

# STATE OF MICHIGAN

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## Impaired Driving Program Assessment

May 6 – 10, 2019

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## **ACKNOWLEDGEMENTS**

The Impaired Driving Program Assessment Team expresses its gratitude and appreciation to Michael L. Prince, Director, Michigan Office of Highway Safety Planning (OHSP) and Christy Sanborn, Impaired Driving Program Coordinator, OHSP, for making this assessment possible. The quality of their efforts to provide the Assessment Team with knowledgeable and professional interviewees and support cannot be overstated.

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

The team thanks Jennifer Huebner Davidson of the Impaired Driving Division, National Highway Traffic Safety Administration (NHTSA), for coordinating and facilitating the onsite assessment process. The team also thanks Belinda Oh, Assessment Administrative Consultant, for her coordination and management of the production of the final report and invaluable support to the team throughout the week.

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

## INTRODUCTION

The mission of the National Highway Traffic Safety Administration (NHTSA) is to reduce deaths, injuries, and economic and property losses resulting from motor vehicle crashes. In its ongoing pursuit to reduce 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 uses an organized approach, along with well-defined procedures, to provide states with a review of their highway safety and emergency medical services (EMS) programs. Program assessments are provided for impaired driving, occupant protection, traffic records, motorcycle safety, standardized field sobriety testing, driver education, pedestrian and bicycle safety, and EMS.

The purpose of an assessment is to review all components of a given highway safety or EMS program, note the program's strengths and accomplishments, and recommend where improvements can be made. An assessment can be used as a management tool for planning purposes and for making decisions about how to best use available resources. Assessments are cooperative efforts among state highway safety offices, state EMS offices, and NHTSA. In some instances, the private sector is also a partner in the effort. NHTSA staff facilitates the assessment process by assembling a team composed of experts who have demonstrated competence in highway safety or EMS program development and evaluation to complete the assessment.

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

Under the Fixing America's Surface Transportation Act (FAST Act), states that have an average impaired driving fatality rate that is 0.60 fatalities per 100 million vehicle miles traveled 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. Michigan is considered a low-range State. Although not required to conduct a NHTSA-facilitated assessment, Michigan proactively requested NHTSA's assistance in assessing its impaired driving program.

The Michigan Impaired Driving Program Assessment was conducted at the Okemos Conference Center in Okemos, Michigan, from May 6-10, 2019. Under the direction of Michael L. Prince, Director of the Office of Highway Safety Planning, arrangements were made for impaired driving program partners and stakeholders (see Agenda) to deliver briefings, answer assessment team member questions, and provide support materials on a wide range of topics.

## STATE BACKGROUND

According to the United States Census Bureau, the population of Michigan was estimated to be 9,995,915 in 2017, making it the 10<sup>th</sup> most populous state. Michigan is comprised of two peninsulas made up of 83 counties. The State covers 58,110 square miles of land with thousands of inland waters and lakes. Forty percent of the total population resides in the urban centers of the southern half of the Lower Peninsula. In spite of urban expansion into agricultural lands, the State still has nearly 10 million acres of farm land.

According to the Michigan Department of Transportation, Michigan has 120,256 road miles. Of those, 9,669 route miles of State trunkline highways, 89,444 route miles of country roads, and 21,198 route miles of city and village streets. The longest highway in Michigan is I-75, which runs 395 miles from the Ohio border to the International Bridge in Sault Ste. Marie. The shortest roadway in Michigan is I-375 in Detroit, spanning only 1.1 miles long. M-185 on Mackinac Island is the only State highway in the nation where motor vehicles are not allowed.

Michigan residents have high exposure to traveling in a motor vehicle in both urban and rural jurisdictions. In 2017, the estimated vehicle miles traveled per 100 billion in Michigan were 101.8. From the 2017 U.S. Census Bureau's American Community Survey, among those who commuted to work in Michigan, the average time was 24 minutes.

In 2017, the average median household income of Michigan residents was \$52,668, and 14.2 percent of residents lived in poverty in 2016. Demographic factors to consider when analyzing Michigan's impaired driving problem include age, race, and gender. In 2017, the U.S. Census Bureau reported that 79.4 percent of the State's population was White or Caucasian, 14.1 percent was African American, 5.1 percent Hispanic or Latino, and 3.2 percent was Asian.

Fatality Analysis Reporting System (FARS) data indicate that there were 4,910 motor vehicle-related fatalities in Michigan from 2013 through 2017, or an average of about 982 traffic fatalities per year. Over this five year period, annual traffic fatalities fluctuated around the five-year average, starting with 947 in 2013 and ending with 1,030 in 2017. The 2017 total represents a 6.19 percent increase, when compared to the average of the prior four years (970 fatalities), and an 8.76 percent increase when compared to 2013. Preliminary State data show a decrease in fatalities for 2018.

The following table shows Michigan's traffic fatalities from 2013 to 2017 and national data for comparison. Michigan traffic fatalities increased 8.76 percent, from 2013 (947) to 2017 (1,030), during which time the nation experienced a larger increase of 12.89 percent. During this five year period, Michigan saw its largest increases in impaired driving traffic fatalities and motorcyclist fatalities. There was a 24.90 percent increase in impaired driving fatalities from 249 deaths in 2013 to 311 in 2017, and an 8.70 percent increase in motorcyclist fatalities from 138 in 2013 to 150 in 2017. The total number of bicyclist fatalities in Michigan decreased 22.22 percent (from 27 in 2013 to 21 in 2017) during a time when the number of bicyclist fatalities nationally increased at a rate of 4.54 percent (from 749 in 2013 to 783 in 2017).

### Fatalities by Type

	2013	2014	2015	2016	2017	Total 2013-2017	% Change: 2017 vs. 2013	% Change: 2017 vs. prior 4- yr Avg.
<b>Total Fatalities</b>								
<b>Michigan</b>	947	901	967	1,065	1,030	4,910	8.76%	6.19%
<b>U.S.</b>	32,893	32,744	35,484	37,806	37,133	176,060	12.89%	6.91%
<b>Impaired Driving Fatalities</b>								
<b>Michigan</b>	249	212	266	244	311	1,282	24.90%	28.12%
<b>U.S.</b>	10,084	9,943	10,280	10,996	10,874	52,177	7.83%	5.31%
<b>Motorcyclist Fatalities</b>								
<b>Michigan</b>	138	112	141	152	150	693	8.70%	10.50%
<b>U.S.</b>	4,692	4,594	5,029	5,337	5,172	24,824	10.23%	5.27%
<b>Pedestrian Fatalities</b>								
<b>Michigan</b>	148	148	166	163	156	781	5.41%	-0.16%
<b>U.S.</b>	4,779	4,910	5,495	6,080	5,977	27,241	25.06%	12.43%
<b>Bicyclist Fatalities</b>								
<b>Michigan</b>	27	22	33	38	21	141	-22.22%	-30.00%
<b>U.S.</b>	749	729	829	852	783	3,942	4.54%	-0.85%
<b>Speeding Fatalities</b>								
<b>Michigan</b>	255	235	264	245	241	1,240	-5.49%	-3.50%
<b>U.S.</b>	9,696	9,283	9,723	10,291	9,717	48,710	0.22%	-0.32%
<b>Unrestrained Occupant Fatalities</b>								
<b>Michigan</b>	183	196	190	198	193	960	5.46%	0.65%
<b>U.S.</b>	9,622	9,410	9,968	10,514	10,076	49,590	4.72%	2.00%

## **PRIORITY RECOMMENDATIONS**

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

- Hire a Law Enforcement Liaison within the Office of Highway Safety Planning as soon as possible to provide support to law enforcement coordination on operating while intoxicated issues including special traffic enforcement program operations, national mobilization efforts, law enforcement and prosecutor training efforts across the State, and emerging impaired driving issues surrounding the legalization of recreational marijuana.

### **II. Prevention**

- Expand Dram Shop legislation to include liability for injuries and/or damage incurred by individuals who are over-served, that is, served alcohol and/or marijuana when impaired by either alcohol, marijuana, or other drugs.
- Enact a 10-cent per drink health surcharge on all alcoholic beverages and a volume-based (e.g., per ounce) surcharge on marijuana sales dedicating those revenues to impaired driving prevention and intervention programs.
- Mandate responsible server training for managers and/or employees of alcohol and marijuana outlets and establish insurance discount and other incentives.
- Ensure that all designated driver programs stress “no use” of alcohol, marijuana, or other substance messages for the designated driver.

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

- Enact a new comprehensive statute that allows the effective prosecution and adjudication of alcohol, marijuana, and other drug impaired driving.
- Enact legislation to require the admission of Drug Recognition Expert testimony when the officer is currently certified and has followed the approved protocol of the certifying agency in gathering evidence or the testimony.
- Hire a Law Enforcement Liaison to increase stakeholder engagement and improve the State’s impaired driving enforcement. This individual must, at a minimum, be well-versed in all areas surrounding impaired driving.
- Expand Drug Evaluation and Classification Program participation. All counties must be represented. Increase Advanced Roadside Impaired Driving Enforcement training proportionately to certified and credentialed Drug Recognition Experts.
- Engage prosecutors and municipal attorneys in a strategic planning session on the new world of legal marijuana and emerging drugs.

- Undertake a carefully designed review of court dispositions of impaired driving offenses.
- Reduce the 60-day review backlog of Breath Alcohol Ignition Interlock Device violations.

#### IV. Communication Program

- None.

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

- Establish assessment protocols that include standard criteria and screening instruments that allow recommendations for appropriate treatment modalities.
- Require the use of an approved, evidence-based curriculum and program to meet the requirement for an Alcohol Highway Safety Class.
- Implement a comprehensive impaired driver tracking system.

#### VI. Program Evaluation and Data

- Acquire a new Laboratory Information Management System for the Michigan State Police Forensic Science Division.



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

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

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

#### **Advisory**

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

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

#### **Status**

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

In 1941, the Michigan State Safety Commission (MSSC) was legislatively established to promote greater traffic safety on public roadways. Through interagency cooperation, the MSSC was committed to reducing traffic crashes, injuries, and deaths in Michigan by promoting effective traffic safety programs. The MSSC was comprised of representatives from the departments of Community Health, Education, State Police, State, and Transportation. In 1995, the Michigan Traffic Safety Management System (MTSMS) began coordination of the State's highway safety efforts with a goal to reduce traffic crashes and their resulting deaths and injuries. The MTSMS relied on the strengths of coordinated and cooperative efforts of state, local, and federal agencies in conjunction with private safety partners.

In 2002, the Governor's Traffic Safety Advisory Commission (GTSAC) was created by Executive Order, replacing the MSSC and MTSMS but retaining the main function of both groups. The GTSAC is charged with identifying traffic safety challenges and developing, promoting, and implementing strategies to address those challenges, specifically:

- Develop comprehensive solutions to traffic safety challenges through partnerships with

- all levels of government and the private sector;
- Maximize and coordinate the use of existing financial resources, including federal highway safety planning funds administered by the Office of Highway Safety Planning;
- Manage resources devoted to traffic safety research, ensure that research programs are effective, and identify additional needs for traffic safety research;
- Develop and implement a communications plan that increases public awareness regarding traffic safety issues and the Commission's activities addressing traffic safety issues;
- Promote traffic safety education through programs developed in cooperation with the Michigan Department of Education; and
- Encourage the use of collaborative activities in addressing traffic safety issues by identifying and recognizing best practices used by the State's traffic safety organizations.

The GTSAC's membership consists of 11 members with four appointed by the Governor (noted with an asterisk below):

- The Governor's Office\*
- Michigan Department of Community Health and Human Services
- Michigan Department of Education
- Michigan Department of State
- Aging and Adult Services Agency
- Michigan Office of Highway Safety Planning
- Michigan State Police
- Michigan Department of Transportation
- Three Local Government Agencies\*

While the GTSAC is an important entity in impaired driving efforts in Michigan with one of the GTSAC's Action Teams specifically addressing impaired driving, the group lacks the ability to develop or recommend policy for impaired driving issues in the State. The Governor's Office has no direct involvement in the meetings but receives feedback via the State Highway Safety Office Plan. The appointee designated as the Governor's Office representative is a constituent and not a direct employee of the Governor's Office. The lack of policy-making appointments and department heads in the membership, limits the ability of the GTSAC to give true direction to impaired driving issues in Michigan. In light of the recent legalization of recreational marijuana in the State, the inability to direct or influence policy is a limitation of the GTSAC.

### **Impaired Driving Action Team**

The Impaired Driving Action Team (IDAT) is part of a network of ad hoc committees comprised of local, state, and federal partners, working in collaboration with the GTSAC to identify traffic safety challenges and comprehensive solutions. The IDAT works to achieve the mission, vision, and goals identified in Michigan's Strategic Highway Safety Plan (SHSP).

The IDAT is made up of members of the following agencies:

- AAA Michigan
- Detroit Police Department
- Michigan Association of District Court Probation Officers
- Michigan Department of Health and Human Services

- Michigan Department of State
- Michigan Department of Transportation
- Michigan Judicial Institute
- Michigan Licensed Beverage Association
- Michigan Liquor Control Commission
- Michigan Office of Highway Safety Planning
- Michigan State Police
- Prevention Network
- Prosecuting Attorneys Association of Michigan

### **Impaired Driving Safety Commission**

Public Act 350 of 2016 created the Impaired Driving Safety Commission. The Commission was created within the Michigan State Police (MSP) and was tasked with researching and recommending a scientifically supported threshold of tetrahydrocannabinol (THC) bodily content to provide evidence for per se impaired driving in Michigan.

The Commission consists of six members:

- The MSP Director or designated representative
- A qualified and registered patient under the Michigan Medical Marijuana Act
- A forensic toxicologist
- A professor from a public research university in Michigan whose expertise is in traffic safety
- A professor from a public research university in Michigan whose expertise is in the area of cannabis pharmacology and toxicology
- A physician licensed under the Public Health Code

The Commission met throughout 2018 and into March 2019, to fulfill its charge. Commissioners received presentations from subject matter experts on Michigan criminal law; impaired driving prosecution, defense, investigation, and enforcement; substance abuse treatment; traffic safety research, analysis, and programming; pharmacology and toxicology; and forensic toxicology.

The Commission had several recommendations in their March 2019 report:

- Do not establish a threshold of THC bodily content for determining driving impairment and instead use roadside sobriety test(s) to determine if a driver is impaired.
- Provide additional training in impaired driving detection and investigation for law enforcement officers and prosecutors, including standardized field sobriety testing, advanced roadside impaired driving enforcement, and drug recognition experts.
- Develop public education efforts designed to inform the public about the effects of cannabis consumption and potential dangers of driving under the influence of cannabis.
- Conduct additional research to develop and validate methodologies for assessing impairment of skills required for motor vehicle operation under the influence of cannabis.
- Establish a permanent Drugged-Driving Commission to review new research and experiences of other states to keep the Legislature apprised of emerging relevant information.

### **Regional Traffic Safety Network**

Michigan has 16 Regional Traffic Safety Networks covering the entire State. Three networks are inactive and two have current chairperson vacancies. These networks operate independently, but under the guidance and direction of AAA Michigan and the Office of Highway Safety Planning (OHSP). Membership is voluntary and each operates independently, setting meeting agendas and determining the priorities in their regions. All networks invite traffic safety and community partners to participate.

### **Tribal Task Force(s)**

There are 12 federally-recognized tribes in Michigan. The Inter-Tribal Council of Michigan, Inc. is a consortium of Michigan's tribes. The involvement of the tribes in State or local task forces to impact impaired driving is not currently present, including the GTSAC and the IDAT.

### **Michigan Coalition to Reduce Underage Drinking**

The mission of the Michigan Coalition to Reduce Underage Drinking (MCRUD) is to provide leadership on State and national issues and to assist individuals, grassroots groups, and organizations to reduce underage drinking locally. There are 59 local coalitions throughout Michigan, representing 72 percent of the counties in Michigan. MCRUD is currently participating in the development of a revised strategic plan on underage drinking issues.

### **Traffic Records Coordinating Committee (TRCC)**

Michigan has a two-tiered TRCC that has been formalized by Charter and meets on a regular basis. The make-up of the TRCC is broad-based and includes all the core data systems. Local agencies are represented on the technical level committee. The State's Central Information Technology agency is also represented, which ensures that there is coordination of traffic records projects at the state level based on early notification and discussion of projects at TRCC meetings.

### **Department of Licensing and Regulatory Affairs**

The Department of Licensing and Regulatory Affairs (LARA) has an Enforcement Division that operates from district offices in Southfield, Lansing, Grand Rapids, and Escanaba. Enforcement staff investigates applicants for new liquor licenses and transfers of ownership or location of existing licenses, as well as investigating complaints against licensees. Enforcement staff also inspects licensed establishments to ensure compliance with Liquor Control Code and Commission rules, advises and assists law enforcement agencies in liquor law enforcement at the local level, and conducts training of law enforcement officers.

### **Recommendations**

- Engage the Governor to revamp membership of the Governor's Traffic Safety Advisory Commission to establish a policy level advisory board that can formulate policy recommendations annually concerning traffic safety issues, particularly impaired driving issues, for consideration by the Governor. Membership should include, at a minimum, highway safety, prevention, treatment, public education, local and state law enforcement, tribal, prosecution, and adjudication partners who meet at least four times annually.
- Engage community leaders in Michigan impaired driving efforts, including legalized

recreational marijuana impairment. These potential traffic safety partners may include employers, unions, military installations, medical facilities, multi-cultural groups, faith-based organizations, advocacy groups, and other community groups.

## **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**

Under the FAST Act, states receive federal funding to support national and state priorities for reducing roadway deaths and injuries. In addition to base funding (Section 402), Michigan also qualifies for funding for occupant protection, impaired driving, state traffic safety information system improvements, motorcyclist safety, and non-motorized safety (pedestrian and bicycle).

The annual process for determining what projects will receive federal traffic safety funding starts with a thorough analysis of the most recent Michigan traffic crash data that is coordinated by the University of Michigan Transportation Research Institute (UMTRI). Emphasis is placed on the three highest priority traffic safety performance measures for states:

- Number of traffic crash fatalities
- Number of suspected serious injuries
- Fatalities per 100 million vehicle miles traveled

Multi-year data analysis provides insight into the most critical problems associated with fatal and serious injury crashes. Crash data are the basis for identifying where, when, how, and why these crashes occur. UMTRI has developed an extremely useful resource for problem identification that can be used by not only the Office of Highway Safety Planning (OHSP), but also other traffic safety partners, the public, media, lawmakers, etc. The resource is the online Michigan Traffic Crash Facts website: <https://www.michigantrafficcrashfacts.org>. This site has specific tools for impaired driving data queries and is very user-friendly.

Along with data analysis, the OHSP works with partners and stakeholders to generate input, ideas, and suggestions for possible programming. This includes the GTSAC action teams, regional Traffic Safety Networks, and grantees. The OHSP directs resources toward countermeasures that have demonstrated research-based success at reducing fatalities and serious injuries. These behavior-based countermeasures are most likely to reduce impaired driving, as well as compliance with other life-saving traffic safety laws.

### **Strategic Highway Safety Plan (SHSP)**

The SHSP provides a comprehensive framework for reducing traffic fatalities and serious injuries on public roads. In Michigan, the SHSP is developed under the leadership of the GTSAC in a cooperative process with local, state, federal, and private sector safety stakeholders.

