orders. The legislation was signed May 12, 2022.

Alcohol consumption is price-elastic, that is, increased price will result in decreased consumption. Alcohol policy analysts have been promoting the concept of a fixed, per-drink tax as a means of generating funds to reduce and treat the negative health and criminal justice consequences of alcohol abuse while reducing demand for alcohol. Recent analysis of the impact of adding ten cents to each drink equivalent sold in one year in Texas indicated that it would generate over \$900 million in new revenues all or some of which could be dedicated to the treatment and prevention of alcohol abuse including impaired driving. The financial impact for the average “social” drinker, i.e., five to seven drinks per week, would be minimal. Non-drinkers, those who contribute nothing to the societal costs of alcohol abuse, would pay nothing. The bulk of the financial burden would be paid by those who abuse alcohol and who are responsible for the bulk of the health, criminal justice, and social costs of alcohol.

In addition to the potential significant impact of prevention and intervention strategies supported by a dedicated tax, the decrease in consumption resulting from the price-elastic nature of alcohol, would result in reductions in alcohol-related consequences including alcohol mortality, e.g., alcohol poisoning, cirrhosis, and reduction in the incidence of impaired driving.

Recommendations

- **Enact a ten cent per drink tax.**

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

The most recent Texas Student Survey indicated that nearly one in 10 (7.5%) of 12th grade students reported driving after “having a bit to drink” and more than one in 10 (11.8%) reported driving while “high on drugs.” More than four in 10 (41.6%) drank alcohol in the past 30 days and one in five (20.7%) reported having five or more drinks on at least one occasion. More than half (59.1%) of 12th grade students said that alcohol was somewhat or easy to get. The most common places for young people to get alcohol were parties (29.2%), from friends (18.6%), and at home (14.0%). Fewer than one in 10 (7.5%) said they got alcohol at a store.

The State Board of Education (SBOE) has legislative authority to adopt Texas Essential Knowledge and Skills (TEKS), which are the state standards for each subject of the required curriculum including for the health curriculum that addresses the dangers,

causes, consequences, signs, symptoms, and treatment of binge drinking and alcohol poisoning.

Texas does not have a standard mandatory traffic safety or impairment curriculum that meet TEKS requirements. To that end, the Texas Impaired Driving Task Force (TxIDTF) has developed the *Texas Impaired Driving Task Force Recommendations for Alcohol and Drug Prevention Programs K-12th*. The guide provides references for schools to consider in implementing alcohol and drug prevention programs. The purpose of this reference book is to provide Texas K-12 schools with current, impaired driving information for inclusion in health and other curriculum. Some of these programs can be linked to law enforcement presentations and mock crashes when the school district participates in projects such as the “Shattered Dreams” program or other programs. Traffic safety and substance abuse prevention coalitions collaborate with law enforcement in almost every community to make presentations to the schools.

Teens in the Driver Seat (TDS) is an initiative under the Texas A&M Transportation Institute’s Youth Transportation Safety (YTS) Program. YTS has developed and delivered a comprehensive suite of transportation safety programs and projects. TDS program surveys found awareness levels increased by up to 200 percent in all risk areas. Cell phone use while driving at TDS program schools has dropped by 30 percent, and seat belt use increase by 14 percent. A rigorous 20-county control group analysis for Texas indicated that the program resulted in an average decrease of 14.6 percent in injury and fatal crashes where the program has been sustained for three or more years.

Over 1,800 schools have implemented the TDS program, reaching over 1.5 million teens. The program has also been deployed in 38 states outside Texas. As part of the TDS program, resources related to alcohol-impaired driving and other drug education are offered, at no cost, to junior high and high schools (grades 6-12) throughout the state. Resources include:

- flashcards with data related to impaired driving
- prevention posters focused on impaired driving prevention
- educational bulletin boards related to impaired driving prevention
- yard signs that have impaired driving prevention messaging
- online trivia templates focused on impaired driving and drugged driving

In addition, schools are provided activity ideas related to impaired driving through the TDS website, www.t-driver.com. Partnerships within the community and schools are encouraged and utilized to support programmatic outreach and initiatives. For example, program staff attend regional coalition meetings to connect with and support community partners. Staff also attend conferences for partners such as law enforcement, health, or community prevention for capacity building and growth. Schools are connected with community partners and encouraged to engage in community events, efforts, and initiatives such as Project Celebration sponsored by the Texas Department of Transportation (TxDOT) or safety fairs in partnership with the Federal Motor Carrier Safety Administration (FMCSA). YTS occasionally receives requests for assistance with

“mock crashes”; however, the YTS program does not support nor promote these events due to a lack of evidence of their effectiveness.

TDS has established a statewide Teen Advisory Board. Board Members provide insight on how to engage their peers and sustain their interest in TDS, assist in organizing program-oriented events and activities, provide feedback, ideas, and opinions on new program materials, safety messages, promotional items, and related elements, participate in quarterly meetings, and serve as ambassadors and leaders for the program.

AAA Texas offers education on alcohol- and drug-impaired driving to teens and their parents with Dare to Prepare Teen Driver Safety workshops offered virtually and in person throughout the state. AAA Texas also offers state-approved driver education to teens using the How to Drive curriculum which includes information related to impaired driving.

Despite the resources described above, many schools resist implementing evidence-based prevention programs because of demands on classroom instruction time and the need to direct instruction to meeting multiple TEKS.

The Texas Municipal Police Association (TMPA) provides training to school personnel through the Drug Impairment Training for Educational Professionals (DITEP) and the Alcohol and Drug Abuse Prevention Training (ADAPT) program classes. TxDOT grant-funded DITEP classes are of either 8- or 16-hours and the ADAPT classes are of 1-, 2-, 4-, or 8-hour presentations. They are geared specifically to assist school nurses, resource officers, administrators, teachers, security, and others who work with students in both schools and colleges. The purpose is to make it easier for them to identify students who are impaired by or involved in the use of drugs. The ADAPT classes also provide information on prevention and enforcement activities to reduce underage access to alcohol, such as identifying counterfeit driver licenses, impaired driving laws, and special enforcement activities.

Many schools have School Resource Officers (SRO) present in school buildings. SROs can be employed by state, county, or local departments and be funded by department budget, grants, or other sources. Recent tragic events in schools have drawn attention to school safety. The National Association of School Resource Officers developed the “triad” concept of school-based policing. It divides the SRO responsibilities into three areas: teacher, informal counselor, and law enforcement officer. SROs can play a critical role in prevention of impaired driving, underage drinking, and substance abuse while promoting a positive image of law enforcement to school children and school communities. In 2019, the Texas Governor’s Office released a plan for increasing school safety including increasing police presence in schools. It is unclear how much of this presence is represented by SROs.

Texans for Safe and Drug-Free Youth (TxSDY), formerly Texans Standing Tall, has been working with colleges and universities on their policies, judicial processes, and prevention practices since early 2000 with funding from a variety of sources. TxSDY

built a database of prevention staff at colleges and universities and created a searchable database of evidenced-based strategies and policies among Texas campuses. TxSDY finds it is challenging to maintain the database due to the piece-meal nature of campus alcohol policies, lack of campus staff awareness of how information about campus alcohol policies is distributed or enforced, and staff turnover resulting in the need to build and rebuild relationships and trust to access the information needed. The database is underutilized, particularly among campus staff (e.g., Chancellors and Deans), but TxSDY believes it is a very important tool. TxSDY also hosts Regional Forums to encourage local campuses, law enforcement, businesses, coalitions, and communities to work together to implement evidence-based prevention strategies that reduce underage and excessive alcohol use, as well as related problems like impaired driving. The program has been evaluated through a Center for Substance Abuse Prevention Evaluation Enhancement competitive contract. Evaluations indicate that those participating in the event increase their community engagement and ability to implement evidence-based prevention strategies.

Texas A&M AgriLife Extension Service's Watch UR BAC project has worked with many colleges and universities to partner on programs to bring awareness to the faculty and staff on the recent trends in alcohol and drugs. The project provides trainings to Resident Advisors about substance use trends and how identifying trends may help reduce impaired driving. The project also works with students to educate them about standard drinks and how just one drink can cause impairment. Watch UR BAC encourages sober designated drivers, meaning the person that has not had anything to drink. Demonstrations of the effects of alcohol and drugs include use of goggles that simulate alcohol, marijuana, or a combination of the two. Virtual reality goggles are also used in connection with a driving while intoxicated (DWI) Prevention Simulator that provides a driving experience. Other activities such as corn hole are also provided to show how alcohol and drugs can affect large and small motor skills that impact driving. The project also works with fraternities and sororities to help provide mandated alcohol and drug education. Watch UR BAC collaborates with local traffic safety coalitions to help provide the necessary education to emphasize why policies and procedures are necessary.

Many universities and colleges in Texas provide Screening Brief Intervention and Referral to Treatment (SBIRT) or similar programs. The Texas Department of State Health Services contracts with various organizations to fund training for SBIRT. TxSDY has an SBIRT program for college campuses. This program trains campus faculty and staff in SBIRT so that they can serve as SBIRT interviewers. TxSDY also administers SBIRT to high-risk students, during orientation with first-year students, students in Greek organizations, athletes, and other settings.

Recommendations

- Provide Texas-specific impaired driving information for use in evidence-based prevention programs and other health and safety learning standards programs in schools throughout Texas.
- Promote and support placement of School Resource Officers in schools throughout Texas.
- Promote and support student organizations intended to reduce underage drinking and promote traffic safety.
- **Provide Drug Impairment Training for Educational Professionals (DITEP) to school staff throughout Texas.**
- Promote Screening Brief Intervention and Referral to Treatment (SBIRT) on college and university campuses.

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

The Drug Impairment Training for Texas Employers (DITTE) program explores the effects of alcohol and other drugs on driving and workplace performance and highlights costs and lifestyle impacts of a driving while intoxicated arrest. Benefits of preventive training for employers and employees also are outlined. In each section of DITTE training, participants are directed to free resources designed to raise awareness of risks associated with impairment and promote safe behaviors. The training addresses seven categories of impairment including cannabis, central nervous system depressants, central nervous system stimulants, dissociative anesthetics, hallucinogens, inhalants, and narcotic analgesics. Health, safety managers/leaders, wellness, human resources, public affairs professionals, business owners, as well as senior and executive management team members are encouraged to attend. Topics include how to educate employees on traffic safety to help reduce the number of alcohol and drug-related incidents, and how to develop or improve a resource guide for drug policies, programs, and practices within the organization. This education is grant-funded by the Texas Department of Transportation and there is no charge to participants. Training can be via webcast or on-site training. In Fiscal Year 2021, there were 326 Texas employers trained on the DITTE program from various sectors including municipalities, healthcare, transportation, education, energy, and more.

Recommendations

- Provide employer programs with Texas-specific information related to impaired driving and driving while intoxicated offenses.

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

Impaired driving, underage drinking, and substance abuse prevention strategies are often implemented by coalitions which have been formed to address substance abuse in a community. Coalitions serve communities including cities, counties, school districts, college campuses, and tribal communities. In Texas there are also numerous coalitions addressing prevention of substance abuse. These include 18 Safe Communities Coalitions funded by the Texas Department of Transportation (TxDOT) and several Drug Free Communities Coalitions supported with grants from the Substance Abuse Mental Health Services Administration.

Following the previous National Highway Traffic Safety Administration (NHTSA) assessment of Texas's impaired driving work, Texans for Safe and Drug-Free Youth (TxSDY) applied and received a grant to assess the State and DFC funded coalitions and their collaboration with traffic safety programs/TxDOT efforts. To help encourage more opportunities for collaboration, TxSDY also used the funding to create an online searchable database of coalitions and their key prevention efforts. The findings of the report indicated that there was a level misunderstanding and lack of partnership between groups for a host of reasons, including a lack of understanding of evidence-based prevention strategies and ways to connect underage and excessive alcohol use prevention to reducing impaired driving. Additionally, there was a lack of understanding of the principles of effective coalitions and research-based coalition practices. The report also pointed to a number of groups that focused more on networking meetings or prevention activities rather than developing coalitions with strategic plans that advance prevention goals related to substance use/misuse and impaired driving. Recommendations on how to improve collaborations were well received. In year three of TxDOT funding, TxSDY began executing some of the recommendations. Unfortunately, agencies have experienced staffing changes that impaired the ability to move the recommendations

forward. Additionally, the TxDOT grant funding ended after year three. Due to local coalition staff turnover, maintaining the coalition database requires constant outreach and updating for which current resources are not available.

Mothers Against Drunk Driving (MADD), as well as the Watch UR BAC program and the Teens in the Driver Seat/U in the Driver Seat programs respond to requests to speak about underage drinking and impaired driving at community coalition meetings and other prevention programs.

Recommendations

- Increase collaboration and integrate the prevention efforts and strategies of local traffic safety programs, e.g., Safe Communities Coalitions, with the strategies of local underage drinking and substance abuse prevention 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

The Texas Department of Transportation (TxDOT) created a sober ride program to specifically focus Governor's Highway Safety Association (GHSA) grant funds in the Houston region due to the high volume of impaired driving crashes. TxDOT dedicated 100 percent of the \$20,000 funding to Uber ride credits. The goal was to promote 1,000 ride credits in \$20 units between the Thanksgiving and Christmas holiday periods with an additional campaign for New Year's Eve. The promotion focused on social media and

paper materials at local bars and sports bars. The ultimate goal of the campaign was to reduce impaired driving fatalities for the period of the campaign in Houston. The campaign kicked off December 17, 2021, with a 100 percent digital launch of a webpage along with posts on TxDOT Houston District social media, and a notification to influencers and news outlets. Facebook and Reddit had the strongest social media engagements. The campaign was highlighted through 11 news sources and influencers. All 1,000 \$20 Uber credits were redeemed within a week of launch. Uber contributed an additional \$14,373.56 to the \$20,000 grant funds during the campaign period totaling \$34,373.56 in funding to help Houstonians chose a sober ride during the December holiday period. Roughly, the campaign assisted over 1,718 Houstonians with a sober ride as opposed to drinking and driving. The intention is to expand the efforts further in upcoming years specifically making note that the program should be targeting underage drinkers and those who over-consume alcohol.

The State promoted alternative transportation through a partnership with GHSA and Responsibility.org with a Lyft Pass Promotion. The partnership secured a grant worth \$25,000 rideshares from Lyft. The target audience was college football sports fans in Texas, ages 18-24, with an emphasis on men. Goals and objectives included reducing the number of alcohol or other drug-related vehicle crashes and fatalities in Texas during football season. The program provided 1,667 Lyft rideshare coupons (\$15 value each) so that football fans were reminded of the importance of and were motivated to get a sober ride home after watching the game.

