



STATE OF MONTANA

Impaired Driving Program Assessment

November 14-18, 2022

National Highway Traffic Safety Administration
Technical Assessment Team

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The team thanks Jennifer Davidson, Highway Safety Specialist - Impaired Driving Division, National Highway Traffic Safety Administration (NHTSA) for coordinating and facilitating the assessment process and Norraine Wingfield for her coordination and management of the production of the final report and support to the team.

The team also thanks each of the interviewees for taking the time to share their knowledge and experiences; their candour and preparedness to discuss their activities to target impaired driving in Montana greatly assisted the team in conducting a thorough review.

This report presents a review of Montana's Impaired Driving Program. It is intended to assist in the State's efforts to enhance the effectiveness of its impaired driving program by equipping the stakeholders with the knowledge and skills to reduce and prevent impaired driving. The team believes this report will contribute to Montana'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 States and territories.

The Highway Safety Program Assessment is an assistance tool that uses an organized approach, along with well-defined procedures, to provide States and territories with a review of their highway safety and emergency medical services (EMS) programs. Program assessments are provided for impaired driving, occupant protection, traffic records, motorcycle safety, standardized field sobriety testing, driver education, pedestrian and bicycle safety, and EMS.

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

assessment process by assembling a team composed of experts who have demonstrated competence in highway safety or EMS program development and evaluation to complete the assessment.

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

Under the Fixing America’s Surface Transportation Act (FAST Act), states that have an average impaired driving fatality rate per 100 million vehicle miles traveled (VMT) that is 0.60 or higher are considered high-range states. States are considered mid-range if their average impaired driving fatality rate is lower than 0.60 but higher than 0.30 and low-range state if it is 0.30 or lower. It is projected that Montana will be a high-range state in FY24 and is therefore would be 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.

The Montana Impaired Driving Program Assessment was conducted at the Holiday Inn Express in Helena, MT from November 14-18, 2022. Under the direction of Janet Kenny, Supervisor of the State Highway Traffic Safety Section, Montana Department of Transportation and Kevin Dusko, Planner and Impaired Driving Coordinator, Montana Department of Transportation. Arrangements were made for impaired driving program partners and stakeholders (see Agenda) to deliver briefings and provide support materials to the team on a wide range of topics over a three-day period.

STATE BACKGROUND

Montana is geographically located in the Northwest region of the Nation. According to the 2020 Decennial Census, Montana had a population of 1,084,225. Residents are distributed over 56 counties and 129 municipalities. Approximately 89 percent of the population is white, 6.6 percent is Native American, 3.0 percent with two or more races, and the remaining population is spread between Asian, African American, Hawaiian, and other.

Native Americans made up 6.6 percent of Montana’s population but accounted for approximately 21 percent of all motor vehicle fatalities in 2019. These numbers indicate a continuing trend of Native Americans being over-represented in traffic fatalities in Montana.

The median age in Montana is approximately 39.8 years. The ratio of females to males is approximately 49.4 percent females to 50.6 percent males.

There are 75,008 miles of public roads with 12,946 comprising the state highway system and maintained by the Montana Department of Transportation (MDT). The rest are maintained by

local municipalities, Tribal governments, and other entities. In 2021, there were approximately 2.2 million registered vehicles and 825,000 licensed drivers.

With a land mass of 145,550 square miles, there are only three bigger states in the U.S. However, for every square mile of land, there is an average of just 7.4 people and that makes Montana one of the least populated states in the country. Mountain ranges, lakes and national parks all contribute to a huge area of natural beauty.

Residents are accustomed to driving long distances to access jobs, shopping, and recreation, which means people drive many miles prolonging the exposure to the risk of a vehicle crash. Driving in rural areas far from medical care means if a crash occurs, the outcomes could be more severe as it may take hours before emergency crews are informed of the crash, reach the victims, and transport them to the appropriate level of trauma care.

Montana Fatalities by Crash Type

Crash Type	2016	2017	2018	2019	2020
Total Fatalities (All Crashes)*	190	186	181	184	213
- (1) Single Vehicle	139	116	132	121	150
- (2) Involving a Large Truck	25	24	17	34	31
- (3) Involving Speeding	61	59	66	57	83
- (4) Involving a Rollover	104	90	80	65	105
- (5) Involving a Roadway Departure	142	139	141	128	158
- (6) Involving an Intersection (or Intersection Related)	15	23	28	22	20

*A Fatality Can Be in More Than One Category. Therefore, Sum of the Individual Cells Will Not Equal the Total Due to Double Counting

Highest Blood Alcohol Concentration in Crash

	BAC = 0.00		BAC = .01--.07		BAC = .08+		BAC=.01+		Total Killed	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Montana	105	49	13	6	96	45	108	51	213	100
USA	25038	64	2041	5	11654	30	13695	35	38824	100

Montana has the highest percentage of rural vehicle miles travelled in the nation; rural roads account for roughly 70 percent where 46 percent of their roadway deaths happen. NHTSA has recognized the combination of rural roads and speeding increases the likelihood of a fatal crash, which explains, in part, why Montana has one of the highest fatality rates.

Due to the size and population density of Montana, very few of Montana’s vehicle miles travelled occur in an urban environment. A large percentage of traffic travels at high speeds and trips tend to involve more time spent on rural roads.

Core Outcome Measures

		2016	2017	2018	2019	2020
Traffic Fatalities	Total	190	186	181	184	213
	Rural	170	167	153	159	190
	Urban	19	19	28	25	22
	Unknown	1	0	0	0	1
Fatalities Per 100 Million VMT	Total	1.51	1.47	1.43	1.43	1.76
	Rural	1.95	1.91	1.75	1.78	2.26
	Urban	0.49	0.49	0.71	0.63	0.6
Alcohol-Impaired Driving Fatalities (BAC=.08+)**		84	56	80	66	96
Speeding-Related Fatalities		61	59	66	57	83
Motorcyclist Fatalities	Total	17	22	21	23	29
	Helmeted	5	9	10	9	11
	Un-helmeted	12	13	11	14	18
	Unknown	0	0	0	0	0
Pedestrian Fatalities		11	14	15	16	17
Bicyclist and Other Cyclist Fatalities****		3	1	2	3	0
Observed Seat Belt Use***		76	78	87	89	90

The Montana Department of Transportation and its partners have taken steps to combat impaired driving. The recommendations included in this assessment report are designed to assist Montana as it furthers its efforts to prevent injuries, save lives, and reduce economic costs related to motor vehicle crashes in the State.

PRIORITY RECOMMENDATIONS

I. Program Management and Strategic Planning

- **Identify specific metrics to support impact evaluations that measure effectiveness of each step in the impaired driving strategic plan (outcomes).**
- **Create and build broader partnerships among the Executive Leadership Team.**
- **Articulate political, economic, social, and technological factors that impact the implementation of impaired driving strategies (outputs).**
- **Establish written procedures to demonstrate that program activities are being implemented as intended.**

II. Prevention

- **Provide Alcohol Beverage Control Division with the capability to carry out the regulatory responsibilities of the agency to address overservice and underage drinking.**

III. Criminal Justice System

- **Mandate by legislation a Driving Under the Influence tracking system from traffic stop to post adjudication including enrollment and completion of assessment and treatment.**
- **Fund well designed sobriety checkpoints that comply with Montana State Law.**
- **Dedicate a portion of the revenues in Marijuana State Special Revenue Account to law enforcement, toxicology, emergency medical services, and substance abuse treatment and intervention.**
- **Develop a plan to connect the Courts to the other Driving Under the Influence related systems, especially Drivers' Licensing, and fund the connectivity of Full Court to those systems.**

IV. Communication Program

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

VI. Program Evaluation and Data

- **Establish a uniform statewide crash report to collect data from all State law enforcement agencies to improve evaluation of highway safety programs.**

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 Commissions¹

Advisory

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

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

Status

The Governor is responsible for the administration of the highway traffic safety program as outlined in Montana Code Annotated 61-2-103. The Montana Department of Transportation (MDT) Director is the official appointed by the Governor of Montana to implement and administer the state's highway traffic safety program as required in 23 U.S.C 402 and 23 U.S.C 405. The Director of MDT serves as the Governor's Representative for highway safety.

The Executive Leadership Team (ELT) serves as Montana's impaired driving task force granting approval and authority to statewide strategies to reduce impaired driving fatalities and serious

¹ 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.

injuries. The purpose of the ELT is to provide direction on the implementation of Montana's Comprehensive Highway Safety Plan (CHSP) that is developed by the MDT. The Director of MDT is the chair of the ELT.

The ELT Charter identifies the make-up of the voting members, which includes the Governor and the executive leadership of 19 state agencies and organizations representing transportation; Indian Affairs; justice; law enforcement; public health; corrections; public defense; attorneys; education; labor and industry; revenue; counties and cities; tavern association; judiciary, the Legislature, and the courts. There were no reports of military representatives, national park service, rural road safety partners, impaired driving advocacy groups, motor clubs, or faith-based representation within the ELT.

The ELT meets twice a year. The first meeting occurs in October of each year shortly after the annual Statewide Transportation Meeting (STM), while the second ELT meeting occurs in early March. At the first meeting, the ELT discusses priority and focus areas of the CHSP. The Emphasis Areas identify the traffic safety issues that are the most significant problem areas contributing to statewide injuries and fatalities on Montana's roadways. One of the identified Emphasis Areas is that of impaired driving. The Impaired Driving Emphasis Area (IDEA) outlines the strategies to be taken by partners and stakeholders to address impaired driving and serves as Montana's Impaired Driving Plan (IDP). Each Emphasis Area has a team that oversees the implementation of strategies within the Emphasis Area and tracks progress of the plan. At the second ELT meeting issues can include items such as legislative issues and the actions to be approved concerning the Impaired Driving Assessment recommendations, and priorities.

The IDEA Team meets regularly to implement the strategies contained in the IDEA Work Plan. During these meetings, the team considers additional information such as high-risk demographic groups, time periods when the most severe crashes occur, high-crash locations, etc., to ensure efforts are targeted appropriately. The most recent IDEA Work Plan was approved by the ELT on May 17, 2022.