The SHSP is a data-driven plan that establishes statewide goals, objectives, and key emphasis areas and integrates the four E's—engineering, education, enforcement, and emergency medical services. The SHSP allows all highway safety programs in the State to work together in an effort to align and leverage resources. It also positions the State and its safety partners to collectively address the State's safety challenges.

During the development of the initial SHSP in 2004, traffic safety advocates from federal, state, and local levels came together to assess the current state of traffic safety in Michigan. This process resulted in the establishment of statewide safety goals and the identification of 12 traffic safety emphasis areas. To achieve progress for these goals, an action team was created within each emphasis area, comprised of traffic safety advocates from throughout the State. Each action team developed an action plan specific to its emphasis area. These action plans included background information, summaries of key safety issues, and a series of short-term and long-term strategies to improve safety within each emphasis area.

The SHSP and its emphasis area action plans provide guidance for State and local agencies for the implementation of policies and programs aimed at proactively improving traffic safety. Implementation of these plans contributed to maintaining under 1,000 traffic fatalities and an eight percent reduction in serious injuries from 2013 to 2015. The IDAT takes the lead on developing the action plan for the impaired driving section of the SHSP.

The overall vision directing Michigan's impaired driving efforts is the SHSP.

### **IDAT**

The IDAT works in conjunction with the GTSAC to address impaired driving crashes, which are disproportionately more severe than other crashes, constituting 30 to 40 percent of fatal crashes each year. Despite decades of efforts, impaired driving remains a devastating traffic safety and public health problem and is the greatest and most complex behavioral issue in Michigan traffic deaths. It is the primary focus for many agencies and organizations who have come together to participate in the IDAT to reduce fatalities, injuries, and crashes. Members of the IDAT continually implement a combination of prevention, enforcement, judicial, regulatory, and treatment countermeasures to combat impaired driving.

The IDAT has set the following goals for impaired driving:

<b>Fatal &amp; Incapacitating Crashes Involving Alcohol or Drugs</b>		
<b>Year</b>	<b>Alcohol</b>	<b>Drugs</b>
<b>2018</b>	1,412	777
<b>2019</b>	1,398	769
<b>2020</b>	1,384	762
<b>2021</b>	1,370	754
<b>2022</b>	1,356	747

These goals are supported by the following overall strategies:

- Support impaired driving enforcement, with a special emphasis on high-visibility enforcement (HVE).
- Promote efforts to increase sobriety courts and the effective use of ignition interlocks.
- Support public information and education campaigns.
- Provide enhanced training for all sectors of the criminal justice and substance use disorder communities.
- Provide recommendations related to impaired driving policies and legislative efforts based on scientific data.

### **Traffic Safety Summit**

The OHSP sponsored and conducted the 24<sup>th</sup> annual Michigan Traffic Safety Summit March 19-20, 2019. This annual conference brought together approximately 600 traffic safety partners from across the State. Attendees were exposed to a variety of traffic safety topics. Approximately 25 percent of the conference dealt with impaired driving issues. Workshop topics related to impaired driving included: New Trends in Substance Abuse, Roadside Oral Fluid Testing Update, Legal Update, Marijuana Impairment and Driving Challenges for Education and Enforcement, and a DUI Study in Florida. In addition, a general session at the conference focused on Street Drugs: Today's Marijuana.

### **Recommendations**

- Engage traffic safety partners statewide, sharing the vision of the Governor's Traffic Safety Advisory Committee and the Impaired Driving Action Team Action Plan to ensure partners are aware of the visions and goals regarding impaired driving in Michigan.
- Ensure that partners are aware of and familiar with the Michigan Traffic Crash Facts website developed by University of Michigan Transportation Research Institute, allowing the traffic safety partners to conduct their own research into the extent of local traffic safety and impaired driving issues.
- Continue to offer a variety of traffic safety educational and training opportunities at the annual Traffic Safety Summit with a minimum of 25 percent of the sessions directed toward impaired driving issues.



## C. Program Management

### *Advisory*

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

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

### **Status**

The OHSP is the agency responsible for taking the lead on impaired driving in Michigan. The OHSP has an Impaired Driving Coordinator that serves as the main point of contact for all impaired driving programs and a Drug Evaluation and Classification Coordinator to oversee all training and certification efforts of the State's Drug Recognition Expert program. Several other positions within the OHSP support impaired driving efforts in varying degrees as well.

OHSP-funded programs and enforcement efforts are required to submit data on efforts on at least a quarterly basis. Educational and training programs submit progress reports indicating the activity that has taken place during the reporting period. Grant-funded law enforcement agencies submit data on traffic stops conducted, including citations and arrests made during traffic safety interventions.

Enforcement data are collected following national impaired driving mobilization efforts. Enforcement data are submitted by each participating law enforcement agency to their county law enforcement coordinator, who then submits the data electronically for all reporting agencies in the county to the OHSP.

Achievements from the Impaired Driving Action Team (IDAT) are reported annually and posted on the OHSP website for all partners to view and utilize. Progress is reported for each of the strategies and objectives. Data are provided for all measurable activities and the lead agency for each activity is indicated.

One of the biggest challenges facing the OHSP regarding impaired driving and traffic enforcement in general is the drop-in enforcement actions that far exceeds the issue of the reduction in law enforcement manpower throughout the State. The National Highway Traffic Safety Administration (NHTSA) Region 5 Office conducted a Law Enforcement Roundtable in December 2016 to explore issues that are impacting traffic enforcement activities. Several issues surfaced including:

- younger officers are less likely to issue a citation,
- officers value time off over overtime pay,

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

- the lack of understanding of the importance of conducting traffic enforcement, and
- too much paperwork for agencies to pursue funding from highway safety offices.

### **Recommendations**

- Identify and/or develop educational and training materials to deliver to law enforcement partners that communicate the importance of traffic safety enforcement, particularly the importance of impaired driving enforcement.
- **Hire a Law Enforcement Liaison within the Office of Highway Safety Planning as soon as possible to provide law enforcement outreach communicating the importance of traffic safety enforcement activities, particularly impaired driving enforcement, and the emerging impaired driving issues surrounding the legalization of recreational marijuana.**

## 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

Money received by courts from a traffic citation is made up of three components: a fine, costs, and statutory assessments. Fines are the penalty portion of the citation. For violations written under State law, the fine either goes entirely to support public or county libraries if issued by a State trooper or county deputy or, if the citation is issued by a municipal police officer, the fine may be split between the library fund and the local municipality. Costs are the portion of the citation used to pay the expenses to prosecute the citation and are typically capped at \$100. Statutory assessments are additional charges applied to most violations to fund specific programs deemed important by the Legislature. The breakdown of the \$40 statutory assessment on a typical civil infraction citation appears below.

Secondary Road Patrol (sheriff departments traffic enforcement)	\$10.00
Highway Safety Fund (MSP for recruit schools and traffic enforcement)	\$7.44
Jail Reimbursement Program Fund (sheriff departments to house felons for the state)	\$3.72
Michigan Justice Training Fund (police agencies/prosecutors-in-service training)	\$3.72
Legislative Retirement System	\$0.345
Drug Treatment Courts Fund	\$0.855
State Forensic Lab Fund	\$1.68
State Court Fund	\$3.99
Court Equity Fund	\$7.65
State Treasurer (for monitoring)	\$0.30
State Court Administrative Office (for collections and audits)	\$0.30

### OHSP

The OHSP currently has 24 full time employees. Overall, the staffing levels are very strong for a state highway safety office (SHSO) and adequately cover most critical SHSO functions. The

OHSP recently lost a staff position that was responsible for underage drinking issues. The duties of the underage drinking position have been assumed by the Impaired Driving Program Coordinator which adequately covers the loss. The position that is absent at the OHSP that has become critical at most HSOs across the nation is that of a Law Enforcement Liaison (LEL). The LEL is a critical position that can provide a direct communication link on crucial traffic enforcement efforts, especially those related to the national mobilizations, and also serve as a general resource that law enforcement partners can use for a multitude of traffic safety issues.

**Educational Materials Development and Distribution (\$910,000 FY19 Section 405d)**

Marijuana legalization was voted upon favorably in a statewide ballot in November 2018, passing with overwhelming public support. Development and distribution of educational material for drugged driving, alcohol-impaired driving, prescription use and driving, and poly-use, is necessary to educate Michigan motorists on the details of this issue. Funding will support the development of educational materials regarding drugged-driving. Social media channels provided education in social norming behavior during Impaired Driving month (December 2018).

**Overtime High-Visibility Enforcement (HVE) Supporting National Mobilization Periods (\$900,000 FY19 Section 405d)**

The National Highway Traffic Safety Administration (NHTSA) developed a detailed model for conducting HVE campaigns, combining evaluation, earned media, paid media, and enforcement. HVE increases compliance with traffic laws. The OHSP adopted this model 15 years ago as the basis for its enforcement campaign strategy and incorporates all aspects of the model into statewide mobilizations. NHTSA requires states to provide for a statewide, high-visibility special traffic enforcement program (STEP) for occupant protection and impaired driving that emphasizes publicity during three campaigns.

The OHSP reviews traffic crash data annually and identifies locations to fund overtime enforcement focusing on compliance with traffic laws. A five-year review of traffic crash fatalities and serious injuries (KA) was conducted for unrestrained, alcohol-impaired, drug-impaired, speed related, and distracted driving. Although the crash trend data is reviewed annually, the high-crash counties tend to be the same each year.

Crash data were further analyzed at the community level. Law enforcement agencies in locations that experienced a high number of unrestrained and had-been-drinking (HBD)/drug-involved fatal and serious injuries are offered overtime traffic enforcement grant funding. The number of grants awarded takes into consideration the level of overtime enforcement funding approved. A lead agency is identified in the selected county to coordinate the enforcement efforts of other local law enforcement agencies within the county.

In addition to the county traffic enforcement grants, the Michigan State Police (MSP) conducts overtime enforcement through grants with each of its seven districts.

The impaired driving overtime traffic enforcement plan includes saturation patrols in 24 counties (representing 72.1% of the five-year average alcohol-involved and/or drug-involved KAs). Sobriety checkpoints are illegal under Michigan's constitution.

The impaired driving mobilization periods for Federal Fiscal Year (FFY) 2019 are:

- October 18 – 31, 2018
- December 12 – 31, 2018
- July 1 – 14, 2019
- August 14 – September 2, 2019

**Mobilization Message Development and Paid Advertising (\$910,000 FY19 Section 405d)**

Periodically updating and refreshing advertising messages helps the messaging remain memorable and promote a call to action for the target audience. Funding supports the development of new creative themes for enforcement mobilizations, including advertising, earned media, and outreach. The OHSP follows the traffic enforcement mobilization model established by NHTSA which calls for paid advertising starting a week prior to the enforcement campaign and continuing through the first week of the enforcement action. The timing allows motorists a warning period before enforcement action begins. Young male drivers remain the focus of messaging efforts for impaired driving enforcement.

The STEP model includes the use of paid advertising to support awareness of stepped up enforcement. Paid advertising places messaging on stations and programs that appeal to the target audience. Advertising programming is selected based on its efficiency and effectiveness. Funding covers paid advertising costs during the specified mobilization.

**Sobriety Court Support (\$1,520,000 FY19 Section 405d)**

The purpose of alcohol/drug courts is to guide addicted offenders into a treatment program that reduces their substance use dependence and improves their quality of life. Sobriety court participants are closely supervised by a judge and a team of addiction treatment providers, prosecuting attorneys, public defenders, law enforcement officers, and parole and probation officers who work together to provide needed services to the participants.

Funding supports sobriety court operations as well as the costs for probation officers, drug testing, and transportation. Funding also covers the cost of sending staff from up to two courts to the national court training.

**Judicial Training and Outreach (\$63,000 FY19 Section 405d)**

Judges, particularly those who work in limited jurisdiction courts like district courts which cover most traffic-related offenses, are often overlooked in education, training, and communication opportunities. Judges often lack the ability to gain and share the knowledge needed to resolve the legal and evidentiary issues that challenge them in adjudicating impaired driving. The Michigan Judicial Institute (MJI) is a training division of the State Court Administrative Office (SCAO) of the Michigan Supreme Court. MJI provides impaired driving education opportunities for up to 1,000 district court judges, magistrates, drug/alcohol treatment court staff, and probation officers by contracting with speakers to provide training and educational materials to the judicial community on current impaired driving concerns. A Judicial Outreach Liaison (JOL) program is coordinated through the MJI. The JOL advances community outreach and provides education and training while promoting confidence and trust in the judiciary. Funding supports judicial training and one part-time JOL position.

**Traffic Safety Resource Prosecutor (\$575,000 FY19 Section 405d)**

Effective prosecution is an essential component for deterring impaired driving. If prosecutors do not have specialized training in the prosecution of impaired drivers, they will be unprepared for the complexities of impaired driving case law and court practices. The OHSP has supported a Traffic Safety Resource Prosecutor (TSRP) since 2000.

As new legislation is introduced involving such quickly evolving issues as medical and recreational marijuana and ignition interlocks, it is critically important to educate prosecutors and law enforcement while supporting their efforts to prosecute impaired drivers to reduce impaired driving fatalities and injuries. The TSRP provides training on impaired driving, court testimony, crash reconstruction, presentation skills, and other topics of value to prosecuting attorneys and law enforcement. Trainings such as Cops in Court, Nuts & Bolts of OWI Prosecution, Advances in OWI Prosecution, Lethal Weapon, and Lethal Weapon 2: Crash to Courtroom have been provided in the past.

Funding supports two full-time TSRPs and an administrative assistant, as well as related expenses for training prosecutors and law enforcement. Funding is also used for the Michigan Officer app, a mobile phone app containing Michigan traffic safety laws, for use by law enforcement in the field.

**Standardized Field Sobriety Testing Training (SFST) & Advanced Roadside Impaired Driving Enforcement Training (ARIDE) (\$414,000 FY19 Section 405d)**

Not all officers in Michigan are trained in the NHTSA and International Association of Chiefs of Police (IACP) Standardized Field Sobriety Testing (SFST) Practitioner course. Officers also need the Advanced Roadside Impaired Driving Enforcement (ARIDE) course. Officers need these foundational trainings to improve their abilities to identify, apprehend, and prosecute impaired drivers. Officers must have completed the NHTSA-IACP approved SFST course to be eligible to participate in OHSP-funded impaired driving enforcement grants.

ARIDE training enables law enforcement officers to increase knowledge, update skills, and remain current on changing issues in alcohol and drug impairment to successfully address impaired driving priorities. The ARIDE training program consists of 16 hours of training covering the seven major drug categories and is provided to law enforcement officers certified in the NHTSA-IACP SFST curriculum. The ARIDE program includes SFST refresher training as part of the certification.

**Drug Recognition Expert (DRE) Training (\$307,000 FY19 Section 405d)**

The Drug Recognition Expert (DRE) State Coordinator scheduled a DRE School for 20 law enforcement officers and four prosecutors this year. This increased the number of certified DREs in the State to 153. The recruitment of DRE officers will be statewide with concentrated efforts to recruit students from the top ten counties with the highest fatal and serious injury crashes involving alcohol and drugs. These counties include: Wayne, Oakland, Kent, Macomb, Genesee, Washtenaw, Kalamazoo, Ottawa, Monroe, and Ingham.

To fulfill DRE recertification requirements, a continuing education class for all DREs will be

conducted, which will include expert witness courtroom training. DRE instructors and a select number of DREs will attend the 2019 DRE national conference. DRE overtime is reimbursed when DREs are requested on suspected drug-impaired driver and fatal or serious injury crashes. Funding supports instructor costs, scheduling, facilities, materials, DRE national conference attendance, and programmatic/financial oversight.

**Underage Drinking Training for Law Enforcement (\$80,000 FY19 Section 405d)**

Law enforcement agencies in Michigan need specialized training in controlled dispersal, compliance checks, and legal updates. The OHSP will contract with two to three police officers who are content experts on underage drinking enforcement to provide this needed training. Officers from grant-funded agencies will also be provided the opportunity to attend the Michigan Licensed Beverage Association's Liquor Law Enforcement Seminar. Funding supports trainers and various training costs.

**MADD Michigan Law Enforcement and Prosecutor Awards Program (\$5,000 FY19 Section 402)**

For more than a decade, Mothers Against Drunk Driving (MADD) has recognized law enforcement officers and for the past eight years they have also recognized prosecutors for outstanding dedication to impaired driving enforcement and adjudication. Funding supports recognition awards and provides Traffic Safety Summit scholarships for winners to receive additional impaired driving enforcement training.

**Impaired Driving Assessment (\$25,000 FY19 Section 405d)**

The OHSP partnered with NHTSA to select subject matter experts from across the country to conduct an assessment of the State's impaired driving program. Following the assessment, the OHSP will work with the Impaired Driving Action Team and other partners to develop an updated strategic plan based on the assessment recommendations. Funding supports team travel, stipends, and venue.

**Motorcyclist Impaired Prevention Campaign (\$260,000 FY19 Section 405d)**

The OHSP has collaborated with the Michigan Department of State and the Michigan Licensed Beverage Association on messaging development for the impaired motorcyclist audience. This effort is to promote a safety culture among motorcycle rider groups, specifically with zero-tolerance policies for impaired driving. With the production of the Fallen Brothers Ride Sober campaign in FFY 2018, the campaign will continue a second year of advertising in FFY 2019 with materials that will be printed and distributed to partners and stakeholders in June 2019. The campaign message informs riders that the majority of single-vehicle motorcyclist crash fatalities involve alcohol. The message is focused on the top alcohol-involved crash counties of Kent, Wayne, Oakland, Macomb, Genesee, and Kalamazoo. The paid advertising includes a cable television campaign run statewide, including during Detroit Tigers broadcasts. There will also be outdoor advertising via billboards in the focus counties along major freeways. Funding supports the printing, mailing, distribution, and paid advertising of the impaired motorcyclist prevention campaign.

**Secondary Road Patrol Self-Sustaining (\$8,228,701 State/\$3,562,938 Local)**

The Secondary Road Patrol (SRP) program began on October 1, 1978, with 78 counties

participating. On October 1, 1989, the program was transferred by Executive Order #1989-4 from the Department of Management Budget Office of Criminal Justice to the Department of State Police Michigan Office of Highway Safety Planning (OHSP). Funding for the program is provided from a \$10 statutory assessment paid on each traffic citation issued in Michigan.

The SRP program provides funding for the following activities:

- Patrolling and monitoring traffic violations.
- Enforcing criminal laws, violations of which are observed by or brought to the attention of the sheriff's office while providing the services required by Public Act (P.A.) 416.
- Investigating crashes involving motor vehicles.
- Providing emergency assistance to persons on or near a highway or road patrolled as required by P.A. 416.

The sheriff's office can provide these services on secondary roads within a city or village if the legislative body of the local unit of government passes a resolution requesting the services, with the exception of taking complaints.

Counties are required to enter into a contractual arrangement with the OHSP in order to receive funds. Funds can be spent on:

- Employing additional personnel
- Purchasing additional equipment
- Enforcing laws in state and county parks
- Providing selective motor vehicle inspection programs
- Providing traffic safety information and education programs that are in addition to those provided before the effective date of P.A. 416 (October 1, 1978)

SRP deputies issued 50,702 traffic citations and 1,183 impaired driving arrests in 2018 under this program.