Both ride promotion campaigns targeted 18-24 year-olds, enabling underage drinkers to get to bars and to consume alcohol. In addition, neither campaign included messaging about the consequences of over-consumption of alcohol, e.g., violence, health concerns, legal consequences of underage drinking.

Recommendations

- Ensure that all designated driver programs stress “no use” of alcohol, marijuana, or other substances messages for the designated driver.
- Ensure alternative transportation programs do not encourage or enable excessive consumption of alcohol, marijuana, or other substances.
- Ensure that both designated driver and safe ride programs prohibit consumption of alcohol, marijuana, or other substances by underage individuals and do not unintentionally promote or enable 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;²*

² Limited exceptions are permitted under Federal statute and regulation, 23 U.S.C. 154 and 23 CFR Part 1270.

- *Separate and distinct criminal penalties for alcohol- and drug-impaired driving to be applied individually or in combination to a single case;*
- *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

The Texas statutes contain many provisions that are sound approaches and practices calculated to deter impaired driving. The Texas driving while intoxicated (DWI) statute criminalizes driving while “intoxicated.” Intoxication is defined as either (1) not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body, or (2) having an alcohol concentration of 0.08 or more. Because drugs and alcohol are grouped into the same statute, the penalties are generally the same for DWI-alcohol and DWI-drugs. There are, however, statutory enhancements that only apply to alcohol. For example, having an open container of alcohol or having a blood alcohol concentration (BAC) of 0.15 or greater increases the penalty. Because there is no provision that makes an “open container” of an illegal impairing substance an enhancement for penalty purposes, the presence of alcohol and the illegal substances in the vehicle are not treated equally. Another inequality is that there appears to be no statutory provision to enhance the penalty for driving with a greater level of the illegal impairing substance in the body beyond the detectable presence requirements. Furthermore, it is possible to prove intoxication via alcohol with the 0.08 BAC per se limit. No such per se limit exists for drugs in Texas law.

The penalties provided appear to be reasonably consistent with other Texas statutes that define criminal-law violations.

Texas statutes do not provide enhanced penalties for multiple substances. A Texas statute defines an enhanced penalty for a high BAC. For a first-time offense, the penalty for DWI is a Class B misdemeanor with minimum confinement of 72 hours. The range of punishment is a fine not to exceed \$2,000 and confinement of 72 hours to 180 days. Texas Penal Code Section 49.04(d) then adds that if it is shown on the trial of an offense under this section that an analysis of a specimen of the person's blood, breath, or urine showed an alcohol concentration level of 0.15 or more at the time the analysis was performed, the offense is a Class A misdemeanor. A Class A misdemeanor has a range of punishment of confinement not to exceed one year and a fine not to exceed \$4,000. There appears to be no statute providing an enhanced penalty for multiple impairing substances in the body or increasing amounts of substances in the body. It appears that the enhanced penalty for high BAC has little impact on the actual sentencing of offenders. Texas statutes impose increased penalties for subsequent offenses of impaired driving. An additional conundrum is found with the DWI courts. Only subsequent offenders are eligible to participate in the DWI Courts, but the judges have the discretion to dismiss the charge if the offender complies with the DWI Courts' requirements.

The Texas statute specifies that a chemical test refusal shall be treated with administrative sanctions that are as strict as the state's highest impaired driving offense. Texas Transportation Code Chapter 524 authorizes the Administrative Suspension of Driver's License for Failure to Pass Test for Intoxication and Chapter 724 (C) and (D) covers Suspension or Denial of License on Refusal to provide a breath or blood specimen for DWI cases.

Texas Transportation Code Section 521.457 does not define driving with a suspended or revoked license (DWS) due to impaired driving, vehicular homicide, or causing personal injury while driving impaired as separate offenses, but it does affect the offense class, which increases the severity of punishment. However, it does increase the severity of punishment by increasing the offense from a Class C misdemeanor to a Class B misdemeanor.

Section 521.344 of the Texas Transportation Code requires a suspension of not less than 90 days or more than one year for a first offense. The suspension begins on a date set by the court that is not later than 30 days after conviction. However, the listed exceptions result in inconsistent application of the statute.

Texas statutes set out and mandate enhanced penalties for the following: 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.

The penalties include 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.

Texas Transportation Code 545.413 establishes the “Primary Seat Belt” provisions in the statute. Texas does not require that officers observe or cite a driver for a separate offense in addition to the seat belt violation.

Texas does not have a statute to provide clear standards to 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. The Texas Legislature and Governor have opposed such a statute when one is introduced. The Texas Court of Criminal Appeals held that a statewide plan setting out guidelines by statute is needed to make use of roadblocks constitutional. Until that time, DWI roadblocks are illegal.

The Implied Consent Law for Texas, Code Section 724.012, states that one or more specimens of a person’s breath or blood may be taken if the person is arrested for DWI or Boating While Intoxicated and the officer has reasonable grounds to believe the person is intoxicated. The statute authorizes the peace officer to designate the type of specimen to be taken unless the officer believes that as a direct result of an accident occurring as a result of the offense any individual has died, will die, or has suffered serious bodily injury, then the officer shall require a blood specimen.

At this time, Texas law enforcement officers are not relying on the Texas DWI statute to obtain blood samples without warrants. However, Texas Code of Criminal Procedure Art. 18.02 allows a warrant for seizure of any property or item constituting evidence of an offense. This includes a search warrant for blood. Art. 18.067 allows a search warrant issued to collect a blood specimen from a person suspected of committing an intoxication offense to be executed in any county adjacent to the county in which the warrant was issued and by any law enforcement officer authorized to make an arrest in the county of execution. Thus, the State provides evidence of the statutory authorization to obtain blood or urine.

Texas Transportation Code Sec. 724.012(a-1) requires the taking of a specimen of a person’s blood if the person is arrested for an intoxication offense under Chapter 49 of the Penal Code. If the person refuses to provide a specimen and the officer reasonably believes that as a direct result of an accident that occurred as a result of the offense the officer believes that any individual has died, will die, or has suffered serious bodily injury, the officer is required to obtain a specimen.

A peace officer may not require the taking of a specimen under this section unless the officer:

- (1) obtains a warrant directing that the specimen be taken; or
- (2) has probable cause to believe that exigent circumstances exist.

Texas statutes do not mention or authorize saliva testing or preliminary breath tests.

Only motor vehicle and watercraft operators are subject to mandatory BAC testing. Motorcycle operators, but not pedestrians or bicyclists, are subject to this statute.

The Texas statutes do not mandate assessment for alcohol or other drug abuse problems for ALL impaired driving offenders and, as appropriate, treatment, abstention from the use of alcohol and other drugs, and frequent monitoring.

In Texas, community supervision is the term for what others may call probation. A judge granting community supervision to a defendant convicted of an offense under Chapter 49, Penal Code, shall require as a condition of community supervision that the defendant submit to an evaluation by a supervision officer or by a person, program, or facility approved by the Department of State Health Services for the purpose of having the facility prescribe and carry out a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition. The assessment is not required for other dispositions such as work release or other programs.

Another area of concern is the deterrence of younger drivers from DWI. The Texas statute provides that "A minor commits an offense if the minor operates a motor vehicle in a public place, or a watercraft, while having any detectable amount of alcohol in the minor's system." There is no mention of driving with an impairing substance except under the Impaired Driving code. There is concern that the impaired driving cases where the driver is impaired by substances other than alcohol are increasing. The advisory recommends making it illegal per se for persons under age 21 to drive with any other impairing substance.

The Texas statute clearly authorizes a judge receiving a defendant for supervision to impose terms of community supervision on the defendant. A judge who receives a defendant for supervision as authorized by Section 510.017, Government Code, may impose on the out of state defendant any term of community supervision authorized by this chapter.

In contrast, there is no statute available for review that sets out how a defendant leaving for another state will be supervised.

Texas has statutory requirements to use proven technology (e.g., ignition interlock device, electronic confinement, and monitoring) with the capability to produce reports on compliance for use both judicially and administratively. However, the language of the statute is not as mandatory as it would seem. See:

(a) Except as provided by Subsection (b), a magistrate shall require on release that a defendant charged with a subsequent offense under Sections 49.04 - 49.06, Penal Code, or an offense under Section 49.07 or 49.08 of that code:

(1) have installed on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant, a device that uses a deep-lung breath

analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator; and

(2) not operate any motor vehicle unless the vehicle is equipped with that device.

(b) The magistrate may not require the installation of the device if the magistrate finds that to require the device would not be in the best interest of justice.

While the statute mandates that the magistrate require a device in the first part, in a subsequent section the statute gives the judge an out from the mandate. A significant gap exists between reporting the order and the installment of the device. Companies protect data and a statutory requirement to share data is needed.

Statutory requirements for permitting/approval of the device for use in Texas criminal justice agencies should be improved. Over 800 Justices of Peace (JPs) are serving in the magistrate role. That role includes the initial advising of rights and setting of bond conditions. The JPs issue occupational driver licenses for instances where the defendant has refused or failed to take a blood or breath test. Monitoring of installation of interlock remains with the magistrate until criminal charges are filed. Texas statute allows the judge to discount the device costs by up to 50 percent.

All parts of the criminal justice system are concerned about the risk of increase of impaired driving with any legalization of marijuana.

Texas has no statutory nor rule support for DWI Dockets or Courts as a sentencing alternative for persistent DWI Offenders.

The statute requires reports about supervision to be provided to the courts and judicial authorities. Knowing what percentage of the defendants are monitored by technology would be a first step in understanding the effectiveness of the statute. The recent “Damon Allen” statute on criminal history went into effect in April 2022. The statute provides that the Sheriff will prepare the public safety report if the Sheriff agrees and a Judge orders. This is a small step but at least it acknowledges the need for a robust and complete criminal history record.

Periodic reports on offender compliance with administrative or judicially imposed sanctions are required by statute. It is up to each individual department policy and supervision officer discretion to determine the frequency of offender reporting requirements. For example, there is no statute that says a defendant on probation for DWI first offense has to report to an officer once a month. Additionally, the type of sanction imposed for violations, e.g., defendant had an ignition interlock violation last month and so the probation officer is going to increase monthly reporting requirements, is determined by each department's policy, the supervision officer, and the courts.

The state has not enacted statutes nor promulgated consistent administrative rules to implement impaired driver tracking systems across the entirety of the impaired driving countermeasure system. The failure to statutorily require a DWI tracking system impedes the effective management of impaired driving cases from arrest to post adjudication. Therefore, the Texas statutes do not protect the innocent drivers and bystanders on the roads of Texas.

What is not clear is how consistently Texas applies its statutes and how often and for what reasons the penalties are mitigated. The statistics as reported are very helpful in understanding the flow of cases. It is not clear that the harshness of the statutes overcomes the disjointed applications. The statutes are not deterring impaired driving, particularly when the driver is impaired by multiple substances. The large number of dismissals may indicate that the effectiveness of the statutes is diminished by the inconsistent applications of the statutes. The gap in the statutory provisions indicates the possibility of inconsistent and not comprehensive provisions for when the driver is impaired by multiple substances.

While some statutes can be improved, the single most needed and likely to enhance the Texas work to prevent impaired driving would be a statute giving strong incentives to all keepers of the criminal justice data points for impaired driving offenses to make sure that the records systems communicate data to each other. Without complete and accurate data from a comprehensive system tracking every DWI offense from stop through post adjudication, the public is not protected from the repeat DWI offenders.

Recommendations

- **Enact a statute that establishes a driving while intoxicated (DWI) tracking system by giving strong incentives to all keepers of impaired driving offenses data to make sure that the records systems communicate data to each other to track every DWI offense.**

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

Introduction

Law enforcement plays a significant role in executing the State’s traffic safety programs. Texas law enforcement has the responsibility of reducing fatal and serious injury crashes through high visibility enforcement and engagement efforts. Moreover, law enforcement agencies are still rebuilding stakeholder relationships from the 2020 social unrest issues. The State has 254 counties with a population of nearly 29 million people. There are 2,730 different law enforcement agencies serving the great people of the Lone Star State.

The challenges surrounding law enforcement's ability to adequately address impaired driving incidents involve the following:

- officer vacancies
- lack of chief and sheriff emphasis on impaired driving (overall)
- competing priorities
- population growth
- communication and information sharing among other criminal justice impaired driving stakeholders

The lack of law enforcement staffing is prevalent in Texas, and this is a major detriment affecting law enforcement executives and community stakeholders to address the on-going issues surrounding crime reduction, traffic enforcement, and specifically, proactively addressing impaired driving. Impaired driving cases have always been about looking beyond the traffic stop, which necessitates the need for adequate staffing. When staffing is significantly reduced maintaining minimal "patrol" coverage becomes the priority. In addition to staffing, competing interests such as the on-going U.S.-Mexico border operations, repairing police defunding decisions, law enforcement leadership not prioritizing impaired driving efforts, rapid population growth, and communication or sharing information among other criminal justice stakeholders.

The State reported no internal communications to law enforcement executives emphasizing impaired driving. However, some agencies do emphasize the tone to remove impaired drivers through pre- and post- media messaging.