The IDEA Team is chaired by the Impaired Driving Coordinator, an MDT State Highway Traffic Safety Section (SHTSS) employee. IDEA Team membership, like that of the ELT, includes representatives of state and local government agencies, including transportation, law enforcement, education, revenue, the court system, statewide and national organizations, local, county, and Tribal safety partners. To ensure membership involvement and engagement, meetings are structured to enable remote participation via phone or webinar. The IDEA Team receives guidance from the CHSP Advisory Committee, a multidisciplinary group representing the four E's (engineering, education, enforcement, and emergency medical services) of traffic safety, that meets annually to develop strategies that are approved by the ELT and implemented by the IDEA Team. The IDEA Team is supported by the CHSP Coordinator, an MDT Multi-Model Planning Bureau employee.

Montana is a very rural state that has a wide variety of unique opportunities for expanded partnerships. Rural road safety presents unique challenges that can be difficult to address. However, several federal resources are available to assist states such as Montana in tackling the rural issues. Both the National Highway Traffic Safety Administration (NHTSA) and the Federal

Highway Administration (FHWA), as well as other groups offer resources. The web links to a few of the resources are as follow:

- <https://nhtsa.gov/rural>
- <https://highways.dot.gov/safety/local-rural>
- <https://ruralsafetycenter.org>

Montana also has the beauty of National Parks, Trails, Historic Sites, Monuments, etc. that many states do not have. This offers the opportunity to partner with the National Park Service (NPS) to address impaired driving issues. Occasionally there are limitations and challenges to working with federal agencies, but many states have effectively partnered with the NPS on traffic safety to conduct joint and collaborative enforcement and educational events.

Further opportunities to expand partnerships include national automobile clubs, such as AAA and victim advocacy groups such as Mothers Against Drunk Driving (MADD). AAA offers many traffic safety resources and opportunities to partner on a variety of topics. MADD can be a huge resource for states. The organization has members that can effectively connect with survivors of impaired driving crashes. MADD and survivors can be a driving force for change in a state regarding impaired driving, both from a behavioral and legislative standpoint.

Recommendations

- **Create and build broader partnerships among the Executive Leadership Team.**

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

Montana has an overarching vision of zero traffic fatalities and serious injuries on the State's roadways. This vision led to the adoption of Vision Zero by the Executive Leadership Team (ELT) and the Comprehensive Highway Safety Plan (CHSP) as being the guiding light to traffic safety efforts in the State. Achieving progress toward Vision Zero requires successful implementation of the strategies in the CHSP. Considerable efforts are underway to institutionalize safety into agency and organizational practices, as well as public perception, so that implementation of the vision is taken at every level. The Montana Department of Transportation (MDT) works with its safety partners to promote Vision Zero messaging to build a broader awareness of the brand.

The CHSP is developed through a cooperative process involving local, state, federal, tribal, and private sector safety stakeholders. The Plan:

- Is data-driven.
- Addresses the 4Es (engineering, education, enforcement, and emergency services) of highway safety.
- Considers safety needs of all public roads and roadway users.
- Establishes statewide goals and objectives.
- Defines key emphasis areas and strategies that have the greatest potential to reduce fatalities and serious injuries.
- Focuses resources on areas of greatest need.
- Adopts performance-based targets coordinated with other State safety programs; and
- Includes special rules, as appropriate.

Since the Impaired Driving Assessment in 2018, the CHSP has expanded stakeholders in the process to include representation from the emergency response community, including the trauma system and emergency room trauma nurses. The CHSP has also recently added the Department of Revenue Cannabis Control Division, following the legalization of recreational marijuana.

The Native American Tribes in Montana established the Northern Tribes DUI Task Force almost five years ago. When the Task Force was formed it consisted of the Tribes along the northern border of Canada. Since its formation, the Task Force has expanded to all of the seven land-based Tribes in the State. MDT assists with travel and training for members of this Task Force. The membership of this task force is comprised of a diverse group of traffic safety stakeholders including members from Tribal transportation planning, health departments, law enforcement agencies, community colleges, and members of the Tribal council. The group has adopted by-laws, created a strategic plan, and elected officers. The Kootenai and Little Shell (non-land based) Tribes are the only Native American Tribes in Montana that do not currently participate in the Northern Tribes DUI Task Force. The MDT State Highway Traffic Safety Section

(SHTSS) has committed to reaching out to the remaining Tribe during FFY23 to seek their participation. This Task Force is represented on the CHSP membership.

MDT and safety partners work together to achieve progress toward Vision Zero by analyzing crash data and focusing on crash factors where there is the greatest opportunity to save lives in Montana. Federal legislation requires that the most significant state safety problems and key emphasis areas be identified through data analysis to focus resources. Available traffic crash data is used in the problem identification process. Crash data is mined to determine the contributing factor(s) of the crash, location, demographic information on the drivers and passengers that includes age, gender, ethnicity, etc. This information is utilized to define the CHSP emphasis areas. It was noted during the assessment process Montana is not capturing all crashes in their data collection process. This situation could potentially have a significant impact on the entire planning process. The State should implement corrective action to ensure all crash data is collected and available for analysis and problem identification.

SHTSS's Data Research Analyst is an end-user of the system with full access to the available crash data. The analyst reviews fatality and serious injury trends for each NHTSA core performance measure to determine where resources should be focused. The Impaired Driving Assessment in 2018 encouraged the State to expand the data mined during the problem identification process. Specifically, the Assessment Team suggested the expanded data analysis utilized for the CHSP problem identification to include not only crash, but all other available data sets (e.g., arrest, conviction, driver record).

Montana's MDT is to be commended for pursuing the 2018 Impaired Driving Assessment Team's recommendation to expand the data analyzed during the problem identification process. Montana's Comprehensive Highway Safety Plan (CHSP) implementation process currently includes analysis of other data sources such as citation data, conviction data, and driver's records. These data sets provide critical information that offers feedback to the CHSP Team concerning the impact of stronger traffic safety laws and penalties for violations, arrest rates, and repeat offenders. Montana plans to continue to seek improvements, enhancements, and use of these data sets.

Montana utilizes the CHSP process to establish the methodology for the five safety performance measure targets required in the federal legislation to ensure alignment between plans and programs, including the coordination with the Highway Safety Improvement Program (HSIP) and Highway Safety Plan (HSP). Annual reporting for these targets happens within the HSIP and HSP Annual Reports.

Montana safety partners representing expertise in the 4 E's of traffic safety participate in the development and update of the CHSP. These partners serve on the Advisory Committee and on Emphasis Area Teams as well as assisting with the implementation of strategies developed during the process. The CHSP is intended to facilitate collaboration among highway safety programs and partners and to align goals and leverage resources across agencies.

Montana's 2020 update process for the CHSP involved an analysis of strengths, weaknesses, opportunities, and threats of the 2015 CHSP. The process included crash data analysis, outreach

to a wide range of partners, review of other agency safety plans to evaluate alignment with the CHSP, and meetings focused on specific crash issues to define the strategies needed for progress. The resulting update established four emphasis areas. The emphasis areas identified include:

- Roadway Departure and Intersection Related
- Impaired Driving
- Unrestrained Vehicle Occupants
- Emergency Response/After-Crash Care

Based on crash data analysis, safety partner input, proven effectiveness, and NHTSA's *Countermeasures That Work*, priority strategies and opportunities for action were developed. The opportunities for action serve as a starting point for Emphasis Area Team activity identification.

The Impaired Driving Emphasis Area Plan outlines six strategic areas to achieve the reduction in fatalities and serious injuries resulting from impairment. These areas include:

- Deterrence and Enforcement
- Prevention and Education
- Criminal Justice System
- Communication Program
- Alcohol and Other Drug Misuse: Screening, Assessment, Treatment, and Rehabilitation
- Program Evaluation and Data

Recommendations

- Increase stakeholders for the development of the impaired driving strategic plan.
- **Articulate political, economic, social, and technological factors that impact the implementation of impaired driving strategies (outputs).**
- **Identify specific metrics to support impact evaluations that measure effectiveness of each step in the impaired driving strategic plan (outcomes).**

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.²*

Status

The Montana Department of Transportation (MDT) is the lead agency responsible for administering the highway safety program, which includes the Comprehensive Highway Safety Plan (CHSP), Highway Safety Plan (HSP) Highway Safety Improvement Program (HSIP), and the Impaired Driving Plan (IDP). Within MDT, the State Highway Traffic Safety Section (SHTSS) is tasked with providing leadership for, and ensuring implementation of, the HSP and IDP. Approval of the IDP is overseen by the CHSP Executive Leadership Team (ELT), led by the MDT Director, and the Impaired Driving Emphasis Area Team (IDEAT) is chaired by the MDT SHTSS Impaired Driving Program Coordinator. The four CHSP Emphasis Area Teams are supported by a CHSP Program Coordinator, also an MDT employee.

MDT follows a prescribed planning process timeline to develop the annual HSP. There is an ongoing effort to analyze data that define problems and priority areas. The annual solicitation for grant applications is conducted January through March with development of the annual HSP taking place between April and June. The HSP is developed in collaboration with the CHSP and submitted to the National Highway Traffic Safety Administration (NHTSA) for approval. The planning process also reviews the list of existing stakeholders and partners involved in the annual Statewide Transportation Meeting to determine if there are additions needed to the group. During the annual meeting, data and problem identification are presented, priorities are developed, performance targets are set, and goals and strategies are outlined.

MDT's SHTSS utilizes the Montana Grants and Loan System (Webgrants), an electronic grants system to manage the grant process. Through Webgrants, sub-recipients can apply for grants, monitor grants, submit claims, review their budget and several other activities to oversee their

² See "Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Offices," Sixth Edition, 2011.

traffic safety grant. The system allows SHTSS to review applications, determine the eligibility through a scoring metric, award grants, and monitor the grant from inception to close out.

To notify potential applicants of the funding opportunity, SHTSS launches the next cycle of funding during the annual Statewide Transportation Meeting. This meeting is held in October and provides five months' notice of the upcoming funding opportunity. Applications are due on March 1 each year.

In addition to the kick-off at the annual Statewide Transportation Meeting, SHTSS staff provides application information to known stakeholders through email, presentations at traffic safety meetings and outreach to other traffic safety professionals who have similar goals and strategies. Information is provided through other MDT outreach efforts including the quarterly *Newsline* publication delivered to all known transportation stakeholders, and through social media sites.

