STATE OF MONTANA

Assessment

of the

IMPAIRED DRIVING PROGRAM

May 5-10, 2013

National Highway Traffic Safety Administration

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The team would like to thank the National Highway Traffic Safety Administration (NHTSA) for helping to give a national and regional perspective and support to the assessment. The assessment process was facilitated by Shirley Wise, NHTSA Region 10. The team wishes to commend Evelyn Avant, Administrative Assistant, for her ability to coordinate and manage the production of the final report and support to the team.

The team thanks each of the participants in the review for the time and energy invested in preparing and delivering their presentations. Their candor and thoroughness in discussing their activities to target impaired driving in Montana greatly assisted the team in conducting a complete review. The review team commends all who are involved in the day-to-day efforts to reduce impaired driving in Montana.

The technical assistance team was comprised of Judge Linda Chezem, Judge Joseph Thomas Flies-Away, Susan Bryant, Darrell Fisher, Rob Lillis, and Joan Vecchi. The report produced by this team, based on the Assessment review, is intended to assist Montana's efforts to enhance the effectiveness of its alcohol-impaired driving program by equipping the criminal justice community and law enforcement officials with the knowledge and skills to detect, arrest, and prosecute alcohol-impaired drivers.

This team believes that this report will contribute to the State’s efforts to enhance the effectiveness of its impaired driving program in preventing injuries, saving lives, and reducing economic costs of motor vehicle crashes on Montana’s roadways, and commends all who are involved in the day-to-day efforts to reduce impaired driving in Montana.
INTRODUCTION

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

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

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

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

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

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

Under MAP-21, States that have an average impaired driving fatality rate that is 0.60 or higher are considered high-range states. Montana is considered a high-range state and is therefore required to conduct a NHTSA facilitated assessment of the State’s impaired driving program. Furthermore, the State is required to convene a statewide impaired driving task force to develop a statewide impaired driving plan. The plan must address recommendations from the required assessment.
Promotion of highway safety for the entire state of Montana is a complex and multifaceted undertaking. It cannot be furthered and realized by the state acting alone. To ensure that all Montana citizens and its visitors are secure and protected on every stretch of road, highway and (passageway), collaborative efforts with each tribal nation are necessary. Challenges arise, however, due to the uniqueness of each sovereign and their governance and administrative capabilities and state of affairs. Operating under its own set of values, principles and laws, each state and tribe are simply different and distinct from one another. Without thoughtful consideration and candid communication the shared goals of public safety are stifled, though not abandoned.

The assessment process revealed this complexity in nearly every area of governmental operation, responsibility and obligation. Law enforcement, data collection, record keeping, road maintenance, adjudication, corrections, treatment and others key areas are all affected and impacted by this collective mismatch of governmental state of affairs and circumstances. Where some planning, program management and resource relationships are fluid and functional between the state and a tribe, a very different situation may exist with another. Simply stated, some state and tribal administrative situations are not compatible with each other and cooperative efforts are suspended until greater suitability is found.

The Montana Impaired Driving Assessment was conducted at the Red Lion Colonial Inn, May 5-10, 2013. Under the direction of Audrey Allums, Grants Bureau Chief, arrangements were made for program experts (see Agenda) to deliver briefings and provide support materials to the team on a wide range of topics over a three-day period.

BACKGROUND, HISTORY, STATE DEMOGRAPHICS

In 2011, there were 32,367 people killed in traffic crashes in the United States. Of these fatalities, 9,878 (31 percent) were alcohol involved. The involvement of impairment resulting from alcohol or other drugs remains a serious highway safety, public health, and societal issue.

Motor vehicle crashes remain the leading cause of death for people from age 5 to 34 and is the leading cause of unintentional injury and death in the United States with an economic impact of more than $230 billion annually.

In 2011, Montana experienced 209 traffic fatalities. Of that 209, 45 percent involved the presence of alcohol. Among the 94 people involved in fatal crashes with alcohol in their system, 81 were found to have a BAC of 0.08 or higher.

Montana is the fourth largest state in the U.S. with a land area of approximately 145,556 square miles and a population of just over one million people. To the north, Montana shares a 545 mile border with three Canadian provinces: British Columbia, Alberta, and Saskatchewan. The state borders North Dakota and South Dakota to the east, Wyoming to the south and Idaho to the west and southwest.

Seven Tribal Nations are situated within Montana’s exterior boundaries and include: The Apsaalooke Nation (the Crow Tribe), the Blackfeet Nation, the Chippewa Cree Tribe of Rocky Boy Montana, the Confederated Salish and Kootenai Tribes, The Fort Belknap Indian Community, The Fort Peck Assiniboine and Sioux Tribes, and the Northern Cheyenne Tribe. Culturally and linguistically diverse and distinct, each tribal nation as a separate sovereign exercises self-government in various frames and forms.

Montana continues to have one of the highest rates of alcohol impaired fatalities in the nation, with a rate that is almost twice the national average. From a positive perspective, Montana’s rate dropped from a recent high of 1.01 alcohol-impaired fatalities per 100 million vehicle miles traveled (VMT) in 2002 to 0.63 fatalities per 100 million VMT in 2011 (based on preliminary VMT data). Alcohol-related fatality rates have also dropped from 1.2 in 2002 to 0.75 in 2011. However, occupant protection usage is down. Montana does not have a primary occupant protection law.

From July 2011 through June 2012 there were 757,812 licensed drivers and 2,085,270 registered vehicles. Of those, 453,020 were passenger vehicles, 467,101 were passenger trucks and 158,872 were motorcycles.

Montana has experienced a growth rate in population of 9.7 percent since 2000, yet has an extremely low population density of 6.8 persons per square mile. The highest population concentrations are in the southern and western sections of the State, with the state capital being located in Helena. The large geographic size of the State results in many areas being sparsely populated, with some counties having fewer than 2,000 residents.\(^5\)

The State has a widely dispersed population, with the bulk of people living in Billings, Butte, Missoula, and Helena. Many political subdivisions of the state (counties) are comprised of thousands of square miles populated by just a few thousand people. The effect of this has been described as resulting in greatly divergent approaches to law enforcement practices in general, and impaired driving enforcement in particular.

The Montana economy is diverse, with industries that include mining, coal production, oil production, agriculture, livestock, and tourism. The eastern portion of the state has experienced a rapid expansion of oil exploration and drilling in recent years, which presents challenges to traffic safety, law enforcement in general, and in managing infrastructure for an expanding population and industrial base.

Other key demographic facts about the residents of the State of Montana based on 2011 U.S. Census Bureau data include:

\(^5\) [http://quickfacts.census.gov/qfd/states/30000.html](http://quickfacts.census.gov/qfd/states/30000.html)
Age distribution:
Under 18 years: 22.3 percent
Adult: (18 to 64 years old) 62.5 percent
Older: Adults (65+) 15.2 percent

Non-Caucasians account for 10.1 percent of the population as compared with 21.6 percent nationally.

As of 2011, the largest minority population in Montana is Native Americans (6.4 percent) as compared to 1.2 percent of the national population.
PRIORITY RECOMMENDATIONS

I. Program Management and Strategic Planning

A. State and Tribal DWI Task Forces or Commissions

- Implement a State impaired driving task force/leadership team with clear direction, authority, and the high-level support and capabilities to implement and coordinate significant initiatives to reduce impaired driving

- Ensure participation of the tribes in task force and leadership team collaborations to incorporate tribal perspectives and participation in task force activities

B. Strategic Planning

- Create planning links between the Comprehensive Highway Safety Plan and the Highway Safety Plan that would establish an understandable and useful planning stream leading from the establishment of State goals, through the selection and prioritization of strategies, to the selection and priority of traffic safety projects

C. Program Management

- Enhance the traffic safety project solicitation, review, and selection process by implementing the following activities:
  
  Expand the outreach of project proposal solicitation for traffic safety grant-funded projects, including among the Montana tribes

  Implement methodology to establish priorities for and determine selection of projects


  Communicate the process and project selection criteria to existing and potential program participants

II. Prevention

- Increase the state excise tax on alcoholic beverages by ten cents per drink and dedicate a portion of revenues to alcohol abuse and impaired driving prevention and intervention programs
B-4. Transportation Alternatives

- Ensure that both designated driver and safe ride programs prohibit consumption of alcohol by underage individuals or unintentionally promote over-consumption.

III. Criminal Justice System

A. Laws

- Enact a primary seat belt law for Montana

- 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

- Enact Ignition Interlock and other legislation that complies with Section164

B. Enforcement

- Enact Memoranda of Understandings (MOU’s) with tribal governments

- Increase resources for forensic toxicology staff at the Crime Lab

E. Adjudication

- Develop a Tribal-State Judicial Forum to bridge communication and training efforts between state and tribal courts

IV. Communication Program

- Create a coherent and focused impaired driving message for all partners to implement in their communication activities

VI. Program Evaluation and Data

B. Data and Records

- Develop a DUI tracking system in order to facilitate the evaluation of various programs, enforcement, and treatment used in impaired driving intervention

C. Driver Records System

- Find a no-cost solution to providing small courts with driver history records
MONTANA IMPAIRED DRIVING PROGRAM

I. Program Management and Strategic Planning

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

A. State and Tribal DWI Task Forces or Commissions

Advisory

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

- Receive active support and participation from the highest levels of leadership, including the governor and/or governor’s highway safety representative.

- Include members that represent all interested parties, both traditional and non-traditional, such as representatives of: government – highway safety, enforcement, criminal justice, liquor law enforcement, public health, education, driver licensing and education; business – employers and unions; the military; medical, health care and treatment; multi-cultural, faith-based, advocacy and other community groups; and others.

- Recommend goals and objectives, provide policy guidance and identify available resources, based on a wide variety of interests and through leveraging opportunities.

- Coordinate programs and activities to ensure that they complement rather than compete with each other.

- Operate continuously, based on clear authority and direction.

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6 See “A Guide for Statewide Impaired Driving Task Forces” (DOT HS 811 211, September 2009) for a “how to” in support of implementing, making best use of, and continuing a task force.
Status

Montana has a statewide Alcohol- and Drug-impaired Driving Emphasis Area Team that functions as a part of the strategic highway safety plan process. The team is one of 12 emphasis area teams that form the planning group that develops and updates the various elements of the Comprehensive Highway Safety Plan (CHSP). This team meets monthly on conference calls to discuss strategies and challenges in reducing impaired driving. The team reports on progress annually during a Comprehensive Highway Safety Summit.

The team consists of individuals from many of the key components of a comprehensive impaired driving program, including the judiciary, prevention, law enforcement, government, advocates, injury prevention, data analysis, health care, tribal enforcement, and others. Membership in the team is fluid with individuals joining as their time and interest allow. Participation on the team can be difficult for those with non-flexible and heavy schedules, so some critical areas of a comprehensive program may not be adequately represented.

The team is led by a “champion” who is identified by virtue of her/his willingness, expertise, and interest. Champions are responsibilities include the following:

- Chair their respective emphasis areas and facilitate regular meetings/conference calls with their implementation teams.
- Are responsible for tracking and ensuring that their implementation teams are actively pursuing progress on individual strategies.
- Identify and recruit appropriate stakeholders, and those with expertise, to join implementation teams to accomplish new strategies.
- Report to CHSP coordinator (quarterly) on status/progress of new strategies.
- Report to CHSP oversight committee on challenges, progress, issues, and new efforts during annual CHSP/Highway Safety Plan (HSP) meeting.

There are subgroups on the team that focus on specific strategies and activities. There is no official or formal acknowledgement of the champion’s position, and no structure in place that might support membership development and transitions in leadership. There is not currently a top-level, executive leadership team with decision-making and resource allocation authority for the reduction of impaired driving.

Focusing primarily on prevention, the Interagency Coordinating Council (ICC) for State Prevention Programs is comprised of Montana state agencies and organizations that work together to create and sustain a coordinated and comprehensive system of prevention services across the state. In recent years, the focus of the ICC has centered around addressing alcohol abuse and misuse, with an emphasis on underage binge drinking, drinking and driving, and teenage and young adult drinking and driving. The Montana Department of Transportation (MDT) is a statutory member of the ICC.
During 2012, most of the ICC Work Group efforts focused on planning. The ICC Work Group members and their host agencies participated in three major strategic planning opportunities: the Montana Substance Abuse and Violence Prevention Task Force, the Strategic Prevention Enhancement Plan and the Public Health Improvement Plan.

Also statewide, the Montana Prevention Coalition (MPC) consists of eleven state-approved chemical dependency treatment and prevention programs that will provide environmental prevention services within all 56 Montana counties. The MPC is funded by the Department of Public Health and Human Services (DPHHS) to reduce underage drinking to include youth and young adults up to the age of 21.

Montana’s multi-disciplinary Traffic Records Coordinating Committee (TRCC) has been operating for several years. The TRCC meets every six weeks. Its mission is to improve the type, accuracy and timeliness of data collected, and the accessibility of data among the various agencies that collect the data. The TRCC is a collaborative group that coordinates traffic records among agencies and users. Members have some decision-making responsibility that allows for projects to be reviewed and preliminarily approved at the committee level. At this point in the operation of the TRCC, top-level executives’ involvement and understanding of the work of the TRCC varies according to the individual member’s connection to his/her executive or the reporting system within each agency.

In Montana, there are 32 county-level DUI Task Forces representing 36 counties. Of the seven Indian Tribes, only the Apsaalooke Nation (Crow Tribe) maintains an active DUI Task Force. Similar multi-disciplinary activity supporting highway safety and related objects, however, occur among the other tribal governments through other tribally and federally supported programs. These activities stem from law enforcement, behavioral health, educational, and other governmental initiatives that aim to promote public safety and sober communities. Tribal consideration for DUI Task Force development or revitalization appears evident and State collaboration is pledged to these efforts. The number and location of operational, local DUI task forces in the State fluctuate as task forces are established, discontinued, or re-established.
The county task forces are authorized by Montana law (61-2-106, MCA) to:

study the problem of alcohol-related traffic accidents and recommend a program designed to:
(a) prevent driving while under the influence of alcohol;
(b) reduce alcohol-related traffic accidents; and
(c) educate the public on the dangers of driving after consuming alcoholic beverages or other chemical substances that impair judgment or motor functions.

These task forces implement various kinds of programs that include responsible alcohol sales and service training, compliance checks of alcohol providers, designated driver and safe ride programs, and public education through news releases, public service announcements, booths and displays, powwows, and health clinics.

In support of the task forces, the “DUI Task Force Step-by-Step Guidelines” were revised in 2012, and may be viewed online at www.mdt.mt.gov/safety/docs/dui_taskforce_steps.pdf. The guide provides a comprehensive overview of activities and tasks for DUI Task Forces. Coordination and communication support is provided by the State’s Impaired Driving Traffic Safety Planner within the State Highway Traffic Safety Section (SHTSS) of the MDT.

MDT serves as the funding pass-through agency for the DUI Task Forces. County task force plans are submitted to the SHTSS, which reviews the plans and forwards to the
Governor’s Representative for Highway Traffic Safety for approval. A tribal task force does not follow this process. Some task forces are also supported with highway safety grant funds from MDT. The amount of funding available to a task force varies considerably, depending upon the amount of license reinstatement fees obtained by the county. In one case, $500 dollars that would be received through fines has not been considered a sufficient incentive to develop and operate a county task force.

Recommendations

- **Implement a State impaired driving task force/leadership team with clear direction, authority, and the high-level support and capabilities to implement and coordinate significant initiatives to reduce impaired driving**

- Identify existing gaps in the Alcohol- and Drug-impaired Driving Emphasis Area Team and proactively solicit representation to fill those gaps

- Implement a structure for the Alcohol- and Drug-impaired Driving Emphasis Area Team that would support the identification, continuation, and recognition of the champion and team members

- Provide an annual, brief report on Traffic Records Coordinating Committee accomplishments, pending issues and projects for executive-level review and support

- **Ensure participation of the tribes in task force and leadership team collaborations to incorporate tribal perspectives and participation in task force activities**

- Continue to support the establishment and operation of DUI task forces throughout the State, including task forces among the Montana tribes.
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

In 2006, the Montana Department of Transportation (MDT) developed Montana’s Comprehensive Highway Safety Plan (CHSP) in collaboration with other agencies and jurisdictions with roles in highway safety at the state, local and Federal levels as well as Montana’s sovereign Tribal Nations. Under the oversight of a multi-agency CHSP Leadership Committee, the development of the CHSP addressed the following objectives:

• Establish quantifiable safety-related goals, objectives, and performance measures relevant to travel on Montana's highways;

• Address issues at all levels of jurisdiction with specific attention to local and tribal entities;

• Establish a mechanism for interagency coordination and develop necessary partnering processes;
• Identify candidate safety strategies and evaluate their potential benefits, costs, and ability to attain performance objectives;

• Establish a process for prioritizing identified strategies based on their likely benefits relative to the identified safety goals and objectives; and

• Develop a strategic implementation plan, including action items for deployment in MDT's plans and programs as well as by other partnering agencies with roles in highway safety. This implementation plan is defined in the Annual Element of the CHSP.

The CHSP established the following vision for Montana highway safety -- all highway users in Montana arrive safely at their destinations -- and established the following mission statement:

To reduce fatalities and incapacitating injuries in the state of Montana by half in two decades, from 1,704 in 2007 to 852 by 2030.

The original CHSP also selected the following strategies for Alcohol- and Drug-impaired Driving:

1. Stronger penalties for BAC test refusal, including consistency between jurisdictions and states.
2. Enhance DUI data collection and analysis.
3. Reduce over-service of alcohol to apparently or obviously intoxicated persons.
4. Increased merchant education.
5. Expand DUI courts.
6. Reduce impaired driving related to marijuana and prescription drugs.

For each emphasis area, the Annual Element of the Montana CHSP provides descriptions of programs and countermeasures currently being implemented and detailed information on new strategies to be undertaken through the CHSP. The Annual Element is maintained and updated by the CHSP Committee to provide documentation and updates for Montana’s existing highway safety programs and to report the status of CHSP strategy implementation. The Annual Element for Emphasis Area #2, Alcohol- and Drug-Impaired Driving Crashes, serves as Montana’s statewide strategic impaired driving plan.

Performance measures for this Element are:

Reduce the five-year average number of fatalities in crashes involving an alcohol-impaired driver or motorcycle operator (BAC 0.08+) from 90 in 2010 to 70 by 2015.
Reduce the five-year average number of fatalities and incapacitating injuries in crashes involving a driver or motorcycle operator with a BAC 0.01+ or evidence of alcohol and/or drugs being involved from 484 in 2010 to 375 by 2015.

There are several CHSP emphasis areas that overlap or are related to Alcohol- and Drug-Impaired Driving Crashes. These include, but are not limited to: Native American Crashes, Young Driver Crashes, and Urban Area Crashes. There is some interaction among these emphasis areas. Team champions interact with each other as they determine appropriate. Therefore, this interaction occurs on an informal, occasional, and limited basis.

Strategies to achieve State performance measures are developed by the Alcohol- and Drug-impaired Driving Emphasis Area Team (discussed in Section I.A. Task Forces).

The links between the Highway Safety Plan (HSP) and the CHSP vary in strength and formality. Development of the HSP tracks with the development of the CHSP, sharing data sources and analyses, goals and objectives. Goals and state performance measures are established at the annual CHSP highway safety meeting. These are coordinated with the CHSP at the level of the Governor’s Highway Safety Representative (GR). CHSP strategies help guide project selection for the HSP. CHSP champions and other CHSP participants are involved in determining and developing traffic safety programs, but how CHSP strategies are translated into specific projects is not clear. Results of CHSP planning are considered to inform project decisions. It does not appear that any process is in place to establish priorities for strategies and subsequently to create a strong link between strategies and determining the priority of highway safety projects.

According to the Highway Safety Plan, the primary data sources used for problem identification include:

- Montana Highway Patrol statewide crash database containing reportable traffic crashes.
- Fatality Analysis Reporting System (FARS).
- Driver and motor vehicle data provided by the Department of Justice.
- Observational seat belt surveys performed before and after Memorial Day media campaigns conducted by MDT personnel.