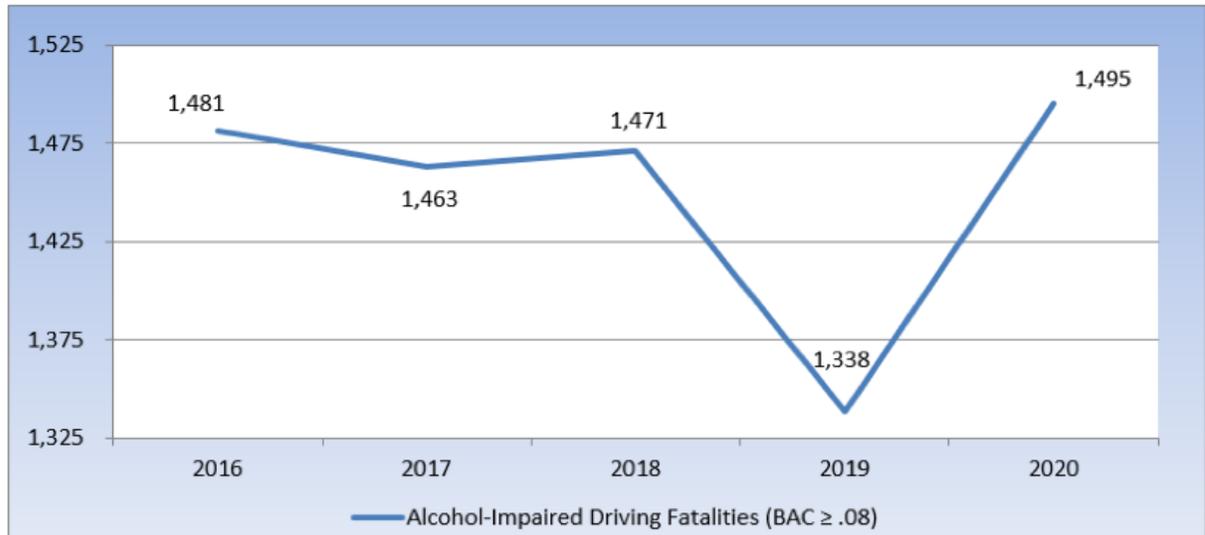
The State uses enforcement, media, outreach, and prevention-focused projects at local and statewide levels to reach the overall driving public with an emphasis on the identified high risk population groups and high-risk areas/communities. Projects including ignition interlock device, driving while intoxicated (DWI) Bond Condition program, and supervised probation are focused on preventing recidivism among high-risk offenders. Moreover, DWI judicial education, a DWI Judicial Liaison, and a DWI Resource Prosecutor are part of the Highway Safety Plan (HSP) to assist with reducing DWI recidivism. Texas funds and supports law enforcement to increase the number of impaired driving arrests during grant funded activities and focuses on alcohol-impaired fatalities which continue to be a statewide problem. Funding for enforcement as well as for impaired driving and drugged driving training for law enforcement officers are also a part of the HSP. The courses include Standardized Field Sobriety Testing (SFST), Advanced Roadside Impaired Driving Enforcement (ARIDE), and the Drug Recognition Enforcement (DRE) program among others. The Texas Department of Transportation (TxDOT) uses impaired-driving crash data to proactively recruit law enforcement agencies into selective traffic enforcement program (STEP) by discussing the data with that agency's representatives.

A leadership and communications plan are the foundations for impaired driving education and enforcement efforts. Leadership must emphasize impaired driving education and enforcement **as a priority** through data collection, officer and stakeholder

training, intentional on-going saturation patrols, and officer recognition. Simultaneously, these efforts must be done with stakeholder involvement, e.g., partnering agencies, prosecutors, non-profits, media (including social media), and community leadership engagement (i.e., decision-makers and those that allocate and/or influence funding) and later evaluated for program effectiveness.

According to the Fiscal Year (FY) 2023 Texas Highway Safety Plan, there were 1,495 alcohol-impaired driving fatalities in Texas in 2020. Texas ranks in the top 10 states nationally for alcohol-related fatalities per 100 million vehicle miles traveled (VMT) for FY2020, the most current year for which data is available.

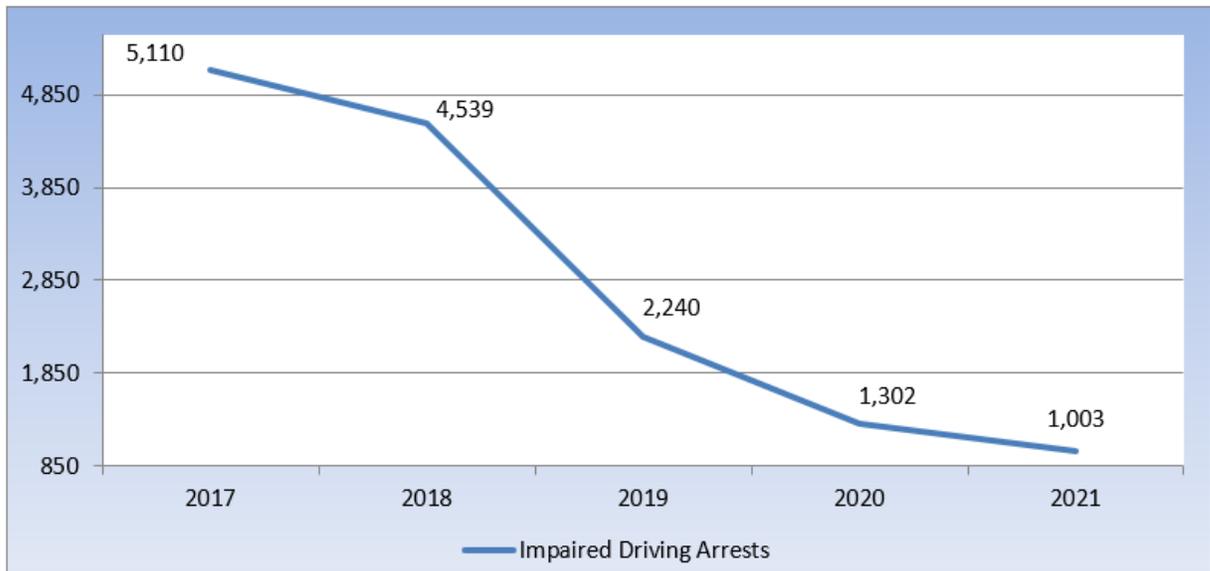
Alcohol-Impaired Driving Fatalities - BAC \geq .08 (C-5)



Source: Fatality Analysis Reporting System (FARS April 9th, 2022)

During this same period, the number of arrests resulting from grant-funded impaired driving enforcement activities decreased.

Impaired Driving Arrests/Funded Enforcement Activities (A-2)



Source: Department of Transportation TRF-BTS eGrants, June 5th, 2022

According to www.texasshsp.com, 61 percent of impaired driving fatal and serious injury crashes occur between 9 p.m. and 4 a.m. with additional factors cited:

- intersections: 24 percent
- arterials: 48 percent
- state roads: 65 percent
- urban: 50 percent
- single vehicle: 63 percent
- speeding: 26 percent

Law Enforcement Planning, Communication, and Resources

The State employs an Impaired Driving Task Force that meets three times a year as a group. Members serve on subcommittees representing the following:

- awards
- education
- legislative
- research
- drug impaired driving

The Texas Impaired Driving Task Force (TxIDTF) is a multi-disciplinary group representing the Traffic Safety Division, Breath Alcohol and Toxicology, Communication, Data and Traffic Records, Driver Licensing, Education, Enforcement, Ignition Interlock Program, Judiciary, Prosecution, Research, and Treatment. This task

force is responsible for updating the State’s Impaired Driving Plan each year. Besides increasing impaired driving training, the State has one specific strategy for law enforcement broken in four action plans:

- traffic enforcement
- data-driven approach
- law enforcement training
- sobriety checkpoints

Additionally, the State incorporates strategies to increase education for all roadway users on the impact of impaired driving and its prevention, improving mobility options for impaired road users, and increases resources (data and training) for prosecutors and officers surrounding drugged driving.

The State also uses data-driven funding model for STEP projects that prioritize impaired driving enforcement by weighting K (Fatal) and A (Suspected Serious Injury) crashes heavier than the other crash types resulting in agencies with higher DWI-KA crashes receiving more funds for STEP-Comprehensive (year-long enforcement in all 12 months) projects. For STEP-IDM - Impaired Driving Mobilization; 4 two-week mobilizations each FY, the same data is focused on agencies with high numbers of DWI-KA crashes and high frequency (DWI-KA vs. Total-KA) and/or high Texas State Trend Over-Representation Model (TxSTORM) values as recruiting targets for the Traffic Safety Specialists (TSS) and Law Enforcement Liaisons (LELs). TxSTORM is a multi-agency product of the Texas Traffic Records Coordination Committee designed to identify crash-related trends and facilitate the efficient deployment of resources. The intent is for LELs and the TSS community to focus recruiting efforts on jurisdictions with high values in the categories above and get them involved in STEP. This in turn helps the agency move to the front of the line for SFST refreshers and ARIDE trainings and other Texas Commission of Law Enforcement (TCOLE) and STEP-related training options.

The State, through data analysis, has identified the following STEP dates for High Visibility Enforcement—Impaired Driving Mobilization (IDM): Christmas/New Years, Spring Break, Independence Holiday, and Labor Day Holiday period. Interestingly, most agencies do not participate in STEP IDM. Of the 2,730 law enforcement agencies, less than 30 agencies were actively participating during this assessment.

Texas conducts the Texas Statewide Traffic Safety Awareness Attitude Awareness Survey through a grant with Texas A&M Transportation Institute. The last survey was conducted in 2020. Moreover, the statewide impaired driving campaign conducts quarterly surveys, which was last conducted in June 2022.

According to the *Texas Statewide Traffic Safety Awareness Attitude Awareness Survey: 2020 Results*, impaired driving enforcement campaign messages are seen and heard by Texas drivers, as evidenced by the majority (74.0%) of Texans surveyed who reported they had read, seen or heard an impaired driving enforcement message within the past year. Most Texas drivers (62.7%) believe it is very likely that impaired drivers will be

arrested. Almost a quarter of the survey respondents (23.1%) were not sure of the legal blood alcohol concentration (BAC) limit for intoxication in Texas, with an additional 22.1 percent selecting an incorrect response. The most often cited influence on reducing impaired driving is concern over being in a crash due to impairment effects. The least often cited influence for both was an employer policy. Most Texas drivers (62.7%) believe it is very likely that impaired drivers will be arrested.

Similarly, the goal of the *Impaired Driving Wave 5 2022 Statewide Survey* was to understand impaired attitudes and behaviors, understand how many Texans know Texas laws and penalties, and gain insight on potential messaging strategies.

Behaviors and Beliefs:

1. Three percent of respondents drink or use other drugs at least a few times a week to the level that would impair their driving.
2. Getting liquor “at home” is listed as the #1 place (20%) with grocery stores and liquor stores tied for second (18%). The least frequented places are sporting events, festivals/concerts, and alcohol delivery services.
3. Birthday is the occasion for which the most people report drinking (67%) and select it as #1 (44%) as the event for which they drink the most. New Year’s Eve/New Year’s Day is second.
4. Seventy-nine percent are confident (54% very) in their ability to know when they are impaired, yet 34 percent said the reason they drove impaired was that they thought they were okay when they really weren’t.
5. When asked what the biggest obstacle to a sober ride was, 42 percent said they didn’t expect to be impaired (30% selected this as the #1 reason).
6. Sixty-seven percent say they know they are not okay to drive because they feel buzzed, drunk, or high.
7. Respondents are more comfortable with themselves than with others driving after drinking or using other drugs.
8. Forty percent admit to driving under the influence; at the top, rationale was that they just plan to be careful (49%) and know their limits (42%). They average 2.6 excuses per respondent.
9. Most were willing to do all except take a breathalyzer or rideshare.
10. Seventy-five percent were likely to consider an alternative way home after first drink or when starting to feel buzzed.

Consequences:

1. Eighteen percent of respondents had been pulled over while impaired.
2. Nine percent received a DWI when pulled over.
3. Fifty-five percent received a ticket when pulled over.

Knowledge of the Law:

1. Sixty-two percent know the current legal limit in Texas and 77 percent know that regardless of their blood alcohol level, they are breaking the law if their driving is impaired by alcohol or other drugs.
2. Seventy percent think they will spend time in jail for DWI, but only 13 percent know the average cost of a DWI.

Interestingly, both surveys had no specific questions regarding drugged impaired driving.

Public information is routinely provided prior to each DWI enforcement campaign. The State uses a variety of mediums to deliver messages. The State provides press releases (pre- and post-) along with a variety of social media platforms. Each agency participating in STEP IDM is required to conduct pre- and post- media outreach with campaign results.

The State utilizes the Law Enforcement Advanced Data Reporting System (LEADRS), which is funded by the Texas Department of Transportation (TxDOT). The design of the system is to streamline the DWI arrest process, improve report quality for prosecution, and provide statistical data to TxDOT. As a result of this system, 74 percent of those recently surveyed said they could complete an entire DWI arrest in less than two hours. LEADRS streamlines the DWI process by:

- removing the traditional narrative style report format
- standardizing the DWI questionnaire and other forms
- auto-populating information and eliminating redundancy
- obtaining electronic blood search warrant signatures
- providing electronic associated search warrant forms
- automating system checks for errors

LEADRS provides agencies with detailed and granular level reports regarding impaired driving contacts. This advanced system allows police executives to make informed decisions about impaired driving enforcement. Moreover, LEADRS captures point-to-point establishment consumption locations to assist the Texas Alcoholic Beverage Commission to extract data to assist in their investigations.

Law Enforcement Liaisons

The State has six law enforcement liaisons (LELs). Each is assigned several districts (no more than six) and is responsible for recruiting law enforcement grantees. Texas LELs are all former or active Texas law enforcement officers. Combined, they have a total of 136 years of law enforcement experience. The LELs are the primary communication bridge between the Traffic Safety Division and law enforcement agencies.

The purposes of the State's LELs are to:

- promote, support, and assist with traffic safety programs throughout the State of Texas
- assist Texas Department of Transportation staff with grant programs as requested
- market and instruct all LEL grant course curricula
- support partner organizations with traffic safety events
- achieve all grant goals and objectives

Each LEL performs the following duties:

- trains agencies and partner organizations on TxDOT-funded programs, grant administration, and eGrants
- works closely and develops a strong working relationship with TxDOT, Traffic Safety Specialists, and partner organizations
- markets and promotes the HSP and TxDOT-funded programs
- attends traffic safety related conferences, community events, and safety fairs
- maintains child passenger safety certifications as a technician or instructor
- assists with media activities
- acts as a spokesperson when requested at traffic safety events
- develops and updates course curricula as necessary
- performs other duties as assigned by the LEL Program Manager

The LEL program works with command staff at local agencies to help them obtain funding for STEP programs funded by TxDOT and provide heat maps (crash locations). Those STEP programs include funding for impaired driving mobilizations. LEADRS program provides agencies using the system with detailed reports regarding impaired driving stops. Focus on Reducing Impaired Driving Among Youth (FRIDAY); Alcohol and Drug Abuse Prevention (ADAPT); and Drug Impairment Training for Educational Professionals (DITEP) programs train educational professionals to better recognize signs of impairment. These classes are available to all ranks of law enforcement and educational professionals.

The LELs are primarily evaluated on meeting with law enforcement agencies, assisting at Child Passenger Safety events, conducting presentation, and attending community events.

Lastly, LELs disseminate information to law enforcement and the public through the Texas LEL program website www.buckleuptexas.com/step-program-resources.