After the March 1 submittal deadline, SHTSS begins the review process. Each application is first analyzed to determine if the project is eligible for NHTSA funding based on the objectives, activities, and budget. In addition, all applications must support the CHSP strategies developed by MDT's strategic partners and align with project efforts that have been proven to be effective in addressing highway safety problem areas as outlined in the publication *Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices Tenth Edition, 2020*. If an application is not eligible, a written notification will be sent to the applicant providing an explanation of the disqualification.

Once the application is determined to be eligible for funding, a team of reviewers score the application. The review team meets several times to discuss the proposal and how it will assist Montana in reaching traffic safety goals. Projects are evaluated on a variety of criteria looking at how an applicant's strategies align with the CHSP, problem identification, goals and objectives, evaluation, sustainability of the proposed project, budget, and prior performance with previous grants.

The FFY23 HSP includes several efforts that are funded to aid in Montana's efforts to achieve the targets set forth in the planning process. The federally funded efforts are as follow:

Driving Under the Influence (DUI) Courts are being funded that are located throughout the state including the 12th, 13th, and 7th Judicial District DUI Courts: Butte-Silver Bow County and Missoula County DUI Courts. DUI Courts are a strategy to reduce impaired driving recidivism for those who are not typically persuaded through education, public safety efforts, or traditional legal sanctions. Funding is provided from Section 402, 405d, and Section 164 for a total of \$572,561.

MDT contracts with the Montana Department of Justice, Attorney General's Office for Traffic Safety Resource Prosecutor (TSRP) services to conduct training on DUI adjudication. Ten impaired driving trainings are scheduled to be delivered to a variety of audiences, and the TSRP will provide 50 technical assistance requests to local prosecutors on impaired driving cases. The project will ensure criminal justice professionals continue to receive current training on issues

important to traffic safety to assist in reaching Montana's goals and targets related to impaired and drugged driving. Sections 402 and 164 will provide a total of \$141,513 for these efforts.

Impaired driving mini grants will provide up to \$5,000 to communities to implement programs aimed at educating individuals on the dangers of impaired driving. These mini grants are intended for projects with a limited timeframe, demonstrated collaboration, and are tied to community events that are at-risk for increased alcohol use. Applications will be taken and awarded throughout the year. Section 405d will provide \$10,000 for this.

The MDT is providing \$30,000 in Section 402 funding for this assessment of Montana's Impaired Driving Program. While Montana is currently a mid-range state for impaired driving fatalities, MDT anticipates that designation will change to high-range state for the next funding cycle.

Several Native American population efforts are underway to curb the elevated impaired driving issues with this demographic group. Montana has been coordinating the Safe On All Roads (SOAR) program for almost 15 years. The program focus is a targeted Native American education and outreach effort. Each reservation has a local coordinator working in the community. The coordinators partner with local traffic safety stakeholders to promote safe driving practices. SOAR provides outreach and education on occupant protection, impaired driving, and child passenger safety. Funding for this effort is \$329,929 (Section 402 and 164).

One Tribal law enforcement agency is currently receiving funding to participate in year-round sustained enforcement activities through the Tribal Selective Traffic Enforcement Program (STEP) project. The agency participates in two national mobilizations. Other activities are determined by the local agency and generally include big events such as pow-wows, rodeos, etc. Native American reservations allow tribal law enforcement agencies to establish DUI and seatbelt checkpoints with the purpose of either apprehending an impaired driver or checking for driver and passenger restraint systems. Funding for this STEP project is \$40,000 (Sections 402, 405b, and 405d).

The Native American Tribes in Montana have established the Northern Tribes DUI Task Force. All seven of Montana's land-based tribes participate in the task force. MDT assists with travel and training for members of this task force. The funding provided is used to assist with quarterly training and meetings. SHTSS has committed to reach out to the only Tribes not currently involved in the DUI Task Force, Confederated Salish and Kootenai and Little Shell (non-land based) Tribes, during the current federal fiscal year for their participation. Funding of the Task Force is \$5,000 (Section 405d).

SHTSS has committed \$382,000 of Section 405d and \$50,000 of Section 402 funding to support media surrounding impaired driving enforcement and education efforts during FFY23. The funding will support national mobilization periods and year-round efforts to communicate impaired driving messages to roadway users. Additional media support is provided to the SOAR program in Section 402 (\$90,000) funding which will devote some of the effort to communicating impaired driving messages to the Tribal communities.

The “Montana 24-7 Sobriety Program Act” was passed in 2011, Montana is working to curb the number of deaths and serious injuries related to impaired driving due to recidivism. As of June 2021, 45 counties have contracts in place and three Tribal reservations participate in the 24-7 Sobriety Program. MDT provides funding for a statewide coordinator to assist counties with implementing and maintaining the program. During the 2021 Legislative Session, Montana recodified all the impaired driving laws regarding restrictions on driving privileges following a conviction of a DUI.

Recommendations

- **Establish written procedures to demonstrate that program activities are being implemented as intended.**
- Measure progress in achieving established goals and objectives.

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

The federal law authorizing the federal highway safety efforts is titled Fixing America's Surface Transportation (FAST) Act and was signed into law on December 4, 2015. This law was amended by the Bipartisan Infrastructure Law that was signed into law on November 15, 2021. The FAST Act authorized funding for the Section 402 Highway Safety Programs and Section 405 National Priority Safety Programs for fiscal years 2016 through 2020. The Bipartisan Infrastructure Law continued funding for highway safety programs with the guidance for these programs continuing from the FAST Act.

During FFY22, Montana successfully applied for and received funding from the National Highway Traffic Safety Administration (NHTSA) for FFY23. These grant monies include funding for 23 USC Section 402 Highway Safety Programs, and for Section 405 National Priority Safety Programs including: Section 405b (Occupant Protection), Section 405c (State Traffic Safety Information System Improvements), Section 405d (Impaired Driving Countermeasures), Section 405d (24/7 Sobriety Program), and 405f (Motorcyclist Safety). Base level funding was received following the submission of a Performance Plan in accordance with federal law. Montana estimates carry forward from prior fiscal years in the amount of \$6,133,785 into FFY23. This amount excludes carry forward amounts dedicated to the Traffic Records Coordinating Committee, \$1,036,723. Montana is fortunate to currently qualify for Section 402, the Section 405d Impaired Driving Countermeasures funding, and one of only seven states to qualify for Section 405d Impaired Driving 24-7 Sobriety funding.

According to information contained from the FFY23 Highway Safety Plan Cost Summary, \$6,404,959 is programmed from new funding and \$6,133,785 is programmed from prior year funding. These totals are for all funding categories including Sections 402, 164, and 405. Specifically programmed for impaired driving is \$755,885 in Section 402 funds, \$1,290,567 in Section 405d Impaired Driving funds, \$32,255 programmed in Section 405 24-7 Sobriety funds, and \$1,894,874 in Section 164 Alcohol funds.

The high level of prior year funding carried into the new fiscal year is of concern. Furthermore, funding being carried forward from year-to-year appears to be growing. There are ample opportunities to utilize the available funding to address significant issues in the State that could have an impact on traffic safety issues, particularly impaired driving injuries and fatalities. Existing grant proposals with a high likelihood of decreasing impaired driving injuries and fatalities should be given priority and funded.

It appears programs supported by funding from convicted impaired drivers to combat impaired driving are limited. The only funds identified that are paid by Driving Under the Influence (DUI) offenders that return financial support to impaired driving prevention efforts is the license reinstatement fee. A portion of the fee is returned to communities to support the DUI Task Forces that are located throughout the state. If a county does not have an active DUI Task Force, the funds are pooled and redistributed to active Task Forces. The State should identify additional streams of revenue provided by DUI offenders through penalties or fees to support impaired driving prevention programs.

The only impaired driving incentive funding category that Montana does not currently qualify for is that of Section 405d Impaired Driving Ignition Interlock. Only six states qualify for this

funding category and the requirements for funding are very stringent. While Montana has an ignition interlock law, the law does not require all convicted impaired drivers to install an ignition interlock device and it appears that this deterrent to impaired driving is applied sparingly to those convicted of DUI. The court may require the device, but it is not a mandatory action by the court, regardless of the number of DUI convictions an individual may receive. Montana should explore the opportunity to deploy a greater number of these devices for repeat (second offense or greater) and for high (0.15) blood alcohol content (BAC) offenders.

Recommendations

- Fund grant proposals with a high likelihood of decreasing impaired driving injuries and fatalities.
- Explore the opportunity to deploy a greater number of ignition interlock devices for repeat offenders and for high blood alcohol concentration offenders.

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

Impaired driving is fundamentally related to alcohol and other drug use and abuse. A 2016 monograph titled *Montana’s Alcohol Climate* noted that, “Montanans have higher prevalence rates of alcohol consumption and substance use than residents of most other states, a behavioral pattern that has been manifest practically since the Old West.” This cultural depiction is reflected in alcohol consumption and consequence data.

