

APPROVED
2.3.23

GOVERNOR'S ADVISORY COMMITTEE ON DUII
Friday, January 6, 2023 Meeting Minutes
Hybrid Teleconference Meeting
Salem, OR 97317

Members Present: Chairperson Chuck Hayes, Vice Chair Cate Duke, Sergeant Josh Wilson, Justin Nielsen, Deborah Ruiz

Members Present via Teams: Lois Harvick, Chief Jason Malloy, Honorable Ray Crutchley

Members Absent (Excused): Lynn Howard (excused)

Staff Present and via Teams: Traci Pearl, Alycen Ozawa, Ryan Stone, Vanessa Churchill

Liaisons and Guests Present and via Teams: Marie Dodds (AAA), Jonathan Munson (DMV), David Beatty (DPSST), Jerry Cooper (OTSC), Michael Bloom (OLCC), Deena Ryerson (TSRP), Sergeant Kevin Ely (OSP), Sergeant Tim Plummer (OSP), Lieutenant Evan Sether (OSP), Kimberly Rose (OJD), Janelle Lawrence (Oregon Impact), Glenn Cramer (NHTSA), Nicole Corbin (OHA-HSD), Rob Sadowski

Public via Teams: Deanna Kemper and others who signed in anonymously

I. Call to Order and Introductions

Chair Hayes called the meeting to order at 9:00 a.m. and welcomed everyone to the Department of Public Safety Standards and Training (DPSST) location. He noted that the meeting was being recorded. There was a moment of silence held to remember and those who have been lost or seriously injured in crashes involving an impaired driver.

II. Chair Report

Chair Hayes reported on five media reports from the holiday high visibility enforcement (HVE) period that he thought were particularly well done. The Douglas County Sheriff's Office in Roseburg had an excellent impaired driving multi-agency report on KEZI TV. The Crook County Sheriff's Office, Prineville Police Department, and Oregon State Police (OSP) also had a great report in Central Oregon through KTVZ. Bend Police Department had a standalone report on KTVZ. Their two-person DUII squad has made a huge impact in Bend. They emphasized their dedicated DUII enforcement patrol and the number of DUII arrests. Medford Police Department reported their multi-agency enforcement on KNBU. The newspaper in Bandon called *The World* published a lengthy DUII article with individual quotes and researched data.

The OSP Facebook page reported that on December 15, 2022 at approximately 7:30 p.m., OSP Troopers and emergency personnel responded to a two- vehicle crash on Highway 20 near milepost 24 outside of Sweet Home. A pickup truck pulling a trailer overshot the left turn onto a county road from Highway 20 and impacted a sedan operated by a Sweet Home driver. Both operators were impaired. This is something that does not occur often.

Chair Hayes highlighted the *DPSST Newsletter* containing articles on the rise in DUIIs in Bend, psilocybin, Ballot Measure 110, and a page of links on crashes involving DUII drivers. This can provide a good resource and be used as examples at legislative hearings. David Beatty stated that Amy Williamson is the administrative assistant who does a great job in compiling this information. Chair Hayes mentioned the *Washington Safety Commission*

article on lowering the blood alcohol concentration (BAC) from .08% to .05%. was included as an example for Oregon to use.

National Highway Traffic Safety Administration (NHTSA) contacted Dunlop and Associates of Connecticut to research and report on the alcohol and drug prevalence among seriously or fatally injured road users. Crash toxicology data from seven trauma centers and four medical examiners' offices were researched nationwide. There were 4,243 drivers from trauma centers and 555 bodies from medical examiners' offices examined post-crash. Their blood was examined within six hours after the crash. A screen of 68 drugs and metabolites showed that over 50% had a positivity rate. Upon examining further, 68.8% of the bodies tested positive for one or more drugs. Overall, 33.9% of the study showed the use of two or more drugs. There was a significant percentage of poly drug use. Sergeant Tim Plummer stated that 47% of Oregon's urine tests come back positive with three or more drugs. Justin Nielsen stated that this can involve cultural issues. Deborah Ruiz stated that the results provide the Alcohol and Other Drug Screening Specialists (ADSS) with more detail on the types of impairment. The times are changing from the use of just alcohol and marijuana to prescription pills to any other drug you can think of. Mr. Nielsen stated that the age of use has decreased too. Sergeant Plummer stated that there were 1,200 toxicology tests waiting over 90-days for examination. David Beatty is training officers on how to notify Driver and Motor Vehicle Services (DMV) of the results of blood draws. The toxicology reports are not being completed within 45-days due to staffing issues at NMS Labs. Chair Hayes reported on a NHTSA campaign over the New Year called *Eyes on the Interstate* that he would like a report from.