DWI Arrests/Incidents, Sobriety Checkpoints, and High-Visibility Enforcement

For three straight years, DWI arrests are declining in Texas:

- 2018: 98,349
- 2019: 97,539
- 2020: 82,597

Sobriety checkpoints are not authorized in Texas. Holt v. State, 887 S.W.2d 16 (Tex. Crim. App. 1994) held that a statewide plan setting out guidelines is needed to make use of roadblocks constitutional. Until that time, DWI roadblocks are illegal. The Texas Legislature has been presented with bills for more than 10 sessions and it has never made it out of committee. For the past three sessions, the bill has not even found a sponsor.

The TxDOT Traffic Safety Division (TRF) requires all STEP IDM grantees to participate in high-visibility enforcement (HVE). The State has four two-week HVE periods. Education and Community Outreach HVE, media relations, and community education are key factors in the success of the program. TRF ultimately maintains the statistical data of STEP IDM results which include the number of stops, enforcement hours, citations, and arrests.

Ignition Interlock Device

The State employs a combination of mandatory and “at the judge’s discretion” ignition interlock device orders for DWI offenses.

	Code(s)	1 st Offense	Enhanced	Subsequent
Driving While Intoxicated, Boating While Intoxicated, or Flying While Intoxicated Bond Conditions	CCP 17.441	Discretion of Judge	0.15 BAC or Higher, Discretion of Judge	Mandatory
Intoxication Assault, Intoxication Manslaughter, DWI w/Child Passenger		Mandatory	N/A	Mandatory
As a condition of probation – Driving While Intoxicated, Boating, Flying, Intoxication Assault, Intoxication Manslaughter	CCP 42A.408	Discretion of Judge	0.15 BAC or Higher, Mandatory	Mandatory, not less than 50 percent supervision period
Driving While Intoxicated, Boating	CCP 42A.408	Mandatory	N/A	N/A

While Intoxicated: As a condition of deferred adjudication				
Defendants under 21 years of age, if placed on probation – Driving While Intoxicated including Boating and Flying, Intoxication Assault, Intoxication Manslaughter	CCP 42A.408(e), TTC 521.342 (b)	Mandatory, not less than 50 percent supervision period	N/A	Mandatory, not less than 50 percent supervision period
Condition of issuance of occupational license – if defendant has been convicted of an offense of DWI, Intoxication Assault, Manslaughter	TTC 521.246	Mandatory	N/A	Mandatory, not less than 50 percent

The defendant shall obtain the device before the 30th day after the date the defendant is released on bond; or before the 30th day after conviction if placed on probation.

Texas Transportation Code (TTC) **521.2465** requires interlocks for first-time offenders with a blood alcohol concentration (BAC) of 0.08 or greater for a period of 90 days to one year if they choose to drive during a license suspension. Interlocks can still be ordered by the courts. TTC **521.2465** allows for persons arrested for DWI to apply for an ignition interlock device (IID) 15 days after arrest, or the person can choose not to drive. The time periods a person must go on an IID are:

- 1st offense, 0.08 BAC or greater: 90 days to one year if they choose to drive during a license suspension
- 2nd offense: 180 days to two years
- 2nd or 3rd offense: one year to two years

Government Code Sec. 411.0731 allows a person convicted of DWI with a blood alcohol concentration of less than 0.15 to petition for an order of nondisclosure of criminal history related to the offense. A person can petition for the order only if they:

- Have never been convicted or placed on deferred adjudication community supervision for another offense, other than fine- only traffic offenses
- Has successfully completed community supervision and any confinement term
- Have paid all fines, costs, and restitution

A person may petition the court that placed them on community supervision for an order of nondisclosure only on or after:

- Successful completion of community supervision and had an interlock device on the vehicle for no less than 6 months, then the individual can file 2 years after completing community supervision.
- If no interlock device was on vehicle, then the wait time is 5 years from when probation successfully completed.

A person who completes a sentence following a first DWI conviction (along with confinement, financial obligations) may petition the court only on or after:

- Successful completion of individual's sentence and had an interlock device on the vehicle for no less than six months, then the individual can file 3 years after completing sentence.
- If the court that imposed the sentence did not order an interlock condition, then the individual can file 5 years after completing sentence.

The Judges in Texas may use discretion in some cases and in others it is mandatory. Currently, the state does not train law enforcement in the IID process and does not know how many IIDs are in circulation.

Law Enforcement Training

The State provides impaired driving training to law enforcement, which includes SFST, ARIDE, and DRE. Moreover, the State provides SFST Refresher training and SFST/DRE Instructor Development Courses (as needed). An eight-hour in-person SFST Refresher Course is also available for certified officers. However, the State did not indicate if an SFST refresher class is required within a specified timeline of working the DWI enforcement grant.

The State provides many training opportunities for law enforcement. The curricula utilized by Texas includes the National Highway Traffic Safety Administration (NHTSA)/International Association of Chiefs of Police (IACP) SFST course, NHTSA/IACP ARIDE, NHTSA/IACP DRE Training, and an eight-hour in-person SFST Refresher Course. The State also delivers Drug Impairment Training for Educational Professionals (DITEP); FRIDAY; and Alcohol and Drug Abuse Prevention Training (ADAPT) to a variety of stakeholders groups.

The Texas Drug Evaluation and Classification Program (DRE Program) has gone through some recent organizational change. Both the organization providing program oversight and the DRE State Coordinator are new to the TxDOT TRF. The State currently has less than 340 certified and credentialed DREs.

A three-year review of available data from Texas indicates the following:

- 2021: 486 DRE Enforcement Evaluations / 83 percent toxicology confirmation rate
- 2020: 783 DRE Enforcement Evaluations / 90 percent toxicology confirmation rate
- 2019: 1,420 DRE Enforcement Evaluations / 83 percent toxicology confirmation rate

*Note: All enforcement evaluations may not have been entered into the national DRE tracking system due to a significant delay involving laboratory toxicology results.

The State reported collaboration among law enforcement, prosecutors, and toxicologists in impaired driving related training. The State's DWI Resource Prosecutor provides training to both prosecutors and law enforcement utilizing the following curricula:

- Investigating and Prosecuting the Drugged Driver
- Effective Courtroom Testimony
- Worst Case Scenario: Impaired Driving Crashes from Crash to Courtroom

The State does not specifically integrate Collision Reconstructionists with DREs. Additionally, the State has not incorporated an Alcohol Workshop during training for prosecutors and judges.

According to the Texas DPS Crime Laboratory, the Top 12 Most Reported Drugs or drug metabolites are the following:

- Carboxy THC (49.4%)
- Alprazolam (27.3%)
- Methamphetamine (24.2%)
- Delta 9 THC (21.3%)
- Hydroxy Delta 9 THC (16.3%)
- Benzoyllecgonine (15.8%)
- Amphetamine (14.9%)
- Clonazepam (6.1%)
- Hydrocodone (6.1%)
- Phencyclidine (5.2%)
- Flualprazolam (4.8%)
- Morphine (4.5%)

Recommendations

- Enhance law enforcement's ability to receive grant funds to focus on impaired driving efforts.

- **Recruit additional Drug Recognition Experts (DREs) and provide agency priority in counties or jurisdictions with no DREs.**
- **Create and fund driving while intoxicated officer positions to focus on impaired driving enforcement.**
- Mandate Drug Recognition Experts to provide consultation services when investigating a serious injury or fatal collision involving a suspected impaired driver.
- **Support the expansion of Law Enforcement Advanced Data Reporting System (LEADRS).**
- Encourage the Texas Chiefs of Police Association and the Sheriffs' Association of Texas to develop traffic safety committees.
- Require the Law Enforcement Liaison Program to focus more on impaired driving and developing relationships at the city and county government levels.
- **Increase forensic laboratory capacity to screen and confirm toxicological specimens submitted by law enforcement AND timely produce toxicology reports.**

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.³

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.*

³ 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 priority of Driving While Impaired (DWI) cases varies widely with prosecutors in Texas. While the Texas District and County Attorneys Association (TDCAA) has not issued a high-level statement setting DWI prosecution as a high priority, it is conducting an update of the 2013 Impaired Driving Prosecutor Listening Session and the 2013 Report will be updated in December 2022. The 2013 Listening Session yielded good information. It is expected that the 2022 Session will provide equally valuable and updated insight for the improvement of the prosecution of DWI cases in Texas. Also, the update has the potential to provide important insight as to the impact of COVID-19 on the prosecution of DWI cases.

In Texas, the prosecutors assigned to DWI cases have varied levels of knowledge and experience. Not surprisingly, there is a need to encourage experienced prosecutors to stay in the DWI arena. One reason is because understanding the importance of effective prosecution is not intuitive to many lawyers. The second reason is that successful prosecution of DWI cases requires a skill set and a knowledge base that takes time and money to develop. The best prosecutors often have more lucrative career options that will draw them away from the impaired driving prosecution. They have families and responsibilities that compel them to consider other career options after they get basic training. Finally, election sweeps can have an adverse impact on the longevity of prosecutors' careers.

Texas has a State Prosecutor longevity bonus payment that, while not focused on impaired driving, is a good first step in retaining experienced prosecutors. The Texas prosecutors have an active Diversity and Retention Committee. The TDCAA President appointed a committee to research and recommend ways in which the Legislature might help shore up the compensation issues that adversely impact both elected and assistant prosecutors and other staff. Although the efforts are not exclusively traffic safety related, TDCAA has identified retention as a major goal of the organization. Numerous pilot programs are underway. In addition, the Traffic Safety Resource Prosecutor (TSRP) specifically recruits prosecutor specialists for subcontract opportunities in the DWI Resource Prosecutor grant. At this time, TDCAA has nine subcontractors all of whom serve on the DWI Prosecutor Task Force and remain as subject matter experts in their own offices and areas.

The Texas prosecutors are engaged in 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. Focused on vehicular cases, at least six Texas jurisdictions have specialized Vehicular Crime sections. Many more have a designated subject matter expert. TDCAA publishes an Intoxication Manslaughter publication. While not every year, TDCAA delivers a weeklong Intoxication Manslaughter Advanced Advocacy course. Texas Prosecutors use both Chapter 49 (Intoxication Offenses) of the Penal Code as well as Felony Murder charges on impaired driving death cases. Using the Felony Murder Statute (Sect 19.02 PC) over 20 Texas jurisdictions have obtained life sentences for felony repeat offenders that took a

life while driving while impaired. Although the length and severity imposed by some sentences are striking, questions are raised by the numbers of dismissals and the numbers of multiple repeated offenses by one driver and the number of repeat offenders. Many Texas jurisdictions impose decades long and even life sentences for repeat DWI in non-crash cases.

The Texas prosecutors who handle impaired driving cases receive evidence-based training, such as Standardized Field Sobriety Test (SFST), Drug Recognition Expert (DRE), and emerging technologies for the detection of alcohol and other drugs. TDCAA publishes DWI Investigation and Prosecution materials. These are provided every 4 years to every Texas Prosecutor and to every attendee of the Prosecutor Trial Skills Program held twice a year by TDCAA. About 85 percent of new Texas Prosecutors attend that program. Resources on SFSTs, DREs, Blood Testing, Breath Testing, and much more are free and available at www.TDCAA.com/resources/DWI. There are dozens of hours of training video, documents, a full SFST review document, articles, a full summary of all Texas DWI cases, and much more. The TDCAA web site demonstrates the activities of TDCAA. The prosecutors' education opportunities appear to meet their needs with relevant and up to date content.

The data in the chart below suggests that it is time to look at the prosecution practices for improvement possibilities. The obvious question is what do these numbers demonstrate? The second question is what are the dispositions for the misdemeanors and the "wet reckless" equivalents? Texas uses the "Obstructing a Highway" statute as its DWI escape, much like other states use the reckless driving statute.

TEXAS DEPARTMENT OF PUBLIC SAFETY CRIME RECORDS SERVICES				
Reporting Years	2017	2018	2019	2020
Total number of DWIs reported	90,376	97,660	98,497	82,597
Number of DWI charges resulting in release with no charges	4,010	2,303	4,474	1,994
Pleas associated with DWI charges				
Plea not guilty	2,701	861	2,398	463
Plea guilty	52,076	21,687	39,601	9,323
Count of final dispositions for DWI charges				
Conviction of Original Offense	36,575	15,739	27,511	6,909
Conviction other than the original offense	15,690	5,985	12,036	2,454
Dismissals	8,108	2,021	8,312	1,434

Prosecutors seek dispositions that employ sentencing strategies for offenders who abuse impairing substances other than alcohol. Texas statute, Art. 42A.257, requires EVALUATION FOR PURPOSES OF ALCOHOL OR DRUG REHABILITATION.

- (a) The judge shall direct a supervision officer approved by the community supervision and corrections department or the judge, or a person, program, or other agency approved by the Department of State Health Services, to conduct an evaluation to determine the appropriateness of, and a course of conduct necessary for, alcohol or drug rehabilitation for a defendant and to report the results of that evaluation to the judge, if...

It would be useful to see the data showing the numbers of those adjudicated who receive the evaluation for purposes of alcohol or drug rehabilitation and received the recommended services. However, these data are not available.

The Prosecutors do not interact in any reported fashion with tribal prosecutors.

Texas reports that Prosecutors, but not tribal prosecutors, participate in multi-disciplinary training with law enforcement personnel. Obviously COVID-19 disrupted the previous training programs, but they have been restarted. The State reports that, excluding Tribal agencies, relationships with the Department of Public Safety Alcohol and Toxicology Labs and the TSRP are excellent. Every new Toxicologist has a half-day session with the TSRP as part of training. The TSRP provides constant technical assistance and liaison efforts. The TSRP trains upwards of 700 officers a year. TDCAA also makes hours of recorded training materials available to academies and police trainers. The TSRP works in very close connection with both the DRE Coordinator and the SFST Coordinator. The TSRP is available to officers statewide for technical assistance. The TSRP works with Texas Commission on Law Enforcement on legislative update curriculum and on impaired driving education issues.

The State does not have any policies on plea negotiations and deferrals in impaired driving cases. There is no requirement that plea negotiations to a lesser offense be made part of the record and count as a prior impaired driving offense established and adhered to as routine. The current operating status is that many diversions later have the records expunged. There are no actual lesser offenses to DWI. Cases are often reduced to Obstruction of a Highway. This charge is a flag to other Texas prosecutors that there is a DWI reduction.

The major jurisdictions in Texas have DWI Courts, but there are jurisdictions that do not have DWI Courts. There is no data available that show the numbers and the percentage of eligible defendants that have access to DWI courts. Texas does not have a statewide repository for DWI information and statistics. The State reports components exist that if linked with adequate design structure could become a statewide repository for DWI data. At the present time, the records are incomplete and attempts to gather a complete record

are expensive and take many person hours of investigators' efforts. There are no plans to build the needed system.