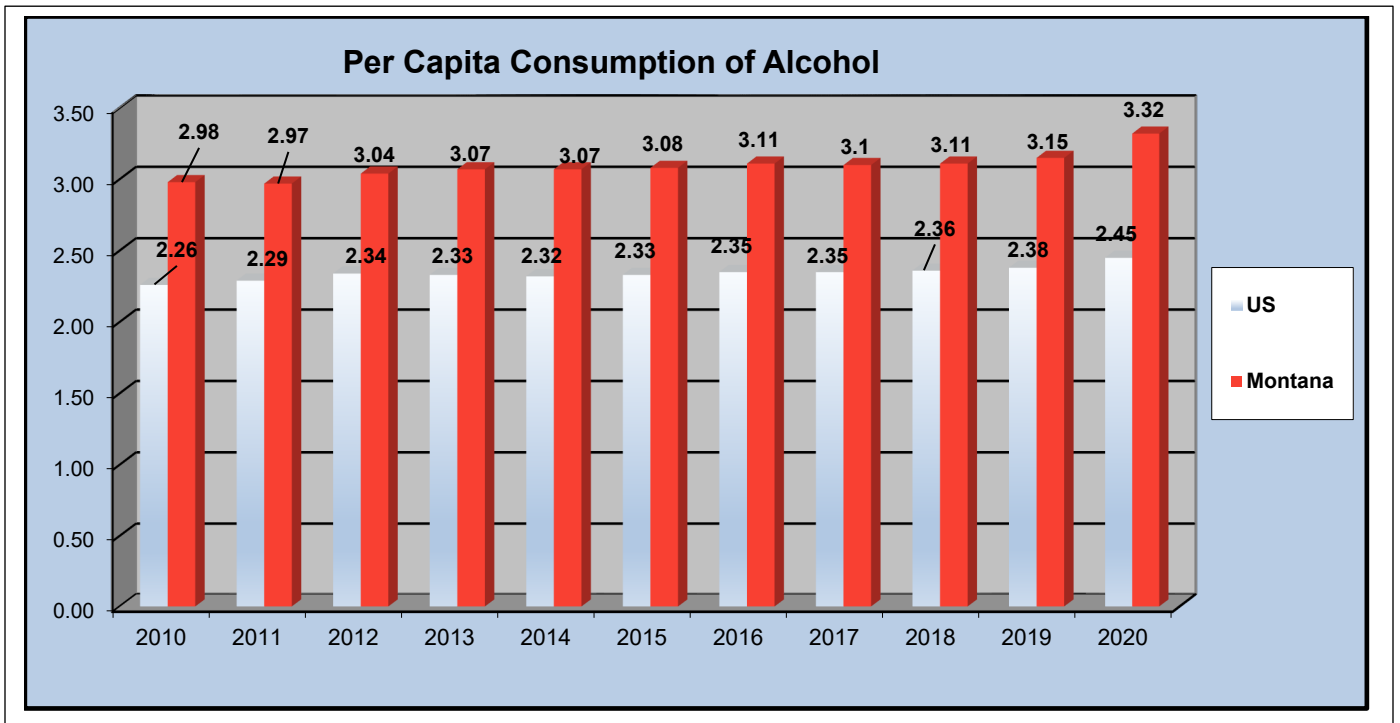
As Table II-A-1 indicates, in 2020, the last year for which complete data were available, consumption of alcoholic beverages in Montana equaled 3.32 gallons of ethanol per capita, more than 1.3 times the national average of 2.45 gallons per capita. Figure II-A-1 shows that for the past 10 years, alcohol consumption in Montana has generally been well above the national average. Between 2019 and 2020, per capita alcohol consumption in Montana increased 5.2 percent compared to the national increase of 2.9 percent.

Table II-A-1

Per Capita Consumption of Ethanol

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
US	2.26	2.29	2.34	2.33	2.32	2.33	2.35	2.35	2.36	2.38	2.45
Montana	2.98	2.97	3.04	3.07	3.07	3.08	3.11	3.1	3.11	3.15	3.32
Difference (Ratio)	1.32	1.30	1.30	1.32	1.32	1.32	1.32	1.32	1.32	1.32	1.36

Figure II-A-1



The health and safety consequences of this high level of alcohol consumption are reflected in results of a recent analysis of deaths from 58 alcohol-attributed causes, as defined in the Centers for Disease Control and Prevention’s Alcohol-Related Disease Impact application. Alcohol attributable deaths include motor vehicle deaths as well as other injuries, liver disease, and many types of cancer. During the period 2015 to 2019 nearly one in three (30.0%) deaths of 20- to 34-year-olds in Montana were due to excessive alcohol use. Overall, the proportion of alcohol-related deaths among 20- to 64-year-olds in Montana was 1.3 times higher than the national average.

**Proportion of All Deaths
Due to Excessive Alcohol Use
2015 – 2019
Age Group**

	20-34	35-49	50-64	Total 20-64
US Total	25.4%	17.5%	9.5%	12.9%
Montana	30.0%	24.5%	12.1%	16.7%
Ratio	1.2	1.4	1.3	1.3

The State Board of Examiners established the Montana Liquor Control Board in 1933 patterned after the alcohol beverage distribution system in Alberta, Canada. The Board was charged with the responsibility of purchasing, pricing, and vending liquor in the State. By the first quarter of 1935, 115 State-owned retail stores were in operation. In 1937, liquor-by-the-drink became legal. In the mid-1960s, emphasis on customer services brought self-service stores to the State. In 1973, the State legislature abolished the Liquor Control Board and transferred its responsibilities to the Department of Revenue, Liquor Control Division (LCD).

Currently, the Alcoholic Beverage Control Division (ABCD) is responsible for administration of the Montana alcoholic beverage code with an emphasis on customer service and public safety. The ABCD Licensing Bureau licenses and regulates all entities that produce, import, distribute, or sell alcoholic beverages in Montana. The Bureau processes applications, renewals, transfers, and registrations for retail and wholesale alcoholic beverage licenses and permits. The Liquor Distribution Bureau manages state wholesale liquor operations, including warehouse shipping and receiving, accounts receivable and payable, inventory management, liquor order processing, agency contract management, and customer service. Montana is a control state in which State agency stores are the sole source for wholesale and retail sales of distilled spirits³. The State maintains agency franchise contracts and supplies liquor to 95 private agency liquor stores. These agency liquor stores are retailers of liquor and fortified wine; they sell to the public for off-premises consumption and to more than 2,380 on-premises alcohol beverage licensees.

³ A small number of craft distilleries are permitted to sell limited amounts of distilled spirits.

Total	2022	2021	2020
Retail Outlets			
On Premise	2,388	2,450	2,363
Off Premise	898	899	906
Total Retail Outlets	3,286	3,349	3,269

Distilled Spirits	2022	2021	2020
Manufacturers			
Domestic Distiller License	29	27	30
Total Manufacturers	29	27	30

Wine	2022	2021	2020
Manufacturers			
Domestic Winery	30	28	29

Beer	2022	2021	2020
Manufacturers			
Domestic Brewery	110	103	105

Montana statutes provide for allocation of part of the State alcohol excise tax to the Liquor Enterprise Fund for use by the Department of Public Health and Human Services (DPHHS) for prevention and treatment of alcohol abuse. The tax allocation provides approximately \$9.6 million annually for this purpose. The allocation formula is as follows:

- Liquor license fees – 65.5 percent to DPHHS for treatment, rehabilitation and prevention of alcoholism and chemical dependency
- Beer - 23.26 percent to DPHHS
- Wine and hard cider – 31 percent to DPHHS

In 2021, approximately \$46.1 million from liquor operations was distributed to the State General Fund and \$9.6 million to the Special Revenue Fund. The Department of Public Health and Human Services uses Special Revenue Funds to provide alcohol and chemical dependency treatment and prevention services.

The Alcoholic Beverage Control Division (ABCD) administers the Responsible Alcohol Sales and Service Act which mandates all individuals who sell or serve alcohol to complete responsible service training. The State alcohol sales and service training program is called “Your Community Matters”. The ABCD relies heavily on volunteers, including members of local DUI Task Forces, to teach the State’s responsible alcohol sales and service training program. There are numerous server-training programs, available from private vendors. Server training courses can be either in person or online

but must be approved by ABCD.

ABCD does not conduct compliance checks directly. Alcohol compliance checks are conducted by law enforcement agencies to help prevent the sale of alcohol to underage patrons. A two-phase approach to compliance checks is encouraged. During the first phase, known as the Remind and Reward phase, a person of legal age attempts to purchase alcohol and determines if the server or clerk properly asks for and checks identification. If proper procedures are followed, the server or clerk is provided a card acknowledging their success. If proper procedures are not followed, even though not technically illegal, the server or clerk is provided a card informing them of the deficiency and reminding them of the proper procedures. The second phase involves an underage person attempting to purchase alcohol. If an infraction is found, appropriate legal action is taken. If four violations are cited within a three-year period, the establishment where the infractions occurred can lose their license to sell alcohol.

Of the 764 compliance checks conducted in the first nine months of 2022, 81 percent of servers were found to be in compliance. It should be noted that the failure rate for servers who had completed online training was significantly greater than for those who completed the in-person Your Community Counts training.

The ABCD Outreach Coordinator works independently from the Division's Bureaus in order to provide impartial assistance. The Outreach Coordinator works to help licensees, the public, Montana communities, officials, and anyone else interested in or who wants to get involved in the alcoholic beverage industry. The Outreach Coordinator also educates licensees, law enforcement, city and county attorneys, and the general public about alcoholic beverage code.

ABCD has no enforcement unit or investigation resources. In fact, administrative actions against licensees can be initiated only after law enforcement takes action. Montana statutes provide authority to contract with the Department of Justice to carry out investigation and enforcement actions. However, most enforcement is conducted by local law enforcement agencies and places a strain on limited local municipalities.

There appears to be little or no enforcement of restrictions on overservice or service to intoxicated patrons.

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

Montana has limited 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. An unintended result of localized social host ordinances can be 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.

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.

Recommendations

- **Provide Alcohol Beverage Control Division with the capability to carry out the regulatory responsibilities of the agency to address overservice and underage drinking.**

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

Montana secondary schools can participate in the Prevention Needs Assessment (PNA) survey every two years. Results from this nationally validated survey provide guidance to schools and communities as they shape their prevention programming priorities. The PNA is conducted in even-numbered years. Data analyses for the 2022 PNA was not complete at the time of the assessment. Table II-B-1 provides results for responses from 12th grade students in 2020⁴.

⁴ Interpretation of PNA results should consider that the sample includes only students whose parent/guardian gave expressed consent for participation and that not all school districts in Montana participated in the survey.

Nearly one in 10 (9.3%) admitted to driving one or more times after drinking alcohol. Nearly one in five (18.7%) rode with a driver who had been drinking. Among 12th graders, 44.3 percent reported drinking alcohol in the past 30 days while more than one in four (28.2%) reported they had consumed five or more drinks on at least one occasion. One in five (20.8%) reported using marijuana in the past 30 days. Students do not perceive alcohol or marijuana as potentially harmful with 40.3 percent saying that daily use of alcohol presented little or no risk; 27.2 percent saw little or no risk from binge drinking; and 60.5 percent saw little or no risk from using marijuana one or two times a week. More than eight of 10 (83.9%) did not think they would be caught by the police if they drank. Very few students reported using a fake ID to purchase alcohol.