## **Recommendations**

- Establish a grant program that encourages local law enforcement agencies to create full time impaired driving enforcement teams in counties/municipalities that are overrepresented in fatal and serious injury crash locations throughout the State. Develop a funding structure that provides a majority of startup funds utilizing federal funding, and reduces federal funding levels after the team is well-established.
- **Hire a Law Enforcement Liaison within the Office of Highway Safety Planning as soon as possible to provide support to law enforcement coordination on operating while intoxicated issues including special traffic enforcement program operations, national mobilization efforts, law enforcement and prosecutor training efforts across the State, and emerging impaired driving issues surrounding the legalization of recreational marijuana.**



## II. Prevention

*Prevention programs are most effective when they utilize evidence-based strategies, that is, they implement programs and activities that have been evaluated and found to be effective or are at least rooted in evidence-based principles. Effective prevention programs are based on the interaction between the elements of the public health model: 1) using strategies to develop resilient hosts, e.g., increase knowledge and awareness or altering social norms; 2) reducing exposure to the dangerous agent (alcohol), e.g., alcohol control policies and; 3) creating safe environments, e.g., reducing access to alcohol at times and places that result in impaired driving. Prevention programs should employ communication strategies that emphasize and support specific policies and program activities.*

*Prevention programs include responsible alcohol service practices, transportation alternatives, and community-based programs carried out in schools, at work sites, in medical and health care facilities, and by community coalitions. Programs should prevent underage drinking or drinking and driving for persons under 21 years of age, and should prevent over-service and impaired driving by persons 21 or older.*

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

### A. Responsible Alcohol Service

#### **Advisory**

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

- Adopt and enforce programs to prevent sales or service of alcoholic beverages to persons under the age of 21. Conduct compliance checks and “shoulder tap” activities and support the proper use of technology in alcohol retail establishments, particularly those catering to youth, to verify proper and recognize false identification.*
- Adopt and enforce alcohol beverage control regulations to prevent over-service, service in high risk situations, and service to high-risk populations. Prohibit service to visibly intoxicated patrons; restrict alcohol sales promotions, such as “happy hours”; limit hours of sale; establish conditions on the number, density, and locations of establishments to limit impaired driving, e.g., zoning restrictions; and require beer keg registration.*
- Provide adequate resources including funds, staff, and training to enforce alcohol beverage control regulations. Coordinate with state, county, municipal, and tribal law enforcement agencies to determine where impaired drivers had their last drink and use this information to monitor compliance with regulations.*
- Promote responsible alcohol service programs, written policies, and training.*
- Provide responsible alcohol service guidelines such as best practices tool kits to organizations that sponsor events at which alcohol is sold or provided.*
- Encourage alcohol sales and service establishments to display educational information to discourage impaired driving and to actively promote designated driver and alternative transportation programs.*
- Hold commercial establishments and social hosts responsible for damages caused by a patron or guest who was served alcohol when underage or visibly intoxicated.*

#### **Status**

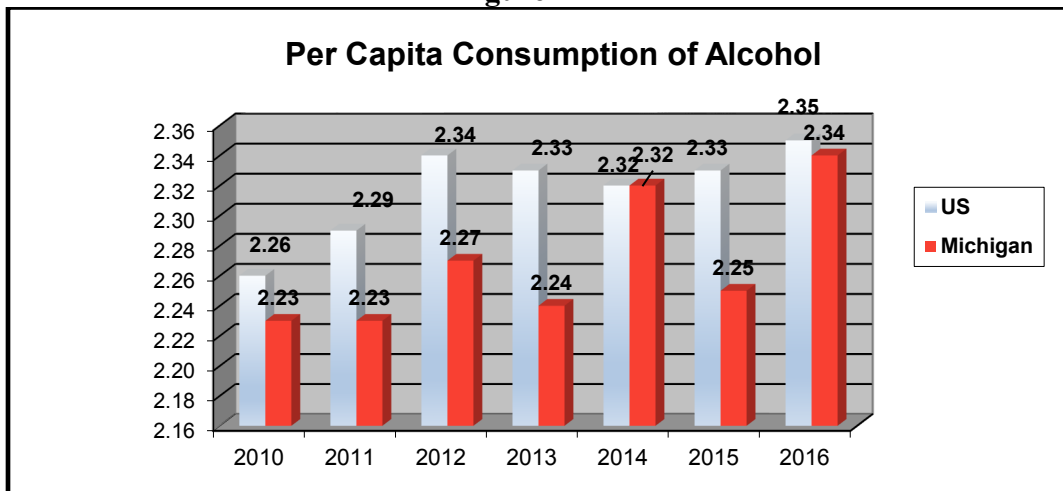
As Table 2-A-1 indicates, in 2016, the last year for which complete data were available, consumption of alcoholic beverages in Michigan equaled 2.34 gallons of ethanol per capita,

slightly (0.4%) lower than the national average of 2.35 gallons per capita. Figure 2-A-1 shows that for several years, alcohol consumption in Michigan was well below national averages but is now at or near the national average.

**Table 2-A-1. Per Capita Consumption of Ethanol**

Year	2010	2011	2012	2013	2014	2015	2016
<b>U.S.</b>	2.26	2.29	2.34	2.33	2.32	2.33	2.35
<b>Michigan</b>	2.23	2.23	2.27	2.24	2.32	2.25	2.34
<b>Difference</b>	-1.3%	-2.6%	-3.0%	-3.9%	0.0%	-3.4%	-0.4%

**Figure 2-A-1**



The Michigan Liquor Control Commission (MLCC) was created in response to the repeal of Prohibition by the Legislature acting in special session in December of 1933. The act empowered the MLCC to control all alcoholic beverage traffic within the State. Today, the MLCC is a Type I agency housed within the Department of Licensing and Regulatory Affairs (LARA).

The MLCC consists of five members appointed by the Governor. No more than three of these members may be of the same political party. Three administrative Commissioners are responsible for all matters pertaining to licensing, purchasing, merchandising, and enforcement and act as an appeals board for decisions rendered by the hearing commissioners. The remaining two Commissioners are designated as hearing commissioners who preside over violation matters. The MLCC promulgates rules and establishes bureau policy, such as the issuance of declaratory rulings. The Governor designates one of the five members as the Chairperson.

The mission of the MLCC is to make alcoholic beverages available for consumption while protecting the consumer and the general public through regulation of those involved in the sale and distribution of alcoholic beverage products.

Over 17,000 retail businesses, including bars, grocery stores, restaurants, hotels, convenience stores, and pharmacies have one or more active licenses to sell and serve alcohol. A recent

change in rules now permits gas stations to sell alcoholic beverages.

The MLCC issues over 6,000 Special Licenses (24-hour) annually for festivals and events. Often, individuals who serve alcohol at these events are volunteers and/or members of organizations sponsoring the event. As such, these servers are not required to complete formal server training.

The MLCC has a responsible server training requirement for licensees obtaining a new on-premise license or transferring more than 50 percent interest in an existing on-premise license. At a minimum, server-trained supervisory personnel must be employed during all hours alcoholic beverages are served as outlined in Michigan Compiled Laws (MCL) 436.1501(1). There are also liability insurance discount incentives for server training.

The Enforcement Division operates from district offices in Southfield, Lansing, Grand Rapids, and Escanaba. Enforcement staff investigates applicants for new licenses and transfers of ownership or location of existing licenses, as well as investigating complaints against licensees. Enforcement staff also inspects licensed establishments to ensure compliance with Liquor Control Code and Commission rules, advises and assists law enforcement agencies in liquor law enforcement at the local level, and conducts training of law enforcement officers. MLCC officers participate in underage compliance checks and cooperate with local law enforcement agencies in enforcement of liquor laws.

In Michigan, on-premise alcohol licensees are allowed to sell alcohol until 2:00 a.m. Recently proposed rules would allow businesses in cities with populations of 600,000 or more to extend the hours of sale. With local legislative approval, an on-premise licensee would be allowed to sell alcohol between 2:00 a.m. and 4:00 a.m. on Saturday and Sunday and between 2:00 a.m. and 4:00 a.m. on National or State holidays. An extended hours permit would not be granted unless the applicant has already been approved by the local legislative body in which the applicant's place of business is located.

A Specially Designated Distributor (SDD) license, as defined by MCL 436.1111(12), is a business licensed to sell retail spirits and mixed spirit drinks in the original package for consumption off the premises. SDD licenses generally are held in conjunction with Specially Designated Merchant licenses. Specially Designated Merchant licenses allow for the sale of beer and wine for consumption off the premises. A "half-mile rule" was established in 1979 and limits the number of SDD licenses to no more than one within a half-mile of another. Recently a repeal of the half-mile rule has been promoted. Research has shown an association between alcohol outlet density and excessive alcohol consumption, leading to an increase in related harms including impaired driving crashes<sup>2</sup>.

Michigan has limited Dram Shop statutes. The Michigan Liquor Control Code of 1998 (Dram Shop act), MCL 436.1801(3)–(11), permits certain persons to bring a cause of action against a

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<sup>2</sup> The Michigan Department of Health and Human Services (MDHHS) conducts public health surveillance on the effects of alcohol and drug abuse on Michigan's population. The Bureau of Disease Control, Prevention, and Epidemiology provides epidemiological support to programmatic efforts related to alcohol and drugs [www.michigan.gov/substanceabusepi](http://www.michigan.gov/substanceabusepi).

retail licensee that unlawfully served alcoholic beverages to an intoxicated person or a minor, resulting in injury, death, or property damage. To recover under the Dram Shop act, a plaintiff must show that injury or death was caused by a retail licensee's unlawful selling or furnishing of alcohol to a visibly intoxicated person or a minor. Visible intoxication is defined as intoxication "apparent to an ordinary observer." Furnishing intoxicants to a minor (a person younger than age 21) is per se unlawful (MCL 4360.1701) and visible intoxication need not be shown.

The act provides no remedy for the intoxicated person who suffers injury to himself or herself, nor his or her family members, nor anyone who contributed to the intoxication. Only innocent third parties may recover damages. The allegedly intoxicated person or minor must be named and retained as a defendant in any action under the Dram Shop act. Comparative negligence principles apply to a Dram Shop action, and the retail establishment has all factual and legal defenses that the allegedly impaired person may raise in defense of the action.

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

Section 257.624a of the Michigan Vehicle Code prohibits drinking or having an open container of alcoholic beverages in the passenger compartment of a motor vehicle.

Michigan does not prohibit Happy Hours or other promotions; however, licensees may not give away alcohol or sell alcohol below the wholesale price. There are also some restrictions on activities, for example, drinking games are prohibited.

Michigan Liquor Control Commission Code R 436.1861 prohibits certain alcohol promotions on college campuses.

#### Rule 61.

- (1) A brewer, a vendor of spirits, a wine maker, an outstate seller of beer, an outstate seller of wine, or a licensed wholesaler of beer or wine shall not do either of the following:
  - (a) Participate in or conduct any event, contest, activity, or undertaking on the campus of any 2- or 4-year college or university located in this state which is designed to promote the sale or consumption of any alcoholic liquor.
  - (b) Participate in or conduct any event, contest, activity, or undertaking off the campus of any 2- or 4-year college or university located in this state if the event, contest, activity, or undertaking is organized or sponsored by any student group which has a majority of members who are under the legal age for consumption of alcoholic liquor.

One of the most significant predictors of alcohol consumption is price. Surcharges on alcoholic beverages are a major component of price and one that can be directly regulated by policy or

statute. Alcohol policy analysts have recently been promoting the concept of a fixed, per-drink health surcharge 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<sup>3</sup>. As shown in Table 2-A-2, Michigan currently taxes wine and beer at rates substantially lower than the national average. As a control state, it is not possible to determine the exact distilled spirits tax but a standard formula can be used to estimate the equivalent tax. Based on this formula, Michigan taxes distilled spirits at a rate more than double the national average.

**Table 2-A-2. State Alcohol Taxes  
(as of 2017)**

	<b>Spirits Tax (Per Gallon)<sup>4</sup></b>	<b>Table Wine Tax (Per Gallon)</b>	<b>Beer Tax (Per Gallon)</b>
<b>Michigan</b>	\$10.91	\$0.51	\$0.20
<b>U.S. Average</b>	\$4.26	\$0.83	\$0.26

Many states are considering per/drink tax/fees (e.g., dime-a-drink) to help reduce alcohol abuse and to provide increased revenues, some or all of which can be dedicated to prevention and treatment of alcohol-related problems including impaired driving. The financial impact for the average “social” drinker, (i.e., five to seven drinks per week), would be a little over one dollar a week. 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.

Table 2-A-3 shows the results of analysis of the impact of adding 10 cents to each drink equivalent sold in one year in Michigan. Based on 2018 alcohol sales, over 3.4 billion drinks were sold in Michigan. Even allowing for some decrease in sales due to the increase in price, a 10-cent tax would generate over \$324 million in new revenues annually.

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<sup>3</sup> For details on the analysis of alcohol tax increases see Estimated Effects of Dime-a-Drink Added to New York State’s Alcohol Excise Tax. Evalumetrics Research Report 2019-4-1. [www.evalumetrics.org](http://www.evalumetrics.org)

<sup>4</sup> In states like Michigan where state government controls distribution and price, the implied excise tax rate is calculated using methodology designed by the Distilled Spirits Council of the United States (DISCUS).

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

	<b>Current Tax Rate/Gallon</b>	<b>Current Revenue</b>	<b>Gallons of Beverages 2018</b>	<b>Number of Drinks (1)</b>	<b>New Revenues from Dime a Drink Tax</b>	<b>Increase Unit Costs After Markup (2)</b>	<b>Percent Increase in Price (3)</b>	<b>Decreased Demand Due to Elasticity (4)</b>	<b>Adjusted New Revenues</b>
<b>Beer</b>	\$0.00	37,836,161	115,643,000	1,233,525,333	\$123,352,533	\$0.20	8.15%	3.75%	\$118,729,987
<b>Wine</b>	\$0.51	13,203,241	25,143,000	643,660,800	\$64,366,080	\$0.20	9.52%	6.57%	\$60,137,573
<b>Distilled Spirits</b>	n/a	n/a	18,350,000	1,565,866,667	\$156,586,667	\$0.20	9.13%	7.30%	\$145,151,929
<b>Total</b>		51,039,402	159,136,000	3,443,052,800	\$344,305,280				<b>\$324,019,490</b>

Note: As a Control State Michigan does not have an excise tax on Distilled Spirits. The State controls all wholesale sales.

**(1) Based on the following:**

**Beer @ 12 ozs./drink**

**Wine @ 5ozs./drink**

**Spirits @1.5 ozs./drink**

**(2) Markup = 100%**

**(3) Current Average Retail Price per Drink = Beer: \$1.55, Wine: \$1.81, Liquor: \$1.89 (Based on total on- & off-premise sales divided by total consumption per Adams Beverage Handbooks, 2008 then adjusted for CPI).**

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

In 2018, Michigan joined several other states in allowing the sale and recreational use of marijuana. Since marijuana legalization resulted from a voter referendum, there was no enabling legislation that addresses the specific conditions of sales that will balance the interests of commerce and public health and safety. Initial rules and regulations for the sale of marijuana are defined in Michigan Regulation and Taxation of Marihuana Act (MRTMA). MRTMA assigns implementation of the law to the Michigan Department of Licensing and Regulatory Affairs and provides for significant local/municipal control over some conditions of sales. MRTMA has established the Marijuana Regulatory Agency with the mission to establish Michigan as the national model for a regulatory program that stimulates business growth while preserving safe consumer access to marijuana.

Sec. 7.

1. The department is responsible for implementing this act and has the powers and duties necessary to control the commercial production and distribution of marihuana. The department shall employ personnel and may contract with advisors and consultants as necessary to adequately perform its duties. No person who is pecuniarily interested, directly or indirectly, in any marihuana establishment may be an employee, advisor, or consultant involved in the implementation, administration, or enforcement of this act. An employee, advisor, or consultant of the department may not be personally liable for any action at law for damages sustained by a person because of an action performed or done in the performance of their duties in the implementation, administration, or enforcement of this act. The department of state police shall cooperate and assist the department in conducting background investigations of applicants. Responsibilities of the department include:
  - (a) promulgating rules pursuant to section 8 of this act that are necessary to implement, administer, and enforce this act;
  - (b) granting or denying each application for licensure and investigating each applicant to determine eligibility for licensure, including conducting a background investigation on each person holding an ownership interest in the applicant;
  - (c) ensuring compliance with this act and the rules promulgated thereunder by marihuana establishments by performing investigations of compliance and regular inspections of marihuana establishments and by taking appropriate disciplinary action against a licensee, including prescribing civil fines for violations of this act or rules and suspending, restricting, or revoking a state license;
  - (d) holding at least 4 public meetings each calendar year for the purpose of hearing complaints and receiving the views of the public with respect to administration of this act;
  - (e) collecting fees for licensure and fines for violations of this act or rules promulgated thereunder, depositing all fees collected in the marihuana regulation fund established by section 14 of this act, and remitting all fines collected to be deposited in the general fund; and
  - (f) submitting an annual report to the governor covering the previous year, which report shall include the number of state licenses of each class issued, demographic information on licensees, a description of enforcement and disciplinary actions taken against licensees, and a statement of revenues and expenses of the department related to the implementation, administration, and enforcement of this act.

MRTMA (§ 333.27956) Sec. 6 specifies the role of municipalities including:

Prohibit or limit marijuana establishments-

1. Except as provided in section 4, a municipality may completely prohibit or limit the number of marijuana establishments within its boundaries. Individuals may petition to initiate an ordinance to provide for the number of marijuana establishments allowed within a municipality or to completely prohibit marijuana establishments within a municipality, and such ordinance shall be submitted to the electors of the municipality at the next regular election when a petition is signed by qualified electors in the municipality in a number greater than 5% of the votes cast for governor by qualified electors in the municipality at the last gubernatorial election. A petition under this subsection is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488.

Regulate hours of operation, signage, and physical location-

2. A municipality may adopt other ordinances that are not unreasonably impracticable and do not conflict with this act or with any rule promulgated pursuant to this act and that:
  - (a) establish reasonable restrictions on public signs related to marijuana establishments;
  - (b) regulate the time, place, and manner of operation of marijuana establishments and of the production, manufacture, sale, or display of marijuana accessories;
  - (c) authorize the sale of marijuana for consumption in designated areas that are not accessible to persons under 21 years of age, or at special events in limited areas and for a limited time; and
  - (d) designate a violation of the ordinance and provide for a penalty for that violation by a marijuana establishment, provided that such violation is a civil infraction and such penalty is a civil fine of not more than \$500.
3. A municipality may adopt an ordinance requiring a marijuana establishment with a physical location within the municipality to obtain a municipal license, but may not impose qualifications for licensure that conflict with this act or rules promulgated by the department.
4. A municipality may charge an annual fee of not more than \$5,000 to defray application, administrative, and enforcement costs associated with the operation of the marijuana establishment in the municipality.
5. A municipality may not adopt an ordinance that restricts the transportation of marijuana through the municipality or prohibits a marijuana grower, a marijuana processor, and a marijuana retailer from operating within a single facility or from operating at a location shared with a marijuana facility operating pursuant to the medical marijuana facilities licensing act, 2016 PA 281, MCL 333.27101 to 333.27801.

Establishes an excise tax of 10 percent on all retail sales in marijuana establishments.

§ 333.27963. Excise tax. [Effective December 6, 2018]



Sec. 13.