Recommendations

- Create a forward-looking plan to attract and retain driving while intoxicated prosecutors.
- **Write a white paper setting out the requirements and rationale for a complete driving while intoxicated tracking system.**
- Obtain technical assistance to determine if and how the prosecutors' case management systems currently in use can share data and what other agencies might be included in the sharing.
- Engage prosecutors in a visioning process to design a comprehensive plan to advance the prosecution of driving while intoxicated cases.

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 supervision⁴ 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

⁴ Robertson, Robyn D. and Herb M. Simpson "DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution. Ottawa, Traffic Injury Research Foundation, 2002.

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;*
- *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.⁵*
- *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

⁵ Freeman-Wilson, Karen and Michael P. Wikosz, “Drug Court Publications Resource Guide, Fourth Edition.” Alexandria, VA: National Drug Court Institute, 2002.

From top to bottom, Texas does not have a unified state court system starting with the courts of last resort. The Texas Court of Criminal Appeals is the court of last resort in criminal matters. The Supreme Court of Texas is the court of last resort for civil matters. The disconnectedness of the two courts of last resort is reflected throughout the justice system.

The Texas Court of Criminal Appeals is Texas's highest court in the State for criminal cases. The State reports that the Court takes a leadership role in effective adjudication of impaired driving. The Texas Court of Criminal Appeals assists the lower courts by resolving conflicts between the courts of appeals. Blood search warrants have been heavily litigated, and the Texas Court of Criminal Appeals has issued opinions that offer guidance to the trial courts.

However, the civil court administers the admission to the practice of law. The Texas Court of Criminal Appeals sets the requirements for continuing legal education for the judges with criminal court jurisdiction. The law trained judges have different continuing legal education requirements than the non-law trained judges. Civil courts have trial rules of procedure, but the criminal courts have local trial rules only. The Texas Court of Criminal Appeals does not assign judges or otherwise supervise the work of the local judges. The Texas Court of Criminal Appeals does not assign driving while intoxicated (DWI) cases to knowledgeable and experienced judges.

Not all judicial officers are state officers. Texas judges may be elected or appointed depending on applicable state and local laws as well as geographical and population considerations. District and County Level Courts have jurisdiction in DWI cases, depending on whether they are prosecuted as felonies or misdemeanors. The following Tribal Courts are in Texas: Alabama-Coushatta Tribe of Texas Tribal Justice System, Kickapoo Traditional Tribe of Texas Tribal Court, and the Ysleta del Sur Pueblo Tribal Court. The state courts and tribal courts do not interact. Each system is separate and currently there are no plans in place to communicate formally between the two systems.

Texas has 254 counties with an enormous variation in geographic size as well as the size of the population. There are 1,365 municipal judges. Some are elected; most are appointed. Some are law trained and some are not. Urban and rural courts have different challenges, but rural courts cannot find staff that are qualified.

Texas has a large number of specialty courts including DWI/Drug Courts. Texas Government Code, Sec.123.006 requires counties with a population of 200,000 or more to establish a drug court program. Sec. 123.005 allows counties to establish a drug court program exclusively for persons arrested for, charged with, or convicted of an offense involving the operation of a motor vehicle while intoxicated. If the county does not establish a separate program, they must employ procedures designed to ensure that a person arrested for, charged with, or convicted of a second or subsequent offense involving the operation of a motor vehicle while intoxicated participates in the county's existing drug court program. Drug Courts and DWI Courts receive funding from both

state and federal sources. In the 2021 legislative session, the legislature enacted the Ruben Reyes Act and provided that one percent of the mixed beverage tax is to be deposited to the credit of the specialty court account for use by the criminal justice division within the Governor's office. Gov. Code Sec. 183.053.

However, little factual information is available about operations of these courts although the guess was that there are about 30 DWI courts. No data was provided to show how many courts exist or how many defendants are handled by these courts. Because there is no statewide or even local DWI tracking system in Texas, a determination of whether a defendant had a subsequent DWI offense is not possible. The courts are reported to have evaluators, but the validity of any evaluation is highly questionable if they do not have access to valid data. Even a simple spreadsheet showing how many impaired driving cases are handled by each specialty court with a breakdown of dispositions of those cases in each court could help identify jurisdictions that have a DWI court.

Not all citizens within Texas, in fact not many citizens, have access to DWI Courts. Although information was presented about one tribal court, there is no data to use to reach a conclusion.

Texas does not encourage consistency in the adjudication of impaired driving (including youthful offender) cases. Certainly, the huge variation in the courts militates against any imposition of effective and evidenced-based sanctions, particularly when impaired driving resulted in a fatality or injury. Texas does not track the timeliness of the adjudication of impaired driving cases.

The Texas Center for the Judiciary, Texas Association of Counties, Texas Municipal Courts Education Center, and Texas Justice Courts Training Center all have training on impaired driving. These organizations collaborate on a yearly training in which all court levels come together for impaired driving education. The Texas Center for the Judiciary and the Texas Association of Counties also collaborate on two DWI Summits each year. These summits are held in smaller, more rural areas to give judges in those areas a chance to attend an impaired driving training without travel time and costs. It is not clear which judges attend the trainings and how often the various judges attend. Tribal judges are not invited to attend.

Some Texas courts employ strategies to reduce recidivism through evidence-based sentencing and close monitoring. However, the disposition of DWI cases in Texas varies greatly from jurisdiction to jurisdiction. What data that is available is inadequate to show outcomes from all courts for comparison and contrast of strategies used by the different courts.

DWI Courts have increased the use of drug or alcohol assessments proven reliable and validated for assessing offenders with alcohol or drug use problems. Texas requires the use of the Texas Risk Assessment System (TRAS), but courts have gone beyond that assessment to better determine risk and needs for impaired driving offenders. They have received training on Computerized Assessment and Referral System (CARS) and the

Impaired Driving Assessment (IDA). Those courts use a combination of assessment tools depending on the offender.

Because Texas does not have a statewide DWI tracking system, it is not clear to what extent the courts are applying effective and appropriate sentences to these offenders, including abstinence from alcohol and other drugs, and closely monitoring compliance, leading to a reduction in recidivism. In some courts it is likely that close monitoring for compliance is available. Sentencing varies greatly from jurisdiction to jurisdiction. Some courts use DWI Courts, Diversion, and deferral programs to effectively and efficiently sentence DWI offenders.

Texas has eliminated ethical obstacles, such as ex parte or commitment communications, to allow the judges to participate more freely in DWI Court administration. A comment has been added to the Texas Code of Judicial Conduct stating: "It is not a violation of Canon 3B (8) for a judge presiding in a statutory specialty court, as defined in Texas Government Code section 121.001, to initiate, permit, or consider any ex parte communications in a matter pending in that court." However, in non-drug court setting, traditional ethical standards remain. The current statute allows the court with jurisdiction to modify any condition of community supervision at any time. CCP 42A.051(b). Probation officers, who are an extension of the court, routinely notify the courts "ex parte" regarding violations via amended order memos.

Texas has community supervision programs. The Texas Department of Criminal Justice-Community Justice Assistance Division (TDCJ-CJAD) administers adult community supervision in Texas. Although the division does not work directly with offenders, it distributes state aid to local community supervision and corrections departments (CSCDs). TDCJ-CJAD's role is to ensure that services are provided in accordance with strategic plans and state standards. As mandated by the Texas Code of Criminal Procedure and approved by the Texas Board of Criminal Justice, TDCJ-CJAD develops minimum standards for core CSCD services. TDCJ-CJAD tracks and evaluates CSCD programs, approves program budgets, performs fiscal audits, and maintains the Community Supervision Tracking System (CSTS). Texas community supervision officers are trained and certified by TDCJ-CJAD.

Court staff receives some training on ignition interlock devices. Through a Texas Department of Transportation grant, the Texas A&M Transportation Institute developed and provides training to judges and judicial staff, prosecutors and staff, and probation departments on ignition interlock devices. Information on the training, including the curriculum topics and participants for the last two years, was provided.

The current state Judicial Outreach Liaison (JOL) has held the position for the past nine years. The JOL serves as a judicial educator and resource on highway traffic safety issues including impaired driving, as well as acts as an agent to create more DWI Courts. The JOL is a frequent lecturer, coordinator, and resource on highway safety issues, and teaches at and coordinates an annual training for all DWI Courts. That training has a

basic component for new DWI Court teams and team members and an advanced component for existing and experienced DWI Court teams and team members.

There was mention of how outdated statutes are confusing and time consuming for prosecution and adjudication. The extent of the problem is not clear. If the statutes are causing the courts to work with less efficiency, then some analysis of how the statutes might be amended to streamline adjudication would be worth the effort.

In looking at the adjudication of DWI in Texas the single most pressing problem is data. For a judge who sets bond or imposes a penalty, it is imperative to know the defendant's record. Until the courts have a data repository making the defendants history available to all judges, there will be an unnecessary burden in making good bond and sentencing decisions.

Recommendations

- Invite the tribal court judges and staff to attend the Texas driving while intoxicated training.
- Inventory the information systems currently in use by all existing courts that adjudicate driving while intoxicated cases.
- **Work with Law Enforcement Advanced Data Reporting System (LEADRS) and other justice information systems to design a path forward to have a driving while intoxicated tracking system.**

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.⁶

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

⁶ 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

The Texas Department of Public Safety, Driver License Division is responsible for all driver license processes from testing and issuance of credentials to suspension or revocation of a license. Texas has an implied consent statute and comprehensive license sanctions related to impaired driving offenses. The alcohol-related offenses include misdemeanor driving while intoxicated (DWI) and felony classification Intoxication

Assault and Intoxication Manslaughter. This administrative process is independent of the judicial process and associated criminal penalties for impaired driving. Administrative license revocation appeals are heard by State Office of Administrative Hearings, Administrative Law Judges. Separating processes allows for uniform administrative sanctions apart from any criminal proceedings. In Texas, intoxication is statutorily defined as: 1) not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body or 2) having an alcohol concentration of 0.08 or more. Persons under age 21 are deemed intoxicated with any detectable presence of alcohol.

Listed below are the categories of DWI offenses and their related penalties.

Offense Under age 21

- Class “C” Misdemeanor
- License suspension not to exceed 1 year
- Up to a \$500 fine
- Completion of an Alcohol Education Program at least 12 hours long
- An additional 180 days of license suspension if no Alcohol Education program is completed

Offense age 21 or older

1st Offense

- Class “B” Misdemeanor
- Up to a \$2,000 fine
- Jail time between 3 days and 180 days
- License suspension for up to 2 years
- DWI intervention or education program
- Possible ignition interlock device

2nd Offense

- Class “A” Misdemeanor
- Up to a \$4,000 fine
- Jail time between 1 month and 1 year
- License suspension up to 2 years
- DWI intervention or education program
- Possible ignition interlock device

Felony DWI

Offense age 21 or older

3rd Offense or more

- State Jail Felony

- Up to a \$10,000 fine
- State prison time between 2 years and 10 years
- License suspension up to 2 years
- DWI intervention or education program
- Possible ignition interlock device

Intoxication Assault

- While drunk driving causes serious bodily injury to another person
- 3rd degree felony

Intoxication Manslaughter

- Killing another human being while operating a motor vehicle under the influence
- 2nd degree felony

Commercial Driver License (CDL) holders are subject to the same sanctions listed above with two exceptions: there is no time limit for determining repeat offenses and DWI is defined by statute as a BAC 0.04 or greater in a commercial motor vehicle and 0.08 or higher in any vehicle.

Upon a first or second DWI conviction or refusal of implied consent, the operator faces administrative license revocation. The following sanctions will be imposed for persons who refuse an alcohol test or who fail an alcohol test.

Chemical test refusals

Adults

- 1st offense: 180 day suspension
- 2nd offense (Refuse or fail test): 2 years

Minors (Under 21 years old)

- 1st offense: 180 day suspension
- 2nd offense (Refuse or fail test): 2 years

Chemical test failures

Adults

- 1st offense: 90 day suspension
- 2nd offense (Refuse or fail test): 1 year

Minors (Under 21 years old)

- 1st offense: 60 day suspension
- 2nd offense (Refuse or fail test): 2 years

For ALR penalties, a 2nd offense can be a previous refusal or failure of a chemical test or a previous license suspension for DWI, DWI Assault, or Intoxication Manslaughter within the past 10 years.

Recommendations

No recommendations for this section.

F. 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

Texas has a Graduated Driver License (GDL) program consisting of two stages of licensure and a minor restricted driver license (MRDL). An initial instruction permit can be obtained as early as 15 years of age. An MRDL can be obtained as early as age 15 and a provisional license at age 16. At age 18, a full license under age 21 can be obtained. The requirements and restrictions associated with each stage are:

Instruction Permit

- Must be accompanied by a licensed driver age 21 or over riding in front passenger seat.
- Must pass written and visual examination; at least 15 years of age.
- If less than 18 years of age, must have parent/guardian sponsorship.
- Minimum holding period is six months.

Provisional License

- At least 16 years of age held an Instruction Permit or MRDL for at least six months
- Restricted from driving alone between 12 a.m. and 5 a.m. unless the operation of the vehicle is necessary for the driver to work, to attend or participate in a school-related activity, or due to a medical emergency
- Complete driver's education course
- No cell phone/messaging use
- Passengers restricted to no more than one under the age of 21 unless immediate family member

There are several programs and technologies to prevent or deter the issuance of fraudulent driver licenses or identification cards. Driver license issuance personnel are provided Fraudulent Document Recognition training and are issued the ID Guide document authenticating book. The driver system runs a one-to-many facial image verification to ensure the applicant is not currently licensed in Texas and to prevent an individual from obtaining multiple licenses using different identities.

Recommendations

No recommendations for this section.

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

Following a competitive bidding process, the Texas Department of Transportation (TxDOT) contracted with the Sherry Matthews Group (SMG) as its vendor for the statewide impaired driving campaign in Fiscal Year (FY) 2021-2022. This nationally recognized firm specializes in behavioral marketing strategies designed specifically for social campaigns such as public health, highway safety, and educational programs, among others.

Based on its extensive experience and expertise in this sector, SMG developed a comprehensive communications plan for the statewide impaired driving campaign that includes a variety of objectives, action items, and projected completion dates. Crash data and campaign surveys have been utilized to narrow the focus of the marketing to the intended audiences in areas most at risk of impaired driving crashes. This plan includes the deployment of an integrated communications strategy for the State that addresses demographic, geographic, and cultural considerations related to impaired driving. The plan also includes a yearlong paid media flow chart illustrating the flight dates and locations of various media elements.

