

Washington Impaired Driving Advisory Council Minutes for June 25, 2009

Advisory Council Representatives - Present at June meeting	
Name	Agency
Lowell Porter	Washington Traffic Safety Commission
Tony Anderman	Criminal Justice Training Center (CJTC)
Shelly Baldwin	Washington Traffic Safety Commission
Bill Hilton	Washington State Patrol
Tom McBride	Washington State Prosecutors Association (WAPA)
SueAnn Reese	Department of Health
Rob Reichert	Washington State Patrol
Fiona Couper	Washington State Patrol
Participants	
Gloria Mansfield Averill	DUI Traffic Safety Task Force Tacoma/Pierce County
Rick Bomar	WA State Misdemeanant Corrections Association (MCA), DUI Court
Glen Cramer	National Highway Traffic and Safety Association (NHTSA)
Elaine Hagseth	Washington Traffic Safety Commission
Brian Jones	WA Traffic Safety Commission (WTSC)
Mike Lasnier	Suquamish Tribal Police Chief
Steve Luce	Washington State Patrol
Natalie Mattson	Integral leadership, Inc.
Letty Mendez	WA State Liquor Control Board
Julie Mitchell	Association of Alcohol Addiction Program for State of WA
Dave Overstreet	American Automobile Association - WA Region
Mike Padden	Judge (retired)
Robert Sharpe	Washington State Patrol
Courtney Stewart	Washington State Patrol
Ted Trepanier	Washington State Department of Transportation (WSDOT)
Brian Ursino	Mothers Against Drunk Driving (MADD)
Shirley Wise	National Highway Traffic and Safety Association (NHTSA)

Welcome and Introduction: Shelly Baldwin WTRC

Shelly Baldwin welcomed participants and thanked everyone for traveling the distance to attend the meeting. She invited participants to request time on the agenda in future meetings to alert the group of any developing issues or to share their agency's/organization's work.

Shelly asked if there were any corrections to the WIDAC minutes from last quarter's meeting. She added that because we do not have a Council quorum today, we would vote to accept the minutes at the September meeting.

Shelly announced that the meeting's goal was to pare down the strategic plan to the most pressing or important items to consider right now.

Installation and Monitoring of Ignition Interlocks: Tom McBride

Tom introduced a challenging case that recently took place in Whatcom County. Below are case highlights:

- A citizen reported a drunk driver
- Driver was on deferred prosecution
- Taken down to police station, conducted a BAC, driver blew over limit (.14 BAC)

- Driver was taken home
- Car was parked (and left) in a safe location – a Lowe’s parking lot
- Driver took a taxi, went back to get car, and used her keys to drive the vehicle again.
- The driver drove the car and got in an accident, severely injuring a woman. Her BAC at the time of the crash was even higher than when she was arrested.
- Torte case by victim was against the driver, Whatcom County for supervision of interlock, and WSP for not taking her to jail
- Jury found driver 50% liable, County 26% liable, and WSP 24% liable
- County and State split \$2,400,000 judgment and the drunk driver paid \$25,000

Tom summarized the overall concern by asking, “How much supervision liability do we have in the installation and monitoring of ignition interlock; how can we control the risk? We looked at Ignition Interlock pursuant to DOL’s requirement to get license back and when a Judge orders it. Tom wants the group to help brainstorm, “How do we control our exposure to a tool we like?”

A discussion was held and participants explored ways to tighten the opportunity for risk for the state and counties.

WIDAC is being asked to offer good ideas to control liability to help us avoid pulling back from using the Ignition Interlock system due to financial risk. Is this group in a position to help us improve the process thus decreasing liability to our counties? Shelly suggested we take some time to address the issue as well as incorporating it into the strategic planning exercise.