III. Member Reports

Cate Duke

Vice Chair Duke reported that Mothers Against Drunk Driving (MADD) slows down during this part of the year to close out 2022. Winter and Fall were busy with new victim cases. They are receiving at least one new referral a week, which is the highest since 2017. They have served triple number of victims since then. The new staff person has helped tremendously. They still have not secured a venue and date for the law enforcement recognition event. The *Walk Like MADD* events have been scheduled for this year. A mother of a son who was killed in 2021 shared her story in Deschutes County. On December 30, 2022, the driver responsible for her son's death wrote the victim's mother a letter. The mother had not had any contact with him since her son's death. She brought the letter unopened to the Victim Impact Panel (VIP) to read. Everyone was in tears and it had a tremendous emotional impact. Vice Chair Duke reported witnessing physical healing from her participants.

Deborah Ruiz

Ms. Ruiz, of Alcohol and Other Drug Screening Specialist (ADSS) for Multnomah Circuit Court, Beaverton Municipal Court, and Columbia County Court, reported that she has not found a revision to the procedures that requires evaluations for convicted DUII drivers as requested of Marisha Elkins of Oregon Health Authority-Health System Division last month. She is concerned that not all counties are following this requirement. She reported attending the impaired driving meeting with Ryan Stone in Multnomah County. She thinks the meeting was productive and they were able to accomplish so much within a short period of time. Being on the DUII Modernization workgroup for one year, they were not able to get anything productively accomplished since there were differing opinions. She reported the VIPs in Columbia County will begin soon.

Justin Nielsen

Mr. Nielsen reported applying to the four OHA subcommittees, and being denied entry to all. The subcommittees applied for involved DUII education, DUII treatment, the ADSS group, and cannabis use while in DUII treatment. Mr. Nielsen requested an opportunity to address this during the committee's New Business time.

Josh Wilson

Sergeant Wilson reported that he will be in Nevada at the end of January and beginning of February to participate in the Nevada's Impaired Driving Assessment. He is learning about Nevada's impaired driving program and learning how other states conduct business. A deputy on his traffic team's daughter was hit by an impaired driver and suffered some serious injuries.

Honorable Ray Crutchley

Judge Crutchley reported that Chair Hayes was correct in reporting a high number of DUIIs in Bend in Deschutes County and believes the number of local breweries contribute to that issue. There were eight DUII arrests on New Year's Eve. This has been a consistent problem. He reported being proud of the enforcement numbers in Deschutes County. As a judge, the majority of cases on his criminal docket are DUIIs. He has a Judicial Education Board meeting after this meeting to discuss providing more education to the judges. He has reached out to Deena Ryerson for more information and assistance.

Lois Harvick

Ms. Harvick of the Lane DUII Victim Impact Panel (VIP) program director wanted to thank the DUII Task Force for inviting Martin Lockett to speak at this year's conference. Mr. Lockett shared the impaired driver perspective. She reported that the DREs are denying entry to impaired individuals trying to attend VIP meetings. The impairment split is between alcohol and marijuana. Lately, she has been subpoenaed more for diversion compliance. Recently, one of their staff members followed an impaired driver from Eugene to Springfield for 11 minutes while on a 911 call. The officer that responded was a Springfield DRE that works with their VIP. The driver was a repeat offender who was arrested and had attended their panel previously. This is an example of a VIP member helping outside of the panel meetings. Ms. Harvick has been assisting Columbia and Tillamook Counties with starting their VIPs.

Jason Malloy

Chief Malloy of the Oregon Association of Chiefs of Police (OACP) wanted to give kudos to Mr. Beatty and the DPSST staff for their traffic newsletter. He used it as briefing training for their officers and they received positive comments from the officers. It contained implied consent information that was very useful. The OACP Winter Conference will be in Seaside next weekend. He will be skipping the February GAC meeting and will resume attending the meetings in March. Chief Malloy stated that he will work with Kevin Campbell and Sergeant Wilson of OSSA on legislative concepts.

Representative Ron Noble

Representative Noble thanked the committee for allowing him to be a part of the committee. He appreciates the work the committee does to address intoxicated driving and to reduce the impacts to the community. His term will expire this Sunday, January 8. Representative Jeff Helfrich will drop the legislative concepts for the committee. Representative Helfrich was a former police officer and currently represent the Hood River County area. He expects a first reading of the concepts on the floor of the House next week. Chair Hayes asked if Representative Helfrich would be interested in membership to the committee. Representative Noble stated that he and others would be interested in this position and he will be waiting for the new Governor to select who she wants to be on the board.