Following an extensive period of consecutive days with at least one traffic fatality daily on the State’s highways, and no deathless days, an overarching safety campaign was launched to address a variety of risky driving behaviors. This broader social media effort has been titled “End the Streak TX,” and includes the impaired driving communications plan with its tagline of “Drive Sober. No Regrets.”

The statewide impaired driving media campaign is guided by a comprehensive action plan and statement of work that includes specific activities and anticipated completion dates. Contained within the plan are strategies and tasks that include:

- creating a multi-media public awareness campaign
- conducting planning meetings with the Project Manager
- developing a crisis communications plan
- developing a visual identity and tagline for the campaign
- designing promotional items and creative materials for various types of media
- preparing media placement plans and their associated budgets

- executing a mixed media buy strategy
- identifying potential non-paid media and publicity activities
- developing and engaging in social media technologies
- coordinating and executing special events and promotions

This campaign aims to save lives and reduce crashes by focusing on drivers in age groups most susceptible to impaired driving. It is stated to emphasize the fact that drunk driving can have serious physical, emotional, and financial consequences that can last for years. Some of the content provided through this campaign (and available for download) has included documentary-style videos that share personal accounts from real offenders and survivors that challenge any notion the audience may have that they can avoid the consequences of drinking and driving. It reinforces the importance of always finding a sober ride, and the many options available. They have also included interviews of real people who have been charged with driving while intoxicated (DWI), telling others about the adverse consequences of a DWI arrest including its costs, the ensuing legal hassles, difficulty finding or keeping a job, loss of trust from loved ones, and regret. It emphasizes that the human toll of a DWI crash can devastate the lives of victims and survivors forever.

The campaign creative changes throughout the year to match key timeframes when impaired driving messages are most critical, especially during periods of heightened law enforcement.

During the end-of-summer national enforcement mobilization period, and during football season, outdoor media, specific social media sites, posters, and handouts focus primarily on enforcement activities and judicial penalties to create a heightened perception of risk of detection, arrest, and prosecution. Other media flights during the year focus more on social norming strategies to increase awareness of the aftereffects of impaired driving-related crashes, and to influence and sustain the appropriate behavior. The approaches are stated to be audience-specific and innovative in concept and delivery, including the development of culturally appropriate and relevant multi-lingual materials.

In addition to two specific heightened law enforcement mobilizations, the creative campaign attempts to match its messaging, and intended audience, with event-specific and holiday timeframes. These campaign flights include a broad variety of paid and social media strategies along with outreach activities and strategic media relations. The campaign flights include the following periods:

- Football Season (October, November, and January)
- Christmas/New Year Holiday (Enforcement Mobilization – December)
- College and Young Adult/Spring Break (March)
- Spring Holidays (May)
- Faces of Drunk Driving/July 4th (June and July)
- Labor Day (Enforcement Mobilization – August and September)



Paid media launched in 2021 during a five-month period of May through September, focused on those drivers most at risk for causing an impaired driving crash: young adults between the ages of 18-34, especially males between 21-26 years old. Although the campaign was statewide in nature, there was a special emphasis on the 10 Texas counties with the highest number of alcohol-related crashes and fatalities, including all of Texas's major cities. Media components included broadcast and cable TV, radio, billboards, and digital ads, all of which included both English and Spanish versions. Information from the Fiscal Year (FY) 2021 Annual Report revealed that over \$1.6 million were expended for the paid media campaign and netted a 26-to-1 return on investment. Earned media resulted in \$1,597,987 in added value and 25,008,004 impressions. Paid media match resulted in \$3,952,205 in added value and 306,975,316 impressions. In addition to paid and social media, the marketing group has a stated objective for FY 2022 to secure a minimum of \$3,765,000 in added value and earned media.

Given that a large segment of at-risk drivers includes college-aged drivers, the "Driver Sober. No Regrets." campaign has partnered with the university housing departments of three major Texas universities to inform college students of the risk and costs of driving impaired. Outreach events were scheduled for several prime college football games.

Twelve outreach events were launched for the Faces of Drunk Driving and Labor Day flights of the FY 2021 campaign during which visitors were invited to watch real-life stories from offenders and survivors who had suffered the consequences of drunk driving. Over 6,600 people interacted with trained brand ambassadors at these events, many of whom received rideshare coupons. Media and public relations efforts during that year's campaign also included press activities and news stories about the consequences of impaired driving.

TxDOT focuses on educating Texans about the important issue of impaired driving by reaching the public through a variety of means. These include but are not limited to:

- billboards
- gas station pump topper advertisements

- mobile advertising
- news interviews (print, TV, online)
- online advertising
- posters, clings, and public information cards
- press releases and media events
- Traditional TV – public service announcements (PSAs)
- Digital TV – paid advertising
- traditional radio – PSAs
- digital radio – paid advertising
- social media (Facebook, Instagram, Snapchat, Twitter, and dating apps) through paid advertising and organic
- Influencer Program – paid and organic

The 25 TxDOT districts are staffed with Traffic Safety Specialists (TSS) who personally speak to their communities about the issue of impaired driving. They set up information centers at local events, give speeches at high schools and colleges, sponsor parade floats, and distribute educational materials to local employers. These TSSs aid in the distribution of campaign messages and assets. Digital toolkits are produced and updated as part of the communications plan to help spread messaging and provide materials for sharing on social media as well as for download and print. Similarly, a Law Enforcement Digital Toolkit is updated to assist in promoting the campaign during heightened enforcement periods and includes canned visuals, social media posts, and print collateral.

Additionally, TxDOT and its ad agency partners utilize available qualitative and quantitative data and regularly perform market studies to determine what messages and tactics will best reach target audiences. The contracted marketing group is tasked with measuring campaign effectiveness by tracking crash statistics, earned media valuations, and media and outreach metrics. It was reported that Texans live in a fast-changing social environment, and thousands of new people move to Texas every month. Based on this important research, subtle changes to campaigns have been made. One example is messaging that incorporates “planning ahead” instead of waiting until the drinker begins to decide how to get home. Another example is replacing the term “designated driver” with “sober driver” since it has been discovered that frequently the “designated driver” is determined by who perceives themselves to be the least intoxicated of the group.

A statewide traffic safety survey was conducted in 2020 by the Texas A&M Center for Transportation Safety (TAMU CTS), and similarly, statewide online surveys were conducted by SMG following each campaign wave, most recently in June 2022. The TAMU CTS survey was slightly over-represented by white respondents and under-represented by Hispanic respondents, while the SMG surveys were closer to the actual state demographics in all categories including white, Hispanic, African American, and American Indian. While the TAMU CTS survey revealed that 74 percent of respondents had either seen or heard an impaired driving message within the past year, the SMG surveys indicated that only about 38 percent of respondents had heard of the current “Drive Sober. No Regrets.” campaign, and that more respondents were familiar with the past campaign, “Drink. Drive. Go to Jail.” Both surveys indicated that a majority of

respondents believe there is a strong likelihood of being arrested if caught driving while impaired, but the SMG surveys revealed that the main motivating factor for not doing so was because of the harm it might cause themselves or others.

Surveys conducted by both the university and the contracted marketing group provide a wealth of information, data, and analysis for continuing to develop and/or modify the existing messaging and communications plan.

There are approximately 200 corporations and major companies headquartered in Texas, 54 of which are listed within the Fortune 500. Although outreach to the State's corporate entities is conducted by the National Safety Council (represented on the Texas Impaired Driving Task Force), there is no evidence of the extent of direct involvement of any of the numerous Texas private industries and corporations, or their representative associations, in the State's impaired driving program. Given the vast number of employees working in Texas, and the employee safety ramifications both on and off the job, for these various corporate entities, this group represents a massive, concentrated audience for highway safety messaging.

There is no Public Relations or Communications officer within the TxDOT Traffic Safety Division's Behavioral Traffic Safety Section, and all social media communication is reviewed, approved, and released by the TxDOT Communications Division, which is a completely separate organizational component of TxDOT. Although highway safety and impaired driving messages are released through this division, this added layer of organizational bureaucracy may mitigate effective coordination of highway safety messaging in its various forms. The lack of a dedicated highway safety press officer inhibits the coordination of messaging with allied agencies and stakeholders during periods, and/or in geographic areas, of concentrated campaigns.

Recommendations

- Establish partnerships with major corporations, or their representative professional associations, to expand the reach of the impaired driving program and amplify its messaging.
- Expand the current ongoing efforts of the National Safety Council and the Traffic Safety Specialists in providing information, both in materials and face-to-face seminars, to employers.
- Utilize the Network of Employers for Traffic Safety in addition to the National Safety Council to identify strategies for working with the State's employers to provide impaired driving information and materials for their employees to diminish the number of traffic crashes and their related effect.
- Develop a cadre of partners and stakeholders, beginning with State-level organizations, who can advocate for impaired driving countermeasures among their membership at the community level, and provide template materials (e.g.,

press releases, letters to the editor, social media posts and graphics, etc.) to make it easy for those who wish to become engaged in supporting impaired driving prevention programs at the local level.

- Conduct a training conference for officials from program partners (law enforcement, Texas Department of Transportation, health departments, etc.) who are responsible for the dissemination of public information. Utilize this opportunity to provide data and information on the impaired driving problem within the state, highlight existing marketing campaigns, and inform them of the most useful manner in which to coordinate their messaging with existing campaigns.
- Analyze crash, survey, socio-economic, and demographic data to narrow the intended audience for paid media to those most at risk for impaired driving crashes to ensure sufficient message saturation, frequency, and reach of the advertisements to change behavior.
- Establish a Public Information Officer within the Texas Department of Transportation strictly for coordinating highway safety messaging, both engineering and behavioral.

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.⁷ 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.⁸

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

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 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.

⁷ Repeat DWI Offenders in the United States. “Washington, DC: NHTSA Technology Transfer Series, Traffic Tech No. 85, February 1995.

⁸ 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.

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

Texas Code of Criminal Procedure Section 42A.402 -- 42A.409 details the requirements and conditions for driving while intoxicated (DWI) offender screening and evaluation in the judicial system.

Art. 42A.402. DRUG OR ALCOHOL DEPENDENCE EVALUATION AND REHABILITATION. (a) A judge granting community supervision to a defendant convicted of an offense under Chapter 49, Penal Code, shall require as a condition of community supervision that the defendant submit to an evaluation by a supervision officer or by a person, program, or facility approved by the Department of State Health Services for the purpose of having the facility prescribe and carry out a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition.

In Texas, DWI offender screenings and assessments are done mainly by outreach, screening, assessment, and referral centers; private licensed providers; jailers; and community supervision and corrections departments (CSCDs). CSCDs throughout the state handle screening of DWI offenders differently. Some CSCDs screen offenders in-

house, while others refer offenders to licensed providers within the community. Each CSCD follows the policies and procedures established by the courts in its jurisdiction. It is important to note that CSCDs are statutorily required to use specific risk/assessment screening and assessment tools, with a few adding DWI-validated screening and assessment tools to the evaluation process. Some of the DWI-validated screening and assessment tools are the Computerized Assessment and Referral System (CARS), Impaired Driving Assessment, and DUI Risk and Needs Triage. DWI-validated tools are preferred to generalized instruments since they were validated for the DWI offenders and present more accurate needs/risk results for this population.

CSCDs often use the Texas Risk Assessment System (TRAS) screening and assessment tool to determine an offender's risk and needs levels. The results point to which rehabilitation interventions will be used. CSCDs also tend to supplement offenders' evaluations with clinical screening tools such as the Substance Abuse Subtle Screening Inventory (SASSI).

In many rural counties it is difficult to identify any individuals with qualifications to provide evaluations.

The lack of standardization of court procedures throughout Texas is problematic for understanding the extent and nature of screening to determine whether an offender has an alcohol or drug abuse problem. In addition, lack of standardization of reporting inhibits the ability to monitor and measure the effectiveness of DWI sanctions including treatment and rehabilitation.

Recommendations

- **Identify, train, and support qualified assessment and evaluation professionals in underserved areas.**
- **Enact a statute that establishes a driving while intoxicated (DWI) tracking system by giving strong incentives to all keepers of impaired driving offenses data to make sure that the records systems communicate data to each other to track every DWI offense.**

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 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;⁹ and*
- *Designed to result in referral to assessment and treatment when warranted.*

Status

Screening, Brief Intervention and Referral to Treatment (SBIRT) is offered in some hospitals in Texas though it is unclear how many or to what extent the process is being implemented with fidelity.

In the traffic safety community, the Texas Impaired Driving Task Force (TxIDTF) has identified additional SBIRT programming as an effective tool in prevention of impaired driving. An SBIRT program that provides for universal screening and record keeping, training additional professionals in brief interventions to motivate reduced alcohol use, and identifying linkages with other institutions where SBIRT is routinely used would maximize the effectiveness of SBIRT. A barrier to effective SBIRT is the difficulty of connecting people who have needs with referrals to services. There are programs that are attempting to solve this issue by improving the referral process from SBIRT to specialized treatment. While these approaches focus on driving while intoxicated (DWI) offenders, universal screening is intended to reach the broader population of drivers to

⁹ 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.

address clinical needs prior to impaired driving. Moving upstream to prevention requires SBIRT in the general population in healthcare settings like primary care.

Many universities and colleges in Texas provide SBIRT or similar programs. The Texas Department of State Health Services contracts with various organizations to fund training for SBIRT. Texans for Safe and Drug Free Youth (TxSDY) has an SBIRT program for college campuses. This program trains campus faculty and staff in SBIRT so that they can serve as SBIRT interviewers. TxSDY also administers SBIRT to high-risk students during orientation with first-year students, students in Greek organizations, athletes, and other settings.

Texas Impaired Driving Task Force does not currently have representation from healthcare professionals who might utilize SBIRT.

Recommendations

- Assess the extent of utilization of Screening, Brief Intervention and Referral to Treatment (SBIRT) in hospitals and other settings in Texas and determine the level of fidelity of implementation.
- Promote and support the use of Screening, Brief Intervention and Referral to Treatment (SBIRT) in hospitals, healthcare facilities, and other settings in Texas.
- Assess the impediments to connecting people who have treatment needs identified by Screening, Brief Intervention and Referral to Treatment (SBIRT) with referrals to services.
- Expand the composition of the Impaired Driving Task Force to fill representation gaps created by the lack of experts in the fields of local public health, emergency medicine, and alcohol and other drug treatment and prevention programs. Other groups to be considered for membership should include representatives from the military, veterans, employers, and community groups, especially those representing diverse populations.