This listing does not indicate whether other data sources critical and specific to a comprehensive program -- such as arrests, convictions, vital statistics, demographics, and others – are also incorporated into the problem identification and planning processes to help identify priority countermeasures and locales.

The development of tribal safety plans is a designated strategy of Emphasis Area #3, Native American Crashes, of the CHSP. Action steps to support this strategy include:
1. Continue to work towards developing tribal-specific safety plans for reservations.
2. Establish clear objectives to promote safety throughout tribal communities.
3. Work with reservations to monitor, track, and update tribal safety plans.

The Montana Department of Public Health and Human Services (DPHHS) initiated a process to develop a five-year Strategic Prevention Enhancement (SPE) plan focusing on reducing suicide, underage drinking, adult binge drinking, and prescription drug abuse. Through this effort the SPE Consortium was formed for the purpose of mobilizing state agencies and tribal entities to better plan for and coordinate prevention activities across the state level. A planning document based upon a Public Health Model was developed. This initial document acknowledges the importance of the Interagency Coordinating Council (ICC) for State Prevention Programs to lead the next phase of planning. The ICC is comprised of Montana state agencies and organizations that work together to create and sustain a coordinated and comprehensive system of prevention services across the state.

The Public Health and Safety Division led the development of the Public Health Improvement Plan. This plan includes strategies to address underage drinking issues and adult binge drinking as public health issues. The plan is in its final review and will be available for the public in spring/early summer 2013.

Recommendations

- Create opportunities, possibly in conjunction with the annual Comprehensive Highway Safety Plan (CHSP) meeting, for emphasis team champions to share issues and programs and support linkages among the CHSP emphasis areas

- **Create planning links between the Comprehensive Highway Safety Plan and the Highway Safety Plan that would establish an understandable and useful planning stream leading from the establishment of State goals, through the selection and prioritization of strategies, to the selection and priority of traffic safety projects**

- Incorporate data elements from all facets of the impaired driving system (i.e., conviction rates, recidivism rates, outreach measures, etc.) into planning, problem identification and the project selection processes

- Develop tribal safety plans that include a strong component and specific actions to reduce impaired driving in the Native American communities

- Coordinate highway safety planning with health and human services planning to create consistent and compatible goals and high-level priorities for the State
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.⁷

Status

Montana is governed by a newly-elected governor, and Montana’s highway safety program is administered by a recently-appointed director of the Montana Department of Transportation (MDT). By his participation in the kick-off to Motorcycle Safety Awareness Month, the Governor has already indicated a willingness to use the bully-pulpit and publicly advocate for highway safety issues.

MDT administers the State highway safety program through the Montana State Highway Traffic Safety Section (SHTSS – formerly the State Highway Traffic Safety Office). SHTSS operates within the Grants Bureau of the Rail, Transit & Planning Division of MDT. The Director of MDT serves as the Governor’s Highway Safety Representative (GR). The Director is the former colonel of the State Highway Patrol and so has extensive background, interest in, and understanding of highway safety issues. It is expected that he will continue to serve as a champion, spokesperson, and leader for highway safety in his new position with the MDT.

SHTSS is composed of the state highway traffic safety supervisor, seven planners, and one account technician. (See organizational chart below.) One planner is the Impaired Driving Traffic Safety Planner, dedicated solely to impaired driving projects. Another

The Impaired Driving Traffic Safety Planner serves as a focal point for impaired driving projects and information. The manager’s responsibility is to help plan, program, and evaluate the use of highway safety funds for impaired driving. This manager serves as the primary liaison with the Comprehensive Highway Safety Plan (CHSP) “champion” to provide information and support for the impaired driving element of the CHSP. Working with other partners outside MDT as well as the program management team within SHTSS, the manager helps develop, implement, and monitor the highway safety funded impaired driving projects.

SHTSS provides easy access to application forms and instructions. Online capability to submit applications, reports, or requests for reimbursement is currently not available. Initial planning has begun to implement an e-grants system for grants programs within MDT. In addition, subgrantees have access to a “Contract Management Manual” (June
This manual provides clear information and instruction to appropriately manage federal traffic safety funds.

SHTSS implements a two-pronged approach to project solicitation. State procurement requirements are followed, and requests for proposals are issued for contracts for services, such as the procurement of a media contractor.

For grant projects, in addition to posting information on the SHTSS website, SHTSS emails solicitation information to known stakeholders. Additional proposals are requested during the annual CHSP meeting. Proposers are encouraged to submit projects consistent with the strategies developed through the CHSP process. There is no set process to analyze proposals in conjunction with the CHSP. Different project review methods have been tried during the annual CHSP meeting, including proposer presentations and voting in conjunction with poster sessions.

The proposal solicitation, analysis, and selection process is not totally transparent. It is not obvious how funded projects meet the highest priorities in the State. Proposal review is conducted primarily by a team of SHTSS staff members. From submitted proposals, a matrix is developed and recommendations submitted to the Governor’s Highway Safety Representative/MDT Director for final selection for the Highway Safety Plan. Discussions between the SHTSS and subgrantees are conducted throughout proposal submission and project selection. This process has a tendency to favor existing partners over the development of new partners and programs around the State.

There is tribal participation in the proposal submission and selection process, particularly for law enforcement and public information and education. MDT sets aside a budget amount for Safe on All Roads (SOAR), a program specific to the tribes. A tribe can apply for a SOAR grant within this budget amount. If budgets go beyond the planned amount, the project then has to compete with other highway safety projects. A typical grant amount for a tribe is $40,000 with most of those funds paying for the SOAR coordinator’s salary and expenses. Activities conducted in the SOAR program are primarily public information and education with networking and collaboration. These activities are more fully discussed in subsequent sections of the assessment.

Current grant guidelines do not permit multi-year grants. During the assessment, interest was expressed in multi-year grant agreements for easier planning, paperwork reduction, and continuity of funding. Current grant guidelines also do not require subgrantees to have a seat belt policy as a condition for receiving a grant.

For project proposals, SHTSS requires applicants to provide information on problem identification, goals, objectives, implementation, evaluation, and project sustainability. Objectives are a required component in all project proposals. It is not clear how performance measures factor into proposal development, project selection, and final evaluation.
Project monitoring is the responsibility of SHTSS staff members who conduct some on-site reviews as time permits or circumstances require. With limited staffing, monitoring primarily consists of desk reviews of submitted reports. In some circumstances, cost reimbursement is not dependent on submission and acceptance of a project report. When monthly reimbursement is combined with quarterly reporting, a subgrantee may receive at least two months of reimbursement before having documented the work or evidencing any results for funds expended.

SHTSS provides information and support to subgrantees and community programs. Assistance is provided primarily during meetings, conferences, and through other communications with program personnel. Travel and training costs may be reimbursable to project managers and other highway safety personnel for management training in support of impaired driving programs and projects. However, there does not appear to be routine or formal training in traffic safety problem identification, project development, and grant management.

**Recommendations**

- Involve the Governor and/or the Governor’s Highway Safety Representative in high-profile activities and leadership events in support of the impaired driving program

- Plan and implement an electronic grants system to provide more efficient and effective submission of proposals and grant reporting and monitoring

- Enhance the traffic safety project solicitation, review, and selection process by implementing the following activities:
  
  Expand the outreach of project proposal solicitation for traffic safety grant-funded projects, including among the Montana tribes

  Implement methodology to establish priorities for and determine selection of projects


  Communicate the process and project selection criteria to existing and potential program participants

- Implement multi-year grants, where feasible, to create efficiencies in program management
• Ensure performance measures are incorporated into the entire traffic safety grants process from beginning to end -- identifying expected performance measures, determining the value of these measures in project selection, and using these measures to compare actual versus planned performance to analyze and report on project results

• Require performance reports to support all reimbursement requests

• Develop and implement routine training for program and project managers to enhance the skills in problem identification, project development, and program management

• Require all highway safety subgrantees to have an agency seat belt policy as a condition for receiving grant funds
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

Examples presented during the assessment illustrate the increasing need for additional resources for the impaired driving program in the State. Some of these examples include the high demand for more enforcement due to problems in the oil fields of eastern
Montana, a proposed transition to all new breath test instruments for the alcohol testing program, and the need for additional DUI courts. The current federal budget sequester has not as yet impacted the federal highway safety program allocations to the states. However, federal and state funding availability for various impaired driving-related programs, in general, is in decline. Federal highway safety funds provide important assistance, but they do not and cannot come close to meeting all the needs in the State.

Montana Department of Transportation (MDT)

MDT is the parent organization for the federally-funded highway safety program. In support of the program, MDT provides several services, including information technology resources, legal counsel, and human resources. MDT also fosters a team approach so that the various safety programs work together, and there are financial teams that will help with ideas and resolving issues.

MDT also has a largely untapped resource in their district office personnel. Currently, districts are solely dedicated to construction. There is no participation in other MDT non-engineering programs and no district participation in DUI task forces. As state employees who live and work throughout the state, MDT staff participation in local highway safety efforts can boost every program effort. The districts will be receiving more information about non-construction agency responsibilities and programs.

DUI-related Fees and Fines

Montana is one of the few states in the country which, by law, assesses a portion of fee revenue specifically to impaired driving programs. Under Montana law (MCA 61-2-107), a portion of the license reinstatement fee is earmarked to fund county drinking and driving prevention programs:

(1) Notwithstanding the provisions of any other law of the state, a driver's license that has been suspended or revoked under 61-5-205 or 61-8-402 must remain suspended or revoked until the driver has paid to the department a fee of $200 in addition to any other fines, forfeitures, and penalties assessed as a result of conviction for a violation of the traffic laws of the state.

(2) The department shall deposit one-half of the fees collected under subsection (1) in the general fund and the other half in an account in the state special revenue fund to be used for funding county drinking and driving prevention programs as provided in 61-2-108.

Due to this legislation, between $500,000 and $550,000 becomes available per year for the task forces. From this source, most task forces receive about $3000. The highest award is approximately $100,000 for two of Montana’s most populated counties: Yellowstone and Missoula Counties. The lowest allocation would be $100, but this amount is not sufficient to undergo the application process. The law does not allow reallocation of those funds for which there is no application from a county; these get returned to the General Fund. Because these funds are specific for counties, tribal DUI
task forces are not eligible to apply for them. This funding provides support for 32 county DUI task forces.

DUI penalties also provide a source of revenue for the State, with a fine structure as follows:

<table>
<thead>
<tr>
<th>Penalties</th>
<th>1st Conviction</th>
<th>2nd Conviction</th>
<th>3rd Conviction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jail</td>
<td>Minimum incarceration time listed must be served in jail, not under house arrest, and cannot be suspended.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>DUI (MCA 61-8-410)</td>
<td>24 hours – 6 months</td>
<td>7 days - 1 year</td>
<td>30 days – 1 year</td>
</tr>
<tr>
<td>BAC (MCA 61-8-406)</td>
<td>Up to 6 months</td>
<td>5 day – 1 year</td>
<td>30 days – 1 year</td>
</tr>
<tr>
<td>Fine (exclusive of court costs)</td>
<td>$300-$1,000</td>
<td>$600-$1,000</td>
<td>$1,000-$5,000</td>
</tr>
</tbody>
</table>

Fines and jail time typically double if passengers under the age of 16 were in the vehicle at the time of the arrest.

Federal Highway Safety Grant Funding

Sections 402 and 410. For FFY 2012 the State planned over $1.8 million to alcohol traffic safety projects. This amount represents 23 percent of NHTSA-funds allocated to the State.

<table>
<thead>
<tr>
<th>SAFETEA-LU</th>
<th>402</th>
<th>410</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impaired Driving</td>
<td>226,581</td>
<td>1,578,726</td>
<td>$1,805,308</td>
</tr>
</tbody>
</table>

In FFY 2012, $2.67 million were expended on all projects that included an impaired driving emphasis which also included other priority areas such as occupant protection and speed enforcement. The majority of these funds were spent on DUI Court Implementation ($429,937), Selective Traffic Enforcement ($697,397), Montana Highway Patrol Roving Patrols/Safety Enforcement Traffic Team ($497,764) and Media ($355,802).

The emphasis on impaired driving increased significantly for FFY 2013 with amounts planned as follows:

<table>
<thead>
<tr>
<th>FFY 2013 Alcohol-funded Projects</th>
<th>Section 410</th>
<th>Section 402</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic Safety Resource Prosecutor</td>
<td>$ 162,000</td>
<td>$ 18,000</td>
</tr>
<tr>
<td>DUI Court Training</td>
<td>$ 16,000</td>
<td></td>
</tr>
<tr>
<td>DUI Court Implementation</td>
<td>$ 570,778</td>
<td>$ 88,860</td>
</tr>
<tr>
<td>Selective Traffic Enforcement Program</td>
<td>$ 311,950</td>
<td></td>
</tr>
<tr>
<td>Strategic Traffic Enforcement Team</td>
<td>$ 482,796</td>
<td></td>
</tr>
<tr>
<td>Traffic Safety Resource Officer</td>
<td>$ 130,000</td>
<td></td>
</tr>
</tbody>
</table>
SFST, ARIDE, and DRE Training $ 81,600
Media $ 795,000
Safe on All Roads $ 150,000
Planning and Administration $ 104,486
Program and Operational Costs $ 21,000
Indirect Cost for MDT (11.08%) $ 330,750
TOTALS $ 3,156,360 $ 106,860

The State Highway Traffic Safety Section (SHTSS) has been recognized for their programming of carry forward funds. At the same time, based on the financial information in the FFY 2013 Highway Safety Plan, federal carry-forward alcohol funds represent a significant resource which would allow for the implementation of priority projects. Carry forward funds are as follows:

<table>
<thead>
<tr>
<th>Program Area Current</th>
<th>Current Fiscal Year Funds</th>
<th>Carry Forward Funds</th>
<th>Carry Forward / Current Fiscal Year Funds (Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alcohol (402-AL)</td>
<td>$ 141,096</td>
<td>$ 129,687</td>
<td>92%</td>
</tr>
<tr>
<td>Total 402</td>
<td>$1,761,525</td>
<td>$ 896,591</td>
<td>51%</td>
</tr>
<tr>
<td>410 SAFETEA-LU</td>
<td>$ 953,248</td>
<td>$1,389,682</td>
<td>146%</td>
</tr>
<tr>
<td>410 High Fatality (K8FR)</td>
<td>$1,484,455</td>
<td></td>
<td></td>
</tr>
<tr>
<td>410 High Visibility (K8HV)</td>
<td>$ 846,329</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTALS</td>
<td>$2,856,822</td>
<td>$4,746,744</td>
<td></td>
</tr>
</tbody>
</table>

Program Income. Federal regulations for the Section 402 Highway Safety Program allow a subgrantee to generate program income as long as certain conditions are met and the project accounts for those funds. Because of an historic problem with an abuse of program income, SHTSS subsequently prohibited subgrantees from generating program income. As other funding sources become increasing difficult to access, program income might be an option to help sustain select program efforts.

Section 405. Under Moving Ahead for Progress in the 21st Century (MAP-21), Montana is considered a “high range” state (one that has an average impaired driving fatality rate of 0.60 or higher), and expects to qualify for an impaired driving incentive grant under Section 405 of MAP-21. Unfortunately, due to transitioning from a “high risk state” under the former Section 410 impaired driving incentive program to MAP-21, the State expects to receive approximately $1.0 million less in impaired driving funds.

Section 164. In 2009, the National Highway Traffic Safety Administration made a determination that Montana law did not meet the requirements of 23 USC Section 164 “Repeat Offender” because it did not meet ignition interlock program requirements or the
“impoundment, immobilization or installation” requirements of Section 164. By not meeting these requirements, a mandatory transfer of funds is required to the State’s hazard elimination program or highway safety. The amount of FFY 2013 Section 164 funds is $25,739,845, 100 percent of which the State has determined will be transferred to the hazard elimination program. The State has the option of allocating some of these funds to highway safety behavioral projects, including projects for impaired driving.

Bureau of Indian Affairs (BIA). The BIA administers its own stream of Section 402 funds granted which are specific for tribal traffic safety projects. Montana tribes are eligible for these funds which can be a helpful resource for a tribe. According to the BIA, BIA traffic safety assistance is being provided to five of the seven tribes in Montana. Under the FFY 2013 BIA Highway Safety Plan, the funding for these tribes is as follows:

### FY 2013 BIA Traffic Safety Program for Montana Tribes

<table>
<thead>
<tr>
<th>Montana Reservation</th>
<th>402 funding amount</th>
<th>Funds for impaired driving, occupant protection, and speed enforcement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rocky Boy</td>
<td>$110,000</td>
<td>One highway safety officer</td>
</tr>
<tr>
<td>Fort Belknap</td>
<td>$65,000</td>
<td>Overtime for mobilizations</td>
</tr>
<tr>
<td>Fort Peck</td>
<td>$235,000</td>
<td>Two highway safety officers and one full time data clerk/project coordinator</td>
</tr>
<tr>
<td>Crow</td>
<td>$105,000</td>
<td>One highway safety officer</td>
</tr>
<tr>
<td>Northern Cheyenne</td>
<td>$125,000</td>
<td>One highway safety officer</td>
</tr>
</tbody>
</table>

BIA is also supporting four Blood Alcohol Testing (BAT) mobiles for the tribes in South Dakota, Oklahoma, Albuquerque, and Billings. Coordination of these resources with other partners, such as the courts and other law enforcement, may not be sufficient to assist those partners who could benefit from and need this information.

### Other Federal and State Funding

Unfortunately, Enforcing Underage Drinking Laws (EUDL) funds have significantly dropped. For SFY 2013 - 2014 (July 1, 2012 – December 31, 2013), EUDL funding totals $623,579 using 2010 and 2011 funds. Awards were made on June 10 and December 16th, 2011. Montana did not receive any Federal EUDL funds in 2012 nor is any expected in 2013. All EUDL funds for Montana are set to expire on December 31, 2013.

Funding for prevention programs, including underage drinking prevention, is an important resource in the State. For example, testing fees allow the “24/7” program to be considered self-sufficient. Liquor sales and services fees and taxes are a major resource, allowing the liquor control program within the Department of Revenue to be self-funded. These are discussed in Section II Prevention of this assessment.
Tribes also receive funding from several other agencies that support highway safety efforts. These are too numerous to enumerate in this report.

Private and Other Resources

As public funding sources fluctuate, private and other sector resources are likely to become more critical to the support of impaired driving reduction efforts. Private resources seem to be largely untapped. One of the few examples of business/corporate support provided during the assessment was the donation of 30,000 McDonald’s coupons last year and another 40,000 this year as incentives to reward safe driving behavior and participation in events.

Montana’s top employers that might be resources for the State’s impaired driving efforts are as follows (Source: Montana Department of Labor & Industry):

<table>
<thead>
<tr>
<th>Business Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albertson’s</td>
</tr>
<tr>
<td>Avitus Group</td>
</tr>
<tr>
<td>Benefis Healthcare</td>
</tr>
<tr>
<td>Billings Clinic Health System</td>
</tr>
<tr>
<td>Bozeman Deaconess Hospital</td>
</tr>
<tr>
<td>CHS Inc. (Cenex Harvest States)</td>
</tr>
<tr>
<td>Costco</td>
</tr>
<tr>
<td>DIRECTV Customer Service</td>
</tr>
<tr>
<td>First Interstate Bank</td>
</tr>
<tr>
<td>Glacier Bancorp</td>
</tr>
<tr>
<td>Kalispell Regional Medical Center</td>
</tr>
<tr>
<td>Missoula Community Medical Center</td>
</tr>
<tr>
<td>Northwestern Energy</td>
</tr>
<tr>
<td>St. Patrick Hospital</td>
</tr>
<tr>
<td>St. Peter's Hospital</td>
</tr>
<tr>
<td>St. Vincent Hospital</td>
</tr>
<tr>
<td>Stillwater Mining Company</td>
</tr>
<tr>
<td>Town Pump</td>
</tr>
<tr>
<td>Wal-Mart</td>
</tr>
<tr>
<td>Wells Fargo</td>
</tr>
</tbody>
</table>

There are an estimated 68 casinos in the State. An estimated nine casinos are on the reservations. Federal law requires each tribe to negotiate a gaming compact with the state defining the games played at the casino and the share of the revenue paid to the State. Several of the compacts between Montana and the tribes have expired and are in negotiation.