IV. Minutes of Previous Meeting (December)

Chair Hayes asked if there were any corrections or revisions needed to the December 2022 minutes. No corrections were made.

MOTION: Justin Nielsen moved to approve the November 2022 GAC DUII minutes. Sergeant Josh Wilson seconded. Roll call vote; majority approved. Motion passed.

V. Public Comment

Chair Hayes noted the letter sent into the committee by Deanna Kemper in the meeting packet. No other public comments were made.

VI. TSO Report

Traci Pearl reported interviews had been conducted, and an offer was made for the Executive Assistant position.

Ryan Stone reported that he is still working on the e-warrant system. They are looking into a software system. There is a final draft survey that will be sent out by Judge Eric Bergstrom.

The Impaired Driving Program Assessment is in full swing. On December 29th, 2022, the first round was completed with a 17% response rate, which is an artificially low number since questions were assigned to multiple respondents. There were 235 questions. There has been really good information gathered thus far. The second round will begin on January 23, 2023. He is working on the venue for the assessment team which will be conducting interviews on April 11-12, 2023. He is working on identifying participants for the in-person panel interviews.

Mr. Stone reported that his contact for the Safe Ride Subsidy program with Lyft is no longer available, and he will begin speaking to another person. He is looking to get a pilot tested prior to Super Bowl High Visibility Enforcement (HVE) event. The blood draw reimbursements letter will go to law enforcement partner agencies detailing the grant and claim submissions.

Mr. Stone extended commendations to Enterprise Police Department, Officers George Kohlepp and Jacob Curtis, for their impressive performance during grant funded DUII enforcement activities. Combined, they had 8 DUII arrests including 6 DUII drug arrest in a two-month period for a city of 2,100 people. This commendation has been picked up by local and regional media to raise awareness of the impaired driving problem.

The e-warrant survey showed inconsistent processes across the state on breath test refusals. There are agencies that have stayed up to date and consistent, but there are other agencies that do not have same resources in order to do the same. The information of the usefulness of the search warrant results from the blood draws will help support his efforts for the e-warrant project. Chair Hayes stated that when he worked, there were many Troopers too scared to apply for a blood warrant for fear of mistakes. Sergeant Plummer stated that the number of blood or urine tests the grant has paid for indicate that officers are getting more comfortable with requesting warrants.

Ms. Pearl stated the annual Traffic Safety Conference in the fall was cancelled due to COVID. This year, the annual Traffic Safety Conference will be on March 15-16, 2023 at the Spirit Mountain Casino. The agenda is being finalized. Members were told to look for the invitation and registration opening.

Mr. Nielsen introduced Alicia Putnum who is a student with Oregon Recovery studying to be an addiction counselor. Mr. Stone reported that his meetings in Region 1 were set up by Tiana Tozer. The networking and discussions between the stakeholders and partners were building opportunities for everyone to provide insight on how to support each discipline, including the law enforcement partners. Chair Hayes stated that this is important information to obtain since each part of Oregon may indicate a different need. Ms. Ruiz stated that

she was able to meet with so many different organizations including ones she had never heard of who had a vested interest.

VI. Liaison Reports

AAA

Marie Dodds reported that AAA will join NHTSA and other traffic safety advocates during a Super Bowl impaired driving campaign on February 12, 2023. There will be messaging on all traditional and social media channels. The message is “Fans don’t let fans drive drunk” with tips on how to stay safe during the game. The AAA Foundation for Traffic Safety provides research on projects that focus on impaired driving involving alcohol, marijuana, prescription drugs, over-the-counter drugs, and other impairing substances. Ms. Dodds welcomed any ideas for research, data, or other information as this forms the projects for the rest of the year. More information can be found at AAA.com and AAAFoundation.org. Chair Hayes stated that the websites are a good resource and hopes that members would take a look into the information.

Clear Alliance

Tory Kurtz, assistant Executive Director of Clear Alliance reported that the Redmond Police Department campaign to create new commercials has five story boards developed, a casting crew, and a location, and will be filming next month. There are billboard locations secured. A high school student intern from Crook County was hired to develop impaired driving social media ads that ran in December, increasing their social media following.

Nicole McAda reported that they received the bicycle ridden by Marie Caston who was an impaired driving victim in December of 2017. The victim’s father wanted to donate it to honor her legacy. They will use it at grant speaking engagements. Different law enforcement and community partners have requested to display it.

The curriculum updates are in process. They received positive feedback on the impaired driving portions. There are new projects being researched and developed. Chair Hayes stated that Massachusetts just legalized recreational marijuana and now have a mandatory marijuana and marijuana driving curriculum training requirement. This may be a good resource to use for their curriculum.