Table II-B-1
Prevention Needs Assessment 2020
Montana 12th Grade Students

Drove after drinking	9.3%
Rode with driver who was drinking	18.7%
Drank in Past 30 days	44.3%
5+ Drinks at one time (Binge)	28.2%
Used Marijuana in Past 30 Days	20.8%
Perceived no harm from	***
Daily use of alcohol	40.3%
5+ Drinks at one time (Binge)	27.2%
Marijuana 1 or 2 times/week	60.5%
Would NOT get caught by police if they drank	83.9%
Parents do NOT disapprove of drinking	16.7%
Bought alcohol with fake ID	2.3%
Bought alcohol with no ID	2.4%
Have family member with alcohol/drug problem	45.1%

Consistent with the dire picture of alcohol consumption and negative consequences in Montana, it is not surprising that nearly half (45.1%) of students reported having a family member with a severe alcohol or drug problem.

Montana has 455 school districts that are locally controlled. There is no mandated health or safety curriculum specific to impaired driving or underage drinking. Montana, like most other states, has shifted to learning standards to address common core competencies. Montana's learning standards in health include some limited discussion of underage drinking and impaired driving.

Montana's school districts offer state-approved driver education that includes traffic safety, parent/guardian involvement, and Graduated Driver Licensing (GDL). The Traffic Education Unit approves instructors and school-based programs to ensure Montana

standards and requirements are met. Driver education is not required; however, many Montana students take the course which carries the incentive of reduced insurance premiums. Driver Education includes a unit on alcohol and other drugs as well as distracted driving.

Traditional impaired driving prevention activities such as mock crashes, crash carts, and drunk goggles are still popular, although research does not support their effectiveness in bringing about behavioral change. Effective programs teach social-emotional and cognitive-behavioral skills through peer-to-peer practice and application.

The Montana Highway Patrol (MHP) implements the Alive at 25 defensive driving course in schools and communities. The National Safety Council (NSC) developed this four-hour course to encourage young drivers to take responsibility for their driving behavior. Through interactive media segments, workbook exercises, class discussions, and role playing, young drivers develop convictions about safety and practical strategies that will keep them safe on the road.

Currently, 35 instructors teach Alive at 25 across Montana. In the past year, they provided 70 classes and reached 1,500 students. Most of these participants were court-ordered, although instructors offer Alive at 25 to driver education classes.

The Montana Department of Public Instruction website has an extensive list of Evidence Based Programs (EBP). EBPs currently being implemented in some Montana secondary schools include: Botvin Life Skills Training, Sports Wellness, AlcoholEdu, Project Northland, and Prime for Life. Some elementary schools are implementing Second Step. Montana faces unique challenges in implementing many proven prevention programs. Many schools are too small to justify the cost of programs that require expensive training and materials. Except for a few population centers, the vast distance between communities makes travel to and from community-based programs difficult.

There are several evidence-based prevention programs that have been developed or tested specifically for Native American populations. For example, the Red Cliff Wellness School Curriculum is a substance use 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.

Many schools in Montana have School Resource Officers (SRO) present in school buildings. SROs can be employed by county or local departments and are funded by department budgets, grants, or other sources. Recent tragic events in schools have drawn attention to school safety. The National Association of School Resource Officers developed the “triad” concept of school-based policing. It divides the school resource officer’s (SRO) responsibilities into three areas: teacher, informal counselor, and law enforcement officer. SROs can play a critical role in prevention of impaired driving,

underage drinking, and substance use while promoting a positive image of law enforcement to school children and school communities.

Some schools offer Drug Abuse Resistance Education (DARE) classes in fifth grade and in middle school.

A resource for parents to use to address their child's decisions about use of alcohol and other substance is ParentingMontana.org, a web-based toolkit for parents to learn skills in the process of dealing with challenging topics, parent/child communication skills, and promoting healthy relationships. The toolkit has specific strategies based on the child's age. There is specific information on alcohol and marijuana.

The National College Health Assessment survey in 2021 found that 77.4 percent of students in one large Montana college reported drinking alcohol at least once in the past 30 days. More than one in three (35.2%) reported smoking marijuana. Of those who drank alcohol, nearly one in 20 (4.6%) said drinking had adversely impacted their academic performance.

Montana colleges have implemented a variety of alcohol and substance use prevention and intervention strategies. For example, Smart Choices, Carroll College's comprehensive plan to address alcohol and drug abuse prevention includes the AlcoholEdu online course all incoming freshmen take to educate them on alcohol and college related issues, plus prevention workshops and trainings throughout the year, and a one-hour course called "Thriving" for all freshman during the first semester. The college has instituted a six-hour educational seminar for students with alcohol violations. Part of Carroll's plan is its campus-wide assessment of 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 participation in Arrive Alive free cab service. Carroll College also conducts a social marketing campaign 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 the spring's junior-senior banquet.

The Commissioner of Higher Education mandated that all public colleges and universities require all incoming freshmen complete the AlcoholEdu online course.

Montana State University has established a task force to address on-campus alcohol and drug use and is participating in the Community Alcohol and Drug Coalitions of America (CADCA) Community of Practice program.

Many states have formed College Prevention Consortium to share experiences and coordinate prevention strategies and messages. There is no active college prevention consortium in Montana.

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

- Provide resources statewide so that all schools can implement evidence-based programs.
- Establish a college substance use prevention consortium.

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. Like most states, such a program has been discontinued for lack of resources and because of the trend away from employment in large companies. Traffic safety, alcohol abuse, and impaired driving are typically addressed in other employer services.

Many employers offer Employee Assistance Programs (EAP) 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 use, EAPs can have an indirect effect on impaired driving.

All companies that provide goods and services to federal government agencies or that receive federal funds are required to implement a Drug-Free Workplace Program. These programs may include substance use policies, drug testing, and employee education.

Whether through an EAP or Drug-Free Workplace Program, all employers should provide access to Screening, Brief Intervention and Referral to Treatment (SBIRT), and offer employees of all ages information about the effects of alcohol, marijuana, or illicit drugs, as well as prescription and over-the-counter medications on operating a motor vehicle.

There is currently no organized effort to engage the business community in helping to educate its employees and customers about impaired driving. However, the inclusion of a labor, agriculture and industry leaders on the Comprehensive Strategic Highway Safety Plan Executive Leadership Team could serve as the gateway to reach private sector employees across Montana.

Recommendations

- Include representatives of the labor, agriculture, and industry on the Executive Leadership Team.
- Consider the development of a comprehensive coordinated employer traffic safety program.

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 use, injury control and other related coalitions, (e.g., Drug Free Communities, SPF-SIG), to assure that impaired driving is a priority issue;*

- *Provide information and technical assistance to these groups, including data concerning the problem in the community and information identifying evidence-based underage drinking and impaired driving programs;*
- *Encourage these groups to provide support for local law enforcement and prevention efforts aimed at reducing underage drinking and impaired driving; and*
- *Encourage professionals, such as prosecutors, judges, nurses, doctors, emergency medical personnel, law enforcement officers and treatment professionals, to serve as community spokespeople to educate the public about the consequences of underage drinking and impaired driving.*

Status

DUI Task Forces operate in 36 counties. DUI Task Forces are funded, in part, with revenue from license reinstatement fees. State Highway Traffic Safety Section (SHTSS) facilitates statewide training for task forces. SHTSS reviews and approves county annual task force plans. Training provides traffic safety information. The task forces conduct a variety of campaigns to increase public awareness of impaired driving. Some task forces provide responsible alcohol service training classes.

The Northern Tribes DUI Task Force was formed by tribal reservation communities with membership consisting of a wide variety of traffic safety partners including Tribal Council members, judges, prosecutors, law enforcement, transportation, health, injury prevention agencies, and tribal community colleges. The task force includes established by-laws, elected officers, and a strategic plan.

Motor vehicle crashes have a significant impact in Montana's Native American population. Native Americans comprise 6.6 percent of the population in Montana but represent approximately 21 percent of the motor vehicle crash deaths in the State each year. In an effort to spread the safety message in Tribal communities, Montana Department of Transportation developed the Safe On All Roads (SOAR) program. SOAR is a traffic safety education program that provides safety messages relevant to the individual culture of each community. Coordinators living and working in the community manage their local program and assist in developing appropriate educational material.

Montana has extensive substance use prevention resources including two sources of federal substance use prevention funds. The U.S. Substance use Mental Health Services Administration (SAMHSA) block grant and the SAMHSA Partnership for Success (PFS) grant. Both programs have been administered by the Department of Public Health and Human Services (DPHHS) Chemical Dependency Bureau. Both funding streams have been used for capacity building and local grantees cannot use these funds to directly support evidence-based prevention programs. However, local organizations can use these funds to build capacity to garner grants and other sources of local support for prevention strategies.

In smaller counties, DUI Task Forces can qualify as the designated prevention coalitions under PFS provided that all sectors of the community are represented on the task force.

DPHHS supports a network of Prevention Specialists in each of the 56 counties. Prevention Specialists work with communities to plan and implement a variety of strategies to reduce youth substance use or misuse. Prevention Specialists provide and promote education on risk and protective factors that affect youth. Local coalitions are provided technical assistance in implementing the Strategic Prevention Framework (SPF) which is the SAMHSA five-step planning process for instituting an intervention in a community, region, or state.

The SPF steps include:

1. Assessment: Identify local prevention needs based on data, i.e., What is the problem?
2. Capacity: Build local resources and readiness to address prevention needs, i.e., What do you have to work with?
3. Planning: Find out what works to address prevention needs and how to do it well, i.e., What should you do and how should you do it?
4. Implementation: Deliver evidence-based programs and practices as intended, i.e., How can you put your plan into action?
5. Evaluation: Examine the process and outcomes of programs and practices, i.e., Is your plan succeeding?

The five steps are guided by principles of sustainability and cultural competency. Sustainability means the process of an effective system achieving and maintaining desired long-term results. Cultural competency refers to a defined set of values and principles that encourage behaviors, attitudes, policies, and structures that enable an organization to work effectively cross-culturally.

Prevention strategies at the local level include environmental strategies such as Sticker Shock, a national campaign to reduce underage drinking by limiting youth access to alcohol. The campaign is designed to discourage adults from buying alcohol for minors by educating them about the dangers and consequences of these actions. The central activity of this initiative involves placing high-visibility stickers on multi-packs of beer and other alcohol products with a warning message to adults about the dangers and consequences of buying alcohol for minors.