Montana has more than 1,600 licensed gambling operators and locations that offer more than 17,000 video gambling machines to the public. There are legal gambling establishments in every county in the state. (Source: Montana Department of Justice) According to the Department of Justice, Gambling Control Division, “Biennial Report
Fiscal Years 2011 – 2012, a total of $14.34 million and $14.30 million in video gambling machine (VGM) taxes were collected for the third and fourth quarters of 2012, increases of 17.67 percent and 12.03 percent over the same periods in FY 2011. VGM Gross Income Tax generated $53.73 million in FY2012 to the General Fund. In addition, $1.78 million was distributed to local government from all gambling taxes and fees. Given that gambling establishments are potential sources of impaired driving problems, some of these resources could help address drinking and driving for the gambling customers and their communities.

Because there are so many different and unlinked funding streams from different sources, it is difficult to determine the full extent of resources available to the state or to a community. There is no single source in the State that identifies and collects information on the availability, distribution and use of impaired driving resources.

**Recommendations**

- Determine the availability of and gaps in resources for impaired driving efforts including the identification of funding streams and the sources, amounts, and potential uses of resources and funding streams

- Develop a resource directory of available resources and make this readily available to all impaired driving partners

- Increase coordination among all resource providers, especially those providing specific and dedicated highway safety funding such as the Bureau of Indian Affairs

- Gain participation and resource assistance from the major employers in the State

- Develop and implement a plan to generate and utilize additional resources from private and public sources, including federal transfer funds from Section 164

- Develop guidelines for the generation and use of program income for federal highway safety projects in the State
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

A common theme in the assessment presentations as well as in supporting documents describes a culture of tolerance, if not promotion of alcohol use in Montana. The Strategic Prevention Enhancement (SPE) Planning Document includes the following description:

The social context within which prevention planning will occur includes an environment where national survey data puts Montana in the spotlight as being #1 in nation for suicide and #1 for underage drinking. One has to consider the impact of that type of reputation on the will to change the social norms. Montanans would tell you that there’s a long-time social norm that alcohol consumption is a rite of passage. Is Montana resigned to this destiny?

Estimated per capita consumption of alcohol in Montana (2010) is well above the national average with Montana ranking among the highest consumption states. The consumption rate for the population age 14 and older was the equivalent of 2.88 gallons of ethanol compared to the national average of 2.26 gallons. Alcohol consumption in Montana is 21.5% greater than the national average. Nationally, alcohol consumption over the past decade was fairly steady with some decreases between 2007 and 2010. Montana has seen a similar trend in per capita consumption in recent years. (See Fig. 2-A-1) Per capita consumption estimates are based on taxed sales of alcoholic beverages up to 2010, the last year for which complete data were available.
The Department of Revenue, Liquor Control Division (LCD) administers Title 16, Chapters 1 through 6, Montana Code Annotated otherwise known as the Alcoholic Beverage Code (ABC). The ABC relates to the control, sale and distribution of alcoholic beverages.

Liquor licensing areas of responsibility include processing new retail, off-premises, wholesale and manufacturing license applications, transfer of existing licenses, license renewal applications, winery registrations and licenses, as well as vendor permits. This section is also responsible for monitoring the activities of existing licensees and permit holders, and for responding to issues arising from that activity and related infractions of law, rule, policy and procedure.

Alcoholic beverages for on-premise consumption are sold in licensed establishments. For off-premise use, distilled spirits are sold in State operated liquor stores. Beer and wine may be sold in licensed grocery and convenience stores.

In terms of underage drinking prevention, several presenters felt that Montana has come a long way in responsible alcohol sales and service training. An educational unit has been
established, and LCD has partnered with others who had mutual interests, e.g., licensed alcohol establishments, medical and health professionals and community coalitions. Less progress has been made in over-service.

During the 2011 Legislative session the Responsible Alcohol Sales and Service Act was passed which makes alcohol server training mandatory in the state of Montana. Alcohol server training offers education for retailers on selling and serving alcohol responsibly. Training promotes four key principles: eliminate selling to underage persons, eliminate secondary selling, eliminate selling to intoxicated customers, refuse altered or false identification, to help businesses operate within the constraints of the law, as well as protect their liabilities. Several companies have been approved by the state to provide alcohol sales and service training. The state also has its own alcohol sales and service training program called, Let's Control It. More than 450 certified state trainers teach the class across the state. No outcome evaluation of the server training program has been completed.

Montana has an open container law that defines an open container as a bottle, can, jar, or other receptacle that contains any amount of an alcoholic beverage that is open or has a broken seal or the contents of which are partially removed or are immediately capable of being consumed. The law prohibits possession of an open alcoholic beverage container by a person in a motor vehicle on a highway. The person in possession of the open container is issued a ticket and can be fined an amount not to exceed $100. Exceptions to the law include open containers stored in a locked glove compartment or open containers in a vehicle in which the operator is a hired driver. It is not clear that there is a requirement that the vehicle or driver must meet other legal requirements such as licensing requirements.

Montana has limited restrictions on happy hour. Though promotions, specials and games are not prohibited, licensed establishments may not sell liquor for less than the posted price (buy one, get one free). There are no restrictions regarding food and drink combinations. However, every promotional offer must be approved by the LCD prior to actually conducting the promotion.

Montana has inadequate dram shop statutes. Montana law (27-1-710) addresses civil liability for injuries or damages from an event involving alcohol consumption. The code limits liability for licensees except when a person or entity furnishes an alcoholic beverage to an underage consumer and the furnishing person knew that the consumer was underage or did not make a reasonable attempt to determine the consumer's age; the consumer was visibly intoxicated; or the furnishing person forced or coerced the consumption or told the consumer that the beverage contained no alcohol.

Civil actions are further limited by a provision that says that action may not be commenced against a person who furnished alcohol unless the person bringing the civil action provides notice of intent to file the action to the person who furnished the alcohol by certified mail within 180 days from the date of sale or service. The civil action must be commenced pursuant to this section within two years after the sale or service.
In addition, financial liability is limited to total liability for noneconomic damages not exceeding $250,000 and total liability for punitive damages not exceeding $250,000.

Montana has no statewide social host law though several municipalities have enacted ordinances. The immediate result of localized social host ordinances is that young drinkers plan parties in locations outside the jurisdiction covered by the ordinance. Another potential negative consequence is that local ordinances can decrease the state legislature’s interest in considering statewide legislation.

The Department of Revenue has no enforcement unit or investigation resources. In fact, administrative actions against licensees can be initiated only after law enforcement takes action. The Montana statutes provide authority to contract with the Department of Justice to carry out investigation and enforcement actions.

The price of alcohol has been shown to have a direct effect on consumption and alcohol-related health, criminal justice and other societal costs. Alcohol excise taxes are a major component of price. As shown in figure 2-A-2 Montana currently taxes distilled spirits and beer at rates above the national average while wine is taxed at a rate lower than the average.

<table>
<thead>
<tr>
<th>Montana</th>
<th>Table Wine Tax (Per Gallon)</th>
<th>Beer Tax (Per Gallon)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$6.75 (1)</td>
<td>$0.43</td>
<td>$0.43</td>
</tr>
<tr>
<td>U.S. Average</td>
<td>$4.26</td>
<td>$0.85</td>
</tr>
</tbody>
</table>

(1) Montana is a control state therefore excise tax rate is estimated.

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

Figure 2-A-3 shows the results of analysis of the impact of adding ten cents to each drink equivalent sold in one year in Montana. Based on 2010 alcohol sales, nearly 527 million drinks were sold in Montana. Even allowing for some decrease in sales due to the increased price, a ten cent tax would generate $48.6 million in new revenues.  

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8 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 2012-3-1. www.evalumetrics.org
Montana Alcohol Tax - Estimate of Revenues From "Dime a Drink"

<table>
<thead>
<tr>
<th></th>
<th>Approximate Annual Tax Revenues FY 2011</th>
<th>Gals. Of Bev.</th>
<th>Number of Drinks (2)</th>
<th>New Revenues From Dime a Drink Tax</th>
<th>Increase Unit Costs After Markup (3)</th>
<th>Percent Increase in Price (4)</th>
<th>Decreased Demand Due to Elasticity (5)</th>
<th>Adjusted New Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beer</td>
<td>$0.43</td>
<td>$12,745,253</td>
<td>29,640,123</td>
<td>$31,616,131</td>
<td>$0.20</td>
<td>14.39%</td>
<td>6.62%</td>
<td>$29,523,553</td>
</tr>
<tr>
<td>Wine</td>
<td>$0.43</td>
<td>$942,560</td>
<td>2,192,000</td>
<td>$5,611,520</td>
<td>$0.20</td>
<td>12.74%</td>
<td>8.79%</td>
<td>$5,118,278</td>
</tr>
<tr>
<td>Dis. Sp</td>
<td>$6.75</td>
<td>$12,202,677</td>
<td>1,807,804</td>
<td>$15,426,594</td>
<td>$0.20</td>
<td>11.98%</td>
<td>9.58%</td>
<td>$13,948,597</td>
</tr>
<tr>
<td>Total</td>
<td>$25,890,490</td>
<td>33,639,927</td>
<td>526,542,453</td>
<td>$52,654,245</td>
<td></td>
<td></td>
<td></td>
<td>$48,590,428</td>
</tr>
</tbody>
</table>

(1) Current rate
(2) Based on the following:
   Beer @ 12 ozs./drink
   Wine @ 5 oz.
   Dis. Sp. @ 1.5 oz.

(3) Markup = 100%
(4) Current Avg. Retail Price per Drink = Beer: $1.39, Wine: $1.57, Liquor: $1.67 (Based on total on- & off-premise sales divided by total consumption per Adams Beverage Handbooks, 2008).

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

- Establish liquor law enforcement capability in the Department of Revenue, Liquor Control Division
- Enact enhanced dram shop legislation
- Enact statewide social host legislation
- Conduct an outcome evaluation of the server training program to determine impact on sales to underage patrons and over-service to patrons of any age
- Increase the state excise tax on alcoholic beverages by ten cents per drink and dedicate a portion of revenues to alcohol abuse and impaired driving prevention and intervention programs
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**

Results from the Montana Youth Risk Behavior Survey indicate reported rates of use (lifetime and 30 day) and abuse (5 or more drinks on one occasion) of alcohol that are higher than national averages. In addition, Montana high school students were more likely to have their first drink before age 13. Of specific concern for this assessment is higher than national rates of self-reported driving when drinking and riding with a driver who had been drinking.

### High School YRBS
Montana 2011 and United States 2011 Results

**High School Youth Risk Behavior Survey**

<table>
<thead>
<tr>
<th>Question</th>
<th>Montana 2011</th>
<th>United States 2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rode with a driver who had been drinking alcohol one or more times (in a car or other vehicle during the 30 days before the survey)</td>
<td>26.1% (24.1–28.1)</td>
<td>24.1% (22.9–25.3)</td>
</tr>
<tr>
<td>Drove when drinking alcohol one or more times (a car or other vehicle during the 30 days before the survey)</td>
<td>10.6% (9.5–11.8)</td>
<td>8.2% (7.6–8.8)</td>
</tr>
<tr>
<td>Ever had at least one drink of alcohol on at least 1 day (during their life)</td>
<td>72.8% (70.8–74.6)</td>
<td>70.8% (69.0–72.5)</td>
</tr>
<tr>
<td>Drank alcohol for the first time before age 13 years (other than a few sips)</td>
<td>21.4% (19.7–23.1)</td>
<td>20.5% (19.2–21.8)</td>
</tr>
<tr>
<td>Had at least one drink of alcohol on at least 1 day (during the 30 days before the survey)</td>
<td>38.3% (36.2–40.5)</td>
<td>38.7% (37.2–40.3)</td>
</tr>
<tr>
<td>Had five or more drinks of alcohol in a row within a couple of hours on at least 1 day (during the 30 days before the survey)</td>
<td>25.2% (23.5–27.1)</td>
<td>21.9% (21.0–22.8)</td>
</tr>
<tr>
<td>Usually obtained the alcohol they drank by someone giving it to them (among students who currently drank alcohol during the 30 days before the survey)</td>
<td>34.1% (31.4–36.9)</td>
<td>40.0% (37.5–42.5)</td>
</tr>
</tbody>
</table>

Montana education standards call for K-12 traffic safety education with appropriate emphasis on underage drinking and impaired driving as part of state learning standards in health education programs. The Office of Public Instruction is in the process of revising health education standards. This provides an opportunity to include impaired driving, underage drinking and substance abuse related content.

Prevention science has identified a number of risk factors that predict a greater chance of alcohol and other substance use and protective factors that predict a lower probability of
alcohol and substance use. The Montana Prevention Needs Assessment (PNA) measured these factors and found that several were prevalent among students. More than half (55.3%) of 12th grade students scored above the risk level on the factor, “parental approval of anti-social behavior.” These students do not believe their parents disapprove of them engaging in such behaviors as stealing, fighting or skipping school. More than half (50.5%) scored at the risk level for the factor, “perceived parental approval of drug use.” These students report that their parents do not disapprove of them drinking alcohol, smoking marijuana or, in some cases, using other drugs. Half of 12th grade students are at risk from perceived, “norms and laws that favor substance use.” These students believe that adults in their community believe alcohol and substance use by young people are not wrong and that substance use is the norm.

These results indicate a need to address alcohol use and underage drinking and specifically, to implement prevention strategies that will reduce risk factors by changing parental and community attitudes and norms and young people’s perceptions of these norms. A major challenge when implementing prevention strategies targeting parents is to secure parent participation.

School budget constraints and time demands to meet core standards have all but eliminated school-based prevention programs that require classroom time.

There are several evidence-based prevention programs that address parental norms. For example, Family Matters is a family-directed program to prevent adolescents 12 to 14 years of age from using tobacco and alcohol. The intervention is designed to influence population-level prevalence and can be implemented with large numbers of geographically dispersed families. The program encourages communication among family members and focuses on general family characteristics (e.g., supervision and communication skills) and substance-specific characteristics (e.g., family rules for tobacco and alcohol use and media/peer influences). Other programs can be reviewed on the National Registry of Evidence-based Programs and Practices (NREPP) a searchable online registry of mental health and substance abuse interventions that have been reviewed and rated by independent reviewers.

The Montana PNA found that Native American students reported rates of substance use similar to other groups though alcohol use rates are slightly higher. There are several evidence-based prevention programs that have been developed or tested specifically for Native American populations at the national level. For example, the Red Cliff Wellness School Curriculum is a substance abuse prevention intervention based in Native American tradition and culture. Designed for grades K-12, the curriculum aims to reduce risk factors and enhance protective factors related to substance use, including school bonding, success in school, increased perception of risk from substances, and identification and internalization of culturally based values and norms. Though the Red Cliff program is on NREPP, implementation in Montana might require adaptation to tribal cultural norms.
White Bison is another Native American program available to tribes offered by a not for profit organization located in Colorado Springs. Prevention and treatment programs are a part of a larger wellness/wellbriety model.

Approximately two thirds of all Montana schools offer driver education. In addition, alcohol and other drugs are a component of both health and driver education classes.

While some schools have retained School Resource Officers, budget cuts have led to elimination of these positions in many schools. State and local law enforcement officers participate in numerous school-based prevention presentations and demonstrations.

All incoming freshmen at Carroll College complete AlcoholEdu an online course on alcohol and college related issues. The colleges prevention plan also includes prevention workshops and trainings throughout the year, and a one-hour course called "Thriving" for all freshman. The college has instituted a six-hour educational seminar for students with alcohol violations. Also part of Carroll's plan is its campus-wide assessment of campus alcohol use and assessment of policies and practices to address alcohol use. The college's plan also includes collaboration with local law enforcement agencies and school districts to prevent access to alcohol, and the popular Arrive Alive free cab service to reduce drinking and driving. Carroll's social marketing campaign is meant to let students know that choosing to go alcohol-free is a popular choice, with the college's Student Activities Office scheduling over 200 alcohol-free events during the academic year, including this spring's junior-senior banquet.

University of Montana alcohol policies allow the use of alcohol on campus, in dorms and at sporting events, e.g. tailgating. Detailed policies define conditions under which alcohol may be sold and/or consumed. This includes compliance with all state laws including minimum age 21. In 2010, the University President signed the Amethyst Initiative, a national movement in which some college and university presidents promoted repeal of the 21 year old drinking age. According to the *University of Montana Drug and Alcohol Biennial Review 2008-2010*, the University’s 2009 Foresters’ Ball resulted in several alcohol-related incidents including eight emergency transports to a local hospital because of alcohol poisoning. As a result, University alcohol policies were reviewed. The review recognized that traditions are resistant to change and no substantial changes were identified. The University has established a Drug and Alcohol Advisory Committee that has developed a strategic plan with goals including:

1. Reduce negative consequences related to student use of alcohol, tobacco, and other drugs (ATOD)
2. Reduce high-risk and illegal alcohol use among students
3. Reduce tobacco and other drug use among students

And long term impacts that include:

1. Reduced reports of binge drinking
2. Reduced reports of underage alcohol use
3. Reduced tobacco and illicit drug use
4. Reduced rates of ATOD-related injury, crime, violence, and other risky behavior

Montana State University Alcohol and Other Drug (AOD) Prevention Programs include promotion of an online alcohol self-screening tool and training of student health clinic staff to screen students for substance use and make appropriate referrals. Other activities include substance use information dissemination through both traditional (pamphlets/brochures/posters) and non-traditional means (internet) and participation in campus/community coalition to review alcohol policy issues.

There is no active consortium of college substance abuse or impaired driving prevention programs to share successful programs and collaborate on resources and programing.

The website www.collegedrinkingprevention.gov, created and supported by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) offers a variety of tools and materials for college campuses to use in combating alcohol abuse, binge drinking and underage drinking. The site includes access to material related to campus policies, education and intervention strategies and other resources.

Recommendations

- Include current, Montana-specific impaired driving and underage drinking information in the school health standards
- Implement evidence-based alcohol and substance abuse prevention strategies in schools
- Implement family/parent oriented evidence-based prevention strategies in schools and communities
- Establish a consortium of college alcohol and substance abuse and impaired driving prevention programs
B-2 Employers

Advisory

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

These programs should include:

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

- Employee awareness and education programs;

- Management training to recognize alcohol and drug use and abuse, and appropriate responses;

- Screening and Brief Intervention, assessment and treatment programs for employees identified with alcohol or substance use problems (These services can be provided by internal or outside sources such as through an EAP with participation required by company policy.);

- Underage drinking and impaired driving prevention strategies for young employees and programs that address use of prescription or over-the-counter drugs that cause impairment.

Status

Montana does not have a comprehensive coordinated employer traffic safety program. Such programs have been discontinued for lack of resources and because of the trend away from employment in manufacturing and other large employers.

Traffic safety, alcohol abuse and impaired driving are addressed in other employer services.

Employee Assistance Programs (EAPs) are programs offered by many employers to help employees deal with personal problems that might adversely impact their work performance, health and well-being. EAPs generally include short-term counseling and referral services for employees and their household members. By addressing alcohol and substance abuse, EAPs have an indirect effect on impaired driving. In addition, on-the-job driving incidents can serve as the event that leads to an intervention into alcohol or substance abuse.
All companies that provide any goods or services to federal government agencies or are paid with federal funds are required to implement a Drug Free Workplace Program. These programs include drug use policies, employee education and drug testing.

**Recommendations**

- Provide timely, accurate and local impaired driving information for use in Drug Free Workplace programs and employee assistance programs.
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;
- 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

Montana law allows a county with a drinking and driving prevention program to receive 50 percent of drivers license reinstatement fees associated with motor vehicle infractions, such as DUI, collected in that county (61-2-1, MCA). DUI Task Forces are tasked to implement programs that will prevent driving while under the influence of alcohol; reduce alcohol-related traffic crashes; and educate the public on the dangers of driving after consuming alcoholic beverages or other chemical substances that impair judgment or motor functions.