Ideas and gaps outlined by WIDAC participants:

1. Immunity? Not preferred in prosecutors office
2. Clearer communication: Here are the expectations. Law enforcement to verify and certify Interlock is in car and working properly
3. In the Prosecutor’s office, we are beginning to see counties’ resistance to imposing Interlock if we can’t minimize risk
4. Prosecuting attorneys like Ignition Interlock
5. Brian Ursino stated that backing away from the Interlock concerns us – it has become a national movement. Five years ago only one state required mandatory installation for first time offenders, now 11 states require it.
6. Reauthorization of for federal highway safety funding is taking place this year. Dave Overstreet reminded us that a written draft included hard sanctions for states that do not require Interlock for first time offenders. He attended a national webinar on Ignition Interlock with great information on its effectiveness in USA and Canada.
7. We need to mitigate risk factors for city county, tribal, state
8. Julie Mitchell asked, “How are other states handling it?” Tom replied “WA has less protection for these types of law suites; some state don’t allow lawsuits like this one.”
9. Impound the car. The Legislature passed a mandatory impound law and Supreme Court tossed it out. We must offer a reasonable alternative to impounding.
10. Tom McBride is not sure what could have been more effective in this case. When it comes to decreasing risk, we can always do more.
11. A RCW revision will be necessary; it currently does not address probation. Rob Reichert added that the courts do not view our Interlock logs. We (Officers Reichert and Luce) review Interlock logs which shows when people tried to drive and at what level of intoxication they were when the Interlock was used. Steve and Rob have been knocking on doors to conduct voluntary checks for people with an Interlock installed.
12. Rick Bomar suggested we need supervision within probation. Currently we have 2 officers and 1,400 driving on probation with Interlock. This ratio is difficult to monitor.
13. Misdemeanor departments in all counties were surveyed; we found four different ways these issues are being handled – DOL and Misdemeanant Courts Association are looking for ways to be effective and consistent, to standardize the process.
14. Sometimes the bench supervisor reviews case information and does not assign to misdemeanor courts.
15. A person may have the Interlock on one car and drive another
16. In DUI courts in other states, the driver must sign over their right to own a vehicle

17. This circumstance is begging for a statewide policy. Protection for states and county's often comes from following a statewide industry standard or policy.
18. Judge Padden alerted us we may need to get a limited liability provision through the legislature – standards of supervision need to be responsible.
19. Because it was never funded, counties and cities don't have to provide probation supervision
20. We need consensus among the agencies involved to have a strong option to pass through the legislature.
21. Keep existing Interlock requirements in mind as we add new work
22. Shelly advised we watch out for disincentives - may need to consider two groups with Interlock
 - a. Voluntary
 - b. Court ordered – with court ordered cases we can require more of them e.g., driver must be six months clean before device is removed. This could be a disincentive for voluntary Interlock users. When it is court ordered, we monitor and information goes to treatment and probation
23. Offender monitoring could be a tiered approach; court ordered offenders receive random monitoring
24. Bill Hilton stated that if it is your car, it is your interlock. If someone else blew in it and it is registered to car owner, can't say, "I didn't blow." This is already a crime.
25. As we design a model policy of best practices, we should not be driven by current fiscal situation; it can always be pursued over time with a phased approach. We need to recommend the best, comprehensive model.
26. In Idaho, the Governor (just signed) made a law that if one has multi DUI convictions, is successfully engaged in a DUI court, and has an Interlock installed, the driver is eligible to drive; the driver is monitored through DUI court. Alaska is looking at this type of law, too.

Conclusion: To further this conversation, this Council will add the following strategy to the Ignition Interlock portion of the strategic planning document with the following language: Establish a multidisciplinary work group to develop an industry standard or best practice for use of Ignition Interlock in WA State, thus providing liability protection.

AAA's DUI Justice Link: Dave Overstreet

Dave introduced a new resource published by AAA for the criminal justice system. Website: <http://www.aaaduijusticelink.com>

Dave offered a tour of the website to participants with the following highlights:

- AAA national launched the website in April 2009
- Its purpose is to assist judicial (system) community, designed to be a one-stop repository of information for impaired driving with an emphasis on DUI. It provides potential solutions to common problems to the criminal justice community as a person moves through the process; intended to help and close loopholes.
- The Traffic Injury Research Foundation conducted the research. Content was identified by researchers and reviewed by the criminal justice community.
- On the website you will find: welcome, purpose, issues, facts, state laws, resources, professional groups (e.g., probation officers, judges, law enforcement) regarding detection, evidence, procedures, bench book, cell phone laws, helmet laws, drunk driving laws state-by-state, and more.
- AAA has 980,000 members WA and Idaho and 50,000,000 members nationwide.