Oregon Health Authority - Health Systems Division

Nicole Corbin reported on the January OHA-HSD report noting that there is an increase of the number of screenings per DUII referral compared to the last few years. There is a reduction in November and December which is usual due to holidays and court closures. There is an increase of 0.3% compared to November 2021, an increase of 4% year-to-date compared to 2021, and an increase of 29% year-to-date compared to 2020. There are more people addressed in the courts.

The workgroup appointment notifications for the DUII Services Modernization Initiative were sent out on December 15, 2022. The workgroups will convene later this month and the meetings will be set at that time. All of the workgroup information will be provided online including meeting information. The meetings will be recorded and posted on the webpage. Chair Hayes asked how to forward any questions being asked of the workgroups. Ms. Corbin stated there is a specific email address to send all inquiries to:

HSD.DUII.Modernization@odhsoha.oregon.gov.

Chair Hayes asked about the 29% increase compared to 2020. Ms. Corbin provided an educated guess that the effects of the pandemic lessening, courts being open, and more DUII services being provided have contributed to this decrease. There have been news releases on how Oregon has a high alcohol use rate, deliver programs fail to check identification, and celebrations taking place which also may be contributing factors.

Mr. Nielsen asked about the OHA principle on equity with the question being asked on the workgroup application and the equitability of the preselection process. Ms. Corbin cannot speak to who was selected as there was a formal complaint in process. OHA's definition of equity is foundation to the work being done with the DUII Modernization workgroups and all other work with a goal of eliminating health inequities by 2030. OHA's equity definition is that Oregon will establish a health system that creates health equity when all people can reach their full health potential and wellbeing without being disadvantaged by their race, ethnicity, language, disability, age, gender, gender identity, sexual orientation, social class, and intersections among these groups or identities or other socially determined circumstances. Their definition is focused on the people that they serve, the people on the Oregon Health Plan, the people with substance abuse issues, individuals with mental health needs, and the people at the State Hospitals. The equity focus is on the end recipient of services. The formal health equity definition does state that achieving health equity requires the ongoing collaboration of all regions and sectors of the state, including tribal governments, to address the equitable distribution of resources in power, recognizing, reconciling, and rectifying historical and contemporary injustices. Mr. Nielsen asked for clarification if the definition is only to those receiving services but not to those involved in the policy and process discussions. Ms. Corbin states that their health equity goal is to eliminate health disparities and inequities for those receiving services. She wanted to highlight the piece of the definition to include the "collaboration of all regions and sectors" to include health care providers.

Department of Public Safety Standards and Training (DPSST)

David Beatty reported that DPSST is still looking for a director. There were finalists at one point, but he is unaware of where they are in the process. A Radar/Lidar course in Gold Beach next week has been cancelled due to lack of interest. They will offer another course in Grants Pass next month. On January 17, 2023, there will be a Standard Field Sobriety Testing (SFST) refresher in Lebanon. A Radar/Lidar Instructor Development course will be at DPSST on January 23-26, 2023. There has been a lot of interest in this course and they now have a waiting list. This course will be offered again in Eastern Oregon.

Multi-Disciplinary Task Force

Mr. Beatty reported that the DUII Conference is at Seven Feathers in Canyonville on April 27-28, 2023. The agenda is almost final. There are some good speakers. They intend to open the last hour of the conference to hold regional multi-disciplinary meetings with the Regional Traffic Safety Coordinators (RTSCs) moderating their own region. The task force has a meeting this afternoon. Chair Hayes asked who can attend the conference. Ms. Pearl stated that there are travel funds available for the members. Chair Hayes asked to let Alycen Ozawa know if you are interested in attending. Registration is open after 4:00 p.m. today at DUIITaskForce.org. Chair Hayes asked about lodging. Mr. Beatty stated that lodging is on your own unless you have a scholarship. Sergeant Wilson asked if lodging was covered, and it was confirmed that it is covered. Vice Chair Duke stated that they had six people attend the conference last year. Some of them had a negative perception of law enforcement, but after attending the conference and witnessing all the work that goes into this subject, they had a change of opinion. It was a life changing experience for a couple of them. This year they will have eight volunteers who want to attend and the scholarships provide them an avenue to be able to attend.