Many of the task forces address the underage component of DUI with a number of programs. The most common are Responsible Alcohol Sales & Service (RASS) trainings for retailers and establishments and the companion program, alcohol compliance checks.
With the passage of SB 29 by the 2011 Montana Legislature, many DUI Task Forces ramped up to provide an increased frequency of RASS classes to meet the increased demand for the training.

In SFY 2013, there are 32 county task forces serving 36 counties (Prairie County has requested to join the Tri-County Task Force serving Custer, Powder River, and Rosebud Counties in southeastern Montana), and one known tribal task force. Judith Basin County disbanded their DUI Task Force during FFY 2012. However, Toole County came on board that year as a result of their participation in a community transportation safety planning process.

Blaine and Stillwater Counties are currently inactive, but have indicated a desire to rejuvenate DUI Task Forces in their respective counties. Efforts continue to reach out to several of the counties that don’t have DUI Task Forces, such as Granite, Musselshell, Glacier, Liberty, and Valley.

MDT serves as the funding pass-through agency for the DUI Task Forces. The Governor’s Representative for Highway Traffic Safety reviews and approves the county annual task force plans. The tribal DUI task forces are funded through other revenue streams.

Montana has numerous community-level coalitions directly or indirectly addressing prevention of impaired driving, underage drinking and/or alcohol and substance abuse. There are nine Drug Free Communities Grant funded coalitions and four Sober Truth on Preventing Underage Drinking Act (STOP-ACT) projects in coalitions. While the state’s Strategic Prevention Planning-State Incentive Grant (SPF-SIG) grant expired in 2011, the Confederated Salish and Kootenai Tribes have a SPF-SIG grant to facilitate the effective design and development of increased system capacity, individual and organizational expertise and motivation. The programmatic efforts will strengthen the essential networking of systems necessary for sustainable infrastructure building with the Salish and Kootenai.

Community coalitions in Montana are active in promoting alcohol and drug-free events throughout the year. Montana coalitions have promoted or conducted activities including: alcohol-free seating for youth at the rodeo, parent letters for prom, agreement with local screen printers to cease selling T-shirts and posters with messages that promote underage drinking including senior keggers, promoted a social host ordinance in Helena, provided the Alive at 25 program in partnership with the Montana Highway Patrol, arranged free trolley rides for youth to safe alcohol-free locations, and sponsored dodge ball and toilet paper volleyball events.

Coalitions have also conducted social norms campaigns and safe rides programs for college youth and a 211 Program with toolkits for concerned parents.

In 2012, coalitions implemented Above the Influence in three communities. The program, originally developed by the Partnership for a Drug-free America, uses young people to
develop and produce multi-media messages that promote self-assurance and resistance to influence from negative sources. The Montana contingency of the Above the Influence youth organization, met for the Butte Cares, Mariah's Challenge, Above the Influence Leadership Conference in Butte. One workshop resulted in the PSA, "Harmful Shake." The program has now expanded to 28 communities.

Coalitions are investigating the use of social media to involve and engage youth. The State is looking for resources to address social media and youth.

Law enforcement is involved in most coalitions.

At the state level, recent activities have resulted in valuable resources for community coalitions.

In September 2011, the Addictive and Mental Disorders Division, within the Department of Public Health and Human Services, was awarded a planning grant to mobilize state agencies and tribal entities to better plan for and coordinate prevention activities to address four specific health areas. The four areas are: 1) to build emotional health; 2) to prevent and reduce the consequences of underage and adult problem drinking; 3) to reduce prescription drug misuse and abuse; and 4) to prevent suicide and attempted suicide in the general population and populations at-risk including military families, lesbian, gay, bi-sexual, transgender and questioning (LGBTQ) populations and American Indians.

Twelve state agencies and three tribal entities participated in the 16- month process. Tribal participation in the Consortium fell to four members representing two of the tribes (the Confederated Salish and Kootenai Tribes of the Flathead Reservation and the Chippewa Cree Tribe of the Rocky Boy's Indian Reservation) and the Montana/Wyoming Tribal Leaders Council. There are current formal relationships among tribes. The Tribal Leaders Council represents all of the tribes and provides a means of communication with tribal leadership.


Montana has established the Interagency Coordinating Council (ICC) for State Prevention Programs with a mission to create and sustain a coordinated, comprehensive system of prevention services in the state of Montana. Strategies to achieve ICC mission and goals include:

- Coordinate - Share information and bring together multi-agency practices and policies for a harmonized state-wide approach to prevention
- Plan - Annually plan how the Council will support a multi-agency approach to develop, implement, maintain and evaluate prevention programs
• Budget - Prepare and present a Unified Budget for those prevention programs that meet the five ICC goals
• Evaluate - Use benchmarks to measure the effectiveness and sustainability of Prevention programs
• Education - Facilitate statewide recognition that the council is the vehicle that unites Montana Agencies in their focus on prevention

Montana established the State Epidemiology Workgroup to conduct a state level needs assessment for alcohol, tobacco, and other illicit drugs.

There appears to be a need for greater collaboration between traffic safety and substance abuse prevention coalitions at the local level. For example, one tribal community has a traffic safety coalition with support from the Montana Department of Transportation. The same tribe has three federal grants for Strategic Prevention Framework, School Prevention Services, and Suicide Prevention. These grants provide over $1,000,000 annually. Collaboration among these projects would result in far greater impact and increase the potential for sustainability.

The complexity of programs and funding sources is indicative of a need to map resources across organizations and disciplines.

Recommendations

• Ensure that highway safety and health professionals collaborate in all local, regional and state traffic safety, substance abuse, underage drinking and health and wellness task forces

• Determine the availability of and gaps in resources for impaired driving efforts including the identification of funding streams and the sources, amounts, and potential uses of resources and funding streams

• Develop a resource directory of available resources and make this readily available to all impaired driving partners

• Provide technical assistance to community coalitions in maximizing utilization of the strategic plan and resources of the Interagency Coordinating Council (ICC) for State Prevention Programs
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

Montana places an emphasis on designated driver and alternative transportation programs. Local DUI task forces and other coalitions support alternative transportation programs. College and universities have safe ride programs; and, in at least one case, students are provided with rides to and from area bars or parties. Transporting students to bars or parties is a risky practice that enables underage drinking and excessive alcohol consumption.

Recommendations

• Ensure that all designated driver programs stress “no use” of alcohol messages for the designated driver.

• Ensure alternative transportation programs do not encourage or enable excessive drinking.

• Ensure that both designated driver and safe ride programs prohibit consumption of alcohol by underage individuals or unintentionally promote over-consumption.
III. Criminal Justice System

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

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

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

A. Laws

Advisory

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

The offenses should include:

- Driving while impaired by alcohol or other drugs (whether illegal, prescription, or over-the-counter), and treating both offenses with similar consequences;

- A Blood Alcohol Concentration (BAC) limit of 0.08, making it illegal per se to operate a vehicle at or above this level without having to prove impairment;

- Zero Tolerance for underage drivers, making it illegal per se for persons under age 21 to drive with any measurable amount of alcohol;

- High BAC (e.g., 0.15 or greater), with enhanced penalties above the standard impaired driving offense;

- Repeat offender, with increasing penalties for each subsequent offense;
• **BAC test refusal**, with administrative sanctions at least as strict as the state’s highest BAC offense;

• **Driving with a license suspended or revoked for impaired driving (DWS), vehicular homicide or causing personal injury while driving impaired as separate offenses**, with additional penalties;

• **Open container**, which prohibits possession or consumption of any open alcoholic beverage in the passenger area of a motor vehicle located on a public highway or right-of-way; and

• **Primary seat belt provisions** that do not require that officers observe or cite a driver for a separate offense other than a seat belt violation.

**Facilitate effective enforcement by enacting laws that:**

• **Authorize law enforcement to conduct sobriety checkpoints**, in which vehicles are stopped on a nondiscriminatory basis to determine whether operators are driving while impaired by alcohol or other drugs;

• **Authorize law enforcement to use passive alcohol sensors** to improve the detection of alcohol in drivers;

• **Authorize law enforcement to obtain more than one chemical test** from an operator suspected of impaired driving, including preliminary breath tests, evidentiary breath tests and screening and confirmatory tests for alcohol or other impairing drugs;

• **Authorize law enforcement to collect blood sample by search warrant** in any chemical test refusal situation, consistent with other provisions of criminal jurisprudence which allows body fluids to be collected as evidence of a crime; and

• **Require mandatory BAC testing** of drivers involved in fatal and serious injury producing crashes.

**Effective criminal penalties and administrative sanctions should include:**

• **Administrative license suspension or revocation (ALR), for failing or refusing to submit to a BAC or other drug test**;

• **Prompt and certain administrative license suspension** of at least 90 days for first offenders determined by chemical test(s) to have a BAC at or above the State’s per se level or of at least 15 days followed immediately by a restricted, provisional or conditional license for at least 75 days, if such license restricts the offender to operating only vehicles equipped with an ignition interlock;
• Enhanced penalties for test refusals, high BAC, repeat offenders, driving with a suspended or revoked license, driving impaired with a minor in the vehicle, vehicular homicide or causing personal injury while driving impaired, including: longer license suspension or revocation; installation of ignition interlock devices; license plate confiscation; vehicle impoundment, immobilization or forfeiture; intensive supervision and electronic monitoring; and imprisonment;¹

• 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:

  o supervision of out-of-state offenders;

  o proven technology (e.g., ignition interlock device, electronic confinement and monitoring) and its capability to produce reports on compliance;

  o impaired driver tracking systems; and

  o periodic reports on offender compliance with administrative or judicially imposed sanctions;

• Driver license suspension for persons under age 21 for any violation of law involving the use or possession of alcohol or illicit drugs; and

• Statutory and rule support for DWI Courts as a sentencing alternative for persistent DWI offenders.

Status

The laws of Montana, like the laws of other states, must be consistent and permitted by the constitution of the state. The Montana State Constitution is notable in its phrasing and recognition of the balance between the individual and society’s interests. The emphasis of popular sovereignty (Art. II, Sec. 1), inalienable rights (Art. II, Sec 3), individual dignity (Art. II, Sec. 4) and expectations for the right of participation (Art. II, Sec. 8), the right to know (Art. II, Sec. 9), and the right of privacy (Art. II, Sec. 10) stirs individual interpretation and collective characterization of the Montana Constitution that creates lively and healthy conversation and debate. Finding the balance between the

aforementioned personal and collective rights and responsibilities should form the basis for thorough discussion of many issues, including highway safety. Thus for purposes of this assessment, for example, consideration in making impaired driving laws should be how to do so in ways that “are founded on the principles of prevention and reformation.” (Art. II, Sec. 28)

Montana has comprehensive statutory coverage for driving while impaired by alcohol or other drugs (whether illegal, prescription, or over-the-counter) and treats both offenses with similar consequences. The coverage includes a provision that makes it illegal to operate or drive a vehicle with a Blood Alcohol Concentration (BAC) of 0.08 or over. Montana also provides for enhanced penalties above the standard impaired driving offense for an aggravated or High BAC of 0.16 or higher. The choice of 0.16 is unique to Montana. Another provision unique to Montana 61-8-402, MCA, is that a warrant to draw blood will be issued “if the arrested person has refused to provide a breath, blood, or urine sample under 61-8-409, MCA, or this section in a prior investigation in this state or under a substantially similar statute in another jurisdiction or the arrested person has a prior conviction or pending offense for a violation of 45-5-104, MCA, 45-5-106, MCA, 45-5-205, MCA, 61-8-401, MCA, or 61-8-406, MCA, or a similar statute in another jurisdiction.” Several presenters expressed concerns over the inability to obtain search warrants for blood. In addition, there is some confusion about the warrants.

A third unusual provision allows the cities to adopt as an ordinance and prosecute the state misdemeanor impaired driving statutes. Even more unusual is that the municipality can retain all fines and costs from the offense. Each municipality in this state is given authority to enact 61-8-406, MCA, 61-8-408, MCA, 61-8-410, MCA, 61-8-714, MCA, 61-8-722, MCA, 61-8-731 through 61-8-734, MCA, and subsections (1) through (5) of this section, with the word "state" in 61-8-406, MCA, and subsection (1) of this section changed to read "municipality", as an ordinance.

Montana provides increasing penalties for each subsequent offense. What is not clear is how many times a person may be charged with a first time impaired driving offense. That question does not arise from a statutory interpretation but is a reflection of practices in some jurisdictions which are inconsistent.

Montana requires administrative license suspension for BAC test refusal, with administrative sanctions. There is some confusion as to how the suspensions are carried out and when. The provision of “essential function” licenses may need to be a work around in some jurisdictions.

Montana has adopted zero tolerance for underage drivers, making it illegal per se for persons under age 21 to drive with a level of 0.02 BAC. Montana’s open container statute 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 unless the vehicle is being driven by a hired driver.
Montana has driver license suspension for persons under age 21 for any violation of law involving the use or possession of alcohol or illicit drugs.

Montana has statutory and rule support for DUI Courts as a sentencing alternative for persistent DUI offenders.

Montana does not have a primary occupant protection law. Yet, crash and causation data indicate ejection from a vehicle is a major contributing factor to the fatality and serious injury crashes.

Law enforcement expressed concerns over the inability to conduct sobriety checkpoints. They do not think the safety spot checks are adequate. Interestingly, tribal jurisdictions are not prevented from conducting DUI checks and state law enforcement has assisted tribes in those efforts.

Some presenters indicated that the aggravated impaired driving law is problematic. The law was described as being incomprehensible and confusing. There was discussion about how judges and prosecutors interpret the law differently, which results in contradiction and further confusion. The driver’s license provisions were also described as being very cumbersome and too complex to sort out causing additional challenges. The experience with a previous interim study committee was cited as a possible example on how to clear up the administrative suspension and other licensure issues. The Montana administrative license suspension, at least in reported practice, does not follow the advisory recommendation 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.

Montana’s interlock statute does not comply with 23 USC Section 164.

Some presenters suggested that part of the legislative gaps and complexity might be addressed by a statutorily created statewide task force to reduce impaired driving. This would provide a statewide policy voice and champion. Guided by the distinctive principles set out in the Montana Constitution, this is the first place and the best place to start.

**Recommendations**

- **Enact a primary seat belt law for Montana**
- **Convene a legislative study committee for the drivers’ license statutes**
- **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 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

• Enact a statute authorizing a statewide taskforce to reduce impaired driving

• **Enact Ignition Interlock and other legislation that complies with Section164**
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**

Representatives from law enforcement stated they make impaired driving a priority and provide adequate resources based upon their budgets. At least two of the represented agencies stated either themselves or a ranking member of their agency were victims of an impaired driver, and the Highway Patrol has lost two members in the last 5 years due to impaired driving crashes. These tragic events have ramped-up law enforcements efforts to detect and apprehend impaired drivers, and may have served as the catalyst for legislative revisions to the state’s impaired driving laws.

At least two local agency representatives stated they were in the process of developing their own traffic safety plans to include impaired driving as a priority. Several of the agencies have representation on local DUI Task Forces. These task forces are multicounty/multiagency saturation patrol units comprised of state, county, and local law enforcement officers. Where the task forces are multicounty, Memoranda of Understanding (MOU’s) are in place, and the task force will alternate enforcement efforts so each county is equally covered.

In addition, the Highway Patrol has a safety traffic enforcement squad which travels to areas targeting special events where historically alcohol has been a major issue. These saturation patrols are advertised through the local media before, during and after the events, and education components are included during these press interviews and after incident reports. Although saturation patrols are permitted and used fairly extensively, sobriety checkpoints are not allowed in Montana.

Montana does High Visibility Enforcement (HVE). However, it is unclear whether HVE is scheduled based upon crash and causation data, or whether these efforts are scheduled based upon special events which occur and are handled with HVE. Each representative from law enforcement was clear that their enforcement efforts are scheduled where special events occur.

It seems apparent there is a high level of participation and coordination among State, county, and local law enforcement agencies for the DUI Task Forces. Representatives were asked about other allied agency participation, e.g. Federal Park Service, State Conservation, tribal law enforcement, etc. Here, participation and coordination is minimal.

All law enforcement officers in Montana receive the Standardized Field Sobriety Testing (SFST) training at the State Law Enforcement Academy prior to graduation, as well as certification on breath testing equipment. Recurrent/refresher training for SFST is conducted annually in most agencies represented at the assessment. However, these agencies do not represent all agencies throughout the state. Montana does not have their own SFST standards for training and recertification other than the National Standards for SFST. Those minimum National Standards have been adopted by Montana.
Advanced Roadside Impaired Driving Enforcement (ARIDE) training has been initiated in Montana with approximately 600 officers being trained statewide. Montana requested and NHTSA complied with an SFST Assessment in April, 2012. The final assessment report was delivered to the Montana Department of Transportation, who shared the report with the Montana Highway Patrol. However, as of this Impaired Driving Assessment, the SFST Assessment has not been shared with others and no progress has been made on the recommendations of the SFST Assessment.

Montana is a developing state for the Drug Evaluation and Classification Program (DECP). Montana has 75 DRE’s representing 28 law enforcement agencies and the program is growing into greater Montana. The State SFST and DECP Coordinator has developed and implemented an informal selection process for DRE candidates which includes a minimum of one-year experience in patrol duty (non-Academy time), successful completion of ARIDE training, area DRE referral, a time commitment of four (4) years to the program to ensure the state does not expend time and resources into the candidate without receiving the benefit of certified and committed DRE officer, and Chief/Sheriff/Superintendent recommendation.

Due to manpower and resource restrictions, DRE Schools are only conducted once every two years in Montana. Some of the agency representatives expressed a desire to have additional DRE’s in their department, especially if their department was represented with only one DRE. Because the DECP is less than five years old in Montana, no extensive evaluation on the effectiveness of the program has been done with the exception of the increase in driving impaired violations, which has significantly increased due to the training in DRE and ARIDE. One possible adverse impact of these programs and training to the state has been the increase in toxicology samples being submitted to the Crime Lab for analysis. This increase in submissions had contributed to a backlog of approximately three (3) months in obtaining toxicology results, which if unchecked, could result in adverse response from the judiciary.

Montana has seen a reduction of impaired driving crashes and fatalities in the last 5 years. This decrease is due to the cooperation and collaboration between the participating agencies, revisions in the impaired driving laws in Montana, public awareness through use of media relations and campaigns, and reported changes in driving behavior in Montana.

Due to budgetary restrictions and limited manpower, law enforcement professionals are not utilized as law enforcement liaisons in Montana.

Some assessment presenters indicated a potential developing problem in the Bakken Oil Field on the eastern quarter of Montana. Anecdotal information received showed some increase in fatal accidents, but this is not yet reflected in the FARS crash data. In addition, the number of DUI’s has increased 125% from 2012 in one municipality. There is a lag in obtaining timely FARS data compared to the information received at the assessment from the law enforcement agencies. In addition, law enforcement may be taking into consideration other calls for service besides impaired driving crashes, e.g.,
criminal assaults, etc. Montana Department of Transportation should be aware of this concern and be prepared to respond accordingly as further data become available.

Recommendations

- Enact legislation for a primary seat belt law
- Enact legislation to allow for sobriety checkpoints to be utilized where the crash data shows alcohol and drug impaired driving violations are appearing
- Ensure that High Visibility Enforcement operations, including National Mobilizations are conducted based upon crash and causation data and focus on areas of highest risk
- Enact policies and procedure to ensure coordination between state and local law enforcement and other allied agencies such as Federal Park Service, State Conservation, BIA and tribal law enforcement
- **Enact Memoranda of Understandings (MOU’s) with tribal governments**
- Conduct annual DRE Schools
- **Increase resources for forensic toxicology staff at the Crime Lab**
- Ensure SFST Refresher Training is conducted for all Montana law enforcement officers per the National SFST Standards.
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.10

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;

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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

Prosecutors are an essential element of any impaired driving program because they hold the sole authority to file an impaired driving case in any court. The prosecutorial role is filled by Montana district attorneys and the city or municipal attorneys. The county attorneys are elected officials and represent both their own county and the state of Montana within their county. County attorneys are responsible for the prosecution of all felony crimes occurring in their county, all misdemeanor crimes occurring outside the city limits of any city within their county, and Youth Court matters. Also, they are responsible for defending or prosecuting all civil claims for or against their county. County attorneys are also required to represent agencies of the state of Montana when required by law or when directed to do so by the Attorney General. County attorneys may be full or part time, usually depending on the size and case load of the county. The municipal or city attorney’s office is also responsible for prosecuting DUIs (up to the fourth time which is then a felony offence) that occur within the city limits.