1. In addition to all other taxes, an excise tax is imposed on each marihuana retailer and on each marihuana microbusiness at the rate of 10% of the sales price for marihuana sold or otherwise transferred to anyone other than a marihuana establishment.
2. Except as otherwise provided by a rule promulgated by the department of treasury, a product subject to the tax imposed by this section may not be bundled in a single transaction with a product or service that is not subject to the tax imposed by this section.
3. The department of treasury shall administer the taxes imposed under this act and may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to MCL 24.328 that prescribe a method and manner for payment of the tax to ensure proper tax collection under this act.

MRTMA establishes the Marihuana Regulation Fund dedicates portions of the marijuana excise tax to repair of roadways and to public education.

§ 333.27964. Marihuana regulation fund. [Effective December 6, 2018]

Sec. 14.

1. The marihuana regulation fund is created in the state treasury. The department of treasury shall deposit all money collected under section 13 of this act and the department shall deposit all fees collected in the fund. The state treasurer shall direct the investment of the fund and shall credit the fund interest and earnings from fund investments. The department shall administer the fund for auditing purposes. Money in the fund shall not lapse to the general fund.
2. Funds for the initial activities of the department to implement this act shall be appropriated from the general fund. The department shall repay any amount appropriated under this subsection from proceeds in the fund.
3. The department shall expend money in the fund first for the implementation, administration, and enforcement of this act, and second, until 2022 or for at least two years, to provide \$20 million annually to one or more clinical trials that are approved by the United States food and drug administration and sponsored by a non-profit organization or researcher within an academic institution researching the efficacy of marihuana in treating the medical conditions of United States armed services veterans and preventing veteran suicide. Upon appropriation, unexpended balances must be allocated as follows:
  - (a) 15% to municipalities in which a marihuana retail store or a marihuana microbusiness is located, allocated in proportion to the number of marihuana retail stores and marihuana microbusinesses within the municipality;
  - (b) 15% to counties in which a marihuana retail store or a marihuana microbusiness is located, allocated in proportion to the number of marihuana retail stores and marihuana microbusinesses within the county;
  - (c) 35% to the school aid fund to be used for K-12 education; and
  - (d) 35% to the Michigan transportation fund to be used for the repair and maintenance of roads and bridges.

The current law does not dedicate any of the revenues from the marijuana excise tax or license fees to underwrite the potential costs of law enforcement, emergency medical services, or substance abuse treatment and intervention that will result from excess marijuana use.

MRTMA does not address training owners or employees of retail marijuana establishments to identify underage users.

There is currently no prohibition or regulation providing for licensing establishments for on-premise consumption of marijuana. In the event that on-premise consumption is allowed, a situation is created in which impaired consumers could leave the establishment and be involved in a motor vehicle crash or incur other health or legal consequences. There needs to be clear policies and regulations on over-service and service to individuals who are impaired, whether by marijuana, alcohol, or other substance.

Other considerations for limiting harm from sale of recreational marijuana include: server liability (e.g., Dram Shop) and controlling sales and use at festivals and events.

## **Recommendations**

- Retain the 2:00 a.m. closing requirement for licensed alcohol sales establishments.
- Retain the “half-mile” regulation limiting the number of Specially Designated Distributor licenses to no more than one within a half-mile of another.
- Require all applications for alcohol and marijuana sales licenses to include a health and safety assessment that addresses alcohol outlet density.
- Require responsible alcohol service training for servers at events for which temporary alcohol licenses are issued.
- **Expand Dram Shop legislation to include liability for injuries and/or damage incurred by individuals who are over-served, that is, served alcohol and/or marijuana when impaired by either alcohol, marijuana, or other drugs.**
- Enact criminal social host liability statutes to hold individuals liable for injuries and/or damage incurred by individuals who are over-served, that is, served alcohol and/or marijuana when impaired.
- **Enact a 10-cent per drink health surcharge on all alcoholic beverages and a volume-based (e.g., per ounce) surcharge on marijuana sales dedicating those revenues to impaired driving prevention and intervention programs.**
- Dedicate a portion of the revenues in the Marijuana Regulation Fund to law enforcement, emergency medical services, and substance abuse treatment and intervention.
- Require seller/server training for marijuana at festivals and other events.

- **Mandate responsible server training for managers and/or employees of alcohol and marijuana outlets and establish insurance discount and other incentives.**

## **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 Michigan Youth Risk Behavior Survey (YRBS) is part of a nationwide surveying effort led by the Centers for Disease Control and Prevention (CDC) to monitor students' health risks and behaviors in six categories identified as most likely to result in adverse outcomes. Results from the most recent survey (2017) are shown in Table 2-B-1. Alcohol consumption remains prevalent with more than four in 10 reporting drinking in the 30 days prior to the survey. One in seven reported binge drinking, defined as having five or more drinks on a single occasion. One in five reported using marijuana in the past month. One in 20 students of driving age said they had driven at least once after drinking alcohol and an alarming 13 percent said they had driven after using marijuana. One in six reported riding with a driver who had been drinking.

**Table 2-B-1. Michigan Youth Risk Behavior Survey 2017**

<b>High School Students</b>	<b>%</b>
Drank Alcohol in Past 30 Days	43.5%
Drank 5+ Drinks on One or More Occasion in Past 30 Days	13.5%
Used Marijuana in Past 30 Days	19.8%
Drove After Drinking in Past 30 Days	5.5%
Drove After Using Marijuana in Past 30 Days	13.0%
Rode with Driver Who Had Been Drinking in Past 30 Days	16.5%

High school students' perception of potential harm from using marijuana has declined dramatically from more than half of students in 2007 to one in four students in 2017. During the same period, Michigan high school students reported use of marijuana at some time in their life increased from fewer than one in five (18.0%) in 2007 to nearly one in four (23.7%) in 2017.

The Michigan Department of Education recommends that each school district develop, adopt, and implement a comprehensive plan for a Coordinated School Health Program. The Coordinated School Health Program model suggested by the CDC includes eight components: Health Education; Physical Education; Health Services; Family and Community Involvement; Counseling, Psychological, and Social Services; Nutrition Services; Healthy School Environment; and Health Promotion for Staff.

Since 1984, the Michigan Model for Health™ has been implemented in over 90 percent of Michigan's public schools. The Michigan Model for Health™ is a comprehensive, skills-based health education curriculum that addresses the goal of helping young people live happier and healthier lives. This nationally recognized curriculum is research-based and aligned to State learning standards. Teachers who follow the easy-to-use, sequential lesson plans are meeting their instructional requirements, while at the same time building the knowledge and skills students need to be successful in school and in life. The Michigan Model for Health™ addresses the major youth health risk behaviors at every grade level, with age-appropriate instructional activities. The high school program includes 11 sessions of 45 minutes each that deal with alcohol use. It is unclear if the curriculum addresses impaired driving or has been updated to include marijuana use.

Law enforcement officers at the state and local level are frequently involved in education programs in schools. Activities include presentations, impaired driving simulators, Fatal Vision goggles, and mock crashes. Many of these prevention activities are co-sponsored by or in collaboration with AAA or other safety organizations and local coalitions.

Many of the prevention activities listed above utilize victim statements or other "one-shot" dramatic techniques. In isolation, these strategies have been shown to have limited lasting

impact. Coordinating these demonstrations with existing evidence-based prevention strategies could result in increased effectiveness of both.

The Muskegon Alcohol Liability Initiative (ALI) is a group of law enforcement officers and concerned citizens with a mission to reduce underage drinking and alcohol-related injuries in Muskegon County. ALI utilizes several strategies including:

- FaceTheBook - A teen-focused campaign centered around debunking common myths about underage drinking and encouraging constructive choices. Using social media, collaboration with schools, contests, and more, the project reaches teens in a relatable and positive way.
- PSA Contest - Teens participate in a PSA contest. The winning video is shared with the entire community.
- Ride With Pride - Each year students in 14 schools are encouraged to take the Ride with Pride Safe Driving and Positive Behavior Pledge where teens promise to stay away from alcohol, get good grades, and stay sober behind the wheel for a chance to win a free car. The program has been presented at the Traffic Safety Summit in East Lansing and the Secondary School Principals conference in Traverse City for all to use. This program has now been replicated at the elementary and middle school levels at Mona Shores Schools. The incentives at these levels include bicycles and long boards.

AAA PROMise asks teens to make the responsible decision never to get behind the wheel impaired and to make sure their friends do the same. Parents are encouraged to reinforce with their teen that nothing is more important than his/her safety. If a teen needs help getting home and reaches out to his/her parents, AAA will tow the family vehicle home.

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

Student Leadership Services, Inc. (SLS) is a Michigan-based non-profit dedicated to ensuring youth remain safe, healthy, and alcohol- and drug-free. SLS accomplishes this through innovative and evidence-based prevention programs within student-led, adult-supported chapters. Since its inception in 1982, SLS fosters a safe, supportive, interactive, and engaging environment to cultivate interpersonal and peer resistance skills that will decrease alcohol, tobacco, and drug use among youth. The SLS Student Advisory Board (SAB) represents Michigan youth-led prevention and safety programs from the 300 high school and middle school chapters which have 20,000 members. Leadership skill building, peer education, and healthy choices are the focus of the board. The SAB is comprised of five to 20 student leaders who take a stand against alcohol and other drug use among young people. They are trained by SLS to teach their peers and younger students prevention skills, driving safety, peer leadership, life skills, and how to engage in community service.

Many of Michigan's colleges and universities have underage drinking and alcohol and substance abuse prevention and intervention programs. These include: campus alcohol and substance abuse policies, online alcohol courses, web-based directories of alcohol and substance abuse resources, and substance-free events and activities. One campus offers a special, "Recovery Dorm" for students in recovery from alcohol or drug dependence.

Michigan State University and the University of Michigan offer the Alcohol e-CHECKUP TO GO (e-CHUG) in which students can use an online, personalized, brief screening tool for alcohol use. In addition, the Marijuana e-CheckUpToGo, or eToke, is a marijuana-specific brief assessment and feedback tool designed to assess marijuana use among college students. The assessment takes about 10 to 15 minutes to complete, is self-guided, and requires no face-to-face contact time with a counselor or administrator.

Brief Alcohol Screening and Intervention for College Students (BASICS) is a service for students who want to explore their alcohol and other drug use. It assists students in examining their own behaviors in a judgment-free environment whether they are concerned about their drinking or drug use or just curious to learn how their use compares to others. BASICS provides students with a structured opportunity to assess their own risk, identify potential changes that could work for them, and help them to reduce their risk for developing future problems.

## **Recommendations**

- Provide schools with current, Michigan-specific impaired driving information for inclusion in the Coordinated School Health Programs/ Michigan Model for Health™.
- Provide support for school-based/evidence-based prevention programs.
- Integrate and coordinate impaired driving content with substance abuse prevention strategies (e.g., mock crashes) into evidence-based substance abuse prevention programs.
- Promote and support impaired driving prevention programs similar to the Muskegon Alcohol Liability Initiative in coalitions throughout the State.

## **B-2. Employers**

### ***Advisory***

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

- *Model policies to address underage drinking, impaired driving, and other traffic safety issues, including seat belt use and speeding;*
- *Employee awareness and education programs;*

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

## **Status**

There is no structured, comprehensive impaired driving prevention program for employers in Michigan.

There is a need for significant incentives for employers to establish workplace impaired driving and/or substance abuse prevention and/or intervention programs.

Several strategies exist that provide related services and could serve as vehicles for delivering timely and effective impaired driving prevention and other traffic safety information to employees of large and small companies in Michigan.

Many employers utilize the services of Employee Assistance Programs (EAP) from private providers. EAPs generally provide screening and intervention services but potentially could provide impaired driving information. These programs are gaining importance as an increasing number of potential qualified employees are rendered unemployable as a result of substance abuse disorders.

EAPs and other workplace programs might benefit from the addition of current, accurate, and Michigan-specific information about impaired driving.

## **Recommendations**

- Develop an impaired driving prevention program for employers.
- Integrate impaired driving information into drug-free workplace, employee assistance, and other programs for employees.
- Provide discounts on workers' compensation insurance to employers who implement impaired driving and/or substance abuse prevention and/or intervention programs.
- Provide employers with impaired driving educational materials for inclusion in company newsletters, posting in facilities and employee work areas, and use in employee safety training.

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

#### ***Advisory***

*Community coalitions and traffic safety programs provide the opportunity to conduct prevention*



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

- *Encourage communities to establish community coalitions or traffic safety programs, comprised of a wide variety of community members and leaders;*
- *Ensure that representatives of local traffic safety programs participate in existing alcohol, substance abuse, injury control, and other related coalitions, (e.g., Drug Free Communities, SPF-SIG), to assure that impaired driving is a priority issue;*
- *Provide information and technical assistance to these groups, including data concerning the problem in the community and information identifying evidence-based underage drinking and impaired driving programs;*
- *Encourage these groups to provide support for local law enforcement and prevention efforts aimed at reducing underage drinking and impaired driving; and*
- *Encourage professionals, such as prosecutors, judges, nurses, doctors, emergency medical personnel, law enforcement officers, and treatment professionals, to serve as community spokespeople to educate the public about the consequences of underage drinking and impaired driving.*

## **Status**

The Michigan Department of Health and Human Services - Office of Recovery Oriented Systems of Care (OROSC) received funding from the Substance Abuse Mental Health Services Administration (SAMHSA) for the Partnership for Success (PFS) project. PFS is intended to strengthen and expand the Strategic Prevention Framework five-step, data-driven process to enhance community-level infrastructure to link with primary care, which in turn will help to foster change in targeted communities that are underserved, and in high need of evidence-based programs to address underage drinking among persons age 12 to 20 and prescription drug misuse and abuse among persons age 12 to 25. PFS supports 12 community coalitions in Michigan.

The PFS project has identified numerous target outcomes, each with a specific measure. These include:

### **Substance-Related Traffic Crashes - Alcohol**

Measure calculation: The number of alcohol-related traffic crashes divided by the total number of traffic crashes and multiplied by 100. (The Center for Substance Abuse Prevention [CSAP] defines alcohol-related crashes as those where the highest blood alcohol level involved in the crash is 0.01 or higher.)

### **Substance-Related Traffic Crashes - Prescription Drugs**

Measure calculation: The number of prescription drug-related traffic crashes divided by the total number of traffic crashes and multiplied by 100. Prescription drug-related crashes are those in which prescription medications are involved. The exact definition may vary by state or jurisdiction.

### Substance-Related Traffic Injuries - Alcohol

Measure calculation: The number of alcohol-related traffic injuries divided by the total number of traffic injuries and multiplied by 100. (CSAP defines alcohol-related traffic injuries as those where the highest blood alcohol level involved is 0.01 or higher.)

The Michigan Prevention Network has a mission to prevent youth drug abuse and other risk behaviors by working with individuals, grassroots groups, and other organizations in order to improve the health, wellness, and safety in Michigan communities. The Prevention Network provides funding and training for local prevention coalitions.

The Michigan Coalition to Reduce Underage Drinking (MCRUD), with support from the Michigan Prevention Network, provides technical assistance to develop and support statewide coalitions and community groups working to address the issue of underage alcohol use. MCRUD also advocates for policies that reduce underage drinking and its consequences, including impaired driving.

The Drug-Free Communities (DFC) Support Program, created by the Drug-Free Communities Act of 1997, is an effort to mobilize communities to prevent youth substance use. Directed by the White House Office of National Drug Control Policy, the DFC Program provides grants to community coalitions to strengthen the infrastructure among local partners to create and sustain a reduction in local youth substance use. Michigan has approximately 25 local DFC Coalitions throughout the State. DFC coalitions are required to have active participation from all sectors of the community including law enforcement, criminal justice, education, and healthcare.

AAA Michigan provides schools and community coalitions with support in the form of impaired driving simulators and other materials.

All of the community coalition efforts described above would benefit from timely, accurate, and Michigan-specific information about laws and programs related to impaired driving.

### **Recommendations**

- Coordinate highway safety plans with substance abuse prevention plans at the state and local levels.
- Involve law enforcement and other representatives of the highway safety community in alcohol and substance abuse coalitions.

### B-4. Transportation Alternatives

#### ***Advisory***

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

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

## **Status**

Michigan does not place an emphasis on designated driver or alternative transportation programs for those impaired by alcohol, marijuana, or other substance. The rural nature of much of Michigan results in very limited access to public transportation.

AAA PROMise asks teens to make the responsible decision never to get behind the wheel impaired and to make sure their friends do the same. Parents should reinforce with their teen that nothing is more important than his/her safety. If a teen needs help getting home and reaches out to his/her parents, AAA will tow the family vehicle home.

AAA Tow to Go through the Auto Club Group Traffic Safety Foundation and Budweiser provide this program to prevent impaired drivers from getting behind the wheel and risking the lives of other motorists. Tow to Go is also meant to remind the public to always plan ahead when celebrating with alcohol including choosing a designated driver, staying where they are celebrating, or arranging for another form of safe transportation. Free confidential rides are available to AAA Members and non-members. The AAA tow truck transports the vehicle and driver home or somewhere safe within 10 miles.

## **Recommendations**

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

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

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

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

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

#### **A. Laws**

##### **Advisory**

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

*Noncompliant offenders should be adjudicated swiftly. The offenses should include:*

- *Driving while impaired by alcohol or other drugs (whether illegal, prescription, or over-the-counter), and treating both offenses with similar consequences;*
- *A Blood Alcohol Concentration (BAC) limit of .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., .15 or greater), with enhanced penalties above the standard impaired driving offense;*
- *Repeat offender, with increasing penalties for each subsequent offense;*
- *BAC test refusal, with administrative sanctions at least as strict as the state's highest BAC offense;*
- *Driving with a license suspended or revoked for impaired driving (DWS), vehicular homicide or causing personal injury while driving impaired as separate offenses, with additional penalties;*
- *Open container, which prohibits possession or consumption of any open alcoholic beverage in the passenger area of a motor vehicle located on a public highway or right-of-way; and*
- *Primary seat belt provisions that do not require that officers observe or cite a driver for a separate offense other than a seat belt violation.*

*Facilitate effective enforcement by enacting laws that:*

- *Authorize law enforcement to conduct sobriety checkpoints, in which vehicles are stopped on a nondiscriminatory basis to determine whether operators are driving while impaired by alcohol or other drugs;*
- *Authorize law enforcement to use passive alcohol sensors to improve the detection of alcohol in drivers;*
- *Authorize law enforcement to obtain more than one chemical test from an operator suspected of impaired driving, including preliminary breath tests, evidentiary breath tests and screening and*

- *confirmatory tests for alcohol or other impairing drugs;*
- *Authorize law enforcement to collect blood sample by search warrant in any chemical test refusal situation, consistent with other provisions of criminal jurisprudence which allows body fluids to be collected as evidence of a crime; and*
- *Require mandatory BAC testing of drivers involved in fatal and serious injury producing crashes.*

*Effective criminal penalties and administrative sanctions should include:*

- *Administrative license suspension or revocation (ALR), for failing or refusing to submit to a BAC or other drug test;*
- *Prompt and certain administrative license suspension of at least 90 days for first offenders determined by chemical test(s) to have a BAC at or above the State's per se level or of at least 15 days followed immediately by a restricted, provisional or conditional license for at least 75 days, if such license restricts the offender to operating only vehicles equipped with an ignition interlock;*
- *Enhanced penalties for test refusals, high BAC, repeat offenders, driving with a suspended or revoked license, driving impaired with a minor in the vehicle, vehicular homicide, or causing personal injury while driving impaired, including: longer license suspension or revocation; installation of ignition interlock devices; license plate confiscation; vehicle impoundment, immobilization or forfeiture; intensive supervision and electronic monitoring; and imprisonment;<sup>5</sup>*
- *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**

Michigan creates its impaired driving laws by two processes: a statutory enactment by the Michigan Legislature or by an initiative.