Next, Dave shared survey results. AAA surveys its members every fall on high-profile traffic safety issues and uses the data for lobbying in Olympia. The following is an overview of six years of results for surveying conducted on national traffic safety issues:

Survey question: Of the following, what are your top three safety concerns as a motorist:

1. Drunk driver
2. Aggressive drivers
3. Poor quality roads
4. Distracted drivers
5. Sharing road with large trucks
6. Unlicensed
7. Senior drivers
8. Teen driver
9. LP drivers

(not a prioritized list, all nine choices are offered in the survey)

Top concern has been drunk drivers

- 76% 2004
- 77% 2005/6
- 78% 2007
- 79% 2008

Additionally, aggressive drivers

- 75% 2004/5
- 72% 2006
- 69% 2007
- 58% 2008

Tom McBride suggested a language change under WA law on the AAA website and was advised to contact AAA webmaster Michael Savol at msavol@national.aaa.com.

WTSC Update: Lowell Porter, Chair

Lowell stated that we are here for the advancement for traffic safety in Washington State and he is very appreciative of each person's commitment.

He added, the Governor's office is excited about the level of expertise associated with our integrated systems model. We are playing a significant role in directing and advising the commissioners and others.

Target Zero Trooper Project—Lowell briefed the group on the Target Zero Trooper Project. Lowell stated that the Traffic Safety Commission and the State Patrol studied a recent pilot project—a dedicated, high-visibility enforcement team in Snohomish County. This was a team of experts in impaired driving detection and arrest. The pilot was based on data showing a significant need to reduce drunken driving incidents in Snohomish County. The pilot project showed there has been a 40% reduction in fatalities with two, 30-day increments of time where Snohomish County had zero fatalities.

We asked what else we could do with this model. We moved the idea through the legislative process via elected officials. They are interested moving the project from a pilot to a demonstration project. We expanded the program based on good, solid research. The demonstration project is called "Target Zero Troopers." It consists of placing 21 full-time troopers in Snohomish, King, and Pierce Counties in teams consisting of six troopers and a sergeant.

A development team is currently developing more concrete details such as: standard operating procedures; deployment models; data collection and analysis: performance measures.

The project kick-off is set for July 1, 2010 at Boeing Field at 10 am. Chuck Hurley, executive director of MADD and Laura Dean-Mooney, president of MADD, Governor Christine Gregoire, and heads of transportation in the senate will be invited to attend.

Letty Mendez stated her appreciation for the outreach. She sees the impact of this involvement. People are excited about this program.

NHTSA Fostering Leadership Grant: Shelly Baldwin—WTSC has applied for NHTSA's "Fostering Leadership to Improve the Impaired Driving System" grant. This \$1 million grant would require a three-step process.

- 1) Washington will conduct a NHTSA-administered DUI assessment designed to identify gaps in our current impaired driving system. In preparation for the assessment, WTSC will be asking for help from all the WIDAC in describing their piece of our current system. The assessment will identify Washington's system gaps.
- 2) The WIDAC would then prioritize the identified gaps and make recommendations on the best way to spend the grant funding on activities to fill the most important gaps.
- 3) With approval of the Commission, we would then spend money as the WIDAC recommends.

NHTSA will announce the grant winners in September.

If Washington is chosen, we suspect an assessment would be scheduled in winter or spring of 2010. We want to do work ahead of time so we can maximize the assessment team's focus toward specific feedback and ideas for improvements.

Drive Hammered Get Nailed Crackdown: Shelly Baldwin

Our annual Drive Hammered Get Nailed Crackdown in August is underway. The MOU is out to local law enforcement for requesting overtime from August 14-September 7, 2009. This year we are highlighting Drug Recognition Experts (DRE) in each county. We are using earned media in a campaign to highlight the DREs. They will serve as spokespeople to localize the release in each county, promoting extra enforcement. If anyone has a channel for mailing lists or other networks to help push media out to the public, please contact Shelly for materials.