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

The Texas Department of Licensing and Regulation (TDLR) rules for the driving while intoxicated (DWI) education programs are in Title 16, Part 4, Chapter 90, Subchapter D, PROGRAM REQUIREMENTS - CURRICULUM, COURSES, CLASSROOMS, CERTIFICATES RULE §90.40 Program Curriculum and Materials - All Programs

- (a) Offender Education Programs shall use the most up-to-date version of the uniform curricula and of any screening instrument approved by the department.
- (b) The following curricula are approved for the applicable program:
 - (1) Alcohol Education Program for Minors -- the Alcohol Education Program for Minors Administrator/Instructor Manual;
 - (2) Drug Offender Education Program -- the Texas Drug Offender Education Program Administrator/Instructor Manual;
 - (3) DWI Education Program -- the Texas DWI Education Program Administrator/Instructor Manual; and
 - (4) DWI Intervention Program -- the Texas DWI Intervention Administrator/Instructor Program Manual.
- (c) Any supplemental media used in an Offender Education Program must have prior written approval from the department. The Offender Education Program seeking approval must demonstrate that it meets the following minimum conditions for approval of supplemental media:
 - (1) the Program must still use all media required by the applicable approved curriculum for each module;
 - (2) the Program, with use of the supplemental media, must exceed the minimum number of classes and hours of instruction required per course by the length of any supplemental media; and

(3) the content of any supplemental medium must relate directly to the objectives of the curriculum module in which it is used.

Following screening and assessments, DWI offenders receive an intervention that can include the Texas DWI Education Program or a rehabilitation plan and, depending on the need, a treatment plan as well. Many jurisdictions in Texas, through its Texas Department of Corrections, Community Supervision and Corrections Departments (CSCD), offer rehabilitation options to DWI offenders. Some jurisdictions provide treatment and rehabilitation services through pre-trial intervention programs, specialty courts, including DWI Courts, and community supervision.

The DWI Education Program does not utilize an evidence-based curriculum, but the elements of the program are specified in TDLR rules. Materials, including a workbook, are available from the TDLR.

At present there are approximately 30 DWI and DWI hybrid courts. DWI courts offer screening, assessment, treatment, and rehabilitation services to DWI offenders. Most DWI courts only accept felony DWI offenders though Dallas, Fort Bend, Hidalgo, and Tarrant Counties have misdemeanor DWI courts. While some DWI courts have evaluators as part of the project team, assessing the impact of these courts is made problematic by lack of uniform, complete, and consistent data on DWI offenders, i.e., DWI tracking system.

Local courts can use minor in possession and public intoxication citations to employ early intervention. While these courts deal only with DWI-minor cases, these judges cannot impose treatment options for minors. These courts can only impose rehabilitation options such as DWI classes.

Many Texas counties are sparsely populated and have few, if any, substance abuse treatment resources. It was reported that tribal courts have adequate treatment and rehabilitation services for both tribal members and non-tribal spouses of members.

There is no statewide DWI offender monitoring system. Each jurisdiction has a community supervision department that monitors all offenders who receive a probated sentence. Each jurisdiction handles monitoring from time of arrest to sentencing differently. Some jurisdictions have a pre-trial office that provides monitoring, while some prosecutors monitor the bond conditions. In rural areas, the Judge's office might bear the responsibility of monitoring for compliance of bond conditions.

Recommendations

- **Enact a statute that establishes a driving while intoxicated (DWI) tracking system by giving strong incentives to all keepers of impaired driving offenses data to make sure that the records systems communicate data to each other to track every DWI offense.**

- **Conduct an impact evaluation of driving while intoxicated courts.**
- Document the lack of access and impediments to treatment services.
- Conduct a feasibility study of providing increased access to treatment for driving while intoxicated offenders especially in underserved areas.

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 Texas Department of Transportation, Traffic Safety Division's Behavioral Traffic Safety Section (TRF-BTS) administers \$105 million in federal traffic safety funds through a structured process that includes problem identification and subsequent program

evaluation. The process is used to create objectives for the Highway Safety Plan (HSP), Strategic Highway Safety Plan (SHSP), and other guiding documents promoting traffic safety in the State. Traffic safety funds are distributed to state, county, and local jurisdictions for projects that support the State's highway safety objectives with approximately twenty percent of funds being directed to local agencies.

TRF-BTS utilizes a structured risk evaluation process to determine projects to be funded based on priority ranking of needs versus available funds. Funded programs are evaluated using a process method to ensure that funded activity hours or activities meet specific objectives. The TRF is divided into six sections though all areas do not have an impaired driver related component. However, TRF-BTS and Crash Data and Analysis Sections conduct significant activities that contribute to impaired driver countermeasure and deterrence programs. Each year, TRF-BTS conducts problem identification analyses and prioritization of program areas. Analyses are performed from data contained in the Crash Records Information System (CRIS) and are supplemented by other state datasets related to location and some driver demographics. Serious injury crashes are evaluated along with fatal crashes since serious injuries may have become a fatality if only a small characteristic of the crash or emergency response were different.

Additionally, Texas State Trend Over-Representation Model (TxSTORM), a predictive modeling tool developed by TRF-BTS, is utilized to identify high crash occurrence locations based on a normalizing algorithm to determine where additional enforcement activity may be beneficial. TRF-BTS then proactively solicits agencies to apply for funded activities to mitigate high crash occurrence locations identified by TxSTORM.

TRF-BTS process evaluations include documentation and tracking of deliverables for each project with the grantee complying with monitoring and auditing practices. Impaired driving-related law enforcement activities require the reporting of arrests and citations issued during funded hours. TRF-BTS produces an annual report for the National Highway Traffic Safety Administration and provides it to state and local partners. The report includes outcome evaluations for funded projects and provides overall analyses of safety metrics.

TRF-BTS has a public information component delivering public information campaigns concurrent with highway safety projects. The office has contracted with a commercial marketing firm to continue delivering safety messaging through paid media, earned media time, and targeted social media platforms. Public information campaign plans, ad buys, and post campaign effectiveness reports are prepared by the media contractor in an effort to influence public attitudes and behaviors.

Recommendations

No recommendations for this section.

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

Texas has an active Traffic Records Coordinating Committee (TRCC) that is a comprehensive, functional body of data system managers and stakeholders. The TRCC includes representation from all six core systems (crash, citation/adjudication, driver, vehicle, roadway, injury surveillance systems) which allows for access to and analysis of a wide range of data. The Texas Department of Transportation, Traffic Safety Division's Behavioral Traffic Safety Section (TRF-BTS) relies primarily on crash and fatality data for problem identification and program evaluation. There is currently no interoperability between the Crash Records Information System (CRIS) and the driver and vehicle files.

CRIS is a data collection and management tool for law enforcement for traffic crash reporting. It has been deployed throughout the State to all enforcement agencies, and all crash reports are captured electronically. CRIS is supported by data validation rules and edit checks to enhance the data quality of crash records. CRIS accepts crash records via a direct data entry form or uploads from third-party police record management system

providers. Texas crash records contain toxicology results if they are recorded by the reporting officer; however, toxicology results obtained from medical examiners are captured for evaluation purposes. Additionally, crash records contain GPS coordinate information to accurately identify crash locations and enable mapping of crashes on a CRIS dashboard.

There is no statewide citation processing or tracking system available for use by all law enforcement agencies within Texas. Several disparate citation reporting systems exist, ranging from a statewide system managed by the Texas Highway Patrol Division of the Texas Department of Public Safety tracking of State Trooper enforcement activity, to a driving while intoxicated (DWI) processing citation and documentation system, the Law Enforcement Advanced Data Reporting System (LEADRS), developed and managed by the Texas Municipal Police Association. LEADRS enables law enforcement officers to process arrest reports and related documentation for case prosecution and produces documentation for the Texas Department of Public Safety, Driver License Division (DLD) to impose administrative revocations for implied consent refusal or high blood alcohol concentration results. LEADRS supports over 1,000 police agencies throughout the State but currently only has about 160 agencies as active users. Other law enforcement agencies have their own version of citation and case management systems, many of which are procured from third-party commercial providers and thus there is no interoperable communication between systems or method of calculating the number of citations issued on a statewide basis.

There is no statewide court case management system utilized by all courts. Court case management systems are typically either procured by an individual court or by the local county for all courts within its jurisdiction. As a result, there is no repository of cases filed and the related disposition information available to determine the number of active cases and evaluate the timeliness of court processing time from arrest to final disposition. County and District Court clerks are responsible for providing misdemeanor and felony DWI related case disposition information to the Department of Public Safety to both the Crime Records Division (CRD) through the Texas Crime Information Center for entry on the person's criminal history and to the DLD for entry on the driver record.

DLD maintains the driver license history file, which includes the license status, any impaired driving convictions, and crash occurrences. Additionally, driver histories contain license restrictions to comply with the Ignition Interlock Device (IID) program. DLD does not participate in the State-to-State (S2S) driver history exchange program. However, DLD participates in the Problem Driver Pointer System (PDPS) to assign Texas as the licensee's state of record for driver licensing purposes. DLD driver history information including out-of-state and some in-state conviction reports and IID court orders are received and processed manually.

Texas has a statewide database for hospital discharge data and emergency department data. Texas Health Care Information Collection (THCIC) owns hospitalization and emergency department visit data. Additionally, there is a statewide EMS and trauma registry. Facilities are required to submit to EMS/Trauma under Title 25, Chapter 103 of

the Texas Administrative Code. All EMS runs, traumatic brain injuries, spinal cord injuries, submersions, and other traumatic injuries based on a specified criterion are required to be reported to the registry.

The Texas IID Program is also segmented in its design and practice. The Texas Department of Public Safety promulgates rules and certifies vendors and approves service centers and testing instruments to support the program. Texas Department of Corrections, Community Supervision and Corrections Department (CSCD) personnel are charged with monitoring the offender compliance with court mandated IID requirements. Each of the 254 counties within the State of Texas have their own rules guiding the IID program implementation and acceptable vendors to service their local citizens. Due to the disparate nature of the implementation of the IID there is no information available to determine how many drivers are subject to IID sanctions or the effectiveness of IID as a deterrence to DWI recidivism.

Texas does not have the functional components of a DWI tracking system. Citation and court management systems are not integrated to be able to account for every DWI incident from the initial citation through completion of all court-imposed compliance and/or treatment requirements. As a result, there is no way to determine that every DWI citation reaches the prosecutor and that the case is processed through to a final adjudicated disposition.

There were two notable improvements related to impaired driving that were described during the assessment interviews. An enhancement is being developed to Texas State Trend Over-Representation Model (TxSTORM) to evaluate other traffic system data such as driver and vehicle information to further refine predictive analyses and identify additional problem areas. Another system in development is the Public Safety Reporting System (PSRS). The implementation of the PSRS will create a method to capture conditions imposed on impaired drivers when they are arraigned by a magistrate. This will provide a record of enforceable actions in compliance with release from custody on a bond and will enable enhanced release conditions to be imposed if the person is re-arrested while awaiting trial.

Recommendations

- Reestablish access to the driver and vehicle data files to validate Crash Records Information System (CRIS) data and enhance CRIS data accuracy.
- **Enact a statute that establishes a driving while intoxicated (DWI) tracking system by giving strong incentives to all keepers of impaired driving offenses data to make sure that the records systems communicate data to each other to track every DWI offense.**

- Automate the transmission of conviction reports and court orders between court clerks and the Texas Department of Public Safety, Driver License Division.
- **Evaluate the Ignition Interlock Device program to determine if its current processes are effective and consider whether a more centralized approach would provide for broader participation and compliance.**
- **Centralize the monitoring of compliance and establish a single source of records to evaluate the effectiveness of the Ignition Interlock Device program as an impaired driver recidivism reduction program.**

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 Texas Department of Public Safety, Driver License Division (DLD) maintains all driver license and driver history information for state residents. All traffic convictions, including impaired driving, are to be transmitted from the courts to DLD and to be posted

to the driver record. Implied consent violation documentation is also transmitted to DLD for appropriate driver license revocation actions. Conviction information includes the type of offense (charge), if treatment is required (yes/no), and court-imposed sanctions; however, blood alcohol concentration information is not recorded on the driver history. DLD enforces driver license suspension and revocation actions based on conviction information and orders from courts and magistrates related to Ignition Interlock Device program compliance and the issuance of occupational licenses. Additionally, all reported crash involvement is recorded on the driver record.

DLD provides law enforcement and court data systems with driver information in real-time. Driver system data can be auto-populated to crash and citation reports when the law enforcement agency software is equipped with this functionality. Driver history information allows for accurate evaluation of driver status both at the roadside and in the courtroom. The driver data system complies with national standards and systems in place to reduce identity fraud and track commercial drivers. DLD uses image verification software to prevent fraud by validating the facial image of new licensees with the image on file and by evaluating images of new licensees against all the images on file.

Recommendations

No recommendations for this section.

APPENDIX

AGENDA

Tuesday, August 16th

8:00 a.m. – 9:00 a.m.

State Leadership Panel/Introduction

Director, Behavioral Traffic Safety Section, TxDOT – Letty von Rossum

Supervisor, Behavioral Traffic Safety Section, TxDOT – Carol Campa

Program Manager, Behavioral Traffic Safety, TxDOT – Allison Rounsavall

Program Manager, Behavioral Traffic Safety, TxDOT – Larry Krantz

Program Manager, Behavioral Traffic Safety, TxDOT – Ruby Martinez

9:00 a.m. – 10:00 p.m.

Impaired Driving Task Force

Co-Chair, Texas Impaired Driving Task Force; Texas A&M Transportation Institute – Troy Walden

Co-Chair, Texas Impaired Driving Task Force, TxDOT – Allison Rounsavall

Director, Behavioral Traffic Safety Section, TxDOT – Letty von Rossum

10:00 a.m. – 10:15 a.m.

BREAK

10:15 a.m. – 11:00 a.m.

Program Evaluation

Director, Behavioral Traffic Safety Section – Letty von Rossum

Program Manager, Behavioral Traffic Safety – Allison Rounsavall

Program Manager, Behavioral Traffic Safety – Larry Krantz

Supervisor, Behavioral Traffic Safety Section, TxDOT – Carol Campa

11:00 a.m. – 12:00 p.m.

Media/Outreach Efforts

Martinez

Program Manager, Behavioral Traffic Safety – Ruby

Project Manager, Sherry Matthews Group – Liz Wilde

Director of Center for Alcohol and Drug Education Studies, Texas A&M Transportation Institute – Troy Walden

Supervisor, Behavioral Traffic Safety Section, TxDOT –
Carol Campa

12:00 p.m. – 1:00 p.m.