Montana has an engaged and knowledgeable traffic safety resource prosecutor (TSRP) who is providing the education opportunities and technical assistance. She has an ambitious training agenda which may be advanced by the utilization of adult education tools. One challenge is the law enforcement reluctance to participate in the SFST refresher trainings. It might be that a strategic planning effort could help assure the maximum benefit from the TSRP’s effort.

The prosecutorial role in Montana as pertaining to the Drug Courts/ DUI courts is unclear. Effective prosecution can include participation in a DUI Court program team. Because those courts appear to handle fewer cases, a larger concern to be addressed is the prosecutorial role in smaller communities where the pleas and sentencing may occur without a prosecutor being present.

The level of interest and degree of knowledge for the prosecution of the impaired driving cases in both the district courts and the municipal courts varies greatly. There is no comprehensive program to visibly, aggressively and effectively prosecute and publicize impaired driving-related efforts, including use of experienced prosecutors. It appears that prosecutors and the municipal attorneys who handle impaired driving cases often have little experience and may handle hundreds of cases at a time.

The Montana County Attorneys Association does not appear to have an association priority for impaired driving cases. Whether a high priority for prosecution is assigned to the prosecution of impaired driving cases varies from attorney to attorney. No policy was
noted that encourages the elected district attorney to assign these cases to knowledgeable and experienced prosecutors. In fact, there was information that some offices have a high level of turnover resulting in inexperienced prosecutors. This may also point to a resource issue.

It appears that there is great variation in the jurisdictions as to whether the county attorneys have sufficient resources to prosecute impaired driving cases and to retain qualified prosecutors.

Recommendations

- Write a strategic plan and deliver 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. This plan should have learning objectives and use state-of-the-art adult education practices

- Encourage (support the necessary committee work) the Montana County Attorneys Association and the city or municipal attorneys to 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
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 supervision11 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 Tests (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; and

• Use court strategies to reduce recidivism through effective sentencing and close monitoring, by either establishing DWI Courts, encouraging drug courts to hear impaired driving cases, or encouraging other courts to adopt DWI/Drug Court practice. These courts increase the use of drug or alcohol assessments, identify offenders with alcohol or drug use problems, apply effective and appropriate sentences to these offenders, including abstinence from alcohol and other drugs and closely monitor compliance, leading to a reduction in recidivism.\textsuperscript{12}

• Eliminate ethical obstacles, such as ex parte or commitment communications, by adopting the current Model Code of Judicial Conduct so that judges can participate more freely in DWI Court administration;

• Provide adequate staffing and training for community supervision programs with the necessary resources, including technology such as IID and electronic confinement, to monitor and guide offender behavior and produce periodic reports on offender compliance; and

• Incorporate into judicial education and outreach administration the position of Judicial Outreach Liaison as a judicial educator and information resource on highway traffic safety issues including impaired driving, and as an agent to create more DWI Courts.

Status

The adjudication of the impaired driving in Montana is the penultimate stage in the justice process and as such, guides the justice system management of impaired driving cases before and after the court appearance. The other justice system components: law enforcement, prosecutors, probation, and parole officers reflect the courts’ assignment of priority to the impaired driving cases. Thus the Montana courts’ adjudication of impaired driving cases is central to how Montana deals with impaired driving. The Montana Constitution provides that the Supreme Court “has general supervisory control over all other courts.” The leadership role of the Montana Supreme Court, the court of last resort, thus becomes a critical element in determining the body of law that is applied in impaired driving cases. The Supreme Court determines all issues appealed from the district trial courts. The Justices have a broad jurisdictional range and must be subject matter experts in all matters appealed.

The Montana trial courts are also relatively simple in structure. The state level trial courts are the district courts and they are all courts of record. There are 56 District Courts in Montana. These courts are administratively structured into 22 judicial districts and were served by 43 District Court Judges in 2006.

The District Courts are courts of general jurisdiction. General jurisdiction courts process all felony cases. The District Courts also have limited appellate jurisdiction over cases arising in the courts of limited jurisdiction in their respective districts as may be prescribed by law and consistent with the Constitution. Some of the other courts are not courts of record and their appeals result in trial de novo in the appropriate District Court. Montana has courts of limited jurisdiction. These courts include 61 Justice Courts, 84 City Courts and 6 Municipal Courts. Although the jurisdiction of these courts differs slightly, collectively they handle the misdemeanor impaired driving offenses and certain issues involving juveniles. Because the caseload of these courts (251,921 cases filed in 2012) is greater than the caseloads of the District Courts (49,908 cases filed in 2012), the limited jurisdiction court is where most people will encounter the justice system in Montana. Some of these courts are courts of record and some are not. There is an effort to make more limited jurisdiction courts of record in order to increase the efficiency of the courts by reducing the trials de novo.

Justice and Municipal Court Judges are elected, unless appointed to fill a vacated position. Judges appointed to fill a vacated position must run for the position at the end of the term to which they were appointed. City Court Judges may be elected or appointed. All limited jurisdiction court judges serve four-year terms. Justice Court and City Court Judges are not required to be attorneys; Municipal Court Judges must be attorneys. Numerous judges serve as both Justices of the Peace and City Judges.

All limited jurisdiction court Judges must attend two Supreme Court-supervised training conferences each year and pass a Certification Examination each term. Failure to attend a training conference or pass the examination creates a vacancy in the Judge’s office.

Next, each of the seven tribal nations operates and maintains its own judicial system under its own legal procedures and processes. Varying in size and capacity, in both personnel and physical plant, and supported by tribal, Bureau of Indian Affairs (BIA), and federal grant funding, these tribal courts adjudicate criminal, civil, administrative, and other special actions as allowed by their constitutions, codes, and ordinances. A significant number of alcohol or drug related cases are filed in tribal courts against adults and juveniles, including DUI and other vehicular infractions that result in extensive physical, emotional, psychological and spiritual harm. Serious matters may be prosecuted in the federal court concurrently or exclusively in some instances, depending on individual case facts and circumstances. A primary and central exercise of sovereignty, tribal justice systems provide similar trial and appellate functions similar to the Montana district courts and the Montana Supreme Court. Likewise, tribal courts confront many of the same resource, capacity, and development issues that state and foreign justice systems face in their efforts in the administration of justice for their respective tribal nations.

In the area of highway safety, tribes and their court systems continually strive to improve and enhance their infrastructure and organizational abilities under the governmental constraints and limitations. The Fort Peck, for example, recently adopted stricter DUI laws, which made a third offense a felony and simultaneously developed a DUI Court to adjudicate these cases. In fact, in the late 1990s, Fort Peck Tribal Court and the Blackfeet
Tribal Court developed Healing to Wellness Courts, which were subsequently named Mentor Courts that served as models for tribal courts around the country in their own development efforts. Due to funding depletion the two Mentor Courts subsequently ceased functioning. Blackfeet, however, is attempting to reinvigorate their Wellness Court docket due to community interest and concern about the alcohol crime and conflict.

The Chippewa Cree Tribal Court is currently developing an Adult Wellness Court having already implemented a family wellness court to combat the substance issues that tribe experiences. The Crow Tribe operates a juvenile wellness court also developed in response to the high level of substance-related crime experienced among its youth. Moreover, these tribes have built bridges with the Montana drug and DUI courts by attending the bi-annual Montana Drug Court Conference in order to both learn and share with other state and tribal courts.

Montana tribal courts also have taken other steps that advance highway safety either by internal systems change or adoption of the Montana Code Annotated to facilitate cross-deputization efforts and tribal-state collaboration. The Fort Peck tribes share court records with the State to assure individuals are held accountable to their acts in both jurisdictions. While not an easy decision for any tribe to make due to the belief that record sharing somehow relinquishes some aspect of sovereignty, it serves the needs of safety first. The Salish Kootenai adopted the criminal portion of the Montana Code Annotated, which makes charging individuals in both sovereign courts less complicated for state and tribal law enforcement.

For the State, recent legislation [61-8-402(9), MCA] recognizes tribal court orders regarding the seizure, suspension, revocation, and reinstatement of state issued driver licenses in matters related to BAC testing if obtained pursuant to tribal law. This recent and landmark revision, however, may not be fully known by tribal representatives and thus not be utilized. Further communication and training and other efforts are required to fully take advantage of these steps that were made primarily to promote safer highways and communities, both on tribal land and in Montana.

The Tribal Law Order Act (TLOA) passed by Congress in 2010 gives Tribal Courts enhanced sentencing authority over offenders from one year detention and/or $5,000.00 fine up to three years and/or $15,000.00 fine per charge. TLOA, however, includes specific capacity requirements of tribal court judges and public defenders for those cases where enhanced sentencing is to be invoked. Though not available immediately for tribal application it nevertheless provides a tool for future use if the tribes decide to use it. In many ways, current tribal court jurisdiction resembles Montana’s limited jurisdiction courts where they are also only able to sentence to one year, by judges many of whom are not law trained or attorneys.

There are approximately 32 drug courts in Montana in the limited jurisdiction courts and the Montana District courts. Adult drug courts are operating in the 8th and 18th Judicial Districts, as well as in the Billings Municipal Court. The 2nd, 10th, 13th, and 16th Judicial Districts host family drug/treatment courts. Youth drug courts are operating in
the 4th and 8th Judicial Districts. All of these drug courts were implemented with federal funding. The Adult Drug Court in Bozeman has a capacity of 18 clients. The Adult Drug Court in Great Falls began operation in January 2005 and the Misdemeanor Court in Billings began in February 2005. The Yellowstone County Family Treatment Drug Court, started in 2002, and is the longest running in the state. The Youth Drug Court in Missoula is the newest juvenile drug court program in the 8th Judicial District, started in January 2006.

The Office of Court Administration, under the Supreme Court has implemented and continues to develop the information management using a program called “Full Court”. At this time, 99 percent of limited courts and all District Court are on the Full Court case management system. The program can track probation and interlock in addition to the case files. Working with the Montana Department of Justice has allowed increased systems communication as 75 percent of traffic violations are filed electronically using Smart Cop e-citations. Offenders may make roadside payments with credit cards. There is no mechanism to ensuring that DUI cases are assigned to knowledgeable and experienced judges. There is no mechanism visible to 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.

No information is available on trial delays or other obstacles for the adjudication of impaired driving cases in a timely manner. There was no information about the effective management of the trial dockets. Resource insufficiency was mentioned as the caseloads are increasing and courts are feeling the pressure.

With the recent contracting for a state judicial outreach liaison, it seems timely to suggest that the State develop a plan to ensure that judges who handle 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 for the detection of alcohol and other drugs, and sentencing strategies for this class of offenders. No mention was made of the level of adequacy for staffing and training for community supervision programs outside of the Drug and DUI Courts with the necessary resources, including technology and electronic confinement to monitor and guide offender behavior and produce periodic reports on offender compliance.

In June of 2003, the Montana Supreme Court established a Commission on the Code of Judicial Conduct (the Commission) to study and consider the adoption of a Code of Judicial Conduct. Thus, Montana has a Judicial Standards Commission and a modern 2008 Montana Code of Judicial Conduct (Code). This Code allows judges to provide factual information about the courts management of impaired driving and what resources are necessary for improved adjudication.
Recommendations

- Develop and implement a strategic plan for the delivery of the judicial education that will include technical evidence presented in impaired driving cases, including SFST and DRE testimony, emerging technologies for the detection of alcohol and other drugs, and sentencing strategies for this class of offenders.

- Make a specific outreach to the Montana Supreme Court to inform them of the educational efforts underway.

- Develop a Tribal-State Judicial Forum to bridge communication and training efforts between state and tribal courts.
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.13

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

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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

Management of the privileges afforded by a driver license by the licensing authority has long been deemed a means by which to immediately address dangerous behaviors by licensees that put other road users at risk. Administrative sanctions for drug- and alcohol-impaired driving provide a means by which to advise the suspected DUI driver of his rights, and immediately suspend and confiscate the license. This process allows the driver to maintain driving privileges, by means of a temporary permit, until due process is afforded through a hearing. The process is managed through the licensing authority and the scope of hearings and the length of license withdrawal are outlined in statute. Additionally, the burden of proof in impaired driving cases adjudicated under administrative procedures is not as stringent as in criminal court—generally preponderance of the evidence is the standard for administrative procedures. Administrative sanctions are based on the withdrawal of the driving privilege and fulfillment of requirements for education or therapy related to the use of alcohol or drugs prior to re-licensure.

Montana’s statutes provide for administrative authority to cancel, suspend, and/or revoke the driver license or privilege of persons in a number of circumstances. Suspension or revocation of the license is mandatory for licensees convicted of any of the following offenses in Montana or in another licensing jurisdiction:

• negligent homicide resulting from the operation of a motor vehicle;
• any felony in which a motor vehicle is used;
• failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another;
• perjury, making a false affidavit or statement under oath to the department under any law relating to the ownership or operation of motor vehicles;
• fleeing from or eluding a peace officer; or
• negligent vehicular assault.

License or privilege suspension is mandated for conviction of the following offenses:

• driving with a blood alcohol content of .08 or higher or driving under the influence of alcohol or drugs or a combination;
• three reckless driving offenses committed within a period of 12 months;
• theft of motor vehicle fuel when a motor vehicle was used in the commission of the offense;
• failure to appear or to comply with a criminal sentence.

License suspension is permitted under the following circumstances, without a preliminary hearing:
• fraudulent use of the license or permitting another to use the license fraudulently;
• falsification of the birth date on the driver’s license application;
• alteration of a license, identification card or tribal identification card to obtain alcohol, by persons under 21 years of age; or
• authorization of a person under 21 years of age to fraudulently use one’s license to obtain alcohol.

As noted, administrative suspension or revocation for impaired driving violations is dependent upon conviction of an offense. This requirement circumvents the core purpose of administrative authority, which includes swift and sure sanctions, and also allows local or regional bias that might be inherent in court proceedings.

The only administrative license action in Montana that is not dependent upon conviction is related to the refusal to submit to a test to determine the blood alcohol content of an alleged impaired driver. In these cases, the driver license is seized and sent to the Department of Justice, Motor Vehicle Division; the violator is issued a temporary permit valid for 5 days, and is advised of the right to a hearing. These hearings are held by the District Courts. In refusal cases, this administrative process can be circumvented by delaying or failing to hold such hearings. In this way, local bias may be inserted into the administrative process that was developed to prevent it. Legislation should be enacted to prevent the circumvention of administrative sanctions for refusal by manipulation of the hearing process.

The period of license suspension for DUI and driving with excessive blood alcohol content is six months for the first conviction, and one year for second and subsequent convictions. For refusals, the first refusal is to result in a six month suspension with no provision for a restricted probationary license. For a second or subsequent refusal within five years, a one-year suspension is mandated with no provision for a restricted probationary license.

In addition to the suspension period, the driver licensing authority adds ten conviction points to the driver’s record. Drivers who compile 30 points are “habitual traffic offenders” and their driver licenses are revoked.

Vehicle sanctions are used in various circumstances under Montana statutes. The vehicle owned and operated by a person who is convicted of driving while the license was suspended or revoked for DUI, DUI-BAC or refusal to submit to a test to determine the blood alcohol content is to be seized and rendered inoperable for 30 days, within ten days
of the conviction. For a person under 18 years of age convicted of DUI, DUI-BAC or refusal, the vehicle is to be seized and impounded for a period of up to 60 days, if that person is the owner or sole user of the vehicle.

The registration of a vehicle may be suspended and the plates confiscated when operated by its owner, a family member, or other driver authorized to use the vehicle by the owner, upon the second or subsequent conviction for failure to comply with mandatory insurance requirements. The registration may not be reinstated without proof of compliance. A second conviction for the same offense results in a 90 day suspension of vehicle registration and a third offense, 180 days. During the period of suspension, the owner may be issued a restricted registration receipt which provides allowance for the vehicle’s use only for purposes of employment. The driver’s license of the offender (if the offender is the vehicle owner) can be confiscated on the fourth offense for violation of mandatory insurance requirement. If the offender is not the vehicle owner, the owner’s driver license is to be suspended by the Department of Justice, DMV.

Should a judge recommend a probationary license for any person convicted of a second or subsequent DUI or driving with excessive BAC, the driver is to be restricted to operation of vehicles equipped with functioning ignition interlock devices during the probationary period, or order that each vehicle owned by the person at the time of the offense be seized and subjected to forfeiture.

Fewer than 1000 interlock restricted licenses are in effect in Montana. Reportedly, judges are hesitant to order such restrictions due to the difficulty in managing the requirement in a large rural state. Because of the small number of interlock devices in use, few interlock providers operate within the state. This unfortunate situation results in many drivers whose licenses and privileges are suspended or revoked. In general, it has been estimated that fully three quarters of drivers whose privileges are restrained in some way continue to drive. If those drivers have substance dependence and abuse issues, withdrawal of driving privileges may not prevent impaired driving. Further, unlicensed drivers are over-represented in fatal and injury crash involvement.

While it is true that interlocks reduce recidivism significantly, it is also true that recidivism returns to normal levels once the interlocks are removed from the vehicles. As a result, it is obvious that ignition interlocks are more effective and can have more lasting impact on driver behavior if they are paired with effective treatment. Making interlocks viable in Montana will require that interlock providers maintain enough service locations to allow that every interlock-restricted driver have to go no further than, perhaps, 50 miles for service or data downloads. Having enough business to make that reasonable for vendors will require a known quantity of clientele. This could be possible if all repeat DUI/DUI-BAC/refusal offenders and all drivers convicted of a first aggravated DUI were be ordered to install ignition interlock devices in their vehicles for a given period of time, as a condition of re-licensure. Such an approach would likely reduce the percentage of drivers who are convicted of Driving while Suspended or Revoked and would potentially provide an opportunity for people who need their vehicles in this rural environment to continue to drive legally. The viability of such an option
requires study to determine the volume of violators who would have interlock requirements and the number of service providers required to reasonably accommodate the population of the State. Imposition of such a requirement would also benefit from a provision for assistance for those who are indigent, possibly funded through reinstatement fees.

The Motor Vehicle Division has the statutory authority to recognize action taken by a tribal court in suspending, revoking, or reinstating a license or adjudicating a license seizure related to actions taken pursuant to tribal law or regulation requiring alcohol or drug testing of motor vehicle operators, when the conduct giving rise to the actions occurred within the exterior boundaries of a federally recognized Indian reservation in this state. Such inclusion of tribal sanctions on the Department’s records should be encouraged and the agreement to do so memorialized in a Memorandum of Understanding or an Inter-Governmental Agreement, including notifications to be made related to license reinstatement eligibility.

Recommendations

- Enact legislation that precludes dismissal of administrative sanctions for breath or blood test refusal pursuant to implied consent by failure to hear the cases in District Court

- Study the feasibility of increasing the Ignition Interlock mandate to all drivers convicted of Aggravated DUI and all repeat offenders

- Study the feasibility of providing for Ignition Interlock for persons who are judged indigent

- Work with tribal authorities to include license revocations taken by tribal courts on the State driver history file in order to ensure that driving privileges are not inappropriately authorized by the State
E-2. 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;
• 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;
• Zero alcohol while driving;
• Learners permit is visually distinctive from other driver licenses;
• Must remain crash and conviction free, including violations of the seat belt, zero tolerance, speed and other GDL provisions, for at least 6 consecutive months to advance to the next level;
• Parental certification of 30 to 50 practice hours; and
• No use of portable electronic communication and entertainment devices while driving.
Stage 2: Intermediate (Provisional) License

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

Stage 3: Full Licensure

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

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

- Training for alcoholic beverage sellers to recognize fraudulent or altered licenses and IDs and what to do with these documents and the individuals attempting to use them;
- Training for license examiners to recognize fraudulent documents and individuals seeking to apply for them; and
- A means by which to ensure that individuals cannot obtain driver licenses using multiple identities.