The Michigan Legislature is described in ARTICLE IV of the Constitution of the State of Michigan as follows:

### LEGISLATIVE BRANCH

#### § 1 Legislative power.

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<sup>5</sup> Limited exceptions are permitted under Federal statute and regulation, 23 U.S.C. 154 and 23 CFR Part 1270.

Sec. 1. Except to the extent limited or abrogated by article IV, section 6 or article V, section 2, the legislative power of the State of Michigan is vested in a senate and a house of representatives.

§ 2 Senators, number, term.

Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

§ 3 Representatives, number, term; contiguity of districts.

Sec. 3. The house of representatives [sic] shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article.

The Michigan Legislature convenes in annual session at noon on the second Wednesday in January of each year.

Each session continues until the members agree to adjourn sine die (without day), subject to interim recesses. Special sessions of the Legislature may be called by the governor but are limited to the consideration of subjects the governor places before the Legislature.

An Initiative, is a proposal to amend State statutes that is put forth by the citizens of the state through a petition effort. The initiative process is detailed in Article 2, Section 9, of the Constitution of 1963, which provides, in part:

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature.

If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided. If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

An initiative to allow under state law the personal possession and use of marijuana by adults 21 or older was approved by Michigan voters at the General Election, November 6, 2018:

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act shall be known and may be cited as the Michigan Regulation and Taxation of Marihuana Act.

Sec. 2. The purpose of this act is to make marihuana legal under state and local law for adults 21 years of age or older, to make industrial hemp legal under state and local law, and to control the commercial production and distribution of marihuana under a system that licenses, regulates, and taxes the businesses involved. The intent is to prevent arrest and penalty for personal possession and cultivation of marihuana by adults 21 years of age or older; remove the commercial production and distribution of marihuana from the illicit market; prevent revenue generated from commerce in marihuana from going to criminal enterprises or gangs; prevent the distribution of marihuana to persons under 21 years of age; prevent the diversion of marihuana to illicit markets; ensure the safety of marihuana and marihuana-infused products; and ensure security of marihuana establishments.

The legalization of marijuana use and possession for anyone over the age of 21 changes the impaired driving landscape for Michigan. The challenge of how to prevent marijuana-influenced impaired driving will require new strategies and new tools to prevent and reduce impaired driving in Michigan. Other drugs and changing usage add additional complexity to the legal structure around impaired driving offenses.

In comparison to other crimes, impaired driving offenses require a more comprehensive approach: a legislative response, an administrative system response, and a criminal justice system response. For the systems' responses to be both effective and efficient, each component of each system must function at a high level. To further complicate the State's effort to prevent impaired driving, the components of two of the systems must cooperate and communicate on a consistent basis. For example, the licensing authority must communicate seamlessly the license status of the offender to the criminal justice components of law enforcement, prosecutors, and courts. When any part of either system is not functioning efficiently, the other components then have to adjust or otherwise compensate for that failure. The statutes are a critical element for all components because they are the framework. If the statutes are not clear and not applied with consistency, the entire system is stressed.

In addition to the disruptive functioning of the systems, there are specific statutory gaps.

The legalization of marijuana for all uses and purposes in Michigan provides a new impetus to enact an effective statutory scheme to prosecute drug/substance impaired driving. Michigan would benefit from a comprehensive review of its statutes and case law to address marijuana and other drug impaired driving to help reduce the number of drugged drivers on its roadways.

Starting with the initial questions upon contact, officers should obtain the name and location of point of acquisition or purchase of alcohol and/or marijuana. That information would be kept in a database and analyzed to develop impaired driving prevention strategies.

For collection of evidence during a stop where a substance or alcohol is suspected for impairment, a statute should clearly provide for license suspension for refusal to submit to a testing process or any testing requested by the law enforcement officer.

Because drivers may mix different substances with alcohol and marijuana, like a crazy cocktail of pills and edibles, a breath test alone may not be an accurate indicator of impairment. The statute should allow for prosecution for driving while impaired by any substance use and the requirement of proof should be the level of impairment, not the substance of impairment. Also, because there is not a breath test equivalent, a statute setting out the standards for admission of the Drug Recognition Expert (DRE) testimony is the next best thing. The admissibility of the testimony of a DRE varies from court to court. Thus, a statute would allow a more consistent use of DRE resources.

There is no comprehensive impaired driver tracking system. A statutory requirement and support is needed to develop such a system. Periodic reports on offender compliance with administrative or judicially imposed sanctions should be required.

A statute mirroring the Minor in Possession, Public Act 357 of 2016 Michigan Compiled Laws 435.1703 is needed to require driver license suspension for persons under age 21 for any violation of law involving the use or possession of alcohol, marijuana, or illicit drugs.

The marijuana tax revenue should be applied in a chargeback type of appropriation for the additional expenses incurred by the justice system components in addressing drug impaired driving with any shortfall in needed dollars to be supplied from general tax revenues.

## **Recommendations**

- **Enact a new comprehensive statute that allows the effective prosecution and adjudication of alcohol, marijuana, and other drug impaired driving.**
- **Enact legislation to require the admission of Drug Recognition Expert testimony when the officer is currently certified and has followed the approved protocol of the certifying agency in gathering evidence for the testimony.**
- Re-define drugs in the statute as “any intoxicating substance,” or similar language, making the statute more effective to remove the drug impaired violator from the roadways.
- Enact a Minor in Possession (MIP) law for marijuana that is consistent with the current MIP alcohol law.

See Section II-A for status on the following recommendations for legislation:

- Require all applications for alcohol and marijuana sales licenses to include a health and safety assessment that addresses alcohol outlet density.
- Mandate responsible server training for managers and/or employees of alcohol and marijuana outlets and establish insurance discount and other incentives.



- **Enact a 10-cent per drink health surcharge on all alcoholic beverages and a volume-based (e.g., per ounce) surcharge on marijuana sales dedicating those revenues to impaired driving prevention and intervention programs.**

## **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**

The Office of Highway Safety Planning (OHSP) is coordinated under the direction of the Michigan State Police (MSP). The OHSP is the State's primary traffic safety agency. The executive director of OHSP is an experienced highway safety executive with previous experience as a law enforcement officer and has nearly 40 years of public safety experience. The OHSP has four areas of focus:

- Communications
- Financial Management
- Planning and Administration
- Program Management

According to the *Fiscal Year 2019 Traffic Safety Enforcement Program*, impaired driving, seat belt, and corridor enforcement efforts are priorities and supported by grant and non-grant funds. Sobriety checkpoints have been deemed unconstitutional in Michigan. As a result, saturation patrols are routinely scheduled throughout the calendar year.

The State has identified four enforcement periods focusing on impaired driving or 70 days of impaired driving enforcement. Law enforcement agencies collaboratively saturate 24 counties during these high-visibility enforcement (HVE) periods. These counties have been identified as areas of increased crash risk due to their higher number of fatalities and serious injuries. This is based on a five-year review and these counties tend to be the same each year. The OHSP releases pre- and post-enforcement communication during HVE periods. Paid media is used to inform the community of the upcoming enforcement and encourages drivers to "plan ahead" accordingly. The target audience during these HVE periods is males ages 21 to 34.

The State's HVE participation does not currently emphasize tribal or liquor enforcement agency involvement; however, the State does partner with local prevention organizations.

Technological advances in the area of enforcement are not consistent among law enforcement. For instance, the MSP has mobile data terminals (MDTs), speed radar devices, in-car (and some body worn) cameras, electronic crash and citation abilities; however, not all agencies have these tools. Specific to operating while impaired (OWI), the State integrates portable breath testing devices (non-evidentiary in OWI cases), DataMaster DMT (scientific instrument used to determine breath alcohol concentration), breath alcohol ignition interlock devices (BAIID), and is beta-testing oral fluids. Since statewide implementation is not standardized, communication networks and data analyses could hamper enforcement efforts due to equipment and infrastructure upgrade costs and system priorities.

The State's BAIID oversight rests with the Secretary of State's Office and there seem to be some needed improvements regarding law enforcement outreach and training for patrol officers. Since

1999, the State has required more than 11,000 BAIID installations using six approved vendors. The Secretary of State’s Office has 12 inspectors; however, there is no mechanism for sharing information with treatment providers, probation officers, or other public safety agencies. Currently, it can take up to four weeks for a hearing and they are 120-days behind. There is a belief that more is focused on treatment than BAIID regulation/enforcement. For instance, there are approximately 50,000 violations by users of BAIIDs annually yet it never becomes a crime and rarely leads to a permanent revocation of driving privileges.

According to the Michigan Commission on Law Enforcement Standards [MCOLES] (2019), the number of Michigan police officers has declined since 2001. The authorized strength for police officers (all agencies) in 2001 was 23,150 with 662 vacancies (operating at 97.14 percent). Today, Michigan has 19,366 authorized positions with 514 vacancies (operating at 97.35 percent). Although the number of police officers in Michigan, for the most part, has declined for nearly two decades, they have remained staffed at around 97 percent of authorized strength.

The number of Operating Under the Influence of Liquor (OUIL) arrests has declined since 2008, according to the MCLE. In 2008, there were 47,251 OUIL arrests. In 2018, there were 31,856 OUIL arrests which represent more than a 32 percent decline from 2008.

Table 3-B-1 indicates total crashes have remained relatively constant as well as total injuries. Crashes and fatalities involving alcohol and/or drugs do not indicate a strong trend one-way or the other (increase or decrease); however, the average percentage of alcohol and drug fatal crashes compared to the total number of fatal crashes is over 42 percent from 2016 to 2018. The decline in OUIL arrests is also evident. It is important for the State to determine why OUIL arrests are down and to deploy countermeasures to increase impaired driving enforcement.

<b>Table 3-B-1. Michigan Traffic Crash Decade-At-A-Glance</b>			
<b>(Traffic Crash Reporting, 2019)</b>			
	<b>2016</b>	<b>2017</b>	<b>2018</b>
Total Crashes	312,172	314,921	312,798
Total Injuries	79,724	78,394	75,838
Total A Injuries (Suspected Serious Injury)	5,634	6,084	5,586
Total Fatalities	1,064	1,028	974
Fatal Crashes	980	937	905
Alc/Drug-Inv Fatal Crashes	378	421	394
% of Alc/Drug Inv Fatal Crashes to Total Fatal Crashes	38.6	44.9	43.5
Alcohol/Drug-Inv Fatalities	412	470	434
% of Alc/Drug Inv Fatalities to total fatalities	38.7	45.7	44.6
Alcohol Inv Fatal Crashes	251	320	287
Alcohol Inv Fatalities	271	359	315
Drug Inv Inv Fatal Crashes	213	221	220
Drug Inv Fatalities	236	246	247
OUIL Arrests	32,610	32,474	31,856

Standardized Field Sobriety Testing (SFST) training is the cornerstone of all impaired driving curricula available to law enforcement. Michigan has approximately 180 SFST Instructors. The State incorporates the National Highway Traffic Safety Administration (NHTSA)/International Association of Chiefs of Police (IACP) SFST curriculum into their basic academies, which is required for all new police recruits. SFST refreshers are coordinated and instructed regionally. Law enforcement working the OHSP OWI enforcement grant are not required to have completed an SFST refresher within three years prior to the date of working the grant. In 2017, Michigan held more than 100 SFST practitioner courses and trained more than 2,906 officers; however, ongoing SFST refresher training ensures practitioners remain proficient administering SFSTs and receive up-to-date State-specific case law.

Advanced Roadside Impaired Driving Enforcement (ARIDE) is an intermediate training course and serves as the gap between SFST and the Drug Recognition Expert (DRE) program. The DRE program is also known as the Drug Evaluation and Classification Program (DECP). The State has offered ARIDE to all police officers since late 2009. To date, the State has trained approximately 4,500 officers. The MSP requires all patrol troopers up to the rank of sergeant to complete ARIDE training and offers ARIDE refresher training. ARIDE refresher training is not a recognized NHTSA/IACP curriculum unless completed in its entirety; however, the State's "refresher" training consists of eight hours of training and serves as an SFST refresher and review of the seven drug categories for those that have previously completed the 16-hour course.

Michigan became a DECP state in late 2009. The DECP recruits highly-skilled officers for the purposes of detecting and removing impaired drivers from highways and roadways. DREs are instrumental in states like Michigan where "proving" impairment is required under law. DREs perform drug evaluations on suspected drug-impaired individuals arrested for OWI and determine the drug category or categories of drugs causing impairment. DREs collect and record evidence, write comprehensive reports, collaborate and educate prosecutors, and may testify in court as experts. DREs share their specialized knowledge and encourage information sharing with many public health and public safety stakeholders.

The DECP has trained 160 DREs. DREs are currently deployed in approximately 72 percent of the State (60 of 83 counties). An additional 44 prosecutors have audited the course in its entirety. The State has 21 DRE instructors. These instructors are qualified not only to instruct DRE, but they are qualified to instruct SFST, ARIDE, Drugs that Impair Driving (DID), and Drug Impairment Training for Educational Professionals (DITEP). DID is an optional course located in the SFST curriculum and DITEP is a standalone course primarily instructed to teachers and faculty members in the education environment; however, this course may be used in other settings. For instance, DITEP may be used to teach Michigan Liquor and Control Commission and Licensing and Regulatory Affairs personnel in identifying visibly intoxicated persons. This curriculum may be modified to suit the needs of a particular group for the purpose of educating professionals surrounding signs and symptoms associated with general impairment.

Michigan's DREs average approximately six evaluations per DRE annually. According to the *National Sobriety Testing Resource Center & DRE Tracking System* of the approximately 6,730 DRE evaluations, there were:

- 5,758 Drug Evaluations with Completed Toxicology (85.56%)
- 4,813 Confirmed Matches of Completed Toxicology (71.52%)

<b>2019 National Sobriety Testing Resource Center &amp; DRE Tracking System</b>			
<b>Drug Category Name</b>	<b>% of All Test Results</b>	<b>Evaluations with Completed Tox</b>	<b>Rate of Accuracy of Completed Tox</b>
Stimulants	24.92%	1,208	84.19%
Depressants	25.15%	1,131	76.57%
Hallucinogens	0.49%	22	22.73%
Dissociative Anesthetics	0.56%	24	33.33%
Narcotics	25.73%	1,206	78.69%
Inhalants	0.63%	30	56.67%
Cannabis	44.04%	2,137	91.30%

In addition to compliance with the International Standards of the Drug Evaluation and Classification Program set by the IACP Technical Advisory Panel (TAP), Michigan developed its own program policy to utilize more stringent standards. This is authorized; however, states must report such suggested changes to the IACP TAP Standards Committee as stated in the International Standards of the Drug Evaluation and Classification Program:

Nothing in this document shall restrict or preclude a participating state from adopting or implementing reasonable standards which are more stringent standards. The more stringent standards should be implemented by the State DEC Program Coordinator as directed and approved by that state's Governor's Highway Safety Office and with review of the TAP Standards Committee.

Before a state implements more stringent standards notification shall be provided to the TAP Standards Committee to allow for review and if needed discussion by the TAP Standards Committee. This is necessary to ensure that any more stringent standards which are utilized are reasonable, in-line with, and support overall goals and objectives of the DEC Program. After reviewing the more stringent standards the TAP Standards Committee will acknowledge the use of the more stringent standard or can recommend discussion, comment, or action by TAP as a whole if necessary.

In addition, in January of each year, any state utilizing any more stringent standards than the IACP International Standards shall report a list outlining each more stringent standard which is being utilized in that state. This is necessary so that a record can be maintained of the more stringent standards being utilized by any states.

The State's toxicology program is managed and coordinated by the MSP. The MSP's Toxicology Unit serves the entire state and on average, analyzes approximately 16,000 cases for blood alcohol and 5,500 cases for the presence of drugs per year. The turnaround time for blood alcohol is typically three to six days from the date of submission. Comparatively, drug analysis varies depending on how many and which confirmation tests are needed. In cases involving drugs, the turnaround time could range from one to six weeks. On average, drug cases processed

at MSP's Toxicology Unit is less than 20 days. This does not include specimens sent out-of-state for further analysis.

The State Judicial Outreach Liaison (JOL) partners with NHTSA's Region 5 JOL to deliver training to law enforcement officers. They focus on teaching newer officers effective courtroom demeanor and delivery. The State's DECP provides training at the local judicial conference.

The State has two active Traffic Safety Resource Prosecutors (TSRPs). TSRPs are vitally important in combating impaired driving and supporting DECP efforts. Beyond communicating with OWI prosecutors, TSRPs provide assistance for impaired driving trials by providing up-to-date case law updates, technical assistance, interpretation of new impaired driving laws, and on-going training to the criminal justice system as a whole. TSRPs also monitor state defense experts and share this information with law enforcement.

The legalization of marijuana will further challenge the State's OWI system processes including a host of enforcement related efforts including, but not limited to:

- Increased marijuana impaired drivers
- Increased training needs (SFST, ARIDE, and DRE)
- Increased OWI (drug) and poly-drug arrests (alcohol and cannabis)
- Enforcing possession violations (in a variety of marijuana forms)
- Enforcing manufacture, delivery, and distribution violations
- Butane Hash Oil manufacturing and related explosions
- Increased crashes

## Recommendations

- Increase impaired driving enforcement.
- Require law enforcement working operating while impaired grants to have completed a Standardized Field Sobriety Testing refresher course or update within three years prior to the date working the grant.
- **Hire a Law Enforcement Liaison to increase stakeholder engagement and improve the State's impaired driving enforcement. This individual must, at a minimum, be well-versed in all areas surrounding impaired driving.**
- **Expand Drug Evaluation and Classification Program participation. All counties must be represented. Increase Advanced Roadside Impaired Driving Enforcement training proportionately to certified and credentialed Drug Recognition Experts.**
- Develop stronger relationships with Tribes in Indian Country and encourage high-visibility enforcement participation.

- Create an Operating While Impaired Multi-Disciplinary Training Conference Committee to organize an in-state annual conference where law enforcement, treatment, prevention, prosecutors, toxicologists, highway safety specialists, and non-profits can network and receive quality impaired driving-related training.
- Encourage greater involvement by the Traffic Safety Resource Prosecutors and the Secretary of State's Office with ignition interlock device training and the sharing of information.
- Create an Operating While Impaired (OWI) Task Force (similar to the Michigan State Police's Hometown Security Team) where Advanced Roadside Impaired Driving Enforcement and Drug Recognition Expert trained law enforcement officers focus on high-crash and OWI arrest areas.
- Add a third Traffic Safety Resource Prosecutor to assist law enforcement with case consultation, adjudication, and training/education.
- Develop a mapping tool for law enforcement agencies to see "real-time" data for strategic enforcement efforts.
- Continue to educate judges with respect to the Drug Recognition Expert process, emerging drugs, and indicators of impairment.