LUNCH

1:00 p.m. – 2:00 p.m.

Traffic Records Data/BAC reporting

Program Manager, LEADRS – Brian Grubbs
Traffic Crash Supervisor, Data Integrity & Analysis – Larbi
Hanni
Program Manager, Behavioral Traffic Safety – Larry
Krantz
Toxicologist, Texas Department of Public Safety – Anna
Mudd
Scientific Director, Texas Department of Public Safety –
Trevis Beckworth
Deputy Scientific Director, Texas Department of Public
Safety – Jay Tedder
Texas Department of Public Safety (Highway Safety
Operations Center) – Lieutenant James Taylor

2:00 p.m. – 2:45 p.m.

Driver Licensing

Conviction Reporting Program Supervisor, Driver’s
License Division, TxDPS – Sharon Morris
Assistant Manager, Issuance Services, Driver’s License
Division, TxDPS – Kimberly Ortiz
Program Supervisor, Drivers License Division, TxDPS
- Bertha Escamilla
Program Supervisor, Drivers License Look Back, TxDPS
- John Watson
Manager, License & Record Service Driver License
Division, TxDPS- Amy Calhoun

2:45 p.m. – 3:00 p.m.

BREAK

3:00 p.m. – 4:00 p.m.

Screening, Intervention, Treatment and Rehabilitation

Associate Professor, UT Health San Antonio – Charles
Mathias
Assistant Professor, UT Health San Antonio – Tara Karnes-
Wright
Adult Drug & DWI Court Manager, Bexar County –
Roberto Ruiz
CEO, Texans for Safe and Drug Free Youth – Nicole Holt

**4:00 p.m. – 5:00 p.m.
Program**

Parole and Probation Programs/Ignition Interlock

Director, Collin County CSCD – Yoon Kim
Texas IID Training Program Manager, Texas A&M
Transportation Institute – Cody Stewart
Vice President of Government Affairs, Smart Start Inc –
Debra Coffey

Wednesday, August 17th

8:00 a.m. – 9:00 a.m.

Impaired Driving Legislation

Texas Traffic Safety Resource Prosecutor, Texas District
and County Attorneys Association – Clay Abbott
Judicial Resource Liaison, Texas Center for the Judiciary –
Laura Weiser
Grant Administrator, Texas Municipal Courts Education
Center – Ned Minevitz
Executive Director, Texas Municipal Courts Education
Center – Ryan Kellus Turner
General Counsel, Texas Justice Court Training Center-
Randy Sarosdy
Vice President of Government Affairs, Smart Start Inc –
Debra Coffey

9:00 a.m. – 10:00 a.m.

DUI Prosecution

Texas Traffic Safety Resource Prosecutor, Texas District
and County Attorneys Association – Clay Abbott
Grant Administrator, Texas Municipal Courts Education
Center – Ned Minevitz
Executive Director, Texas Municipal Courts Education
Center – Ryan Kellus Turner

10:00 a.m. – 10:15 a.m.

BREAK

10:15 a.m. – 11:15 a.m.

Adjudication of DUI Cases

Judicial Resource Liaison, Texas Center for the Judiciary –
Laura Weiser
Grant Administrator, Texas Municipal Courts Education
Center – Ned Minevitz
Executive Director, Texas Municipal Courts Education
Center – Ryan Kellus Turner
General Counsel, Texas Justice Court Training Center-
Randy Sarosdy

- 11:15 a.m. – 12:00 p.m. Tribal Court Panel (VIRTUAL)**
 Attorney, Ysleta Del Sur Tribe – Ron Jackson
 Tribal Records Officer, Ysleta Del Sur Tribe – Zeke Garcia
- 12:00 p.m. – 1:00 p.m. LUNCH**
- 1:00 p.m. – 2:30 p.m. DUI Enforcement/Law Enforcement Executives**
 Program Manager, LEADRS – Brian Grubbs
 Law Enforcement Liaison, Texas Municipal Police Association – Lynda Walker
 Sergeant Investigator, Williamson County District Attorney’s Office – Michael Jennings
 Lieutenant, Texas Department of Public Safety – Richard Hoover
 Texas DRE State Coordinator, Texas DRE Program – Carlos Champion
 Texas SFST Coordinator – David McGarah
 TRACE Agent, Texas Alcohol Beverage Commission– Erica Moore
- 2:30 p.m. – 3:00 p.m. Responsible Alcohol Service**
 Deputy Chief, Texas Alcohol Beverage Commission – David Doggett
 TRACE Agent, Texas Alcohol Beverage Commission– Erica Moore
- 3:00 p.m. – 4:00 p.m. Prevention/Advocacy**
 Our Driving Concern Program Manager, National Safety Council –Katie Mueller (VIRTUAL)
 CEO, Texans for Safe and Drug Free Youth – Nicole Holt
 WATCH UR BAC Program Manager, Texas AgriLife Extension –Bobbi Brooks
 State Program Director, Mothers Against Drunk Driving – Debra Marable
 Teens in the Driver Seat Program Manager, Texas A&M Transportation Institute – Lisa Minjares
- 4:00 p.m. – 5:00 p.m. State Leadership Panel Returns (Questions/Answers)**
 Director, Behavioral Traffic Safety Section – Letty von Rossum
 Supervisor, Behavioral Traffic Safety Section – Carol Campa
 Program Manager, Behavioral Traffic Safety – Allison Rounsavall
 Director, Traffic Safety Division – Michael Chacon

Thursday, August 18th

8:00 a.m. -8:00 p.m.

Assessment Team Writes Consensus Report

Friday, August 19th

8:00 a.m. – 9:30 a.m.

Assessment Team Presents Report to State

TEAM CREDENTIALS

ROBERT BURROUGHS

Bob Burroughs has over 29 years of law enforcement experience including over 20 years of progressive management and executive level experience in highway safety, regulatory programs, and driver licensing programs. He has over twelve (12) additional years providing consulting services in the motor vehicle programs.

Bob's transportation career began as a highway patrolman and driver licensing trooper. He progressed through the ranks and served in several highway safety program oversight positions covering motor carrier, vehicle safety inspection, driver licensing, and information technology programs. He was instrumental in automating roadside commercial motor vehicle inspections and traffic citations for the Texas DPS. He also served as a project sponsor for the Texas Crash Records Information System project and as an executive member of the Texas Traffic Records Coordinating Committee.

Professional Business Experience

- Manager of the Motor Carrier Bureau responsible for statewide data management of Commercial Motor Vehicle Roadside Inspection data and oversight of the Motor Carrier Compliance Audit program of the Texas Department of Public Safety
- Program director for the statewide Vehicle Inspection Program responsible for program oversight and enforcement
- Highway Patrol Division record management and information technology manager responsible for integrating citation and disposition data as well as development and deployment of the Texas Highway Patrol In-Car computer program
- Directed the statewide Driver License Field Operations and the Internal Fraud Investigation Unit
- Directed the development of the Compliance and Enforcement Service for the newly formed Regulatory Services Division of the Department of Public Safety.

Consulting Business Experience

- Worked with the Massachusetts Registry of Motor Vehicles documenting business processes for re-engineering revenue operations, citation processing, and driver sanctioning activities.
- Prepared response to Jamaica Department of Motor Vehicles request for proposals to upgrade the driver licensing and vehicle title and registration programs.

- Work as a subcontractor assessing traffic record system interoperability within various States and United States Territories as a condition of their receiving federal highway funds for traffic record interoperability improvement programs.

Professional Societies and National Committees

- Member of the Federal Motor Carrier Safety Administration, Commercial Driver License Advisory Group
- Member of the Federal Motor Carrier Safety Administration, Federal Negotiated Rulemaking Committee to Enhance Driver License and Identity Security Standards
- Past Regional Vice President of the Commercial Vehicle Safety Alliance
- Member of the Information Systems Committee of the Commercial Vehicle Safety Alliance
- Past International Chair of the Law Enforcement Committee of the American Association of Motor Vehicle Administrators
- Past International Chair of the Vehicle Safety Inspection Committee of the American Association of Motor Vehicle Administrators
- Past Region II Chair of the Law Enforcement Committee of the American Association of Motor Vehicle Administrators
- Past Region II Chair of the Vehicle Safety Inspection Committee of the American Association of Motor Vehicle Administrators

Education

B.S., Criminal Justice, Wayland Baptist University

Graduate of the Bill Blackwood Law Enforcement Management Institute and the State of Texas Governor’s Executive Management Development Program

HONORABLE LINDA L. CHEZEM

Linda Chezem was consecutively appointed to the Lawrence County Court, the Lawrence Circuit Court, and the Indiana Court of Appeals. She was the first woman appointed to a Circuit Court bench in Indiana and the second woman to serve on the Indiana Court of Appeals.

After 22 years on the bench, Linda moved to a university-based career and holds the designation of a Professor Emerita of Youth Development and Agriculture Education, School of Agriculture, Purdue University.

Linda taught forensic science and rural public health law. Her textbook, Science, Ethics, and Justice was published in 2015. Currently, Linda holds an adjunct appointment at

Indiana University's School of Medicine and serves of Counsel at the law offices of Foley, Peden, and Wisco. From this base, she works on federal, state, and local policy on agriculture and related rural safety and health issues. Linda has been particularly interested in addition in justice system issues and the legal protection of property rights.

She serves on the Indiana Farm Bureau property rights advisory committee.

THOMAS GIANNI

Mr. Gianni is the retired Director of the Maryland Highway Safety Office. A twenty-five-year veteran police officer, Tom retired in 2003 as a lieutenant from the Mt. Lebanon (Pennsylvania) Police Department, a suburb of Pittsburgh. He served as Commanding Officer of both the Traffic Services Unit and the department's Tactical Negotiations Team. Upon his retirement he accepted a position with the Maryland Highway Safety Office as their law enforcement coordinator, a position he held for seven years until becoming Deputy Chief and ultimately Director in December 2011.

Tom is a graduate of the University of Pittsburgh, the Pennsylvania State Police Academy, and Northwestern University's School of Police Staff & Command. In addition to co-authoring several articles for the IACP's Police Chief Magazine he has given presentations across the country on a variety of highway safety topics. Tom is a former member of the Executive Boards of the Maryland Chiefs of Police Association, Maryland Sheriffs' Association, and the Governors Highway Safety Association (GHSA).

Currently, Tom works as a highway safety consultant for the GHSA and has worked on a variety of projects for various states and NHTSA. He remains an active highway safety instructor for both law enforcement and safety professionals, and additionally conducts leadership seminars for law enforcement executives, pertaining to the Gettysburg campaign, through Northwestern University's Center for Public Safety and its Executive Management Program.

Tom is an avid motorcyclist and has provided testimony to the Maryland Legislature on motorcycle safety issues as well as occupant protection and impaired driving. In 2018 he chaired Governor Larry Hogan's Bicycle Safety Task Force.

MICHAEL S. IWAI

Michael S. Iwai is a 25-year veteran of law enforcement. On March 1, 2022, Michael retired from the Oregon State Police (OSP) and started with the City of Ontario the same day. As Chief of Police, he oversees three divisions: Administration, Field Operations, and Support Services. Michael has a strong background in police operations and administration. Michael's last OSP assignment involved program management in the areas of Collision Reconstruction, K-9, and Impaired Driving. His favorite OSP

assignment was serving as the Area Commander for Albany and Salem. Over the course of his career, Michael enjoyed several specialty assignments which included the following: Special Weapons and Tactics, Technical Collision Investigations, Drug Recognition Expert Instructor, and Dignitary Protection Unit (part-time).

Michael enjoys the challenges of leadership, community, organization, and business. He embraces collaboration, research, and analysis. He is life-long learner and is an experienced consultant and instructor. He's provided consulting services for a variety of State Highway Safety Offices and has been selected for numerous NHTSA impaired driving and bicyclist and pedestrian program assessments. Michael, additionally, has provided consulting services to organizations surrounding substance abuse and impaired driving. He's instructed every NHTSA/IACP impaired driving curriculum around the country and has developed a variety of presentations for national and state sponsored traffic safety conferences. In Oregon, he's instructed a variety of classes at the basic police academy, regional training, and leadership classes including the International Public Safety Leadership and Ethics Institute at the Department of Public Safety Standards and Training.

He served on the IACP Technical Advisory Panel for nine years (2013-2021). Michael was instrumental in curricula development and worked closely with the Standards and Scientific subcommittees. He served as the IACP DRE Section and Oregon DRE Steering Committee Chairman. Today, he serves as the Chairman of Oregon MADD State Advisory Board; a member of the MADD National Law Enforcement Committee; and a member of the Oregon Association of Chiefs of Police Intergovernmental and Legislative Committee.

Michael, a U.S. Army veteran, earned a Master of Business Administration from Bushnell University (formerly Northwest Christian University) and a Bachelor of Arts from George Fox University. He is a proven leader and has been recognized at the state and national levels for his contributions:

- National Highway Traffic Safety Administration Recognition Award, 2017
- Mothers Against Drunk Driving National President's Award – Outstanding Individual Hero, 2015
- DRE Award of Excellence Award, 2014
- Senior Trooper Maria Mignano Dedication to Duty Award, 2012
- DUI Trainer of the Year, 2007
- Harold Berg Life Savings Award, 2004

ROBERT LILLIS

Rob Lillis is President of Evalumetrics Research and has been providing planning, research and evaluation services to education, youth development, traffic safety, substance abuse, criminal justice, 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, school climate transformation projects, after-school mentoring programs and environmental education

programs. He also provides planning, research and evaluation services for several rural 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.

Previously, Mr. Lillis was Director of Traffic Safety Research in the Division of Epidemiology at the New York State Department of Health. He was an Instructor in Epidemiology in the New York State School of Public Health/SUNY Albany.

He also served as Director of the Research Accident Investigation Team in the Department of Community and Preventive Medicine at the University of Rochester School of Medicine where he was Principal Investigator on numerous injury epidemiology research projects.

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.

His experience with the projects cited above included extensive work with multiple data sources including school-based files, criminal justice files, health records systems, and primary data sources such as student surveys. He developed and conducts the Evalumetrics Youth Survey (EYS) which measures substance use, health risk behaviors, and risk and protective factors. Mr. Lillis has conducted the survey in over 30 rural schools every odd-numbered year since 1999.

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 75 assessments of prevention and treatment programs in 40 states, Puerto Rico and for the Indian Nations. He was the 2011 recipient of the NHTSA Public Service Award.