Montana DPHHS and Youth Connections sponsor the Montana Prevention Academy for Prevention Specialists and partners. The Academy includes workshops with nationally recognized speakers, networking opportunities, and Topic Cafes with area experts and scientific community partners. Attendees obtain tools necessary for effective substance use prevention. Impaired driving prevention professionals and members of DUI task forces could benefit from attendance at the academy.

Montana is fortunate to have the DUI task forces and substance use prevention coalitions operating throughout the State. Prevention of impaired driving would be greatly enhanced by promoting and supporting collaboration between these efforts where collaboration is defined as, “two or more organizations developing and implementing all or most

functional areas of a program in a single effort. Each organization retains its identity and might have some distinct roles, but the collaboration program has an identity of its own.”⁵

Recommendations

- Support the attendance of members of the Driving Under the Influence Task Force in the Montana Prevention Academy.
- Ensure collaboration between Driving Under the Influence Task Forces and local substance use coalitions.

B-4. Transportation Alternatives

Advisory

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

States should:

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

Status

Many local traffic safety organizations promote designated driver and/or safe ride programs.

In Montana, public transportation including cabs is inadequate to support safe ride programs. The advent of Uber and Lyft in some parts of the State provides a potential resource for providing transportation alternatives for impaired drivers.

A recent example is Helena’s Tri-County Licensed Beverage Association’s (TCLBA) Home Free program. Seeking a “reliable, affordable, and uncomplicated” program,

⁵ *Collaboration Assessment for Community Coalitions.* www.evalumetrics.org.

TCLBA met with Uber to establish a program in which participating owners pay into a fund that in turn pays for a ride home for impaired patrons. Alcohol servers have the Uber app ready and can arrange a ride with very little delay. To date, over 6,000 rides have been provided. The owners established guidelines and rules to prevent overuse and abuse of the program which state that “it is not to be used as a failsafe to over-serving. We must still do the job that we have all been trained to do.”

It is important programs such as this stress a strict non-use of alcohol message for a designated driver, and do not encourage or enable excessive drinking. The point of alternative transportation is to change the norm that drinking, and driving is acceptable.

Recommendations

- None

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;⁶*

⁶ Limited exceptions are permitted under Federal statute and regulation, 23 U.S.C. 154 and 23 CFR Part 1270.

- *Separate and distinct criminal penalties for alcohol- and drug-impaired driving to be applied individually or in combination to a single case;*
- *Assessment for alcohol or other drug abuse problems for all impaired driving offenders and, as appropriate, treatment, abstention from use of alcohol and other drugs, and frequent monitoring.*

Effective monitoring should include:

- *supervision of out-of-state offenders;*
- *proven technology (e.g., ignition interlock device, electronic confinement and monitoring) and its capability to produce reports on compliance;*
- *impaired driver tracking systems; and*
- *periodic reports on offender compliance with administrative or judicially imposed sanctions;*
- *Driver license suspension for persons under age 21 for any violation of law involving the use or possession of alcohol or illicit drugs; and*
- *Statutory and rule support for DWI Courts as a sentencing alternative for persistent DWI offenders.*

Status

The statutes of the State of Montana provide the legal foundation for the State's effort to reduce and prevent driving under the influence. In 2021, as part of an effort to simplify working with the Montana Driving Under the Influence (DUI) statutes, the Montana legislature recodified the DUI statutes. The reorganized and recodified statutes became effective January 1, 2022. Montana's statutory scheme to combat driving under the influence has some strengths such as legislation supporting DUI Courts as a sentencing alternative for persistent DUI. Another example, the DUI definitions are mostly clear and easy to apply. See two examples below:

(13) "Passenger area" means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while the driver or a passenger is seated in the vehicle, including an unlocked glove compartment.

(14) "Under the influence" means that as a result of taking into the body alcohol, drugs, or any combination of alcohol and drugs, a person's ability to safely operate a vehicle has been diminished.

In the DUI Code section "61-8-1001" is strong and clear.

(1) Aggravated driving under the influence" means a person is in violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d) and:

- (a) the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.16 or more.
- (b) the person is under the order of a court or the department to equip any motor vehicle the person operates with an approved ignition interlock device.
- (c) the person's driver's license or privilege to drive is suspended, cancelled, or revoked as a result of a prior violation of driving under the influence, including a violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence, or a similar offense under previous laws of this state or the laws of another state; or
- (d) the person refuses to give a breath sample as required in 61-8-1016 and the person's driver's license or privilege to drive was suspended, cancelled, or revoked under the provisions of an implied consent statute.

In contrast, another statutory provision states, with an inexplicable gap in logic, “(4)(a) If an arrested person refuses to submit to one or more tests requested and designated by the peace officer, the refused test or tests may not be given unless the person has refused to provide a breath, blood, urine, or other bodily substance 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, 45-5-106, 45-5-205⁷, or driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or a similar statute in another jurisdiction.”

The second provision in the Montana DUI Code, while appearing to be in compliance with NHTSA Guidelines, succeeds in making a test refusal to be of little or no consequence to the driver who refuses.

Additional provisions in the Montana Code that do not meet NHTSA guidance include the following:

(4) Vehicular Homicide While Under Influence

45-5-106. Vehicular homicide while under influence. (1) A person commits the offense of vehicular homicide while under the influence if the person negligently causes the death of another human being while the person is operating a vehicle in violation of **61-8-1002**.

(2) Vehicular homicide while under the influence is not an included offense of deliberate homicide as described in **45-5-102(1)(b)**.

(3) A person convicted of vehicular homicide while under the influence shall be imprisoned in a state prison for a term not to exceed 30 years or be fined an amount not to exceed \$50,000, or both. Imposition of a sentence may not be deferred.

1. The Montana Code provides that alcohol or other drugs (whether illegal, prescription, or over the counter) are not treated similarly in its statutes. The statute makes it illegal “per se” for people under age 21 to drive with any measurable amount of alcohol in their system (i.e., .02 BAC or greater) and yet no mention is made of marijuana which Montana permits as a recreational drug.
2. Montana has an open container law, prohibiting 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 (limited exceptions are permitted under 23 U.S.C. 154 and its implementing regulations, 23 CFR Part 1270); and no similar provisions are made for marijuana.
3. Montana does not have a statute that allows a primary seat belt offense but rather, officers are required to observe or cite a driver for a separate offense other than a seat belt violation.
4. Montana’s criminal penalties and administrative sanctions such as administrative license suspension or revocation (ALR), for failing or refusing to submit to a BAC or other drug test are not effective nor certain. Montana does not provide 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.
5. Penalties are not regularly enhanced for test refusals. No mention was made of license plate confiscation, vehicle impoundment, immobilization, or forfeiture. The weak consequences for test refusal and the prohibition of getting a warrant for a blood draw for a driver with no prior convictions discourage law officers in their enforcement of the DUI law.
6. Montana does not have a requirement for assessment for alcohol or other drug abuse problems for all impaired driving offenders and, as appropriate, treatment, abstinence from use of alcohol and other drugs, and frequent monitoring.

Montana statutes thus cannot be described as sound, rigorous, and easy to enforce and administer. Both the language and reported implementation do not meet NHTSA Guidelines. The critical weaknesses include provisions that frustrate effective enforcement, and do not provide consistently effective consequences.

Another problem is presented by the following legislative provisions:

“(4) Each municipality in this state is given authority to enact this section, with the word "state" changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of the ordinance and the imposition of the fines and penalties provided in the ordinance.”

On the face of the statute, the idea that communities set their own priorities for traffic safety is appealing. In Montana, this has apparently given rise to disparities, in enforcement, prosecution, and adjudication. The statute does not require that the local community meet any standards in records systems, reporting of violations, or the

disposition of the cases. Legislation is needed to require each agency to meet data collection and reporting standards so that there is reliable and accurate tracking of DUI offenders and the disposition of cases.

In summary, it does not appear that Montana has the legislative understanding needed to undertake a review of its DUI statutes with a serious and dedicated intention to provide the effective provisions that will better protect those who use the roadways of Montana from impaired drivers.

Having strong and effective statutory language is essential to any effort in reducing and preventing DUI. Applying and enforcing the statutes is the second essential element in DUI prevention and reduction. The final element that is critical in developing public understanding and support for the efforts to reduce DUI is to have a required and complete data collection mechanism and analysis of DUI offenses. A DUI tracking system can help everyone to see what is working well and what might be improved. It provides valid measures for evaluation and allows the development of a strong public education campaign. Providing proof that DUI is a preventable harm to the people of Montana is an important part of the DUI prevention and reduction efforts.

Recommendations

- **Mandate by legislation a Driving Under the Influence tracking system from traffic stop to post adjudication including enrollment and completion of assessment and treatment.**

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

Law enforcement has the responsibility of executing all criminal traffic safety-related programs administered by the Montana Department of Transportation – State Highway Traffic Safety Section (SHTSS). The State has approximately 105 law enforcement agencies, excluding federal partners, and serves a population base of 1,084,225 community members. For perspective, the total number of full-time law enforcement officers is approximately 1,676. When combined with the Montana Highway Patrol (+243), the total number of full-time sworn law enforcement is 1,919. The State has a total area of 145,508 square miles and ranks fourth largest by area. The State, furthermore, has experienced a significant growth in population over the past decade. The majority of Montana’s geographical area is defined, by the Census Bureau, as “rural” meaning most population centers have fewer than 2,500 people. Approximately 70

percent of the driving is done in a rural setting and approximately 44 percent of residents live in rural areas. The vast majority (82 percent) of fatalities and serious injuries on Montana roadways occur in rural locations. This poses significant challenges for law enforcement agencies who are, again, the enforcement stakeholders.

Montana has one of the highest percentages of fatalities per 100 million vehicle miles traveled (VMT). In 2020, Montana's VMT was 1.75 compared to the national average of 1.34. The lowest state was 0.63. With that said, rural VMT in Montana per 100K population remains high as compared to the national average. According to the 2020 Montana Comprehensive Highway Safety Plan, impaired driver crashes account for 10 percent of all crashes yet result in 60 percent of all fatalities and 33 percent of all serious injuries during 2010-2019.

A leadership and communications plan are the foundations for impaired driving education and enforcement efforts. Leadership must emphasize impaired driving education and enforcement through data collection, officer and stakeholder training, intentional on-going saturation patrols/checkpoints, and officer recognition. Simultaneously, these efforts must be done with stakeholder involvement and community leadership engagement i.e., decision-makers and those that allocate and/or influence funding.