## C. Prosecution

### *Advisory*

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

*Prosecutors who handle impaired driving cases often have little experience, are responsible for hundreds of cases at a time, and receive insufficient training.<sup>6</sup> States should:*

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

### **Status**

Michigan has 83 elected county prosecutors. The Michigan Prosecuting Attorneys Coordinating Council (PACC) is funded to serve prosecuting attorneys and heads the Office of Prosecuting Attorney Coordination, an autonomous entity within the Department of Attorney General. PACC's Executive Director, Cheri Bruinsma, is appointed by the Council's Executive Committee. PACC services include seminars for all members of prosecutors' staff, including secretaries and victim-witness personnel; administration of an annual grant from the Michigan Commission on Law Enforcement Standards to provide funds for prosecutors and their personnel to attend PACC training events and other professional educational opportunities; monthly newsletters; and legal research assistance for Michigan's prosecutors.

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<sup>6</sup> Robertson, Robyn D. and Herb M. Simpson "DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution." Ottawa, Traffic Injury Research Foundation, 2002.

On the technology side, PACC staff installs and upgrades management systems in Michigan's prosecutors' offices. The product generates warrants, subpoenas, court schedules, victim's rights notices, statistics, and managerial reports. PACC interfaces with MI-VINE (Michigan Victim Notification Everyday), a computerized system that notifies victims by phone. PACC also interfaces with various district and circuit systems and State Police Criminal History.

The grant-funded services provided to Michigan prosecuting attorneys and their staffs include Traffic Safety Training Services, Domestic Violence Training Services, Child Abuse Training Services, and Victim Rights Training Services.

The voluntary association of the prosecutors, the Attorney General, and the U.S. Attorneys serving in Michigan is the Prosecuting Attorneys Association of Michigan (PAAM), a non-profit, tax exempt corporation under section 501c(3).

PAAM was founded in 1928. Its mission is stated in Michigan Compiled Law Section 49.62:

"It shall be the duty of the prosecuting attorneys' association to keep the prosecuting attorneys of the state informed of all changes in legislation, law, and matters pertaining to their office through the department of attorney general of the state of Michigan, to the end that a uniform system of conduct, duty and procedure be established in each county of the state."

PAAM is governed by a Board of Directors consisting of: five officers, 14 elected directors, active past presidents, and the Attorney General. PAAM provides a wide array of education and support services to prosecutors on impaired driving issues. Seminars are delivered at many local sites around the State as well as by webinar. Other mechanisms such as list serves, newsletters, and mentoring are used.

The Michigan prosecutors are joined in the prosecution of impaired driving offenses by some municipal attorneys who prosecute impaired driving under their local ordinance. The Michigan Association of Municipal Attorneys (MAMA) is a specialized organization that provides services for municipal attorneys practicing in Michigan. MAMA does not appear to provide education on impaired driving and is advising its municipalities on whether to opt in or opt out of the legal marijuana sales. Their work may be informational to prosecutors on identifying hot spots for illegal or overuse of marijuana.

In examining the caseload of prosecutors, there were less than 300 total trials to court and to jury on impaired driving cases in 2018. It is not obvious what, if any, additional education or support, is needed for such a sparse trial load.

If the prosecutors sat on a problem-solving court team for each of the 4,166 operating while intoxicated driver cases, their average caseload would be a little over 50. It appears that impaired driving prosecution is not "job one" nor the largest case load for prosecutors.

Michigan prosecutors do not appear to have any obvious needs in addition to current education and staff support. However, complacency is a danger and they may want to engage in

forecasting what the marijuana burden will be for their effectiveness as prosecutors.

### **Recommendations**

- Maintain current levels of educational opportunities for prosecutors.
- Plan an opportunity for the prosecutors around the State to identify future impaired driving trends and needs.
- **Engage prosecutors and municipal attorneys in a strategic planning session on the new world of legal marijuana and emerging drugs.**

## **D. Adjudication**

### ***Advisory***

*States should impose effective, appropriate, and research-based sanctions, followed by close supervision, and the threat of harsher consequences for non-compliance when adjudicating cases. Specifically, DWI Courts should be used to reduce recidivism among repeat and high BAC offenders. DWI Courts involve all criminal justice stakeholders (prosecutors, defense attorneys, probation officers, and judges) along with alcohol and drug treatment professionals and use a cooperative approach to systematically change participant behavior. Where offender supervision<sup>7</sup> is housed within the judicial branch, the guidelines of Section V(A)(1) should be utilized by the judiciary.*

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

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

- *Involve the State’s highest court in taking a leadership role and engaging judges in effectively adjudicating impaired driving cases and ensuring that these cases are assigned to knowledgeable and experienced judges;*
- *Encourage consistency in the adjudication of impaired driving (including youthful offender) cases, and the imposition of effective and appropriate sanctions, particularly when impaired driving resulted in a fatality or injury;*
- *Provide sufficient resources to adjudicate impaired driving cases in a timely manner and effectively manage dockets brought before judges;*
- *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;*
- *Use court strategies to reduce recidivism through effective sentencing and close monitoring by either establishing DWI Courts, encouraging drug courts to hear impaired driving cases, or encouraging other courts to adopt DWI/Drug Court practice. These courts increase the use of drug or alcohol assessments; identify offenders with alcohol or drug use problems; apply effective and appropriate sentences to these offenders, including abstinence from alcohol and other drugs; and closely monitor compliance, leading to a reduction in recidivism;<sup>8</sup>*
- *Eliminate ethical obstacles, such as ex parte or commitment communications, by adopting the current Model Code of Judicial Conduct so that judges can participate more freely in DWI Court administration;*
- *Provide adequate staffing and training for community supervision programs with the necessary resources, including technology such as IID and electronic confinement, to monitor and guide*

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<sup>7</sup> Robertson, Robyn D. and Herb M. Simpson “DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution. Ottawa, Traffic Injury Research Foundation, 2002.

<sup>8</sup> Freeman-Wilson, Karen and Michael P. Wikosz, “Drug Court Publications Resource Guide, Fourth Edition.” Alexandria, VA: National Drug Court Institute, 2002.

- 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**

The Supreme Court is Michigan's court of last resort, consisting of seven justices. The Supreme Court's authority to hear cases is discretionary. The Court accepts those cases of greatest complexity and public import.

In addition to its judicial duties, the Supreme Court is responsible for the general administrative supervision of all courts in the State and establishes rules for practice and procedure in all courts. The Supreme Court has not taken a leadership role in the adjudication of impaired driving. There is no visible effort to engage judges in effectively adjudicating impaired driving cases and ensuring that these cases are assigned to knowledgeable and experienced judges. However, the Supreme Court supports two very important contributions toward improved adjudication of impaired driving cases: the education program of the Michigan Judicial Institute (MJI) and education and supervision of the Problem-solving Courts, specifically the Sobriety Courts, by the State Court Administrative Office (SCAO).

The Michigan Court of Appeals is one of the highest volume intermediate appellate courts in the country. Generally, decisions from final orders of a circuit court or probate court, as well as some agency orders, may be appealed to the court as a matter of right. Other lower court or tribunal decisions may be appealed only with permission of the court. The Michigan Court of Appeals does not appear to be involved in any effort to improve the adjudication of impaired driving beyond the hearing of an occasional appeal of an impaired driving case.

The circuit court is the trial court with the broadest powers in Michigan. In relation to impaired driving, all felony criminal cases are adjudicated in circuit court. The family division of circuit court handles juvenile offenses and delinquency. In addition, the circuit court may hear cases appealed from the other trial courts or from administrative agencies. There are 57 circuit courts in Michigan. Circuit court judges are elected for six-year terms.

The district court is often called the people's court. More people have contact with district courts than any other court. For jurisdiction of cases involving impaired driving, district court handles most traffic violations, most traffic tickets, and all misdemeanor criminal cases. There are approximately 100 district courts in Michigan. District court judges are elected for six-year terms. The district courts also employ magistrates who hear many of the impaired driving cases; some of the magistrates are not law trained.

A few Michigan municipalities have chosen to retain a municipal court rather than create a district court. Municipal courts have limited powers and are located in Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, and Grosse Point Shores/Grosse Pointe Woods.

In May 1996, prompted by proposals from the Indian Tribal Court/State Trial Court Forum and

the State Bar of Michigan, the Michigan Supreme Court adopted Michigan Court Rule (MCR) 2.615, which provides for the enforcement of Indian tribal court judgments. MCR 2.615 states that a tribal court judgment is recognized as long as the tribe or tribal court has enacted a reciprocal ordinance, court rule, or other binding measure that obligates the tribal court to enforce state court judgments, and that ordinance, court rule, or other measure has been transmitted to the SCAO. The tribes and the State are working together on impaired driving issues with some success.

The 12 federally-recognized tribes in Michigan are Bay Mills Indian Community, The Grand Traverse Band of Ottawa and Chippewa Indians, Hannahville Indian Community, Nottawaseppi Huron Band of Potawatomi, Keweenaw Bay Indian Community, Lac Vieux Desert Band of Lake Superior Chippewa Indians, Little River Band of Ottawa Indians, Little Traverse Bay Bands of Odawa Indians, Pokagon Band of Potawatomi Indians, Saginaw Chippewa Indian Tribe, Sault Ste. Marie Tribe of Chippewa Indians, and Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians (Gun Lake Tribe). All are participating in the agreement.

Michigan has 188 problem-solving courts statewide, including 128 drug treatment/sobriety courts, 58 hybrid drug treatment/sobriety courts, 31 sobriety courts, nine adult and 13 juvenile drug treatment courts, eight family dependency courts, nine tribal healing-to-wellness courts, 33 mental health courts (27 adult and six juvenile courts), and 27 veterans treatment courts. There are two adult mental health courts, one adult court, and one family dependency court in the planning stages.

The circuit courts, the district courts, and some of the problem-solving courts handle impaired driving cases. Education and training for the judges is provided by MJI and various partners. MJI’s list of training courses related to the adjudication of impaired driving is well-balanced and extensive. While the legal recreational use of marijuana calls for new and different educational programming for judges regarding marijuana, overall, judicial education about impaired driving is well done. There is no minimum required continuing legal education for Michigan judges except for attendance at an annual conference. The judges and team of the problem-solving courts are mandated to participate in training as part of the certification process. SCAO training fulfills that requirement.

According to the Michigan Supreme Court, in 2017, there were approximately 45,248 operating while impaired (OWI) cases in Michigan. The District Court Report for 2017 reports the following:

<b>New filings</b>	32,104 (+5,039 pending)
<b>Jury trials</b>	138
<b>Trials to the court</b>	142
<b>Guilty plea/admission</b>	26,448
<b>Bind over/transfer</b>	3,157
<b>Dismissed by party</b>	2,027
<b>Dismissed by court</b>	557
<b>Inactive status</b>	7,478
<b>Total dispositions</b>	40,011

<b>Ending pending</b>	5,237
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\*The District Court Report does not include Juvenile, Municipal, or Circuit Courts.

As confusing as the numbers appear, it might be useful to review the numbers in the district courts' disposition categories with the judges of those courts.

There have been some concerns about the reach or impact of the problem-solving courts and their cost effectiveness for impaired driving cases. Problem-solving courts had 4,227 OWI offenders in 2017 and 4,166 in 2018. As only a small percentage of the impaired drivers in the court system are served by the problem-solving courts, their future is unclear. These courts were originally funded by grants from the Office of Highway Safety Planning. They appear to cost more than the traditional court. A well-designed study may reveal ways to serve more OWI offenders without a significant increase in costs or uncover why more of the problem-solving courts are not being funded by the community after their grant is exhausted.

Michigan Supreme Court Chief Justice Bridget M. McCormack just announced the creation of a bipartisan, interbranch "Michigan Joint Task Force on Jail and Pretrial Incarceration." The task force was created by an Executive Order from Michigan Governor Gretchen Whitmer with a directive to examine the factors affecting jail populations and make recommendations to reduce incarceration trends, promote public safety, and safeguard civil rights. The task force will be comprised of Michigan leaders, including judges, legislators, prosecutors, defense attorneys, law enforcement, county commissioners, and community corrections and victim advocates. This year they will analyze jail data and craft research-based proposals for legislative and administrative reforms in 2020. Since the single largest number of criminal cases filed in most Michigan courts are impaired driving related, the effect this initiative may have on impaired driving cases is important to the efficiency and effectiveness of justice and public safety systems. The task force has the potential of aligning impaired driving adjudication practices with current research and constitutional mandates. Currently drivers impaired by alcohol are held until their blood alcohol concentration reaches a safe level. There is no equivalent chemical test for marijuana. It becomes problematic to determine when a driver impaired by marijuana is safe for release. With the legalization of marijuana, this is an especially opportune time to address the holding terms until a driver is not impaired.

## **Recommendations**

- **Undertake a carefully designed review of court dispositions of impaired driving offenses.**
- Conduct a community-level assessment for problem-solving courts that handle impaired driving offenses that have not been able to obtain local funding support to determine what barriers exist for local funding of those courts.
- Review existing judicial education materials and educational opportunities with the providers to determine where and what additional information about marijuana impaired driving is needed.

- Provide strong data and information about the efforts to prevent and reduce impaired driving to the new Michigan Joint Task Force on Jail and Pretrial Incarceration.



## **E. Administrative Sanctions and Driver Licensing Programs**

### ***Advisory***

*States should use administrative sanctions, including the suspension or revocation of an offender's driver's license; the impoundment, immobilization, or forfeiture of a vehicle; the impoundment of a license plate or suspension of a vehicle registration; or the use of ignition interlock devices. These measures are among the most effective actions that can be taken to prevent repeat impaired driving offenses.<sup>9</sup>*

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

### **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 Michigan Department of State (MDOS) is responsible for all processes related to driver licenses from issuance to suspension or revocation. The current driver data system is on a mainframe architecture, but Michigan is in the process of migrating to a newer system and plans to have it fully implemented in 2021. The greater data management functionality in the new system will enhance the State's ability to evaluate programs and determine the effectiveness of licensing laws and policies.

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<sup>9</sup> Robertson, Robyn D. and Herb M. Simpson "DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution. Ottawa, Traffic Injury Research Foundation, 2002

The Michigan Compiled Laws (MCL) includes an implied consent statute and provision for comprehensive administrative licensing sanctions related to impaired driving offenses. Offenses include operating a motor vehicle as an adult while impaired, with a blood alcohol concentration (BAC) of 0.08 or higher, or with any amount of cocaine or Schedule 1 controlled substance in the body. Both license and vehicle-related penalties are included in the MCL and apply to all drivers arrested for impaired driving. This administrative process runs independent of the judicial process and associated penalties for impaired driving. Conducting mutually exclusive processes allows for uniform administrative consequences to be enacted separate from any court proceedings.

In Michigan, alcohol impairment is defined as a BAC of 0.08 for adults age 21 and older and 0.02 for those under age 21. In the case of an alcohol test refusal or failure and administrative conviction, the following sanctions are imposed:

<u>Offense</u>	<u>Alcohol Concentration</u>	<u>Restrictions</u>
<u>Under age 21</u>		
1 <sup>st</sup> conviction	0.02+	30 days / 4 points
2 <sup>nd</sup> within seven years	0.02+	90 days / 4 points
-if repeat offender	0.02+	1 year
<u>Age 21 and over</u>		
1 <sup>st</sup> conviction/refusal	0.08+	30 days susp + 150 days restrictions
2 <sup>nd</sup> within seven years	0.08+	1 year revocation / 6 points
Conviction	0.17+	1 year susp / 6 points
<u>Commercial Driver</u>		
1 <sup>st</sup> conviction/refusal	0.04+	1 year
1 <sup>st</sup> (hazardous materials)	0.04+	3 years
2 <sup>nd</sup> or subsequent conviction	0.04+	10 years

At the point of an impaired arrest, the offender's driver license is destroyed if the BAC is 0.08 or higher or if a test is refused. The offender is issued a paper permit on which to drive until the court case is complete. The offender may request an administrative hearing to determine license sanctions and use of a Breath Alcohol Ignition Interlock Device (BAIID), which may be ordered on the first offense. Motor vehicles owned by the driver at the time of offense may be immobilized on the first offense and will be immobilized on the second offense (within seven years) for 90-180 days.

To determine the number of previous impaired driving offenses on a driver's history record, the official files at the MDOS are queried and efforts are made to receive out-of-state violations. Any arrests made while awaiting an administrative hearing will not be considered for the progressive sanctions for the original offense.

Ignition interlock programs have been shown to be successful in other states and one was entered into state law in Michigan in 1999. If an offender applies to have driving privileges

restored following an impaired conviction, a BAIID may be ordered. High BAC and repeat offenders must have a BAIID installed upon reinstatement of the license. In any BAIID case, the State will issue a new license that clearly identifies the driver as being in the BAIID program. There are six vendor companies operating in the State, approximately 11,000 devices in place, and close to 50,000 violations transmitted to MDOS annually. BAIID devices in Michigan are required to include a camera for verification of offender violations. BAIID machines must be downloaded every 60 days and transmitted to MDOS which currently has an additional 60-day backlog in reviewing the information. This information is not shared with the sentencing court; it is only used for administrative hearings and sanctions.

## **Recommendations**

- Extend the driver license suspension period for a test refusal to be longer than for a test failure.
- Identify an agency to evaluate the Breath Alcohol Ignition Interlock Device program on a regular schedule.
- **Reduce the 60-day review backlog of Breath Alcohol Ignition Interlock Device violations.**
- Require more frequent Breath Alcohol Ignition Interlock Device downloads.
- Transmit Breath Alcohol Ignition Interlock Device program violations to judicial and treatment partners upon request for ongoing evaluation of offenders.

## E-2. Driver Licensing 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;*
- *Learner's 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 six 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 six 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**

Newly licensed first-time drivers in Michigan are placed on probation for at least three years, during which any citations or crashes may be reviewed by the Michigan Department of State (MDOS) licensing division. Any violations or at-fault crashes during the last 10 months will extend the probationary period until the driver has 10 consecutive, violation-free months. Independent of that probation, Michigan instituted a Graduated Driver License (GDL) program with three segments of licensure in 1997. Each stage of the GDL process includes a visually distinctive driver license and all drivers under age 21 have a vertically oriented license while adults have a horizontally oriented card. A Level 1 License can be obtained as early as 14 years and nine months. The requirements and restrictions associated with each GDL segment are:

### Segment 1

- Driver Education – minimum 24 hours of classroom instruction, six hours of behind-the-wheel instruction, and four hours of observation time as a passenger
  - Must be at least 14 years and eight months of age
  - Parent/guardian permission required

### Level 1 License (no fee)

- Must have Segment 1 *Certificate of Completion* and be at least 14 years and nine months
- Parent/guardian signature required on license application
- May only drive with a licensed parent/guardian or designated licensed adult age 21 or over, who should sit in the front seat
  - If a designated adult, driver should carry a signed letter of authorization
- Holding period is at least six months
- Vision screening required
- Cell phone use prohibited (Kelsey's Law)

### Segment 2

- Driver Education – minimum 30 hours of supervised driving with a licensed parent/guardian including a minimum of two hours of night driving
  - Must hold Level 1 License for a minimum of three continuous months
- Minimum 50 hours of supervised driving including a minimum of 10 hours of nighttime driving before taking Driver Skills Test

### Level 2 Intermediate License

- Must have Segment 2 *Certificate of Completion* and parental permission
- Must hold Level 1 License for minimum of six months
- Must be violation and suspension free and have no at-fault crashes during the 90 days prior to application
- For those at least 16 years of age meeting physical and medical licensing

standards

- Restricted from driving between 10 p.m. and 5 a.m. unless for work, authorized activity, or with parent/guardian or authorized licensed driver age 21 or older
- Passengers restricted to no more than one under the age of 21 (exceptions for immediate family members or when teen is traveling to or from work, authorized activity, or with parent/guardian or authorized licensed driver age 21 or older)
- Cell phone use prohibited (Kelsey's Law)
- May not incur traffic violations or alcohol/drug offenses

#### Level 3 License (no fee)

- For those at least 17 years of age and held Level 2 License for six months
- Must be violation and suspension free and have no at-fault crashes during the 12 consecutive months prior to application
- No specific restrictions from previous phases; subject to all Michigan laws

Any violation of the GDL license restrictions results in a driver assessment reexamination, with possible outcomes including up to one year of license suspension. A teen must be violation and crash-free prior to progressing through the GDL segments: 90 days for Level 2, and 12 consecutive months for Level 3.