Driver and Motor Vehicle Services (DMV)

Jonathan Munson of DMV reported the Real ID enforcement date set by the Department of Homeland Security has been extended to May 7, 2025. This will provide the needed time for all Oregonians to apply for the Real ID. Governor Brown signed an Executive Order on the remission of failure to appear (FTA) and failure to comply (FTC) fines associated with specific traffic violations and debt based suspensions around these uncollected fees. This is in relation to House Bill 4210 (2020) which eliminated the license suspension for FTC but did not address any existing suspensions. The remission may allow some to reapply for their driver license. This does not remit fines to any underlying misdemeanor and felony convictions, restitution, or anything DUII related.

House Bill 3055 grants the DMV authority to suspend Commercial Motor Vehicle (CMV) privileges for those who fail the implied consent test when driving a non-commercial vehicle. This applies to the CMV Implied Consent Combined Report (ICCR) form 735-75. The CMV ICCR Addendum form 735-75A had not changed. A packet of forms including an order form was sent to all law enforcement agencies. There are instructions on how to order more forms online. Sergeant Plummer asked if the Blood Submission Report was reviewed for changes regarding the timeframe of when the agencies receive the results back, and wondered if it is consistent with the rights and consequences.

Sergeant Plummer submits a form that has a copy of the blood toxicology report when the results are .08 BAC to begin the suspension process. There is a 45-day period of when the results are due to DMV. Mr. Munson stated the form was reviewed with no changes made. Mr. Beatty asked whether it was possible to have a suspended base license and not have a suspended CMV privileges. Mr. Munson stated that if a person's base license has been suspended, then their CMV privileges would also be suspended. An accumulation of specific types of offenses may result in a lifetime suspension of CMV driving privileges. This change allows an implied consent failure in a non-CMV to fall into this specific offense.

Mothers Against Drunk Driving (MADD)

Vice Chair Duke reported that she will be working on the filming of the marijuana education video. She had a conversation with Representative Anna Scharf on *Bentley's Law* that passed in Tennessee that requires the person who kills the parent(s) of underage children held accountable for child support until the child finishes school. Representative Scharf stated that this will be brought forth during session with a personal loss and connection to this issue. The mother who lost her 17-year old son was born 9 days before Martin Lockett's fatal crash, and her son was killed the same day Mr. Lockett was released from prison. The mother is excited about the opportunity to meet Mr. Lockett and see his video.

Oregon Association of Chiefs of Police

Chief Malloy did not have anything to report. He will report after their OACP annual conference.

Oregon Impact

Janelle Lawrence of Oregon Impact reported that 74 agencies applied for the DUII overtime grant. From October 1, 2022 to December 30, 2022, ten of the agencies did not have their contracts back and were not part of this report, there were 69 shifts worked resulting in:

- 21 DUII Alcohol Arrests
- 4 DUII Drug Arrests
- 2 IID Arrests
- 1 Felony Warrant Served

Three agencies have outstanding contracts needing to be signed. Mr. Stone wrote a nice letter that was shared regarding his expectations of how this grant would proceed this year. Oregon Impact is receiving feedback on improvements. Sergeant Wilson of Portland Police Department stated that they will update the law enforcement activity report for next year to incorporate suggested changes. Ms. Lawrence stated she can make changes to the form now once everyone's recommendations are received and appreciated the feedback. Chair Hayes asked if a list of the agencies that are participating in the DUII grant. Mr. Stone stated he has a spreadsheet that indicates that information. Ms. Pearl stated she can also provide who was awarded a grant. Mr. Stone stated they can provide the amount of the award as well.

Oregon Judicial Department (OJD)

Kimberly Rose of OJD reported that she did not have the November and December data available. One of the data dashboards provided unofficial information reveal a decrease in case filings for November and December. It may be that some cases that have not been filed yet. She is looking to provide case filing review for 2022 and prior years. DUI case filings in circuit courts for 2018 and 2019 were decreasing, with a 20% decrease in 2020. The case filings have increased slightly but not to the levels of 2018 or 2019. She will be researching past case dispositions, including dismissals. They was discussions of how dismissals increased since the pandemic started. She will be working on comparing dismissal rates. She will gathering data on DUI cases involving assault, aggravated vehicular homicide, and reckless driving. This information should be available at the next meeting. If the committee is interested, she can look at the fines and fees imposed in DUI cases to compare to other criminal cases. Chair Hayes stated he would be interested in the information about the fines and fees. He also asked if dismissal rates can be broken down by county. Ms. Rose stated that she will provide this data broken down by county. Chair Hayes stated that this information could provide valued information on excessive dismissals. Mr. Nielsen reported his agency has seen an increase of alcohol and drug related non-DUI ADSS treatment referrals, with some of the highest numbers they have seen.

Oregon Liquor and Cannabis Control

Michael Bloom of the OLCC did not have anything to report. Chair Hayes stated there may be a presentation by Jessica Neuwirth on the marijuana delivery program next month.