Status
At this time, graduated driver licensing (GDL) programs, which reduce risk exposure for young novice drivers have been adopted by all states and the District of Columbia. Evaluation of various GDL programs has shown reductions from 20 to 50 percent in crashes involving 16 and 17 year-olds. Montana’s law, enacted in 2005, calls for a learner’s permit, a restricted license, and a full-privilege driver license.

In the permit period, 15 and 16 year olds may apply for and receive a permit only upon completion of a state-approved (not on-line) traffic education program. Permits are available to persons aged 14 ½ years who are enrolled in the state-approved traffic education program. Prior to issuance of the permit, the applicants must pass the required driver license tests and meet the medical requirements for the type of license for which they are applying. Thus, a restricted driver license is available to persons at age 15 ½.

In the *Montana Traffic Safety Problem Identification, FFY2011,* drivers under 16 were highly over-represented in crashes and, particularly, fatal crashes. The crash rate for 16 year old drivers is 134/1000 licenses, while the crash rate for drivers less than 16 years of age is nearly twice that at 262/1000 licenses. The rates for involvement in fatal crashes are similar, but the number is so low that it is not possible to tell if that is an anomaly. However, the rate of crash involvement is disparate enough that it warrants further review.

Any permit holder under 18 years of age must hold the permit for a minimum of six months before being eligible for a license. The permit is valid for up to one year.

During the learning phase, practice driving must occur and must be recorded. Fifty hours of supervised driving is required, ten of which are night driving hours. The permit holder must be supervised by a licensed parent or guardian if still enrolled in the driver education program. Otherwise the permit holder must be supervised by a licensed driver 18 years or older and authorized to do so by the parent/s of the permit holder.

Additionally, all passengers in the vehicle must wear seatbelts. A six-month period in which the permit holder is free from traffic violations and alcohol or drug offenses is required prior to being allowed to advance to phase two and receive a first-year restricted license.

The restricted license phase involves these restrictions:

- All occupants must wear seatbelts,
- No driving may occur between 11 p.m. and 5 a.m., excepting emergencies, travel from and to school, church, or work, and specific parent-authorized activities.
- Only one unrelated passenger is allowed for the first six months of driving, unless supervised by a licensed driver age 18 or older.
- No more than three unrelated passengers are allowed for the second six months of driving, unless supervised by a licensed driver age 18 or older.
Violation of restrictions can be penalized with 20-60 hours of community service for the first offense and a 6-month license suspension upon a second offense.

Full licensure occurs at the end of one year or on the driver’s 18th birthday, whichever comes first.

Unlike many states which have abandoned their public school driver education classes in favor of private vendors, Montana continues to provide driver education through its high schools. The Montana Office of Public Instruction (OPI) provides information for young drivers and parents on its websites, including a link to the Parents Are the Key program, and information about the parents’ roles in teen driving.

The OPI reports that the drivers’ education classes are visited by law enforcement officers who speak to the teens about the dangers of driving without a seatbelt and after drinking alcohol.

The Montana Department of Transportation website hosts the Parent Power page, which advises parents that studies show the number one reason that children choose not to drink is parental disapproval. Other studies have addressed the importance of parental involvement in teen driver training and development of safe driving habits. However, recent studies and focus groups with teen drivers have begun to show that teens’ perception is that there is little enforcement of GDL restrictions by law enforcement. In one study, few of the participants reported knowing a single teen who had received a citation for violation of the passenger or nighttime driving restrictions. This perception of a lack of enforcement can contribute to the willingness of parents and teens to violate the restrictions. Two important factors in maintaining the effectiveness of the GDL law are publicized enforcement of GDL restrictions and increasing parents’ responsibility in monitoring and ensuring compliance with those laws.

The Montana driver license has features that ensure that permits and licenses for persons under twenty-one years of age are easily identifiable. These documents have yellow or red banners next to the portrait, are oriented vertically, with highlighted notations of “Under 18 until (18th birthdate)” or “Under 21 until (21st birthdate).”

Programs to prevent underage persons from obtaining false identification or fraudulently obtained valid identification documents include the following:

The Liquor Control Division manages alcohol server training throughout the State. A 2011 statutory change made server training mandatory and classes include information on procedures for checking identification, liability and criminal and civil penalties that result from violations of the State Liquor Code. Refresher training is required at three year intervals and nearly 40,000 persons have been through the Division’s “Let’s Control It” training classes.

The driver license system has added security features making it more difficult to produce false identity documents that cannot be detected by those who check identification at
liquor establishments. Additionally, fraudulent document training is provided to driver license examiners in order that they recognize false identity documents presented by applicants for ID cards and driver licenses.

**Recommendations**

- Proactively enforce Graduated Driver Licensing restrictions through regular reminders of the provisions of the GDL law and publicize that enforcement to discourage violations

- Study the rate of crash involvement by restricted driver license holders who are less than 16 years old to determine if increasing the minimum age for licensure is advisable
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 could 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:
  
  o Uses messages that are coordinated with National campaigns and messages that are culturally relevant and linguistically appropriate;

  o 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;

  o 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

Based on the State’s highway safety data, the target audience for the impaired driving communication program has been identified as young males aged 18 through 34. The State Highway Traffic Safety Section (SHTSS) is working with two media contractors during FFY 2013. Each has provided a plan for the program areas they are supporting with media. Focus groups help identify appropriate and acceptable messaging. Media support is provided during high-risk times such as events where the public is gathered and alcohol consumed, such as county fairs, music festivals, and rodeos.

High Visibility Enforcement (HVE) Support

One of SHTSS’s media contractors specifically supports impaired driving enforcement. The contractor developed an earned and paid media schedule to publicize Selective Traffic Enforcement Program (STEP) patrols occurring around the state. Publicity is required for at least two high-visibility enforcement events during each quarter of the fiscal year, such as:

- Superbowl (Feb. 3, 2013)
- St. Patrick’s Day (March 17, 2013)
- Independence Day (July 4, 2013)
- Designated overtime patrol periods provided in the STEP participant plans, such as spring break, high school and college graduation periods, and local high-risk events such as rodeos, county fairs, and music festivals.

Media components include news releases, radio PSAs, media events and interviews, and STEP Facebook posts.
(STEP) agencies are required by the grant agreement to contact local media outlets such as newspapers, radio stations, and television stations in advance of, during, and/or after scheduled HVE patrols. There is a strong reliance on radio as an inexpensive medium that is easily personalized to a specific law enforcement agency and a local event or festival. Communication is required to include acknowledgement of the Montana Department of Transportation’s support and funding for the enforcement activities.

During FFY 2013, a contracted media firm is developing a new brand for the Montana Highway Patrol Safety Enforcement Traffic Team. Once the brand is created, the contractor will design and create educational materials for the Patrol members to distribute during traffic stops, a website, and a rack brochure. Media support will include press releases, publicity for enforcement events, radio spots, Facebook posts, interviews and talk shows, and guest editorials.

A new television campaign is initiated entitled “Jaws of Life” which illustrates ordinary people of all ages helping others make safe driving decisions. Cable television has extended the reach of the campaign with placements in small and major television markets.

The “99 Days of Heat” campaign supports impaired driving sustained enforcement. Kick-offs occurred in five major Montana cities and broadcast with live radio remotes. To illustrate the pain of drinking and driving, white crosses were erected on the Capitol lawn, each cross representing one of 586 people who died from impaired driving crashes during a five year period. McDonalds participated in this campaign with 30,000 coupons for law enforcement to distribute to reward safe drivers.

To assess the success of mobilizations, intercept interviews are conducted at the Department of Motor Vehicle offices using a two-page form that persons can easily complete while waiting for their driver license.

2012 Holiday Campaign Results

The 2012 Holiday Campaign succeeded in garnering additional media, particularly from television. For 869 paid television spots, 820 spots were received as bonus spots. For 1,800 cable television spots, 1,800 spots were received as bonus. For $137,306 in total advertising, $47,536 in value was earned.

Plan2Live

The Montana Department of Transportation (MDT) implements a comprehensive communication program under an umbrella campaign message -- Plan2Live. Plan2Live encompasses occupant protection, impaired driving, and motorcycle safety with an emphasis on individual decision-making and planning for safe transportation.
SOAR

Safe on All Roads (SOAR) is MDT’s program with the seven tribes. The target audience for SOAR communications is specifically Native American males aged 18 through 34. SOAR promotes both occupant protection and reducing impaired driving. Campaigns aimed at reducing impaired driving focus on enforcement or provide a social norming message. Messaging based on focus group analyses have shown that the primary target audience of young men is more concerned about the guilt of hurting or killing others than about their own safety. The emphasis on enforcement varies according to what is most appropriate to the particular reservation communities.

Newspapers and radio stations that serve the reservations are the primary communications media for SOAR messaging. Residents of the reservation communities help to advise and direct program activities. A local coordinator identifies outreach opportunities and acts as a spokesperson and advocate for traffic safety on each reservation. SOAR activities include public outreach and education through speeches, presentations, special events, powwows, and media advertising such as radio and billboards, which is a popular media outlet on the reservations. In addition, SOAR efforts support community organizing, partnership, network building and the collaborative development of strategic initiatives. Sometimes media materials are presented in tribal languages.

Basketball tournaments are popular outlets to place SOAR related ads that focus on the 15-18 year olds. SOAR co-sponsored the 30th annual Poplar Youth Basketball Tournament in FFY 2012. MDT has been the primary sponsor for this basketball event the last four years.

The SOAR objectives are coordinated with the Montana Comprehensive Highway Safety Plan. The program is also represented in the current development of tribe-specific safety plans sponsored by the Federal Highway Administration. SOAR also supports local initiatives such as DUI Task Forces, DUI Court School and other prevention measures.

Examples of SOAR projects are:

- **SOAR Blackfeet Medicine Wheel Impaired Driving Campaign** -- The power of the Blackfeet Medicine Wheel is specifically dedicated to protect the Blackfeet people from the enemy alcohol. It is a community project developed as a partnership with the Blackfeet Community College and MDT.

- **SOAR Labor Day Sober behind the Wheel (SBTW) Campaign (August 19 – September 2, 2013)** -- This campaign will focus on impaired driving prevention and will be balanced with the law enforcement crackdown publicity during the same period. Media will include radio (2 to 3 paid and bonus spots per day—7 a.m. to Midnight), fliers, 8.5” x 11” flier, and SBTW radio spots with separate tags for each reservation and different spot for Flathead.
Internet and Social Media

The SHTSS has a strong presence on the MDT website. SHTSS program information, instructions and forms; publications, documents, and reports; traffic safety data; and links to other resources are easily available on this site.

There is a resource sharing page on the website, designed to promote sharing of resources among DUI Task Forces, Buckle Up Montana coalitions, and DUI courts. Community coalition resources include a variety of educational materials such as public service announcements for radio and television, billboard artwork, posters, news releases, and opinion editorials. DUI court resources include participant handbooks, operational policies, forms, and more. This is a relatively new addition to the website so is just beginning to see some activity.

The Plan2Live website includes BAC information, a downloadable BAC calculator, tips on how to plan ahead to avoid drinking and driving, and access to short, entertaining videos targeting a young audience from the “Mythcrasher Crew.” AAA plans to incorporate the Mythcrasher videos into their novice driver training materials. In spring 2013, work will begin to enhance the Plan2Live website by consolidating safety information from other pages on MDT’s website to www.plan2live.mt.gov, and providing a user-friendly interface for those seeking traffic safety information.

Facebook presence currently consists largely of links to websites or YouTube, such as the YouTube posting of the video, “Room to Live.” There is not a significant use of Facebook by impaired driving partners. In some cases, partners’ access to Facebook is prohibited in their agency systems. Pop up messaging is placed on Pandora to reach the younger audience. There is little use of Twitter by Montanans, so use of Twitter is not being considered at this time. In the future, there may be consideration of other social media, such as Pinterest, a content sharing service that allows members to "pin" images, videos and other objects to their pinboard.

Media Messaging

Montana has many different slogans and messaging for impaired driving. These include:

- “Room to Live,” the title of a very popular video about the impact on the driver and the victim when a drunk driver has killed his best friend. The video has been
distributed to all high school driver education classes, used as part of law enforcement educational training presentations. Thousands of copies of the video have been provided across the country to highway safety offices, corporations, the U.S. Army, and individuals

- “If law enforcement officers can’t dodge an impaired driver, can you?” emotional poster and banner illustrating the vehicles and photos of two Montana Highway Patrol troopers who were killed in drunk driving crashes

- “Don’t let a DUI Rain on Your Parade,” banner for 4th of July parades

- “Protect the Cage” interactive traveling exhibit with a crash vehicle used as presentations at large gatherings such as fairs and rodeos. As part of this program, six college interns were recruited and trained to provide peer-to-peer education.

- “You Drink & Drive, You Lose,” campaign slogan expanded to “You Drink & Drive, We All Lose” during media event representing results of a two-vehicle crash

- Local messaging, such as “Going out tonight? We are.” for banners and posters that provide a strong enforcement message featuring local law enforcement officers

These are a lot of different messages with which to communicate a focused meaning to the public. Balancing the need to appeal to various audiences with keeping a focused message is a challenge for the communications program.

In 2011, the University of Montana, School of Social Work completed a report to the legislature, “‘To Drink is to Drive’ – A Final Report to the Montana Legislature on Multiple Offender Drunk Drivers Prevention Strategy Ideas.” The university research team questioned 201 incarcerated felony drivers using survey research and audio-taped focus group interviews. In the research, a dominant theme was about the culture of Montana. Participants stressed the importance of examining how alcohol is advertised in the State. Along with a stronger advertisement campaign participants brought up how their families “laidback views” on drinking and driving during their youth shaped their views on how drinking and driving is not dangerous, everybody drinking and driving, and a belief in “birth right” and an “entitlement” to drink and drive.

The impact of Montana culture was a common theme throughout the assessment. Addressing the cultural barriers to behavioral change through the communications program has the potential to transition Montanans to less risky driving, i.e., drinking and driving is not an acceptable behavior in Montana.
Recommendations

- Continue culturally sensitive media messaging in collaboration with the Montana tribes and tribal community colleges

- Continue to support high visibility enforcement with a variety of media, featuring law enforcement officers, and emphasizing swift and sure enforcement and punishment

- Expand the evaluation of communication media and messages to determine reaction to specific messages and help to identify the most effective marketing strategies

- **Create a coherent and focused impaired driving message for all partners to implement in their communication activities**

- Increase private participation in the impaired driving communication program to create a strong impression of widespread support of impaired driving efforts and to obtain additional resources, such as donations of space and promotional materials
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. 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.

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.

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

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

A. Screening and Assessment

Each State should ensure that all convicted impaired drivers are screened for alcohol or other substance abuse and dependency. The most immediate screening should take place in the criminal justice system. However, states should also encourage its health care

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professionals, employers and educators to have a systematic program to screen and/or assess drivers to determine whether they have an alcohol or drug abuse problem and, as appropriate, briefly intervene or refer them for appropriate treatment. Many individuals who are drivers and who have alcohol or other drug abuse problems present themselves in a variety of settings, e.g. emergency departments, in which Screening and Brief Intervention (SBI) and referral are appropriate and serve to prevent the individual from being involved in a future impaired driving crash or arrest.

A-1. Criminal Justice System

Advisory

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

The assessment should be:

- Conducted by a licensed counselor or other alcohol or other drug treatment professional or by a probation officer who has completed training in risk assessment and referral procedures;

- Used to decide whether a treatment and rehabilitation program should be part of the sanctions imposed and what type of treatment would be most appropriate;

- Based on standardized assessment criteria, including validated psychometric instruments, historical information, e.g., prior alcohol or drug-related arrests or convictions, and structured clinical interviews; and

- Appropriate for the offender’s age and culture using specialized assessment instruments tailored to and validated for youth or multi-cultural groups.

Status

Montana statutes and policies provide for screening, assessment, referral and treatment for convicted impaired drivers.

Section 61-8-732, MCA, defines the program and process for assessment, education, and treatment required for drivers convicted of driving under the influence of alcohol or drugs. In addition to the punishments provided in 61-8-714, MCA, 61-8-722, MCA, and 61-8-731, MCA, regardless of disposition, a defendant convicted of a violation of 61-8-401, MCA, or 61-8-406, MCA, shall complete a chemical dependency assessment and a chemical dependency education course. Assessment and the education course are also required for second or subsequent conviction for a violation of 61-8-401, MCA, or 61-8-
406, MCA, except a fourth or subsequent conviction for which the defendant completes a residential alcohol treatment program.

The sentencing judge may, in the judge’s discretion, require the defendant to complete the chemical dependency assessment prior to sentencing the defendant. If the assessment is not ordered or completed before sentencing, the judge shall order the chemical dependency assessment as part of the sentence.

The chemical dependency assessment and the chemical dependency education course must be completed at a treatment program approved by the Department of Public Health and Human Services (DPHHS) and must be conducted by a licensed addiction counselor. The defendant may attend a treatment program of the defendant's choice as long as the treatment services are provided by a licensed addiction counselor. The defendant shall pay the cost of the assessment, the education course, and chemical dependency treatment.

The assessment must describe the defendant's level of addiction, if any, and contain a recommendation as to education, treatment, or both. A defendant who disagrees with the initial assessment may, at the defendant's cost, obtain a second assessment provided by a licensed addiction counselor or a program approved by DPHHS.

The court may condition any bond or pretrial release for an individual charged with a second or subsequent violation of 61-8-401, MCA, or 61-8-406, MCA, upon participation in the sobriety program and payment of the fees required by 44-4-1204, MCA. The court also may condition the granting of a suspended execution of sentence or probation for program participants.

The Board of Pardons and Parole, the Department of Corrections, or a parole officer may condition parole for a second or subsequent violation of 61-8-401, MCA, or 61-8-406, MCA, upon participation in the sobriety program and payment of the fees required by 44-4-1204, MCA.

To address the statutory requirements described above, DPHHS has developed the Assessment Course and Treatment (ACT) program. ACT has three components:

Assessment: The assessment component includes an evaluation to determine if the offender is chemically dependent and must be performed by a licensed addiction counselor (LAC) at a state-approved program. If an offender disagrees with the results of their assessment, they may seek, at their expense, a second opinion from an independent counselor licensed to practice in Montana. The offender must then seek the opinion of the court as to which recommendation is the most appropriate treatment course to follow.

Course: ACT includes 12 hours of education regarding Montana law; consequences for driving impaired; and how alcohol/drugs affect a person's physiology, driving and choices. ACT utilizes the PRIME For Life® evidence-based program. PRIME for Life is provided by a LAC at a state-approved program.
Treatment: The level of treatment recommended will depend on the level of chemical dependency found in the assessment. Recommendations will vary from out-patient to residential in-patient treatment. An offender may seek the appropriate level of treatment from any competent provider licensed to practice in Montana.

It is not clear whether the assessment procedures or criteria have been adapted for Native American or other cultural consideration.

Recommendations

- Revise and adapt screening procedures, instruments and criteria for Native Americans and other cultures in Montana
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 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 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;\(^\text{16}\) and
- Designed to result in referral to assessment and treatment when warranted.

Status

The Montana Department of Transportation and the Department of Public Health and Human Services are partnering with hospitals and healthcare providers to implement

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Screening, Brief Intervention Referral and Treatment (SBIRT) to address the high rate of alcohol and drug-related traffic crashes. The goals of this project are to:

- Reduce alcohol & drug-related fatalities
- Reduce the rate of alcohol & drug-related traffic crashes
- Increase the awareness, acceptance, and implementation of SBIRT protocols in Montana’s healthcare culture.

The Montana SBIRT Project provides one-on-one technical assistance and support to healthcare providers in the Emergency Department, Trauma Services, Social Services, primary care clinics, university medical clinic settings to learn about and implement SBIRT.

The project has encountered several barriers to implementation. Hospital medical staff are resistant to adding time to patient contact and many healthcare facilities are concerned about reimbursement for these services.

Nationally, SBIRT has been used in several non-hospital settings including family practices, colleges, high schools (with youth-specific screening instrument) and local jails at time of booking.