Several components of the Michigan law exceed best practice recommendations, such as a two-segment education schedule, requiring a licensed parent/guardian driver accompany those driving with a Level 1 License, minimum 50 hours of practice, non-driving nighttime restrictions, and passenger restrictions throughout the Level 2 License phase. However, components not meeting best practice recommendations include setting the minimum age to obtain a Level 1 License at 16, minimum age of 16.5 to obtain a Level 2 License, and minimum age of 18 to obtain a Full Privilege License. It is also beneficial to incorporate parent/guardian orientation into the driver education courses, which some Michigan schools have done, but it is not required by law.

The Michigan Liquor Control Commission (MLCC) in the Department of Licensing and Regulatory Affairs began requiring responsible beverage server training throughout the State in 2001. This applies to new on-premise licenses and those transferring more than 50 percent interest in an existing license. The minimum requirement for compliance is to have a trained supervisor working during all hours alcohol is served; this should be expanded to include marijuana. Industry-based agencies are approved by the MLCC for providing server training; the training is widely available, both in-person and online, and encouraged throughout the business community.

MDOS has several mechanisms in place to prevent issuance of fraudulent identification cards or licenses, including staff training and database identity confirmation. The driver system also utilizes facial recognition software to identify and deter identity fraud, such as an individual obtaining multiple licenses using different identities.

## **Recommendations**

- Increase the minimum age for a Level 1 License to 16.
- Require a parent/guardian orientation class as part of the Segment 1 driver education courses.
- Expand the responsible server training requirement to any employee that serves alcohol and/or marijuana on-premise.

## 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**

Staffing at the Office of Highway Safety Planning (OHSP) in the Communications Section is very strong with four full time positions. The section has a section chief, communications strategist, graphic designer, and senior editor. The staff has considerable experience in communications and is well-versed in traffic safety messaging. In addition to the staff at OHSP,



the Michigan State Police (MSP) has a Communication Section that OHSP coordinates with to ensure MSP is aware of OHSP messaging and it is consistent with the messaging MSP will use on traffic safety topics.

The OHSP is data-driven in regard to establishing the target areas of the State for traffic safety messaging, target audience(s) for the specific messaging, and the development of the message itself. Focus groups are utilized each time creative material for campaigns is revamped or changed. The focus groups are representative of the target audience to which the message would be intended.

Media development and placement is the responsibility of the media contractor for the OHSP. The media contractor knows the markets well in Michigan and the appropriate medium (traditional, social, or emerging media outlets) to approach and negotiate media placement during the targeted timeframe for each campaign. Research and data are key components to the marketing efforts throughout the entire process, from message development to media placement.

Telephone surveys are conducted prior to, and following, each enforcement mobilization period that is part of the National Highway Traffic Safety Administration (NHTSA) national campaigns. The surveys measure feedback on messaging from 400 individuals in the target demographics group(s). This feedback is utilized to determine if the messaging is reaching the intended group(s) and to improve the reach of the messaging.

Toolkits concerning each mobilization are distributed statewide to all law enforcement partners to inform them of the specifics of the campaign and to provide tools to supplement enforcement efforts with outreach efforts in their communities. Materials include press release templates and media outreach ideas.

The OHSP typically conducts two to four kickoff media events on the first day of the enforcement phase of the national mobilization. The OHSP tries to mix up the method of delivering the information to the media. They try to stay away from doing traditional media events with speakers behind podiums. Most recently, the OHSP has been taking the event to media outlets to maximize the likelihood that a media outlet will publicize the effort. The OHSP also attempts to deliver personal stories that are more likely to be covered and aired by the traditional media outlets.

Enforcement efforts yield violation data for each campaign period. These data are collected by the lead agency in each county and then submitted to the OHSP electronically. The data are utilized in press releases, press interviews, and for feedback to partners across the State to demonstrate the impact of the campaign.

Responsible use of marijuana messaging is a challenge that is facing the State. Use of marijuana is illegal for anyone under 21 years of age, but legal for those over 21. While the product will be legal for consumption, usage that impairs a motor vehicle operator will still be subject to operating while impaired laws, enforcement consequences, and legal ramifications.

A local innovative effort in Muskegon County encourages young drivers and soon-to-be drivers to adopt healthy lifestyle choices related to alcohol use, primarily focused on the driving task and the need to be alcohol-free behind the wheel. The Sheriff of Muskegon County and the Muskegon Alcohol Liability Initiative (ALI) have spearheaded the effort to reduce underage drinking and alcohol-related injuries in Muskegon County. The effort provides teens and parents the facts about drinking and encourages constructive choices, leading to a happier, safer, and healthier community.

Educating parents and teens on the dangers of underage drinking is the first step to driving real change. ALI utilizes social media, collaboration with schools, contests, and more, to reach teens in a positive manner. For instance, they have a teen-focused campaign that is centered around debunking the common myths about underage drinking and encouraging constructive choices.

ALI also aims to reward teens that make good choices. Teens are encouraged to take the Ride with Pride Safe Driving and Positive Behavior Pledge, where they promise to stay away from alcohol, get good grades, and stay sober behind the wheel. Signing the pledge and adhering to the principles of the pledge qualify the student to win a free car, which will be given away at each school that participates. The program is currently running in seven schools within Muskegon County.

### **Recommendations**

- Establish minimum media outreach efforts for all Office of Highway Safety Planning-funded education, enforcement, and training grants.
- Create coordinated outreach efforts among the Office of Highway Safety Planning's traffic safety partners that utilize various media platforms to communicate the risks of serious crashes and injuries, detection, arrest, prosecution, and punishment for operating while impaired.
- Establish a communications, education, and outreach steering committee to determine appropriate educational and messaging efforts concerning the newly legalized recreational marijuana specifically directed toward impaired driving.

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

*Impaired driving frequently is a symptom of the larger problem of alcohol or other drug misuse. Many first-time impaired driving offenders and most repeat offenders have alcohol or other drug abuse or dependency problems. Without appropriate assessment and treatment, these offenders are more likely to repeat their crime. One-third of impaired driving arrests each year involve repeat offenders.<sup>10</sup> Moreover, on average, individuals with alcohol or other drug abuse problems, drive several hundred times within two hours of drinking before they are arrested for driving while impaired.<sup>11</sup>*

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

*Nationally, the number and diversity of problem solving courts has grown dramatically. One such problem-solving model is the DWI Court. These courts provide a dedicated docket, screening, referral, and treatment and intensive monitoring of impaired driving offenders. States and localities that implement DWI Courts should ensure that they are established and operated consistent with the Guiding Principles recommended by the National Center for DWI Courts.*

*[www.dwicourts.org/sites/default/files/ncdc/Guiding\\_Principles\\_of\\_DWI\\_Court\\_0.pdf](http://www.dwicourts.org/sites/default/files/ncdc/Guiding_Principles_of_DWI_Court_0.pdf)*

*In addition, alcohol use leads to other injuries and health care problems. Almost one in six vehicular crash victims treated in emergency departments are alcohol positive, and one third or more of crash victims admitted to trauma centers—those with the most serious injuries - test positive for alcohol. Studies report that 24-31 percent of all emergency department patients screen positive for alcohol use problems. Frequent visits to emergency departments present an opportunity for intervention, which might prevent these individuals from being arrested or involved in a motor vehicle crash, and result in decreased alcohol consumption and improved health.*

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

### **A. Screening and Assessment**

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

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

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<sup>10</sup> Repeat DWI Offenders in the United States. “Washington, DC: NHTSA Technology Transfer Series, Traffic Tech No. 85, February 1995.

<sup>11</sup> On average, 772 such episodes, according to Zador, Paul, Sheila Krawchuck, and Brent Moore, “Drinking and Driving Trips, Stops by Police, and Arrests: Analyses of the 1995 National Survey of Drinking and Driving Attitudes and Behavior.” Washington, DC: U.S. Department of Transportation, NHTSA Technical Report No. DOT HS 809 184, December 2000.

### **Advisory**

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

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

### **Status**

In Michigan, all drivers convicted of an impaired driving charge, (e.g., operating while impaired [OWI]) are required to complete an assessment for alcohol or other substance abuse.

The Michigan statute 257.625b. amended is clear on the requirement, protocol, and consequences of screening.

(5) Before imposing sentence for a violation of section 625(1), (3), (4), (5), (6), (7), or (8) or a local ordinance substantially corresponding to section 625(1), (3), (6), or (8), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. Except as otherwise provided in this subsection, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs as part of the sentence. If the person was convicted under section 625(1)(c) or has 1 or more prior convictions, the court shall order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs as part of the sentence, including, but not limited to, an alcohol treatment program or a self-help program for a period of not less than 1 year. The treatment plan must be devised from an assessment performed by an appropriately licensed alcohol assessor and approved by the court. If the person has 2 or more prior convictions, the court shall order the person to undergo an assessment that uses a standardized evidence-based instrument performed by a provider or other licensed or certified substance use disorder professional to determine whether he or she has a diagnosis for alcohol dependence and would likely benefit from a United States Food and Drug Administration approved medication-assisted treatment that is indicated for the treatment of alcohol dependence, as specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association. A person may request an independent assessment that uses a standardized evidence-based instrument and that is performed by a provider or other licensed or certified substance use disorder professional

to determine whether he or she has a diagnosis for alcohol dependence and would likely benefit from a United States Food and Drug Administration approved medication-assisted treatment that is indicated for the treatment of alcohol dependence, as specified in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association. A court shall grant a request for an independent assessment and shall consider the results of the independent assessment along with the assessment required under this subsection when determining if the court will refer the person to a rehabilitative program that offers 1 or more forms of United States Food and Drug Administration-approved medications for the treatment of alcohol dependence. Only a provider may recommend that a person take medication-assisted treatment. A person always maintains the right to refuse ingestion or injection of medication. Only a provider may determine the type, dosage, and duration of the medication-assisted treatment. If the person refuses to take the medication-assisted treatment, the court shall not hold that person in contempt. As used in this subsection, "provider" means an individual with prescribing authority under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, who regularly communicates with the treatment team during the defendant's recovery and who has training or experience that demonstrates the provider's ability to treat and manage patients with alcohol dependency. If no other identified funding source is available, the person shall pay for the costs of the screening, assessment, or assessments, as applicable, and rehabilitative services ordered under this subsection. This subsection does not require the person to successfully complete an ordered rehabilitative program before driving a vehicle with an ignition interlock device on a restricted license. As used in this subsection, "other licensed or certified substance use disorder professional" means an individual or organization licensed or credentialed in this state to treat substance use disorders, including individuals certified by the Michigan certification board for addiction professionals and individuals who have training in providing assessments for alcohol dependency.

However, there is little evidence that this protocol is implemented with any regularity. For example, while it is recommended that assessments be conducted by providers licensed by the "office of substance abuse services," now called the Office of Recovery Oriented Systems of Care (OROSC), it is unclear how often this occurs. Until recently, substance abuse professionals and organizations that provided assessment and treatment services were licensed and regulated by the OROSC. Currently, all professional licensing, including for substance abuse providers, is under the purview of the Licensing and Regulatory Agency (LARA). This represents a change from an agency (OROSC) whose mission is to, "Promote wellness, strengthen communities, and facilitate recovery" to an agency (LARA) with a mission that, "supports business growth and job creation while safeguarding Michigan's citizens through a simple, fair, efficient and transparent regulatory structure." It is unclear what effect this change has had on maintenance of a system of qualified assessment and treatment providers to accommodate impaired driver offender requirements.

LARA and OROSC do not maintain a client-level data system that collects information on impaired driver screenings or subsequent recommendations. Drivers who apply to the Secretary of State (SOS) for a restricted license with an ignition interlock device, or for license reinstatement after completing sentences for an impaired driving offense, must

provide evidence of completion of screening and treatment as recommended. However, this documentation does not include specific information on the protocol used or the specific treatment intervention completed.

While several screening instruments are available, there is no mandated assessment protocol. Assessment results are supposed to be completed and provided to the court pre-sentence for consideration in requiring treatment and supervision. It appears that this seldom occurs except in cases of drivers eligible for Sobriety Court. Judges receive some training in the use of substance abuse screening information and are encouraged to use comprehensive, evidence-based screening tools.

It is unknown if the current assessment process provides adequate information for matching offenders' treatment needs to the most appropriate treatment modality though it appears that adequate treatment resources are available in most parts of the State to allow for treatment matching.

Drivers who meet eligibility requirements for participation in a Sobriety Court, (e.g., OWI Court or Hybrid Court), complete a clinical evaluation used to develop a treatment plan.

Michigan currently has over 180 problem-solving courts including Sobriety Courts/OWI Courts. The State Court Administrative Office has developed regional Sobriety Courts to serve small and/or rural communities that do not have enough eligible offenders to sustain their own court. As a result, offenders in virtually all parts of the State have access to a problem-solving court that accepts OWI offenders.

## **Recommendations**

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

### A-2. Medical and Other Settings

#### ***Advisory***

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

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

- *Conducted by trained professionals in hospitals, emergency departments, ambulatory care facilities, physicians' offices, health clinics, employee assistance programs, and other settings;*
- *Used to decide whether an assessment and further treatment is warranted;*
- *Based on standardized screening tools (e.g., CAGE, AUDIT or the AUDIT-C) and brief intervention strategies;<sup>12</sup> and*
- *Designed to result in referral to assessment and treatment when warranted.*

## **Status**

Screening Brief Intervention and Referral to Treatment (SBIRT) is utilized in many hospitals in Michigan.

Through the Partnership for Success project, the Office of Recovery Oriented Systems of Care is promoting training of substance abuse prevention professionals and other professionals in disciplines that interact with impaired drivers and others with potential alcohol and substance abuse problems.

Some colleges and universities in Michigan offer the BASICS (Brief Alcohol Screening and Intervention for College Students) service for students who want to explore their alcohol and other drug use. It assists students in examining their own behaviors in a judgment-free environment whether they are concerned about their drinking or drug use or just curious to learn how their use compares to others. BASICS provides students with a structured opportunity to assess their own risk, identify potential changes that could work for them, and help them to reduce their risk for developing future problems.

## **Recommendations**

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

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<sup>12</sup> For a discussion of assessment instruments, see: Allen, John and M. Columbus (Eds.), NIAAA Handbook on Assessment Instruments for Alcohol Researchers (2nd edition). Rockville, MD: National Institute on Alcohol Abuse and Alcoholism, 2003. For an overview of alcohol screening, see: "Screening for Alcohol Problems – An Update," Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, Alcohol Alert No. 56, April 2002. For a primer on helping patients with alcohol problems, see: "Helping Patients with Alcohol Problems: A Health Practitioner's Guide," Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, NIH Publication No. 04-3769, Revised February 2004.

## **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**

Drivers who are determined to not be in need of a clinical intervention are expected to complete a classroom education program known as the Alcohol Highway Safety Class. There is no standard curriculum used statewide. One state agency website describes the program by stating:

*Michigan calls its classes "Alcohol Highway Safety Classes," these are equivalent to what other states call "DUI Classes," the first level should be about eight hours of classes. Note, most states, including Michigan, do not accept on-line courses.*

An internet search of Alcohol Highway Safety Class providers revealed that most courses are eight to 16 hours in length. Some provide victim impact panels. According to regulations, internet or online courses are not acceptable for license restoration yet some providers offer them.

Several evidence-based curricula and programs are available and are widely used in most other states.

Michigan currently has over 180 problem-solving courts including 31 Sobriety Courts/Operating While Impaired (OWI) Courts, 58 hybrid courts, and 27 veteran's courts that accept OWI offenders. The State Court Administrative Office has developed regional Sobriety Courts to serve small and/or rural communities that do not have enough eligible offenders to sustain their own court. As a result, offenders in virtually all parts of the state have access to a Sobriety Court or to another problem-solving court that accepts OWI offenders (hybrid court). In each of the past two years, approximately 4,200 OWI offenders participated in a problem-solving court.



The Sobriety Court program allows eligible individuals convicted of certain impaired driving offenses to obtain a restricted driver license after admittance into a sobriety court and installation of an ignition interlock device on vehicles they drive and own.

Sobriety courts have received substantial highway safety funds intended to be seed money to support the courts until they can secure sustainable funds. There has been limited success in reaching sustainability. This process requires the development of local political support. Developing such support is greatly enhanced by disseminating evidence of the positive impact of these courts, especially the economic savings, (e.g., jail time prevented) and by identifying a credible advocate, (e.g., judge) who is skilled in marketing such programs.

Other than OWI offenders participating in problem-solving courts, there is no statistical information on offenders participating in the Alcohol Highway Safety Classes or a clinical intervention. The lack of an impaired driver tracking system in Michigan makes it impossible to determine how many OWI offenders with a significant alcohol or other substance abuse problem ever receive a meaningful treatment intervention. The most reliable information appears to be from the problem-solving courts which, in 2017, accounted for approximately 4,200 (16%) of an estimated 27,000 convicted impaired drivers.

## **Recommendations**

- Establish assessment protocols that include standard criteria and screening instruments that allow recommendations for appropriate treatment modalities.
- **Require the use of an approved, evidence-based curriculum and program to meet the requirement for an Alcohol Highway Safety Class.**
- Monitor and evaluate the efficacy of the revised process for licensing assessment and treatment providers.
- **Implement a comprehensive impaired driver tracking system.**
- Implement a data system for sobriety courts that allows documenting impact and economic savings.
- Provide training to sobriety court judges and other program advocates in marketing the program to garner sustainable support.

## **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 seat belt 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**

Michigan's Office of Highway Safety Planning (OHSP) is responsible for administering federal traffic safety funds and has developed problem identification and program evaluation processes. These processes inform the State's Strategic Highway Safety Plan (SHSP) and other guiding documents for traffic safety in Michigan. The Michigan State Police (MSP) has management responsibilities for the police crash reporting system and shares the data with the Michigan Department of Transportation (MDOT) daily. MDOT has a statistical section to support analytical efforts. The OHSP evaluates or requires an evaluation of programs funded through its office using process or outcome methods.

Process evaluations include documentation and tracking of milestones and deliverables for each project. Grant-funded impaired driving-related law enforcement grantees are required to report the number of arrests and citations issued during funded hours. Outcome evaluations consist of data collection and analysis efforts related to outreach and enforcement programs. Some of

those analyses rely on data gathered during execution of the program and others rely on statewide traffic records datasets. Behavioral outreach programs may conduct outcome evaluations in the form of media impressions, pre- and post-surveys, or other methods for collecting feedback. It is difficult to evaluate behavior change, so outside of using arrest and crash data, program evaluation is challenging. The common metric used to evaluate impaired driving judicial programs is recidivism with any violation.