Traffic Safety Resource Prosecutor Position: Shelly Baldwin

We republished the TSRP job announcement. At this time we have 18 applicants and will be interviewing first nine very soon. Tom McBride stated that the focus for a successful incumbent was DUI experience, training experience, and the ability to present well e.g., giving conferences (courts, prosecutors, judges, toxicology labs). We have found it to be a tough combination. Forty-four states already have a TSRP. Tom added WAPA looks forward to working with the incumbent and believes the State Patrol is a better home for the TSRP than WAPA, which is too small.

There is a possibility for another position and we have applied to \$100,000 grant which would allow us to hire two TSRPs. If we received these funds from the National Association of Prosecuting Attorneys, we may be able to expand the program immediately.

WSP Toxicology and Impaired Driving Update: Dr. Fiona Couper

The last four weeks we have been involved in an audit and accreditation processes involving three major assessments of WA toxicology labs.

- 1) American Board of Forensic Toxicology (ABFT) assessed how we process alcohol and blood samples. We had nine level-one findings. These were all administration errors. The lab will address all findings, soon.
- 2) In our evidence management audit, we had clear assessment, no findings. This is a significant improvement from previous problems in King County.
- 3) ISO Accreditation involves international standards – we now have strict policies that correspond to 385 criteria. These are backed by our labs' policies and procedures. Fiona believes the ISO accreditation will increase public's trust and confidence.

At the end of the year, we will be reintroducing breath test tickets into courts. A ruling on this would be made two or so months later. Lowell reminded us that we could have 5,000 breath tests with Target Zero Troopers project.

Fiona added that the lab is preparing for a new case management system (LIMS) Labs Information Management System. We are improving our ability to provide data and will be adding fields such as incident dates. We will be contacting WTSC to ensure we are maximizing data collection and evaluation.

Ignition Interlock Compliance Program: Trouper Steve Luce, WSP, IDS

Rob Reichert announced that WSP purchased a new BAC instrument called "Dragger 9510." It uses dual technology, fuel cell and an infrared system. Implementation is expected by summer of 2010. Lowell suggested we roll the new BAC tool into the Target Zero Trouper kick off with a education display and demonstration for media.

Trouper Luce was hired as the Ignition Interlock Compliance State Coordinator and began full-time a month ago. The program has been in place since 2007 with no dedicated staff person. Lt. Reichert and Trooper Luce have been conducting inspections of vendors and customers on weekends and in their spare time.

Revised Code of Washington - Revisions

WSP is working to revise the RCW and WAC rules working with AG's office. We are listed in definition only, which leaves a language gap regarding enforcement by WA State Patrol. Original sponsors asked to review the draft revision. The following list below is an overview of the current revisions.

- New Section added to RCW 46.37 giving the state patrol added authority to inspect manufacturers, vendors and customers or compliance with regulations
- Authority to suspend manufacturers and individual Ignition Interlock installation sites
- Devices must use Fuel Cell technology only
- Devices must be certified by an International Organization of Standardization (ISO) certified Laboratory
- General Updating & Clarifying of WAC
- Annual certification of wet bath simulator thermometers used in calibration
- Expiration of dry gas standards used in calibration

Pilot Project: Citizen Compliance Checks

- 4th Quarter 2008
 - King 74% Compliant
 - Yakima 41 % Compliant
- 1st Quarter 2009
 - Yakima
 - Hispanic / English Public Service Announcement
 - Treatment & Probation Training
 - Media
- 2nd Quarter 2009
 - King 72% Compliant
 - Yakima 79% Compliant

Compliance checks are voluntary and occur on a rolling basis. We must ask (and not require) "do you mind showing us your interlock?" "Do you mind blowing into it now?"

He added we found that in Yakima the compliance rate was only 40%. After some exploration, we learned that the Hispanic population did not understand the process and compliance of the

Interlock. We worked with Yakima probation, treatment centers, prosecutor's office, and put a PSA on Univision (a Spanish language station). Compliance went from 40% to 79%.

Interlock Database

Data is downloaded from every device and is available to all law enforcement. People who have blown over legal limit are listed in summary report on violators. The following are database highlights:

- All interlock devices must be downloaded every 60 days
- Data must be archived for two years
- Available to Law Enforcement, DOL, Probation and Courts
- Shows individual habits and rehabilitation

Trooper Luce gets DOL database list with people who have a valid license that are required to install an Interlock device. When an Interlock device is Court mandated people respond more urgently, proactive, respond on time, ready to comply. Troupier Luce observed that when and Interlock is DOL mandated people are not as concerned, proactive and they often respond with a much different attitude.