Oregon State Police (OSP)

Lieutenant Even Sether did not have anything to report. Sergeant Tim Plummer introduced Sergeant Kevin Ely. Sergeant Ely shared that he oversees the Ignition Interlock Device (IID) program. He is trying to learning the program and has been networking with different panels. The compliance rate for the IID requirements as of November 2022 is about 20%. There are 7,121 installed IIDs in Oregon. He is finding out why the compliance rate is so low. Some of those reasons are individuals not sending in the information to DMV, correspondence being lost, and early removal of IIDs by providers. Sergeant Ely stated he will reconvene the IID advisory group, and has been making contacts with the IID companies. There are 35,578 IIDs that are required throughout the state. Vice Chair Duke asked out of the 35,578 how many of those were old. Sergeant Ely stated that he plans to meet with DMV next week to review the data.

Sergeant Plummer reported on OSP's enforcement efforts from December 30, 2022 to January 2, 2023. There were 31 DUI arrests: 27 were alcohol arrests; 2 were controlled substance arrest; 1 was a combination of alcohol and controlled substance(s); 1 was unknown. There was a fatality on Highway 47 in Washington County, and the surviving driver was arrested for DUI, Reckless Driving, Reckless Endangering of Another Person, and additional charges are pending investigation. In Redmond, he spoke with Crash Reconstructionist and Drug Recognition Expert (DRE) April Ratcliff who has five fatality reports from crashes during the recent holiday period. She is looking at toxicology reports and two of them are drug impairments only.

In the news, there has been stories of inclement weather and intoxication, there were many fatal crashes during that time. OSP had several area commands involved in media releases for the holiday event. OSP's twitter account reposted information from NHTSA to raise public awareness on impaired driving. Yesterday, in Redmond he provided Drug Impairment Training for Education Professionals (DITEP) training for a combination of school districts. The first day course was on drug identification training for the educational professional. There were 25-27 high-level school administrators, human resources officials, counselors, threat assessors, nurses, and attorneys. Sergeant Plummer stated that he learns a lot of information when conducting DITEP trainings. He also spoke about school children who are taking a combination of vodka, cough syrup, and Tylenol. There was a high school female who overdosed on this combination. The second day of training provides mitigation tools, and

how to find resources to identify drugs and impairment. The educators are interested in day two in order to update their policies. Most of stated that they have staff coming to work impaired.

In speaking with Mr. Stone about his assessment, there are reports of parents who come to the school impaired. He is concerned that the schools are now being required to become gatekeepers in order to keep their students safe. He believes that this is something that needs to be looked at order to identify staff and parents who are impaired. He stated that Chair Hayes will need to review the curriculum to see the updates of including fentanyl. Sergeant Plummer stated that there have been times when elementary school children come into school smelling like marijuana and the schools having to strip the child from their belongings to keep the smell from transferring. Some of the collateral damage from decriminalizing substances is creating generations of impairment problems. Statistics state that if an individual use drugs in their pre-teens and teens, they are likely to be an addict by the time they reach 30 years of age. This is why DITEP is going to be more and more important. Chair Hayes asked Clear Alliance to report any stories of impairment in the schools. Sergeant Plummer stated that Oregon Youth Authority (OYA) performs threat assessments during intake. There may tools that OYA use that can be helpful to the schools. There is an Advanced Roadside Impaired Driving Enforcement (ARIDE) training in Jackson County on January 9-10, 2023 and in Hood River on February 17-18, 2023. The 2023 Police Traffic Safety Conference will be February 7-8, 2023 at the Riverhouse in Bend. There will be a course in Seaside coming soon. Anyone who is interested in an ARIDE course were asked to contact Sergeant Plummer.

Oregon State Sheriff's Association (OSSA)

Sergeant Wilson reported for Executive Director, Jason Myers that they have disseminated information about their scholarships for the DUII conference on their list serves. Representative Brock was asked to amend the e-warrant legislative concept to add the authority of reserve officers to be able to apply for search warrants during DUII blood draws. Chair Hayes has asked for a copy of this legislative concept.