In 2018, a team of subject matter experts conducted an impaired driving assessment in Montana and provided the following law enforcement recommendations:

1. Increase the number and retention of Drug Recognition Experts.
2. Expand the 24/7 Sobriety Program and evaluate additional monitoring methodologies.
3. Encourage law enforcement agencies to implement a data driven approach to conducting aggressive traffic enforcement while combating crime.

As a result of the 2018 impaired driving assessment, the State identified a need to have two full-time Traffic Safety Resource Officers (TSROs) to lead and manage DRE certifications and recertifications. The current TSRO serves as the Montana Drug Evaluation and Classification (DEC) Program State Coordinator or better known as the Drug Recognition Expert (DRE) Program State Coordinator. The DRE State Coordinator will be responsible for ensuring that the International Standards for the DEC Program are followed. To ensure a successful DEC Program, the state coordinator will ultimately be responsible for the overall supervision; review and governing of all DREs and DRE agencies performing DRE functions. The State's DRE personnel, since 2018, has remained consistent with approximately 65 Drug Recognition Experts.

Montana's DEC Program is managed and coordinated by the Montana Highway Patrol. From January 1, 2019, through December 31, 2021, Montana's DRE Program conducted 921 enforcement evaluations. Enforcement evaluations are directly tied to DUI Drug investigations; therefore, refer to Table 1 for specific details.

Table 1

*Drug Recognition Expert Data System
January 1, 2019 - December 31, 2021*

Total DRE Evaluations	921	
No Drug Found (Toxicology)	106	12%
Alcohol Only	2	0%
Medical Impairment	17	2%
No Impairment	76	8%
Poly Category Opinion	212	23%
Poly Category Toxicology	248	27%
Opinion Completed: 920		
Total Number of Opinions	1074	
DRE Accuracy	92%	

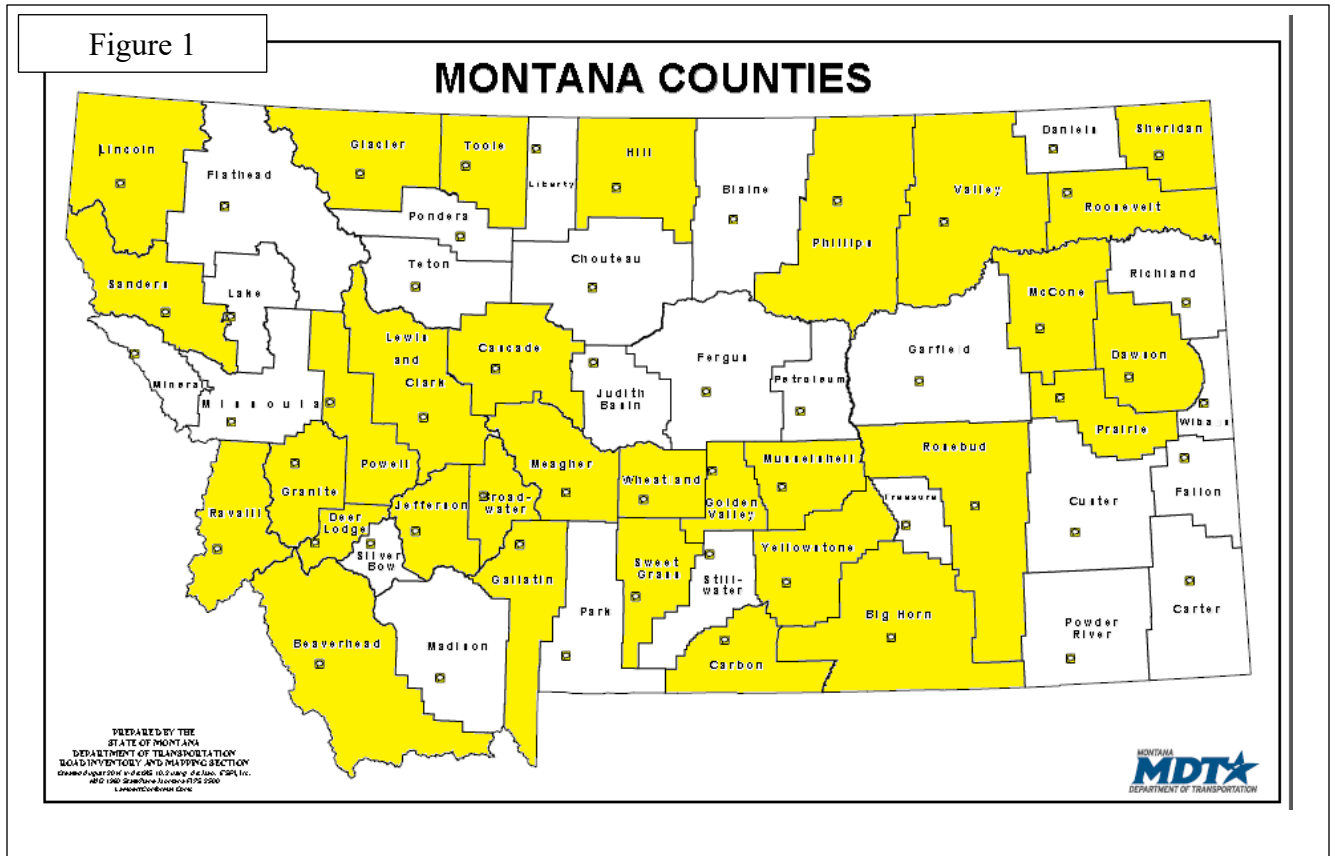
During this three-year period, the top-four drug categories were as follows:

- CNS Stimulants (403)
- Cannabis (335)
- Narcotic Analgesics (160)
- CNS Depressants (122)

In comparison, using the same date range for DUI offenses, the State issued a total of 20,889 DUI related citations. The State’s DRE Program accounts for less than one-half of one percent of all DUI investigations. The data suggests that Cannabis is the number two drug category associated in DUI drug investigations and its prevalence will only increase with Cannabis legalization.

Regarding the 24/7 Sobriety Program, the State, since 2018, may or may not have expanded capacity (increased available testing sites), but there are significant challenges surrounding this program. A map of counties participating in 24/7 is below. The most concerning issue with the 24/7 Sobriety Program is offender accountability. Should offenders fail to report for mandatory twice-a-day testing there is no formal process or offender matrix regarding offender consequences or sanctions. Arrest warrants may be issued for non-compliance, but jails are already at capacity. It was reported, additionally, that treatment options are often the decision of those offenders who committed impaired driving offenses. In other words, the offender may pick an alternate and available technology such as a SCRAM bracelet. SCRAM does not appear to be available as a

state-wide option and the State did not provide non-compliance consequences (see Figure 1).



24/7 Sobriety Program Participating Counties

Although the State offers the Ignition Interlock Device (IID), it remains unclear as to which government agency ensures compliance or primarily functions to facilitate services. The State has five vendors who are certified every two or three years. The assessment revealed there are approximately 100 drivers with a current ignition interlock device. The State was unable to provide information surrounding vendor compliance inspections and what is done with IID data. Specifically, what is the process and what are the consequences for offenders who violate the conditions of IID? The IID program is complex with several stakeholders involved in the process. For instance, some common questions or concerns surrounding IIDs involve driver resources, financial assistance, Driver and Motor Vehicle Services, Court Services, Alcohol and Drug Screening Specialists, Manufacturer Representatives Services, and Technician Resources. The State provided information regarding Department of Motor Vehicle installation reports, removal letters, or subsequent driver license suspensions; however, program oversight remains unresolved.

The **primary** law enforcement recommendation from the 2018 Impaired Driving Assessment surrounded law enforcement implementing a data driven approach to

conducting aggressive traffic enforcement while combating crime. The State reported crash data and mapping options available to law enforcement and the public. The information, however, is limited. For instance, the MHP utilizes a Records Management System that does not have a crash dashboard or real time reflection of the crash problem. In other words, a trooper can only review individual data and not statewide “hot spots.” Additionally, many agencies are still completing paper crash reports and location, time/date, and impairment involving crashes are not shared with the public. The State does not appear to have a web-based crash dashboard with real time information including location, date/time, impairment, etc. available to law enforcement. The State reported using thematic maps showing Montana’s high crash corridors and fatalities are frequently used by law enforcement for scheduling high-visibility enforcement efforts, but this practice was not corroborated by those involved in High Visibility Enforcement efforts. The State did not provide one High Visibility Enforcement tactical or operational plan for review prior to or during the 2022 assessment.

The State’s Impaired Driving Work Plan outlines law enforcement’s role in “deterrence and enforcement.” This includes Selective Traffic Enforcement Program (STEP) and the Strategic Enforcement Traffic Team (SETT) HVE efforts. Accordingly, 18 of 56 counties received STEP funding support, which included radio spots and press release templates for Holiday Drive Sober mobilization December 19 through January 2. Both the STEP and the Montana Highway Patrol (MHP) Strategic Enforcement Traffic Team (SETT) concentrate on mobilization periods and high-risk events e.g., state fair, football games, rodeos. The MHP SETT is a six-person mobile team focused on traffic enforcement (see Table 2 below).

Table 2

SETT DATA REPORT FFY22

Mobilization	STEP Hours Worked	Total Number of Stops	Citations
Winter Holiday Season	112.73	123	36
October 1 - January 31	643	583	149
February 1 - May 31	798.97	728	224
Memorial Day Mobilization	131.02	97	29
Labor Day Mobilization	126.67	92	34
June 1 - September 30	644.86	605	147
Total	2457.25	2228	619

Note: Citations - 119 DUI related offenses and 23 DRE Evaluations

The State supports Tribal law enforcement STEP High Visibility Enforcement (HVE) efforts. The SHTSS provides funding for HVE efforts during the Holiday Mobilization and two other high-risk events. It was reported that Sobriety Checkpoints are not used; however, Montana Code Annotated, Title 46, Chapter 5 (Search and Seizure) allows law enforcement to establish temporary roadblocks. Most Tribal law enforcement agencies are conducting sobriety checkpoints within their jurisdictions, but there are no State-Tribal Intergovernmental Strategies to effectively reduce crime including traffic enforcement.