Many states have mandated that if violations occur while the instrument is required, then the Interlock requirements be extended by three months. This could be a best practice, a rolling compliance. Offenders should be six months clear before Interlock is removed. There are loopholes to this idea e.g., if a person has two cars with an Interlock on only one car. What is the liability if we see the record, the offender continues to blow over the limit, time ends on the interlock, we remove it, and then they hurt someone?

Ignition Interlock: Drivers License

- 4,425 Ignition Interlock Drivers Licenses issued to date
 - Refusal rate for the six months prior to the Ignition Interlock License – 16.3%
 - Refusal rate since the enacting the Ignition Interlock License – 16.5%

The Interlock refusal rate is typically around 16.5%. For the last five plus years, this has been the typical refusal rate. He added the State of Illinois has an automatic monitoring of all vendors' data. Data is sent to central processing server that picks out violations, if in violation, a person is sent a letter that the Interlock is extended. They also have a felony law, three violations, it becomes a low-grade felony, and your car is taken away.

Ignition Interlock Providers

- January 2008
 - 6 Certified Manufacturers in State
 - 79 Interlock Installation Sites
- June 2009
 - 6 Certified Manufacturers w/ 3 more applying for Certification
 - 96 Interlock Installation Sites

On the WSP website, you can find a list of manufactures. They are required to give the caller the name of the closest installation site. Steve is inspecting sites and as the number of sites increases, he will need assistance. Lowell requested a meeting with Rob, Shelly, Steve, and Fiona.

DRE, BAC, and impaired driving are an important piece of puzzle. We must have saved lives by dedicating our efforts here. Lowell asked if we have any Qualitative data that confirms this. Rob responded, no. We are following news stories but do not have the time to do much else with data.

Strategic Planning: Tony Anderman, CJTC

The group then conducted a strategic planning exercise designed to prioritize the list of ideas from the last meeting. The results of this exercise-- the work groups, the work group volunteers, and the ideas that these groups will work on--are shown on the attachment to the minutes.

Roundtable Updates: All

Gloria Mansfield Averill: Traffic Safety Target Zero Task Forces are adding Law Enforcement Liaisons help task forces and agencies become more engaged and more adequately utilized. We are holding training in August to foster relationship building and develop ways to work cooperatively. We have rebuilt the structure of our local task forces by adding Target Zero Taskforce Managers. This is directly aligned with commission; Target Zero at local level with the Managers focusing on implementing Target Zero through media, education, and other appropriate methods, starting July 1, 2009.

Bill Hilton: Target Zero Trooper project is creating a buzz. There are lots of moving parts with this project e.g., human resources is recruiting, we must design training, budget and fiscal services are needed, and selection of Troopers. Boise PD has a DUI squad, King County, too; we are drawing ideas from them. Bill stated that he enjoyed working with Shelly on this project.

Julie Mitchell: Represents the Association of Addictions Programs in Washington State, including members from both private and public treatment centers. Year-to-date, the number of individuals accessing treatment as a result of a DUI is down. The number of folks choosing Deferred Prosecution has decreased dramatically over the past few years with the changes to the law and has continued to decrease this year. The new Interlock law is a great solution in the short term for keeping drinking drivers off the roads, however, since the Interlock license is readily available to just about all who receive a DUI and there is not assessment/treatment requirement with the Interlock license, fewer people are getting assessments/treatment. Assessments/treatment starts from the criminal justice system are down approximately 30% year-to-date. However, referrals from other areas such as Doctors or employers have not decreased. Could this decrease be an unintended consequence of the Interlock license law?

Rick Bomar: WA State Misdemeanor Corrections Association is seeing the positive impact of our activity. People on supervised probation are down about 30%. Rick attributes the decrease to prevention and Target Zero. He is educating judges – an outcome measure. We thank Shelly for all her work. Rick will forward Grant County news stories.