Oregon Transportation Safety Committee (OTSC)

Jerry Cooper reported that at the OTSC meeting on December 14, 2022 they discussed the Impaired Driving Program Assessment where over 100 people were asked to answer 235 questions. There was a 17% response rate which seems low. There was a discussion that the high priority bill were being dropped with a first reading coming up. The next meeting will be January 11, 2023 at 9:30 a.m. Mr. Cooper stated that he wants to know who is on the committees for this legislative session. There was a list of the Oregon Senate Legislative Committee. Chair Hayes noted that Senator Prozanski is the Chair of Senate Judiciary and Vice Chair is Senator Thatcher of Keizer. Some other appointments are Senator Dembrow is a Democrat from Portland, and Senator Linthicum is a Republican from Klamath Falls, and Senator Blouin is a Democrat from Albany/Corvallis, Senator Manning is a Democrat from Eugene. The Josephine County area still needs to appointment someone. Mr. Cooper stated the Senator Prozanski was a Deputy District Attorney in Lane County who has become a prosecutor in Florence. He goes back and forth between being pro-prosecution and pro-defense.

State Judicial Outreach Liaison (SJOL)

Judge Eric Bergstrom reported on a Court of Appeals case *State of Oregon vs. Gomez* of Linn County. The defendant was stopped as officers noticed some behaviors affecting the driver's central nervous system. The driver admitted taking Ritalin 10 hours prior and also taking methamphetamine. She handed the officer a bag of methamphetamine and a pipe. She was charged with unlawful possession of methamphetamine. The defendant moved to suppress contending the officer unlawfully extended the stop by asking if the driver possessed any drugs. The trial court denied the Motion to Suppress and the Court of Appeals held in the State's favor saying, "a driver's possession of alcohol or controlled substance certainly can be relevant evidence to prove the driver has committed the crime of DUII. The trial court correctly denied the defendant's Motion to Suppress because the officer had reasonable suspicion that the defendant committed DUII, and his question about whether the

defendant had any drugs in the car was a fact specific question reasonably related to his DUI investigation. That question did not permissibly extend the scope of the traffic stop.” This was a good ruling.

Another case, *State of Oregon vs. Allen* (323 Or. App. 277) out of Harney County, where the defendant was charged with DUI and the State presented evidence at trial that the driver had engaged in multiple behaviors consistent with being under the influence of a central nervous system stimulant. The defendant testified at trial that his behaviors were explained by him experiencing a schizophrenic episode, and he was not impaired at the time of the stop. The State called a certified DRE to testify on “commonly observed signs of methamphetamine intoxication.” The defendant requested a less satisfactory evidence instruction on the theory that the State could have performed a blood test instead, which would have been a better test for drug intoxication. The trial court denied the request and found the defendant guilty. A less satisfactory evidence instruction is when a jury should be told this evidence in this case is not the best evidence, and in fact, there is better evidence should have been had. Therefore, the jury should view the less satisfactory evidence and hold it against the State. In affirming the conviction, the Court of Appeals stated that DRE’s testimony on the commonly observed signs of methamphetamine intoxication was not scientific evidence that required a special foundation. In his testimony, the DRE did not describe his training in detail, did not describe DRE protocols, and did not suggest his testimony was based on scientific methodology. The court allowed the DRE testimony even though he did not describe his training and protocols. These were encouraging results. Chair Hayes stated it might be worthwhile to find out what DRE was involved. Deena Ryerson stated she provided training to Portland Police last Tuesday and described that case to the officers. She will be obtaining the court transcript. Since the *State vs. Emmett*, they are not to call themselves Drug Recognition Experts and that they follow protocol. This first post-incident review case is great and she will be sharing this with the IACP. Chair Hayes noted that the DRE followed the training and was correct in describing that they observed common signs consistent with the use of methamphetamine. One of the defense challenges was that there was no other DRE available but should have gotten another urine sample after the 12 steps, and that the testing was not complete. The urine was obtained through Implied Consent. Ms. Ryerson stated that she does not know if the judges read the prior case rulings, but the *Gomez* case was inconsistent with another case they were given a hard time about when asking about possession of drugs in the vehicle.

Traffic Safety Resource Prosecutor

Ms. Ryerson reported ARIDE trainings in Seaside and Hood River. She just finished training the Portland Police officers. They are trying to get their traffic unit up and running. Most of their day shift police officers have allowed their Intoxilyzer certifications lapse. If there is a DUI during the day, they do not have the resources to test drivers. She requested that the officers continue their certifications. The certificates are for two years but she will be asking for an extension on the certifications. The *Prosecuting the Drugged Driver* conference is February 28-March 3, 2023. Ms. Ryerson reported that Oregon Criminal Defense Lawyers Association (OCDLA) wants to propose changes to bike DUIs. If the bike DUI was impeding vehicle traffic, it would remain the same. There is discussion about reducing bike DUIs to a class B misdemeanor and diversion eligibility due to attending a prior alcohol or drug rehabilitation program. There was mention of the *State vs. Tutor* case where a 16-year was court ordered enrollment for possession of marijuana barred them from later diversion on an alcohol related DUI as an adult. The mother’s participation in treatment during the dependency period barred her from diversion. *State vs. Wright*. There is also discussion on decreasing the amount of time for a hardship permits on a second conviction and for a permanent revocation. If there are any comments on these topics, Ms. Ryerson asked to be emailed. There is discussions with ODAA and Department of Justice (DOJ) at this time. Senator Prozanski and Representative Kropf are supportive of the DUI bills proposed by the GAC. Vice Chair Duke stated she has a line of victims supporting permanent revocation. Mr. Nielsen stated that the prohibitions for qualifying for DUI diversions is a reflected change in OHA’s Oregon Administrative Rule (OAR), OAR 309.019 on treatment