**Recommendations**

- Implement Screening Brief Intervention Referral and Treatment in all hospital emergency rooms in Montana

- Establish a Screening Brief Intervention Referral and Treatment “sounding board” group consisting of healthcare practitioners and administrators to identify and resolve issues and barriers related to implementation of Screening, Brief Intervention Referral and Treatment (SBIRT)

- Implement Screening Brief Intervention Referral and Treatment (SBIRT) in non-hospital settings such as family practices, college and high school campuses and jails throughout Montana
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

To address the statutory requirements described in the preceding section, DPHHS has developed the Assessment Course and Treatment (ACT) program. ACT has three components:

Assessment: The assessment component includes an evaluation to determine if the offender is chemically dependent and must be performed by a licensed addiction counselor (LAC) at a state-approved program. If an offender disagrees with the results of their assessment, they may seek, at their expense, a second opinion from an independent professional.
counselor licensed to practice in Montana. The offender must then seek the opinion of the court as to which recommendation is the most appropriate treatment course to follow.

**Course:** ACT includes 12 hours of education regarding Montana law; consequences for driving impaired; and how alcohol/drugs affect a person's physiology, driving, and choices. ACT utilizes the PRIME For Life® evidence-based program. PRIME for Life is provided by a LAC at a state-approved program.

**Treatment:** The level of treatment recommended will depend on the level of chemical dependency found in the assessment. Recommendations will vary from out-patient to residential in-patient treatment. An offender may seek the appropriate level of treatment from any competent provider licensed to practice in Montana.

The treatment provided to the defendant at a treatment program must be at a level appropriate to the defendant's alcohol or drug problem, or both, as determined by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the Department of Public Health and Human Services (DPHHS). Upon determination, the court shall order the defendant's appropriate level of treatment. If more than one counselor makes a determination as provided in the Code, the court shall order an appropriate level of treatment based upon the determination of one of the counselors.

At the commencement of the education or treatment, each counselor providing education or treatment shall notify the court that the defendant has been enrolled in a chemical dependency education course or treatment program. If the defendant fails to attend the education course or treatment program, the counselor is required to notify the court of the failure.

Chemical dependency treatment must be ordered for a first-time offender convicted of a violation of 61-8-401, MCA, or 61-8-406, MCA, upon a finding of chemical dependency made by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by DHHSP.

On a second or subsequent conviction, the treatment program must be followed by monthly monitoring for a period of at least one year from the date of admission to the program. If a defendant fails to comply with the monitoring program the court shall revoke the suspended sentence, if any, impose any remaining portion of the suspended sentence, and may include additional monthly monitoring for up to an additional one year. Notwithstanding 46-18-201(2), MCA, whenever a judge suspends a sentence imposed under 61-8-714, MCA, and orders the person to complete chemical dependency treatment under this section, the judge retains jurisdiction to impose any suspended sentence for up to one year.

Despite the comprehensive system designed in law and policy, it is not clear how many DUI offenders complete appropriate treatment. Procedures for reporting progress of convicted drivers through the assessment, education and treatment process appear to be poorly defined and inconsistent in application. It was not possible for the assessment
team to determine the number of offenders who completed each step in the countermeasure process. For example, data were provided that indicated approximately 10,000 DUI charge filings yet only 5,000 drivers enrolled in the mandatory ACT program. Of these 5,000 drivers, approximately 70 percent were assessed with abuse or dependency yet 60 percent were given a recommendation for no treatment. In addition, DPHHS database statistics indicate that less than 10 percent of enrolled drivers failed to complete the ACT program, yet one community representative indicated that tracking cases revealed that 75 percent failed to complete. In addition, one judge indicated that the court receives completion or failure notifications for only 50 percent of cases. Resolving these disparities requires an evaluation of both procedures and data systems to identify system and data “leakage.”

Another issue about which concern was expressed was the offenders’ right to obtain a second opinion on assessment results. Though drivers who exercise this option must pay for their assessment and assessments must be completed by a licensed addictions counselor, there is the potential for offenders with abuse or dependency to “shop” for an assessment that will recommend no treatment.

The implementation of an assessment, education and treatment program that is ordered and potentially enforced by the court has more potential consequences than systems that have only driver license consequences. Montana also uses license reinstatement as an incentive for repeat offenders to complete ACT requirements. However, license reinstatement for first offenders does not require completion of ACT. Reinstatement is automatic at the end of the mandatory six month suspension period unless the court orders additional sanctions for non-compliance.

Montana has several dedicated DUI Courts designed to operate under the Drug Treatment Court model. Under 61-8-741, MCA, if a person participates in a DUI court, the court may, at the court's discretion, suspend all or a portion of an imprisonment sentence except for the mandatory minimum imprisonment term. If a person participating in a DUI court fails to comply with the conditions imposed by the DUI court, the court shall revoke the suspended imprisonment sentence and any sentence subsequently imposed must commence from the effective date of the revocation. Montana code 61-8-741, MCA, a DUI court is defined as any court that has established a special docket for handling cases involving persons convicted under 61-8-401, MCA, or 61-8-406, MCA, and that implements a program of incentives and sanctions intended to assist a participant to complete treatment ordered pursuant to 61-8-732, MCA, and to end the participant's criminal behavior associated with driving under the influence of drugs or alcohol or with excessive blood alcohol concentration.

Section 44-4-1203, MCA, establishes a program for monitoring the sobriety of DUI offenders. The code designates the “24/7” program as the sobriety program to be housed in the Department of Justice (DOJ) and to be administered by the Attorney General. The 24/7 program includes intensive monitoring of sobriety through breath testing all enrolled offenders twice every day. Under 44-4-1205, MCA, if an individual convicted of a second or subsequent offense of driving under the influence in violation of 61-8-401,
MCA, or second or subsequent offense of driving with excessive alcohol concentration in violation of 61-8-406, MCA, can be sentenced to 24/7.

At the local level, if a County Sheriff chooses to participate in the sobriety program, the DOJ shall assist in the creation and administration of the program in the county in the manner provided in the code. DOJ shall also assist counties in which a sobriety program exists in determining alternatives to incarceration. In addition, if a county participates in the program, the sheriff may designate an entity to provide the testing services or to take any other action required or authorized to be provided by the sheriff pursuant to this part, except that the sheriff's designee may not determine whether to participate in the sobriety program. The sheriff also establishes the testing locations and times for the county, but must have at least one testing location and two daily testing times approximately 12 hours apart. The code defines testing as a procedure for determining the presence and level of alcohol or a dangerous drug, as defined in 50-32-101, MCA, in an individual's blood, breath, or urine and includes any combination of the use of breath testing, drug patch testing, urinalysis, or continuous or transdermal alcohol monitoring. The sheriff of a county in which a sobriety program exists shall collect the testing fee required by the rules of DOJ and deposit the fees into the local sobriety program account established pursuant to DOJ rules. The fee must be distributed according to those rules to the proper county for use by the sheriff or the sheriff's designee pursuant to the terms determined by the sheriff in accordance with the provisions of this part and the rules implementing this part.

Drivers participating in the sobriety program and who successfully complete a court-approved chemical dependency treatment program and have proof of insurance pursuant 61-6-30, MCA, are eligible for a restricted probationary driver license pursuant to 61-2-302, MCA, notwithstanding the requirements of 61-5-208, MCA, that an individual must complete a certain portion of a suspension period before a probationary license may be issued.

The Attorney General is responsible for adopting rules to implement the program including: providing for the nature and manner of testing and the procedures and apparatus to be used for testing, establishing reasonable participation and testing fees for the program, including the collection of fees to pay the cost of installation, monitoring, and deactivation of any testing device, provide for the establishment and use of local accounts for the deposit of fees collected pursuant to these rules; and require and provide for the approval of a sobriety program data management technology plan that must be used by the DOJ and participating counties to manage testing, data access, fees and fee payments, and any required reports.

If an offender fails to comply with the requirements of the sobriety program, the court may notify the Department of Motor Vehicles of the individual's noncompliance and direct the department to withdraw the individual's probationary driver's license and reinstate the remainder of the suspension period provided in 61-5-208, MCA.
A 2011 enhancement bill expands the eligibility for 24/7 to offenders convicted of any charge in which the use of alcohol or other drugs was involved and for which the offender can be sentenced to six months or more imprisonment, e.g. domestic violence, assault.

Currently, there are 29 localities utilizing the 24/7 program. These programs are user supported in that offenders pay for their mandatory testing. However, at this time testing is limited to breath-testing for alcohol. Breath-testing provides instant results without the need or expense of lab testing. The law also allows for 24/7 monitoring of other drugs. However, other drug testing requires samples of saliva, urine or blood that must be tested in a lab with considerable delays and expense. With increasing prevalence of drug-impaired drivers, efficient procedures and additional resources for drug testing need to be developed.

One concern related to 24/7 is that as a sobriety monitoring program it does not require treatment. Many 24/7 participants will also participate in treatment as part of ACT and/or as part of Drug Treatment or DUI Court. However, some offenders, even those that are successful, will maintain sobriety without any consideration for or amelioration of the underlying causes of their alcohol or other substance abuse. Traditional self-help groups such as Alcoholics Anonymous (AA) often refer to some participants as “dry drunks.” These are individuals who, though they are not drinking and might be attending AA, still display other alcoholic personality traits including anger, unhappiness, impulsivity and immaturity. These traits ultimately can lead to other antisocial or problematic behaviors.

Though the 24/7 program is assigned in law to the Attorney General’s office and is intended for implementation by county sheriffs, there appears to be no individual or office specifically designated and resourced to provide coordination, oversight or evaluation of program implementation and effectiveness. Offenders pay the cost of their breath testing but there is no dedicated source of support for program administration.

**Recommendations**

- Implement a DUI tracking system including information from arrest to completion of treatment
- Implement closed loop reporting of offender compliance or failure in the ACT program
- Establish a position to coordinate, oversee, and evaluate the 24/7 sobriety program
- Collect a 24/7 testing surcharge to support the administrative functions associated with the program
VI. Program Evaluation and Data

A. Evaluation

Advisory

Each State should routinely evaluate impaired driving programs and activities to determine their effectiveness, and have access to and analyze reliable data sources for problem identification and program planning. Development of a Strategic Highway Safety Plan is a starting point for 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. These evaluations are central to the State’s traffic safety endeavors and provide a guide to future evaluation of projects funded through grants and sub-grants. Evaluations should include measurement of activities and outputs (process evaluation) as well as the impact of these activities (outcome evaluation).

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

The Traffic Records Coordinating Committee can serve as a valuable resource to evaluators by providing information about and access to data that are available from various sources.
Evaluation of highway safety funded projects begins at the point of proposal submission. “Evaluation and Internal Assessment” is a required section of a grant application. Within this section, a grant proposer is to describe how s/he will measure success, what data will be used to do that, and ensure activities are incorporated within the project to monitor activities. It is not clear, however, how any of this information is used to ensure that a project is evaluated upon completion.

Montana’s “Annual Report” documents progress toward Montana’s highway safety goals, reports on grant-funded enforcement activities, and provides narrative analysis of funded projects. In the “2012 Annual Report,” impaired driving activities were credited with contributing to significant reductions in the total number of fatalities and serious injuries. These initiatives included continued funding of law enforcement overtime, Montana Highway Patrol (MHP) Roving Patrols, implementation of DUI courts, and other DUI related programs. Media publicity and significant DUI laws passed during the 2011 legislative session were also credited with supporting the injury and fatality reductions.

The “Annual Report” reports on the status of crash–related performance measures with comparisons among the trend data, five-year average, and targeted goal. For example, the number of alcohol and impaired driving fatalities for 2006-2010 was 70, the five year average was 90, and the target was 90. This kind of performance measure comparison does not extend to projects described in the “Annual Report,” however. For example, the description for DUI Task Force Supplemental Funding provides a general list of the various activities conducted by the task forces. There is no indication as to how the actual activities compared to what was planned or intended or what the results of these activities might have been. In addition, there are no cost-benefit or cost-per analyses or comparisons to indicate an estimated “value” for the activities completed.

The methodology for approval and prioritization of grant requests should be solidified and documented. The State’s efforts to address the problem of impaired driving should be part of a strategic initiative which is long-term, multi-dimensional and cost-effective. Proactive efforts to address drinking and drugged drivers can include solicitation for grants related to emerging problems and pre-emptive enforcement, or evaluation of new treatment modalities. A standardized method for prioritizing requests helps to ensure that applicants understand how their submissions will be assessed.

Requiring baseline data, performance measures, and projected outcomes as a part of the grant submission helps to establish a focus on data and analysis, and will generate more thoughtful and creative proposals over time.
Recommendations

- Ensure project evaluation plans as proposed adequately provide the information needed to determine the level of success of the project

- Conduct after-project analysis to determine whether the project evaluation as proposed was completed and whether the project evaluation indicated that the project completed its activities and met its objectives as planned

- Document in the “Annual Report” the accomplishments, benefits and results of all projects
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 “Montana Traffic Safety Problem Identification, FFY2011,” the “Comprehensive Highway Safety Plan” and the “Annual Report” all include a variety of data that helps to outline and underscore the nature and extent of the impaired driving problem in the State. Fatal crash data from the Fatality Analysis Reporting System, statewide crash data from the Montana Highway Patrol and arrest data from the Administrative Office of the Courts have all been used to provide insight into the scope of the problem and the trends related to crashes, injuries, and fatalities that have resulted from impaired driving. These data sources are the core of data used in highway safety analysis.
Crash and driver data have been normalized and supplemented with information about the entire population of drivers in the State, their demographic make-up, the classification of roadways on which they most often drive, the number of miles that they drive, and other factors that address the unique characteristics of Montana driving. Crash experience by county and severity were also mapped and presented a graphic representation of the areas of the state in which the most alcohol-related crashes occur.

Some multi-layer analysis of crash incidence, enforcement locations and roadway type is being conducted within the state. The Montana Department of Transportation is locating crashes using GIS coordinates, which can provide a clearer picture of the need for engineering changes or roadway improvements in problem locations.

The driver and vehicle systems have been re-built and linked into a customer-centric system. The driver history file is linked with the State Court Case Management System to provide timely posting of conviction data. Although the courts within the State are not unified, the Judiciary’s Information Technology staff has been able to develop a single case management system for use by all courts. Full Court, which contains data on over 99% of traffic cases, uses the Court’s law table to synthesize local and State charges to ensure accuracy of the records. The Full Court system contains information about all charges filed, including the original charge and the charge eventually adjudicated.

The use of electronic citations will eventually allow the Full Court system to operate as a fully functional citation tracking system, including all citations issued, whether or not filed by the prosecutor. This same system currently sends electronic dispositions to the Florida Motor Vehicle Division for the twelve largest municipal courts and many of the limited jurisdiction courts in the State. The electronic transfer accounts for approximately 75 percent of all traffic dispositions.

Although the Full Court system provides a great deal of functionality and efficiency for the Montana Courts, it may not always allow an adjudicator to find a pending case in another jurisdiction.

A great deal of data are available within the State; however, better coordination could improve the collection, management and use of that data. Crash reports are collected in two systems and require a great deal of data-mapping in order to be able to follow crash trends from the old data set to the new one. The Montana Highway Patrol developed a new crash form for its field data collection system, with improved Model Minimum Uniform Crash Criteria compliance. Other agencies, however, continue to use the older state-approved form. With use of field data collection systems, which require costly rewrites and updates when form changes bring additional or reformatted data elements, the entity responsible for development of the State’s crash form should carefully coordinate and plan form revision to ensure that local agencies have adequate time and funding to transition to the new form.

The Full Court software enables capture and tracking of judicial orders and sanctions, as well as compliance. However, compliance with the State’s mandatory post-conviction
chemical dependency assessment, education and treatment (ACT), may not be included
in the Full Court data. During the assessment, numerous varied statistics regarding
attendance and completion of this requirement were provided to the team. Persons who
provided the statistical information had gathered it from various sources and were likely
not fully aware of the data insufficiencies or collection methodologies.

Tracking of offenders from arrest through the judicial process is not deemed possible at
this time despite the vast improvements in data systems. Determining where data
elements are missing, where linkages between systems could be developed, and what data
are available that may not be widely used are functions of the Traffic Records
Coordinating Committee (TRCC). The TRCC should develop an inventory of all traffic
records data from all systems, including data dictionaries and a complete listing of
computer platforms and data elements. This inventory should be available for data users
in order that they can most effectively use the information.

The TRCC is the forum for discussions of data related to various aspects of the Traffic
Records System. Those involved in impaired driving enforcement, education and
roadway engineering, as well as treatment providers all have a vested interest in the
available data. Those who collect data at all stages of the DUI violators’ traverse through
the system should gather, compare information, and advise one another of the data that
they collect and maintain, its availability, and its format. Once this is accomplished,
specifications and requirements for a DUI tracking system that would meet the needs of
law enforcement, adjudicators, treatment providers, evaluators, and probation officers,
those who collect and account for fees and fines, and prevention specialists could be
compiled into a single document. Such a document would be the basis for ensuring that
data from various agencies and systems is compatible and easily integrated or linked.

A multi-agency subcommittee would be needed to design a DUI tracking system for the
State. NHTSA has developed a Model Impaired Driving Records Information System
(MIDRIS) and has collected hundreds of potential data elements which could be used as a
basis for the determining what data are available and desirable for the state of Montana.
A DUI tracking system would provide a single source of data for use in evaluation of
impaired driving prevention and enforcement.

Recommendations

- Form a subcommittee of the Traffic Records Coordinating Committee to address
  standardization of impaired driving data, potentials for integration of data
  systems, and data sharing

- Develop a DUI tracking system in order to facilitate the evaluation of various
  programs, enforcement, and treatment used in impaired driving intervention

- Develop a traffic records inventory that would provide information about the
  various data available about impaired drivers
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 driver and vehicle files in Montana are managed by the Motor Vehicle Division using the Montana Enhanced Driver and Vehicle Information Network (MERLIN). The driver history file is populated by conviction data sent electronically from the Full Court case management system and paper abstracts; three-quarters of the conviction data populates the driver history electronically. The Division also posts Montana drivers’ violations received from other states. The State follows best practices by maintaining serious violation histories from the previous state-of-licensure for drivers who move into Montana and apply for a new license. Montana is generally compliant with the time frames specified by the Motor Carrier Safety Improvement Act for posting of convictions, as well.

Impaired drivers are identified in the driver history based on conviction data from the district and local courts. Most administrative actions relating to impaired driving are dependent upon the violators’ convictions. Refusal to submit to a test to determine the
blood alcohol content is the one administrative sanction related to impaired driving that is the purview of Motor Vehicles.

While driver history data are readily available to law enforcement, the courts must retrieve records from the State internet portal authority, Montana.gov. There is a fee for this third party service, and while it is minimal, some small jurisdictions do not pay the fee due to budgetary limitations. Provisions of records for court is one of the most basic reasons for the development and maintenance of the driver history file and every attempt should be made to provide them at no cost.

License sanctions that are the purview of the court system are transmitted by the courts to Motor Vehicles electronically through Full Court case management system. Sanctions are applied as appropriate. Commercial driver records, however, do not show a clear link between the violation/conviction to the resultant withdrawal of license or privilege.

There is no formal provision or agreement for data sharing with the various Native American tribal courts and the driver history file. Several tribal courts do, however, send information regarding suspensions or revocation of licenses for tribal members, which are included in the State driver history. It would be beneficial to attempt to enlarge that data exchange between all the tribes and the driver file.

Law enforcement officers have access to driver status and history data through the Law Enforcement Telecommunications Network.

**Recommendations**

- **Find a no-cost solution to providing small courts with driver history records**

- **Work with the Tribal Nations to increase the amount of sharing of tribal court sanctions for inclusion on the driver history file**
Susan (Sue) Bryant is currently a consultant for a firm based in Iowa where she recently returned after almost thirty years of employment with the state of Texas. She retired as the Director of the Public Transportation Division of the Texas Department of Transportation (TxDOT). The public transportation division had 180 employees and an approximately $150 million budget of federal and state grant programs for rural and small urban transportation systems, the state’s medical transportation program, and public transportation planning. Prior to becoming division director, she served for over ten years as the director of the Texas traffic safety program.