One of five federally funded alcohol epidemiologists is housed in the Michigan Department of Health and Human Services, who periodically works with the OHSP. Program information is captured in the Michigan Prevention Data System; however, follow-up information that may be used to evaluate each program is not contained within that system. Other sources of behavioral data include the Michigan Profile for Healthy Youth (MiPHY) survey, the Youth Risk Behavior Survey (YRBS), and the Behavioral Risk Factor Survey (BRFS).

Each year, the State's problem identification process includes prioritization of program areas, goal-setting and tracking, and location-based analyses. Serious injuries are considered along with fatalities, which is a valuable analytical concept because, in addition to supplementing the smaller number fatalities in areas of Michigan, many serious injuries could have been fatalities if a characteristic of the crash or emergency response had been different. Cost-benefit analyses are also completed to assist with law enforcement funding allocations and project prioritization.

Several law enforcement agencies conduct rolling problem identification and program evaluation efforts. Through ongoing review of crashes and fatalities in conjunction with enforcement plans and activities, the agencies are able to supplement the OHSP-provided data throughout the year with more recent records. As problem areas or situations are identified and progress is identified, the agencies redirect efforts for maximum impact.

There is a Traffic Records Program Coordinator at the OHSP who works closely with analytical grantees, specifically the University of Michigan Transportation Research Institute (UMTRI), to support any data needs in the office and is responsible for the State's Traffic Records Coordinating Committee.

## **Recommendations**

- Work with the University of Michigan Transportation Research Institute to develop a short document, no more than one page, with suggestions for easy-to-conduct program evaluation methods to share with grantees at orientation meetings.

## **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**

The Michigan Traffic Records Coordinating Committee (TRCC) 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 system) which allows for access to and analysis of a range of data.

The Office of Highway Safety Planning (OHSP) relies primarily on crash and fatality data for problem identification and program evaluation. Crash reports are collected and submitted electronically by Michigan State Police (MSP) troopers and almost all law enforcement agencies in the State. A recent policy directive will require all reports to be sent to the State file electronically beginning January 1, 2020. The MSP also collects all traffic citations electronically and it was noted that most, but not all, other agencies also use some form of electronic data collection software.

Advances in data collection and quality are being planned in other systems that will affect the impaired driving analyses in the State. Michigan does not have a unified court system and citations are transmitted and handled in different ways depending on the jurisdiction and level of court. Typically, convictions of impaired driving offenses are transmitted electronically to the driver history file at the Michigan Department of State (MDOS) through the Judicial Information System (JIS) maintained by the State Court Administrative Office (SCAO). Information on all citations written and submitted to the courts, regardless of final adjudication, is valuable for evaluating which charges are most likely disposed as guilty; determining how many impaired driving charges are not found guilty, reduced, or are dismissed; or identifying trends in adjudication by location (geographical, court type, etc.).

The MDOS maintains the driver license history file, which includes impaired driving

convictions. Real-time interfaces with law enforcement agencies and the judicial system have been established. These connections enable officers to access up-to-date driver histories at the roadside and judges to review full histories when determining judgment. Sanctions to the driver and vehicle files are transmitted electronically from the courts. The MDOS is updating its data management systems; the vehicle system was successfully migrated from the mainframe to the new infrastructure last year and the driver system migration is scheduled for completion in 2021.

The MSP Forensic Science Division (FSD) is responsible for all toxicology testing for law enforcement purposes. Recent advances in instrumentation, policy, and process has increased the number of substances tested and has reduced the length of time for obtaining results. Those improvements have resulted in more accurate research and analytical efforts, including the State's submission to the Fatality Analysis Reporting System (FARS). The current Laboratory Information Management System has known limitations, and the State is exploring other systems for an upgrade. The completeness of toxicology results in FARS has increased over time and allows Michigan to better evaluate impaired driving concerns. As the timeliness of toxicology results has improved, the accessibility of those data has also expanded through the use of the Forensic Advantage Network. Partners in law enforcement; crash report data management, including the FARS analyst; and driver licensing have access to that Network.

Recently, toxicology information from the FSD was integrated with police crash reports from 2017 to increase the completeness and accuracy of the crash file. The State is also pursuing an ambitious data integration project with the University of Michigan Transportation Research Institute (UMTRI) that would link data from driver, vehicle, crash, citation, and other available traffic records systems. Efforts are also being made to collaborate with clinical partners and access hospital data (emergency department, inpatient discharge, and trauma registry) for traffic safety analyses. Such clinically-based systems will benefit traffic safety and impaired driving efforts. Although challenging due to the Health Insurance Portability and Accountability Act (HIPAA), access to medical records would bolster current analyses with toxicology results and treatment charges associated with those crashes. At times, monetary consequences of impaired driving crashes may be valuable facts to share.

With regards to treatment outcomes, data are not regularly transmitted from programs to the OHSP or MDOS for incorporation into analyses. Violation information from the Breath Alcohol Ignition Interlock Device Program is not regularly reviewed and offenders are not tracked outside of the administration of the program. Combining those datasets with the citation and adjudication systems would create an impaired driving tracking system beginning at the point of offense and moving through to treatment completion and subsequent violations.

## **Recommendations**

- Support the infrastructure upgrade of the driver and vehicle data systems.
- Work to acquire violation data from the courts and outcome data from treatment programs and incorporate that information to build an impaired driving tracking system.
- **Acquire a new Laboratory Information Management System for the Michigan State**

**Police Forensic Science Division.**

## **C. Driver Records Systems**

### ***Advisory***

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

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

### **Status**

The Michigan Department of State (MDOS) is responsible for maintaining all driver license and history information for State residents. All convictions from impaired driving offenses are transmitted from the courts to the MDOS electronically and posted on the driver record. The MDOS is also responsible for enforcing driver license suspension and revocation.

The MDOS has developed interfaces with the law enforcement and court data systems for exchange of information in near real-time. These protocols allow for accurate evaluation of drivers at the roadside and in the courtroom. The driver data system also complies with national standards and has systems in place to reduce identity fraud and track commercial drivers.

Driver license and history data are maintained on a mainframe system that does not currently allow for efficient data extraction, but is transitioning to an updated system in 2021. This upgrade is to be commended as most states remain on mainframe systems and Michigan will have more operability with the new architecture.

The driver system data are complete, accurate, and reliable as shown in the recent Traffic Records Assessment. As administrative sanctions are handled by hearing officers, those convictions are transmitted to the driver record.

### **Recommendations**

- Support the infrastructure upgrade of the driver and vehicle data systems.
- Integrate driver license and history data with crash report and citation/adjudication data for use in traffic safety analyses.

# AGENDA

## Michigan Impaired Driving Assessment

Okemos Conference Center

Okemos, MI

Sunday, May 5

4:00 p.m.

### **Assessment Team Meeting**

Monday, May 6

7:30 – 8:00 a.m.

### **Welcome – Introduction to Assessment Team**

8:00 – 9:30 a.m.

### **Leadership Panel, Planning & Administration, Program Management**

Michael Prince – Director, Office of Highway Safety Planning (OHSP),

Governor’s Highway Safety Representative

Anne Readett – Section Chief, Planning & Administration, OHSP

Alicia Sledge – Section Chief, Program Management, OHSP

Christy Sanborn – Impaired Driving Program Coordinator, OHSP

9:30 – 9:45 a.m.

Break

9:45 – 10:45 a.m.

### **Criminal Justice System: Toxicology**

D/F/Lt. Gary S. Daniels – Laboratory Director, Forensic Science Division,  
Michigan State Police

Geoffrey French – Supervisor, Toxicology Discipline, Lansing  
Toxicology Lab, Michigan State Police

Nicholas Fillinger – Technical Leader, Toxicology Discipline, Lansing  
Toxicology Lab, Michigan State Police

Mark Fondren – Technical Leader, Breath Alcohol Discipline, Lansing  
Toxicology Lab, Michigan State Police

10:50 – 11:10 a.m.

Break

11:00 – 12:10 p.m.

### **Data**

Jessica Riley – Specialist, Traffic Records Program, OHSP

Patrick Bowman – Statistician, University of Michigan Transportation  
Research Institute

Patrick Hindman – Alcohol Epidemiologist, MI Department Health and  
Human Services (DHHS)

12:10 – 1:00 p.m.

Lunch

1:00 – 1:55 p.m.

### **Enforcement**

Pat Eliason – Specialist, Police Traffic Services, OHSP

Julie Roth – Secondary Road Patrol, OHSP

Inspector Scott Marier – Field Operations Bureau, Michigan State Police



1:55 – 2:15 p.m. Break

2:15 – 3:20 p.m. **Enforcement**  
Sheriff Michael Poulin – Sheriff, Muskegon County  
Chief Ron Wiles – Chief, Grand Blanc Twp. Police Department, Third Vice President, Michigan Association of Chiefs of Police  
Monica Yesh – Chief Operating Officer, Transportation Improvement Association (by phone)

3:20 – 3:30 p.m. Break

3:30 – 4:55 p.m. **Law Enforcement Training/SFST/ARIDE/DRE**  
Sgt. Jim Janes – SFST & ARIDE Coordinator, MSP  
Mike Harris – Specialist, DEC Program, OHSP  
Det. Jeramy Peters – Detective, Auburn Hills Police Department, DRE Instructor/Trainer

Tuesday, May 7

8:00 – 9:00 a.m. **Driver Licensing/Ignition Interlocks**  
Colleen Tulloch-Brown – Director, Office of Hearings and Administrative Oversight, Michigan Dept. of State (MDOS)  
Mary Rademacher – Specialist, Ignition Interlock Coordinator, MDOS

9:00 – 9:45 a.m. Break

9:45 – 10:45 a.m. **Data/Traffic Records**  
Jessica Riley – Specialist, Traffic Records Program, OHSP  
Sydney Smith – Manager, Criminal Justice Information Center (CJIC), MSP  
Amanda Heinze – Specialist, CJIC, MSP  
Melissa Marinoff – Analyst, Quality Control, CJIC, MSP  
John Harris – Manager, Driver Records Program Section, MDOS  
Dr. Carol Flannagan – Research Associate Professor, University of Michigan Transportation Research Institute, Director, Center for the Management of Information for Safe and Sustainable Transportation (by phone)

10:45 – 11:00 a.m. Break

11:00 – 12:10 p.m. **Judicial Outreach Liaison/Judicial Education**  
Judge Patrick Bowler – (Retired), MI’s Judicial Outreach Liaison, Michigan Judicial Institute (MJI)  
Judge Phyllis McMillen – 6<sup>th</sup> Circuit Court Judge, NHTSA Region 5 Judicial Outreach Liaison  
Judge Patrick Shannon – Chief Judge, Saginaw Chippewa Tribe  
Pete Stathakis – Project Director, MJI

- 12:00 – 1:00 p.m. Lunch
- 1:00 – 1:45 p.m. **DUI Courts/Judicial Outreach Liaison**  
 Andrew Smith – Manager, Problem Solving Courts, State Court  
 Administrative Office  
 Judge Patrick Bowler – (Retired), MI’s Judicial Outreach Liaison,  
 Michigan Judicial Institute (MJI)  
 Judge Phyllis McMillen – 6<sup>th</sup> Circuit Court Judge, NHTSA Region 5  
 Judicial Outreach Liaison  
 Judge Patrick Shannon – Chief Judge, Saginaw Chippewa Tribe
- 1:45 – 2:15 p.m. Break
- 2:15 – 3:20 p.m. **Communication**  
 Kendall Wingrove – Section Chief, Communications, OHSP  
 Kari Arend – Communications Strategist, OHSP  
 Ellyn Davidson – Brogan & Partners Convergence Marketing  
 Katie Rehrauer – Brogan & Partners Convergence Marketing
- 3:20 – 3:35 p.m. Break
- 3:35 – 5:05 p.m. **Prevention, Treatment & Underage Drinking**  
 Sgt. Martin Miller – Sergeant, Grants & Community Services, MSP  
 Mike Tobias – Coordinator, Michigan Coalition to Reduce Underage  
 Drinking (MCRUD)  
 Lt. Ken Pelland – Grosse Ile PD, UAD Enforcement/Education Trainer  
 Gary Bubar – AAA Michigan  
 Lisa Coleman – Specialist, Substance Abuse Treatment & Prevention,  
 Michigan Department of Health & Human Services
- Wednesday, May 8
- 8:00 - 9:45 a.m. **Criminal Justice System: Laws/Legislation**  
 KC Steckelberg – Director of Public Affairs, Prosecuting Attorneys  
 Association of Michigan (PAAM)  
 Ken Stecker – Traffic Safety Resource Prosecutor, PAAM  
 D/F/Lt. Christopher Hawkins – Commander, Marijuana and Tobacco  
 Investigation Section, Michigan State Police  
 Sgt. Christopher Gerard – Legislative Liaison, Michigan State Police
- 9:45 – 10:00 a.m. Break
- 10:00 – 10:50 a.m. **Criminal Justice System: Adjudication/Prosecution**  
 Ken Stecker, Traffic Safety Resource Prosecutor
- 10:50 – 11:05 a.m. Break

11:05 – 12:10 p.m. **Leadership Panel**  
Michael Prince – Director, OHSP, Governor’s Highway Safety  
Representative  
Anne Readett – Section Chief, Planning & Administration, OHSP  
Alicia Sledge – Section Chief, Program Management, OHSP  
Christy Sanborn – Impaired Driving Program Coordinator, OHSP

12:10 – 1:00 p.m. Lunch

1:00 – on **Assessment Team Member Discussion, Deliberation, and Report  
Development**

Thursday, May 9  
All Day

**Assessment Team Member Discussion, Deliberation, and Report  
Development**

Friday, May 10  
8:00 – 10:30 a.m.

**Assessment Team Report Out**

## **ASSESSMENT TEAM CREDENTIALS**

### **CYNTHIA BURCH**

Cynthia (Cindy) Burch, MS MPH CAISS RSP began her career as a research analyst at the National Study Center for Trauma & EMS (NSC) in 2001 and went on to serve as epidemiologist/traffic records coordinator for the Georgia Governor's Office of Highway Safety in 2004. There she continued working with traffic records and statewide data projects. In late 2005, she returned to the NSC and served as a senior epidemiologist and project manager. In July 2018, Cindy moved to the Baltimore Metropolitan Council (BMC), the Baltimore region metropolitan planning organization, to support the development and implementation of Local Strategic Highway Safety Plans in the region's seven jurisdictions.

Cindy worked on the Crash Outcome Data Evaluation System (CODES) and the Crash Injury Research and Engineering Network (CIREN) projects funded by the National Highway Traffic Safety Administration (NHTSA). At the NSC, she worked closely with the Maryland Highway Safety Office (MHSO) on data analyses and traffic records, facilitated the State Traffic Records Coordinating Committee (TRCC), served as the data coordinator for the Maryland Strategic Highway Safety Plan, conducted and analyzed the observational seat belt studies, and answered data requests from state and local agencies as well as the public at large.

Cindy continues to work closely with the MHSO from the BMC to support all local efforts in planning, data analysis, and evaluation. She is also an assessor for Traffic Records Assessments at Traffic Safety Analysis Systems & Services; team member for impaired driving, occupant protection, and pedestrian/bicycle safety assessments; and teaching faculty for the Association for the Advancement of Automotive Medicine (AAAM).

## **HONORABLE LINDA L. CHEZEM**

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, Chezem 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.

Chezem taught forensic science and rural public health law. Her textbook, *Science, Ethics, and Justice* was published in 2015. Currently, Chezem 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. Chezem has been particularly interested in addiction in justice system issues and the legal protection of property rights. She serves on the Indiana Farm Bureau property rights advisory committee.

## **MICHAEL S. IWAI**

Lieutenant Michael S. Iwai is a 22-year law enforcement veteran. He is currently assigned as the Salem Station Commander for the Oregon State Police. Mike served as Oregon's 4th Drug Evaluation and Classification Program State Coordinator from 2008 to 2014. He is a former Chairman of the International Association of Chiefs of Police (IACP) - Drug Recognition Expert Section and Oregon DRE Advisory Committee. He is currently a member of the IACP Technical Advisory Panel (TAP), a member of the National Law Enforcement Committee for Mothers Against Drunk Driving (MADD), and Chairman of Oregon's MADD State Advisory Board.

Since 1999, Mike has been a certified and credentialed Drug Recognition Expert (DRE) and obtained DRE instructor certification in 2002. He has instructed all NHTSA/IACP impaired driving curricula in and outside the state Oregon. Furthermore, he instructs at Oregon's Basic Police and Leadership Academies. He's recognized as an expert in alcohol and drug impairment and has testified several times at the Oregon State Legislature.

Mike, a U.S. Army veteran, earned his Master of Business Administration from Northwest Christian University and a Bachelor of Arts in Business – Management and Organizational Leadership from George Fox University. Mike is a proven leader and has been recognized for his transportation safety efforts:

- NHTSA Recognition Award 2017
- MADD National President's Award - Outstanding Individual Hero 2015
- Ken Snook - DRE Award of Excellence 2014
- DUII Multi-Disciplinary Training Conference Task Force - Senior Trooper Maria Mignano Dedication to Duty Award 201
- DUII Multi-Disciplinary Training Conference Task Force - DUII Trainer of the Year Award 2007
- Oregon State Police - Harold Berg Life Savings Award 2004

## **ROBERT P. 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 project, after-school mentoring programs, and environmental education programs. Rob has served as the evaluator for the Ontario County Juvenile Drug Treatment Court, the Finger Lakes Drug Court, Ontario County Youth Court, the Finger Lakes Child Abuse Response Team-Child Advocacy Center, and the Ontario County Family Support Center. He also 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. He also has conducted outcome studies for the Yes Pa Foundation, character education program.

Rob 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.

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

Since 1991, Rob has served as a member of Impaired Driving Assessment Consultant Teams for the National Highway Traffic Safety Administration (NHTSA) and has conducted over 70 assessments of prevention and treatment programs in 38 states, Puerto Rico, and for the Indian Nations. He was the 2011 recipient of the NHTSA Public Service Award.

## **DON NAIL**

### **Dunlap and Associates, Inc (2018-present)**

Don serves as a consultant for Dunlap and Associates on a variety of highway safety issues.

### **Governor's Highway Safety Program (1985-2017)**

Don served in several positions at the Governor's Highway Safety Program (GHSP) over the course of his 32-year career with GHSP. He began as a Highway Safety Specialist and was promoted in 1990 to the Manager of Planning, Programs, and Evaluation Section. In May 2001 Don was installed as the Acting Director and served in this capacity until November 2003. He was then designated as the Assistant Director for the agency and served in this position until his appointment as Director in June 2013.

Don served on the Board of the Governors' Highway Safety Association (GHSA) as the Region 3 Representative from 2013 to 2017. He also represented GHSA on the Standing Committee for Highway Traffic Safety (SCOHTS) of the American Association of State Highway and Transportation Officials (AASHTO). He served on the North Carolina Operation Lifesaver Board of Directors (2001-2017), North Carolina Driver Education Advisory Committee (2013-2017), and was appointed by Governor McCrory to serve on the Statewide Impaired Driving Task Force (2013-2017).

### **Education**

Don graduated from Western Carolina University with a Bachelor of Science degree and earned his Master of Business Administration degree the University of North Carolina at Greensboro.