Shirley Wise: We are known as the golden state, the shining star of the nation. NHTSA is working on federal dollars to conduct research on the Target Zero Trooper project. Shirley said, National NHSTA is already impressed after a recent conference call in which they were debriefed on the integrated approach. We are currently in budget strategy process. Application for the second TSRP WA is in a good position. Our human resources department has not made decision as of this meeting. In the region, we are pushing so that two states get the \$200,000 and dollars rather than be distributed over three states.

Shirley also commented that WA is looking good regarding the “Fostering Leadership” grant.

Ted Trepanier: We are data crunching for a Target Zero update. We presented at the Tribal Traffic Safety Summit recently. The area of focus was speed, impaired driving, seatbelts. People ask Ted “is it realistic or possible to have zero deaths by 2040?” We need the next great idea to keep fatalities down to help sustain Target Zero.

Glenn Crammer: Glenn thanked the Traffic Safety Commission for the opportunity to work with staff and Gloria regarding Law Enforcement Liaison Program. Thank you Gloria!

Mike Padden: Judge Padden is working on training for existing DUI courts and starting work on judicial education, and the traffic safety resource prosecutor.

Tom McBride: We are hoping the traffic safety resource coordinator will be available to Dr. Couper. It would be nice if the TSRP can do some one-on-one training for the person who falls in the gap of our annual training. Beginning of year we had 450 prosecutors doing work and we are down by 40 positions, which is 10%. We will be down even more in 2010. Regarding auto theft, we were very successful by having a target. We dropped theft by 40% by studying the theft,

pinpointing who is doing it and putting them away. When we have a target we can make a big difference.

Letty Mendez: Letty applauded TSRP hiring team for waiting for the right person. She noted that the Liquor Control Board board members have been voluntary, but that is changing. LCB was given a strong mandate to increase funds so we will be opening liquor stores on Sunday. This will up the consumption, possibly another impact on the system. Lowell asked Letty if sales and distribution driven by consumer will be monitored. If so, we can continue to layer our data with consumption data as well as demographic data, location of alcohol sellers. Letty will work with WTSC to provide that data.

Fiona Couper: We will be happy to utilize the TSRP in our labs!

Mike Lasnier: Mike appreciates the invitation to be here and he looks forward to working with WIDAC. It's nice to have a tribal presence involved.

Courtney Stewart: DRE School graduated 15 people. Another training will take place in September. A DRE pre-school for prosecutors currently has 17 enrolled. Our new database is coming on-line. We are trying to capture data on our face sheet. WSU Professor Nick Loveage has asked us to be part of a project with two Ph.D. student in data collection and grant writing. We are getting SFST class requests from police departments. Two drinking labs are set up. We are struggling to get individual officers into SFST training. We will be conducting DUI forums for judges around state dealing with SFTS and the physiology of alcohol. The judges are interested in attending a DRE preschool next spring. The cost is \$15,000 and covers the school, lodging, mileage, and meals for 35 judges. Lowell encouraged Elaine to lay out problem and solutions and submit so we can look at it as a possibility for funding.

Lt. Rob Reichert: Troopers selected for demonstration project need time with DRE, impaired driving, SFST and BAC to review Troopers. Lowell asked Rob to write up the suggestion with topics, needs, etc.

Target Zero Troopers contacts:

- Shelly Baldwin agency lead for TRC
- Bill Hilton agency lead for WSP
- Lowell Porter is project manager
- Chief Batiste is link for OFM

Steve Luce: Steve suggested we include the Interlock in judicial education.

Dave Overstreet: Thank you for inviting AAA. Approaching biggest travel year; we will be conducting a press conference before the July 4th holiday in Bellevue.

Brian Ursino: MADD National recognizes New Mexico and WA as gold standards in terms of DUI enforcement. We are excited about reauthorization and access to chairperson's office. They will be codifying MADD's program on drunk driving. An individual (NFL player) who struck and killed a pedestrian received 30 days for vehicular manslaughter. A financial settlement with family may have been reached. NFL Commissioner and CEO of MADD have been collaborating on what to do before the NFL player is reinstated. Currently, they are creating a partnership to deliver education in stadiums, education of players, mandatory DUI education for schools for kids heading to NFL.

Next WIDAC Meeting: Tentative date is September 24, 2009 from 10 until 2.