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

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

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

A Phi Beta Kappa graduate with Highest Honors in English from the University of Iowa, she holds a master’s degree in communications from the University of Iowa and a master’s degree in business administration from the University of Texas at Austin.
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ABSTRACT OF PROFESSIONAL CAREER
Private Practice of Law, Paoli, Indiana
Judge, Lawrence County Court, Bedford, Indiana
Judge, Lawrence Circuit Court Bedford, Indiana
Judge, Court of Appeals of Indiana Indianapolis, Indiana
Department Head, 4-H Youth, 1998 -2000
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Purdue University, Department of Youth Development and Agriculture Education, Adjunct appointment at the IU School of Medicine, Department of Medicine.
Chairman’s Award, Indiana Governor’s Council on Dangerous and Impaired Driving, Indianapolis, Indiana November 19, 2010

Current University Service
Social Science IRB, Purdue University, West Lafayette

Current National Service
National Advisory Council on Alcohol Abuse and Alcoholism, National Institutes of Health, Bethesda, Maryland
Chezem provides consultation to the Office of the Director of the National Institute on Alcohol Abuse and Alcoholism, NIH on ethical and legal issues involving alcohol research and the justice system.
Chezem chairs assessment teams for the National Highway Traffic Safety Administration.

Memberships
- American Academy of Forensic Science
- American Agriculture Law Association
- American Bar Association
- Indiana State Bar Association
- Indiana General Assembly Women’s Club
- National Association of State Judicial Educators
- Society of U.S. Belted Galloway
Darrell Fisher is a 33-year law enforcement veteran in Nebraska, spending nearly four years as a Deputy Sheriff in Buffalo County, Kearney, Nebraska, and more than twenty-nine years with the Nebraska State Patrol. Darrell graduated from the Nebraska State Patrol Training Academy on November 2, 1979, and served his first duty station assignment with the Uniformed Traffic Services Division, Headquarters Troop located in Lincoln. He worked numerous assignments in Traffic including nine years on the Special Weapons and Tactics Team (SWAT), six years on the Selective Traffic Enforcement Program, as well as service in Executive and Dignitary Protection, and as a Field Training Officer. He was promoted to Sergeant in the Training Academy in 1987, and in 1994 was promoted to Lieutenant where he served as Commander of the Academy and the Director of Training for NSP. He transferred back to Traffic Services in 1999 and was promoted to Troop Commander in September of 2000. Darrell most recently served as Lieutenant Colonel and the Assistant Superintendent of NSP, being appointed to that position on October 14, 2005. He served in that capacity until December 31, 2008 when he retired from the State Patrol.

Darrell has over 1200 hours of specialized training in the area of alcohol, drugs, and impaired driving. He certified as an instructor in the Standardized Field Sobriety Test battery in 1984, and has taught classes in SFST for nearly 30 years. In addition, he was a certified Drug Recognition Expert (DRE), as well as a certified DRE Instructor from 1992 until 2010. He has taught extensively within Nebraska and across the United States. Before retirement he held an at-large position on the Technical Advisory Panel (TAP), a subcommittee of the International Association of Chiefs of Police (IACP) Highway Safety Committee, which governs curriculum revisions, changes and updates for SFST and DRE. TAP also provides information and advice as requested concerning the Drug Evaluation and Classification Program, Standardized Field Sobriety Testing and areas of concern dealing with impaired driving. He is a past vice-chair as well as a past international chairperson for the IACP DRE Section. The IACP DRE Section serves as the coordinating body among the various DRE associations or chapters within the states and serves as a resource to respond to the views and needs of the membership.

Darrell is recognized in several jurisdictions as an expert witness in impaired driving, and is listed as such in the National Resource Directory for the National Traffic Law Center, a section of the National District Attorneys Association in Alexandria, Virginia. By his association with the Directory, he has been selected on two occasions to serve on the faculty of the Prosecuting the Drugged Driver course, held at the National Advocacy Center in Columbia, South Carolina. He is a published author, contributing chapters to the 2008 publication of Inside the Minds: DUI Law Enforcement, by Aspatore Books.

Darrell holds a Bachelor of Science Degree from the University of Nebraska at Kearney with a comprehensive major in Criminal Justice, graduating in May, 1979. He is a
graduate of the Northwestern University Center for Public Safety School of Police Staff and Command, and is currently in the Master’s Program at American Public University/American Military University, majoring in Military History.
Joseph Thomas Flies-Away, J.D., M.P.A.
WildavsInc@aol.com

Joseph Thomas Flies-Away (Hualapai), Associate Justice of the Hualapai Court of Appeals and private consultant, describes himself as a community and nation building facilitator. As a consultant, Flies-Away facilitates tribal community & nation building projects in planning, evaluation, technical assistance, research, and training. Focusing on developing justice systems, including Healing to Wellness Courts, Flies-Away is interested in how courts and other governmental institutions contribute to affective governance and ‘living together well’. Justice Flies-Away’s experience includes serving as a Hualapai Tribal Council Member, Director of the Tribe’s Department of Planning & Community Vision, promoter and Chairman of the Board of the tribal corporation, HBE, Inc., and Chief Judge and Associate Judge of the Hualapai Tribal Court (trial court). Justice Flies-Away has also taught students from Jr. High to the university, including Lecturer in Law at Stanford University School of Law and in Native American Studies in the Stanford School of Humanities & Sciences, Arizona State, and UCLA.

In his first term as Chief Judge, Flies-Away helped to plan, implement, then preside over the Hualapai Wellness Court, which later became a Mentor Court. It was one of the first wellness courts to offer both an adult and juvenile docket. On his own and as a consultant for the Tribal Law and Policy Institute (TLPI) Flies-Away assists tribes and Alaskan villages to plan, develop, and refine Tribal Healing to Wellness Courts. Working with TLPI, Judge Flies-Away helped produce the Overview Healing to Wellness Courts; Healing to Wellness Courts: The 10 key Components; and the Wellness Court Judge’s Bench Book (draft), which he is currently helping to update. In his own writing, Judge Flies-Away describes Wellness Courts as Therapeutic Jurisprudence +, ‘the plus’ being a spiritual element added to the psychological and emotional impact concerns of Tribal Justice (TJ). Spiritual in this context connotes how individuals and groups feel connected, linked, and tied together, a bonding that strengthens the spirit and soul. Flies-Away believes that many addicts seek and rely on substances to help them feel connected and apart. Healing to Wellness Courts, for Flies-Away, provides a format for participants to find alternate ways to feel connected, related, empowered, and restored.

Through his experience and education as a judge, council member, planner, and teacher, Judge Flies-Away is familiar and experienced with a broad spectrum of issues and concerns Indigenous peoples face in their endeavors to re-build strong communities, governments, and nations. Flies-Away commits to comprehensive strategies and facilitations in the areas of human capital development, organizational development, community infrastructure development, environmental support, and economic development (what he refers to as People, Policy, Place, & Pecuniary Possibilities; How People Gather Ground & Grow). Flies-Away offers holistic workshops and concepts that embrace Indigenous processes, including the Spirituality of Law and Warrior of Law; and speaks to various audiences on Indigenous governance, law, and leadership. Judge Flies-Away holds a Juris doctor Degree from the Sandra Day O’Connor College of Law, a
Masters Degree in Public Administration from the Harvard’s Kennedy School of Government, and is a graduate of Stanford in English Literature.
Rob Lillis is President of **Evalumetrics Research** and has been providing planning, research and evaluation services to traffic safety, substance abuse, criminal justice, education, health and mental health programs at the state and local level for over 35 years. He provides planning, research and evaluation services for Drug Free Community Grant programs and serves as evaluation consultant to the Allegany Council on Alcoholism and Substance Abuse (ACASA) and numerous other local substance abuse prevention and youth development programs. He also provides evaluation services for school districts for a variety of special programs including 21st Century Learning Center programs, after-school mentoring programs and environmental education programs. Mr. Lillis has served as the evaluator for the Ontario County Juvenile Drug Treatment Court, the Finger Lakes Drug Court, Ontario County Youth Court, the Finger Lakes Child Abuse Response Team-Child Advocacy Center and the Ontario County Family Support Center. He also has conducted outcome studies for the Yes Pa Foundation, character education program.

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

Since 1991, Mr. Lillis has served as a member of the Impaired Driver Assessment Consultant Team for the National Highway Traffic Safety Administration (NHTSA) and has conducted 50 assessments of prevention and treatment programs in 32 states, Puerto Rico and for the Indian Nations. He was the recipient of the 2011 NHTSA Public Service Award.
Joan Vecchi has over 30 years government experience at local, state and federal levels with broad experience in the application of criminal law; regulatory oversight; operational leadership of multiple state-level Sections and Divisions; program management; budget and program analysis; and dealing with diverse customer bases, including individuals, businesses, and government officials.

Ms. Vecchi earned a Bachelor of Science, *magna cum laude*, from Metropolitan State College, Denver, Colorado with a double major of Law Enforcement and Psychology. She graduated first in her class at POST, as a Certified Police Officer from the Denver Police Academy. In addition to earning a Master of Business Management from the University of Phoenix with an emphasis on Human Relations and Organizational Behavior, she has also completed numerous continuing education, short courses, and inservice training with focus on law enforcement and business management subjects.

As the president of Vecchi Consulting Company, some of her projects include:

- Facilitation contract for Traffic Records Program Assessments nationwide
- Review and evaluation of Motor Vehicle Hearings processes in Wisconsin
- Review of Current Practices in Motor Vehicle-related computer databases and data collection techniques nationwide
- Review of state and privately-sponsored teen driver training initiatives in all 50 states and the U.S. territories
- Revised and Updated the National Advisory for Impaired Driving Programs
- Revised and Updated the National Advisory for Traffic Records Systems
- Development of a Model DUI Tracking System, including over 500 data elements
- Driver/Vehicle Committee Chair for Performance Measurement development for traffic record system components

In her earlier career, while working for the State of Colorado, Department of Revenue, she held the positions of Senior Director of the Motor Vehicle Division; Manager - Driver Control/ Traffic Records Sections of the DMV; Field Operations Supervisor - Liquor Enforcement Division; and Principal Policy/Budget Analyst. In addition, her experience in the Denver Police Department included Patrol Officer, Police Technician, and Sergeant.

PROFESSIONAL ASSOCIATIONS/ AWARDS

Association of Transportation Safety Information Professionals, Past President and Executive Board member,
American Association of Motor Vehicle Administrators - Region Four, Board Member
National Security Excellence Award, Coalition for a Secure Driver License, Washington, DC
## AGENDA

Montana Impaired Driving Assessment  
Red Lion Colonial Inn  
2301 Colonial Drive  
Helena, Montana  59601  
May 5 – 10, 2013

### Sunday, May 5, 2013

<table>
<thead>
<tr>
<th>6:00 pm - 8:00 pm</th>
<th>Welcome – Montana City Grill</th>
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<tbody>
<tr>
<td></td>
<td>Introductions by Audrey Allums, Grants Bureau Chief, Montana Department of Transportation (MDT).</td>
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### Monday, May 6, 2013

<table>
<thead>
<tr>
<th>8:00 am – 8:30 am</th>
<th>Welcome – MDT</th>
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<tbody>
<tr>
<td>8:30 am - 10:00 am</td>
<td>Strategic Planning and Program Management</td>
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<tr>
<td></td>
<td>Overview – Audrey Allums, Grants Bureau Chief, MDT</td>
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<td>Grants Process – Priscilla Sinclair, State Highway Safety Section Supervisor, MDT</td>
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<td>Crash Data (State) – Mark Keeffe, Safety Ops Research Analyst, MDT</td>
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<td>Crash Data (FARS) – John Robinson, FARS Analyst, MDT</td>
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<td>Program Management – Lorelle Demont, Impaired Driving Traffic Safety Planner, MDT</td>
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<tr>
<td>10:00 am - 10:15 am</td>
<td>Break</td>
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<tr>
<td>10:15 am – 11:00 am</td>
<td>Montana Comprehensive Highway Safety Plan (CHSP) -</td>
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<td></td>
<td>Carol Strizich, Statewide &amp; Urban Planning Supervisor, MDT</td>
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<td>Lonie Hutchison, Champion, CHSP Impaired Driving Emphasis Area Team</td>
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<td>Lorelle Demont, Impaired Driving Traffic Safety Planner, MDT</td>
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<tr>
<td>11:00 am - Noon</td>
<td>Responsible Alcohol Sales and Service Training</td>
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<td>Lonie Hutchison, certified TIPS trainer and State of Montana Let’s Control It program trainer</td>
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<td>Lisa Scates, Liquor Education, Montana Department of Revenue</td>
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<tr>
<td>Noon - 1:00 pm</td>
<td>Lunch</td>
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<tr>
<td>1:00 pm – 1:30 pm</td>
<td>SIMS/Engineering&lt;br&gt;Kraig McLeod, Traffic Safety Engineer, Traffic Safety Bureau, MDT&lt;br&gt;Brenda Johnson, Computer System Analyst, Information Services, MDT&lt;br&gt;Mark Keeffe, Safety Ops Research Analyst, MDT&lt;br&gt;Mark Drydahl, Traffic Safety Engineer, MDT</td>
</tr>
<tr>
<td>1:30 pm – 2:00 pm</td>
<td>Board of Crime Control - Compliance Checks/Enforcing Underage Drinking Laws/Minor in Possession&lt;br&gt;Kevin Dusko&lt;br&gt;Leutenant Richard Stepper from the Missoula Police Department</td>
</tr>
<tr>
<td>2:00 pm – 3:00 pm</td>
<td>Screening, Brief Intervention and Referral to Treatment / Interagency Coordinating Council / Montana Prevention Coalition&lt;br&gt;Bobbi Perkins, Injury Prevention Coordinator, Montana Department of Public Health and Human Services (DPHHS)&lt;br&gt;Vicki Turner, Prevention Resource Center, DPHHS&lt;br&gt;Pam Langve-Davis, CHSP Coordinator/Safety Planner, MDT (ICC)&lt;br&gt;Curt Weiler, Program Officer, Chemical Dependency Bureau, DPHHS</td>
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<tr>
<td>3:00 pm - 3:15 pm</td>
<td>Break</td>
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<tr>
<td>3:15 pm – 5:00 pm</td>
<td>DUI Task Force&lt;br&gt;Lonie Hutchison, DUI Task Force Coordinator, Missoula County&lt;br&gt;Jenna Caplette, DUI Task Force Coordinator, Gallatin County&lt;br&gt;Barb Reiter, DUI Task Force Coordinator, Jefferson County&lt;br&gt;Charmell Owens, Ravalli County DUI Task Force member</td>
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<td>Time</td>
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| 8:00 am – 9:00 am | **State Crime Lab**  
Sara Hansen-Baimonte, Forensic Toxicologist  
Ben Vetter, Program Director – Breath Alcohol Testing  
Erin Inman, Traffic Safety Resource Prosecutor, MDT  
Kurt Sager, Traffic Safety Resource Officer, Montana Highway Patrol |
| 9:00 am – 9:30 am | **Full Court**  
Lisa Mader, Information Technology Director, Montana Judicial Branch |
| 9:30 am – 10:00 am | **Motor Carrier Services and Driver Licensing**  
Dennis Hult, Operations Bureau Chief, Motor Carrier Services Division, MDT  
Jeff Steeger, Motor Carrier Services, MDT  
Dan Moore, Motor Carrier Services, MDT  
Patrick McJannet, Department of Justice, MVD |
| 10:00 am – 10:15 am | **Break** |
| 10:15 am - Noon | **Enforcement/Publicizing High Visibility Enforcement**  
Sheriff Ed Lester, Butte/Silver Bow Sheriff  
Sheriff Carl Ibsen, Missoula County Sheriff  
Assistant Chief Steve Hagen, Helena Police Department  
Colonel Ken Hickethier, Montana Highway Patrol  
Captain Jim Kitchin, Montana Highway Patrol  
Sergeant Kurt Sager, Montana Highway Patrol  
Chad Dever, Montana Highway Patrol, SET  
Mike Ferda, City of Whitefish Police Department (via conference call) |
<p>| Noon – 1:00 pm | <strong>Lunch</strong> |</p>
<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
<th>Participants</th>
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</thead>
<tbody>
<tr>
<td>1:00 pm – 2:00 pm</td>
<td>Communications Program</td>
<td>Ronda Banik, Banik Communications, Stacey Kendrick, Partners Creative, Priscilla Sinclair, State Highway Safety Supervisor</td>
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<tr>
<td>2:00 pm – 3:00 pm</td>
<td>Safe On All Roads (SOAR)</td>
<td>Sheila Cozzie, Cultural Liaison, MDT, Amelia Adams, SOAR Coordinator, Confederated Salish &amp; Kootenai Tribes, Janis Spear, SOAR Project Manager, Northern Cheyenne (via conference call), Ronda Banik, Banik Communications</td>
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<tr>
<td>3:00 pm – 3:15 pm</td>
<td>Break</td>
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<tr>
<td>3:15 pm – 4:00 pm</td>
<td>Prevention/Treatment</td>
<td>Curt Weiler, Program Officer, Chemical Dependency Bureau, DPHHS, Jeff Kushner, State Drug Court Coordinator, Office of Court Administrator (via conference call), Judge Mary Knisely, 13th Judicial District Court (via conference call)</td>
</tr>
<tr>
<td>4:00 pm – 5:00 pm</td>
<td>Youth Programs</td>
<td>Fran Penner-Ray, Traffic Education Director, Montana Office of Public Instruction, Coleen Smith, Youth Connections – Helena, Vicki Turner, Prevention Resource Center, DPHHS</td>
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<tr>
<td>Time</td>
<td>Session</td>
<td>Participants</td>
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| 8:00 am – 10:00 am | Criminal Justice System (Laws, Enforcement, Publicizing High Visibility Enforcement, Prosecution, Adjudication, Administrative Sanctions/Driver’s Licensing Programs) | Erin Inman, Traffic Safety Resource Prosecutor, MDT  
Kurt Sager, Traffic Safety Resource Officer, Montana Highway Patrol  
Judge Mary Knisely, 13th Judicial District Court  
Judge Greg Mohr, Justice of the Peace - Sidney  
Jeff Kushner, State Drug Court Coordinator, Office of Court Administrator (406-202-5352)  
Rita Weeks, Fort Peck DUI Court, (406-768-2418)  
Judge Audrey Barger, Judicial Outreach Liaison |
| 10:00 am – 10:15 am | Break                                               |                                                                               |
| 10:15 am – 10:30 am | Victim/Legislative                                  | Becky Sturdevant                                                             |
| 10:30 am – 11:00 am | Legislative                                         | Sheri Scurr, Research Analyst, Office of Research and Policy Analysis, Montana Legislature  
Erin Inman, Traffic Safety Resource Prosecutor, MDT  
Judge Mary Knisely, 13th Judicial District Court  
Becky Sturdevant, Mothers Against Drunk Driving |
| 11:00 am - Noon | Administrative Sanctions and Drivers Licensing Programs/Assessment Course and Treatment | Greg Noose, Bureau Chief, Records and Driver Control Bureau, Montana Department of Justice  
Curt Weiler, Program Officer, Chemical Dependency Bureau, DPHHS  
Lieutenant Colonel Tom Butler, Montana Highway Patrol |
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<tr>
<th>Noon – 12:30 pm</th>
<th>Financial Administration</th>
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<tbody>
<tr>
<td></td>
<td>Chris Currie, Accountant/Supervisor</td>
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<td></td>
<td>Bill Tuck, Grants Accountant</td>
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<tr>
<td>12:30 pm</td>
<td>Questions/Wrap-up</td>
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<th>Wednesday May 8, 2013 continued</th>
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<td>12:30 pm - 1:00 pm</td>
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<thead>
<tr>
<th>Thursday May 9, 2013</th>
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<tbody>
<tr>
<td>8:00 am- Completion</td>
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<table>
<thead>
<tr>
<th>Friday May 10, 2013</th>
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<tbody>
<tr>
<td>8:00 am- 10:00 am</td>
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