and ADSS rule on the prohibitions. This could impact ADSS referrals and treatments. He stated that he and Ms. Ruiz would be a good contact on this subject.

VII. Old Business

Chair Hayes reviewed the status on old business. The e-warrant project update was complete. The public comment was provided to all members for review. The OHA discussion will be moved to February if needed.

VIII. New Business

Chair Hayes noted that law enforcement training opportunities are being worked on by Mr. Beatty and Sergeant Plummer. Vice Chair Duke reported being approved \$1,000 in scholarship monies for law enforcement training. Chair Hayes is working with NHTSA on a list of the number of states that have active DUI enforcement teams. If anyone knows of such a team, please provide that information to him. Sergeant Wilson asked if a dedicated traffic unit will qualify for this list. Chair Hayes agreed that this is something that should be reported. This information can provide them with areas that may need help in this area. This will be part of the assessment and it can be reported that at one time Portland had a dedicated traffic team and now they do not have anything. The DITEP training report reminded Chair Hayes that we need an educational professional liaison.

Mr. Nielsen stated that received four denial letters for participation in the upcoming OHA DUI Modernization subcommittees. Mr. Nielsen stated that he has been a licensed counselor for 20 years, owns three behavioral health agencies, and serves hundreds of individuals. His one of the largest private outpatient facilities in the area. He was selected as a member on the last DUI Modernization group, however, he was denied entry this time with no explanation. There was a public application process but prior to the application, OHA subjectively chose conveners to co-facilitate these committees. These individuals were handpicked by OHA without an application. When the denial letters were sent out there was no provided explanation. On the application, there was no prohibition or qualifications as to participation in these meetings. Mr. Nielsen spoke with Ms. Corbin in late December and was told he was the only applicant denied participation and the only applicant who was denied that was part of the last DUI Modernization group. He thinks this is an abuse of governmental power and is discriminatory. He admits that he does not agree with the direction of OHA's policies, but he brings a lot of information to the table. In order to silence his dissenting opinion, they have denied his entry. Mr. Nielsen believes OHA does not have the power to subjectively deny the public if they disagree with certain opinions and feedback by DUI stakeholders. His equity conversation was brought forth early in the meeting was an example of OHA applying the concept only to those receiving services. He believes equity should apply to stakeholders, the process, and policy. There should be a requirement that all government entities to be transparent and ethical as possible. He believes that OHA had conducted a huge disservice in this area. He has written a letter to OHA and Mr. Corbin asking to change their position. They have not agreed to change their position. Mr. Nielsen also submitted a formal complaint with objections stated during the GAC meetings. He clarified he does not intend to belittle those selected for the committees. Mr. Nielsen agrees there is a lot of work to do in this area and he believes there is room for differences of opinion. OHA stated they should provide a response to the complaint within the next two weeks. Some members have chosen to write a letter of support and he thanked those who have done so. Mr. Nielsen believes there should be some accountability for DUI stakeholders and members of the public to have a voice in this process.

Chair Hayes stated that we cannot dictate what the State of Oregon does, and he has been denied participation to some committees without a reason. This is part of the process and this is good information to know. He wanted to note that any complaints or support of complaints be submitted separately from the GAC membership. Mr. Nielsen stated that his focus is on the process. He is concerned about the agenda items for the subcommittees, including ideas of placing a standardized fee schedule for DUI Modernization. Chair Hayes noted the change in the administration with OHA and it may be interesting to see where it goes. Ms. Ruiz stated

that these subcommittees begin on Monday, January 9, 2023. She is hoping for a lot of positive improvements. Chair Hayes stated that communication is key and is sorry that Mr. Nielsen was not selected to be on the subcommittees.

X. Adjourn

With no further business before the committee, Chair Hayes officially adjourned the meeting at 12:13 p.m.

Next HYBRID Meeting: February 3, 2023 at 9:00 a.m. at DPSST and via Teams