The State supports the Law Enforcement Liaison (LEL) program. Montana is divided into four regions, which include state, county, tribal, and city agencies. The State currently has one LEL responsible for increasing productivity of the STEP program or assist agencies in obtaining mini grants for special events. Other than increasing STEP participation, it remains unclear what specific measurables are associated to this position.

The State provides on-going impaired driving training to law enforcement officers. The available training curricula from the International Association of Chiefs of Police/National Highway Traffic Safety Administration and the National District Attorneys Association are as follows:

- Advanced Roadside Impaired Driving Enforcement (ARIDE)
- Drug Impairment Training for Educational Professionals (DITEP)
- Drugs that Impair Driving (DID)
- Drug Recognition Expert (DRE)
- Drug Recognition Expert Instructor Development Course (IDC)
- Intoxilyzer 9000 (CMI curriculum)
- Prosecuting the Drugged Driver (NDAA curriculum)
- Protecting Lives Saving Futures (NDAA curriculum)
- Standardized Field Sobriety Testing (SFST)
- Standardized Field Sobriety Testing Refresher
- Standardized Field Sobriety Testing Instructor Development Course (IDC)

The above curricula are not an all-inclusive list of training but covers the most common impaired driving training options available to law enforcement. The MHP provided the following list of training conducted since 2020 (see Table 3):

Table 3			
<i>Law Enforcement Training Courses</i>			
	2020	2021	2022
ARIDE	5	15	5
DRE	1	1	1
DRE IDC	0	2	0
SFST	5	7	6
SFST IDC	0	1	1
SFST Refresher	6	6	3

All law enforcement officers attend the Law Enforcement Officer Basic Course, which is a 12-week academy. Here, officers receive initial SFST training along with Intoxilyzer 9000, DID, and DUI scenario training. The State should be commended for including DUI scenarios during academy participation. This model of impaired driving training is not available in all states. With Commercial Motor Vehicle and Fish, Wildlife, and Parks officers having peace officer authority, and both receive SFST training, the State has or should have additional resources available to assist in combating impaired driving incidents.

The other available curricula may involve other stakeholders such as prosecutors (NDAA), forensic scientists, school administrators and faculty, paramedics, beverage control officers, commercial motor vehicle inspectors, parole and probation officers, and other public safety or public health industry professionals.

The Montana Forensic Science Division (MFSD) provides forensic services to all law enforcement, and they are a full-service toxicology lab. In 2021, MFSD processed 5,839 toxicology cases with eight toxicologists, two breath alcohol scientists, one and one-half technicians, and one supervisor. Moreover, MFSD tested 4,138 samples that were related to DUI or traffic fatalities, which represented a 10 percent increase from 2019. If the sample is above 0.10 g/dl BAC, per MFSD policy, drug testing is not routinely performed unless the incident stemmed from a traffic fatality and/or DRE case. Here are some other Forensic Science Division highlights:

- The average BAC was 0.182 g/dl
- 71 percent of samples tested positive for Ethanol
- Impaired driving cases are highly litigated, and scientists spend a lot of time providing expert witness testimony
- Besides Ethanol, Tetrahydrocannabinol (THC) is the most prevalent drug found in DUI investigations
- Of the cases where drug testing was performed, 47 percent tested positive for THC or a THC metabolite
- Approximately 20 percent of DUI samples testing positive for THC, or a THC metabolite are between the ages of 15-20.
- Methamphetamine is found in approximately 31 percent of DUI cases

MFSD has some challenges moving forward. Due to a Montana Supreme Court case, in-person requirements will increase travel time across the state and keep scientists out of the laboratory conducting testing; they carry a higher case load than the national average; and with the increase of poly category cases scientists will spend more time on a particular case.

Nationwide there is a staffing concern among law enforcement. With vacancies, agencies are prioritizing calls-for-service over proactive patrol enforcement efforts. If vacancies remain unfilled, most municipal and county agencies will continue to prioritize calls-for-service over traffic enforcement. The State currently has one agency DUI pilot program to address this issue. This agency has a dedicated traffic officer to focus on DUI enforcement with secondary priorities including occupant protection, speeding, and distracted driving. The State should be commended for having an officer dedicated to traffic enforcement. Additionally, the State should be commended for maintaining Montana's Highway Patrol Strategic Enforcement Traffic Team. Both are funded by SHTSS.

Under the authority of Montana Code Annotated (MCA) 61-2-106 and 61-2-108, the county has authority to establish a DUI Task Force (DUI TF). Available funds flow through the County Treasurer's Office from driver license reinstatement fees collected. However, statewide, the total funds are approximately \$400,000. The majority of DUI TFs do not have bylaws or governance leading to specific outputs to change outcomes. With 36 county DUI TFs serving 39 counties, funds are limited for most DUI TFs, and uniformity lacks. In part, most are not funded properly to make a significant impact surrounding impaired driving e.g., legislative, policy, and training improvements. With that said, law enforcement's commitment to this group is overwhelming and their participation is exceptional.

The Alcoholic Beverage Control Division (ABCD) is tasked with the administration of the State's alcoholic beverage code with an emphasis on customer service and public safety. Beyond regulating alcohol establishments on and off-site premises, the organization has a goal of reducing overserving and underage alcohol incidents. The State has 2,500 on premises, 900 off premises, 45 wholesalers, 100 temporary permits, 30 wineries, and approximately 29 distribution centers across the State. It was reported ABCD attempts to perform 1,000 compliance checks annually; however, they do not have the authority to perform underage compliance checks. This task, when completed, is performed by a sworn peace officer or officers from the Gambling Division. The State, moreover, is currently not conducting overservice compliance checks.

The State used several words repeatedly: The drinking (alcohol) culture; wearing many hats; not enough personnel; population growth; and at or above capacity. This assessment revealed the following:

- State has many small police departments with limited resources
- Some processes and outputs are not collected, shared, or measured for evaluation

- No Intergovernmental agreements with Tribal Nations
- Data and information linkage to public safety and partners alike are fragmented
- The need for additional DREs has increased
- Impaired driving troopers (SETT) is an effective countermeasure
- DUI Police Traffic Safety Officers (pilot) is an effective countermeasure

With the recent legalization of marijuana for recreational use, Montana will need to be prepared to respond to the negative consequences that might result in use and abuse. A significant component of that preparation should be collection of valid data related to marijuana use and subsequent impairment as a contributing factor in crashes and injuries.

Recommendations

- Establish additional Driving Under the Influence Police Traffic Safety Officers to focus on impaired driving and other highway safety priorities (secondary).
- Institute an eCharging system which serves as “broker” between individual data systems e.g., incident reports, complaints, citations, search warrants, and Driving Under the Influence administrative forms.
- Develop a Driving Under the Influence (DUI) Dashboard that provides a map view of DUI related data.
- Increase the number of Drug Recognition Experts by 10 percent every two years. Prioritize underserved areas.
- Develop an Ignition Interlock Device Program that includes driver resources, financial assistance, Driver and Motor Vehicle Services, Court Services, Alcohol and Drug Screening Specialists, Manufacturer Representatives Services, and Technician Resources.
- Institute 24/7 consequences for noncompliance.
- **Fund well designed sobriety checkpoints that comply with Montana State Law.**
- **Dedicate a portion of the revenues in Marijuana State Special Revenue Account to law enforcement, toxicology, emergency medical services, and substance use treatment and intervention.**
- Expand the existing Driving Under the Influence Police Traffic Safety Officers program.
- Provide Alcohol Beverage Control Division with the capability to carry out the regulatory responsibilities of the agency to address overservice and underage drinking.
- Consider partnerships with Commercial Motor Vehicle and Fish, Wildlife and Parks who have peace officer authority and have received Standardized Field Sobriety Testing training to assist with driving under the influence enforcement.

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.⁸

States should:

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

⁸ Robertson, Robyn D. and Herb M. Simpson "DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution." Ottawa, Traffic Injury Research Foundation, 2002.

Status

Montana does not have a comprehensive program to visibly, aggressively, and effectively prosecute and publicize impaired-driving-related efforts, including use of experienced prosecutors e.g., traffic safety resource prosecutors, to help coordinate and deliver training and technical assistance to prosecutors handling impaired driving cases throughout the State.

The Montana prosecutor, the County Attorney, is elected for a four-year term in most Montana counties; however, there are some county attorneys who are appointed. They 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, and all misdemeanor crimes occurring outside the city limits of any city within their county. Also, the office works with all law enforcement agencies as well as other state investigative agencies in the prosecution of crimes against the State of Montana.

Each respective County Attorney's Office is not just a prosecutor. They are responsible for defending or prosecuting all civil claims for or against their county. County Attorneys also represent agencies of the State of Montana when required by law.

County Attorneys may be full or part time, usually depending on the population of the county. Full-time County Attorneys are prohibited from private practice. Part-time County Attorneys may have a part-time private practice, so long as it does not conflict with their duties as County Attorney. The more populated counties have Deputy County Attorneys. Their number varies from county to county, dependent upon the needs of each county. These positions may be either full or part-time.

In addition to the County Attorneys, the city attorneys prosecute DUI's. While there is a Montana City Attorneys Association, no information is available about the association as a possible resource or link to the city attorneys. The duties as described in the statute make it evident that the city attorneys are part of the Montana DUI puzzle.

7-4-4604. Duties. The city attorney shall:

- (1) appear before the city court and other courts and prosecute on behalf of the city.
- (2) serve upon the attorney general within 10 days of the filing or receipt a copy of any notice of appeal that the city attorney files or receives in a criminal proceeding.
- (3) when required, draft for the city council contracts and ordinances for the government of the city.
- (4) when required, give to the mayor or city council written opinions on questions pertaining to the duties and the rights, liabilities, and powers of the city; and
- (5) perform other duties that pertain to the functions of the city council or that the city council prescribes by resolution.

Additional prosecutorial responsibilities lie with the Attorney General.

Montana has hired a new Traffic Safety Resource Prosecutor (TSRP) to provide increased leadership to the prosecutors in the state to improve the prosecution of the Driving under the Influence cases. The TSRP has been providing training and resource material for the prosecutors. The TSRP has plans to increase the training and resources available to the prosecutors. While the plans make sense, it might be that the TSRP needs assistance such as a law clerk, instructional materials design, an adult education professional, and even ready access to alcohol and drug scientists. The State needs to implement a comprehensive TSRP program.

The role of the Montana County Attorneys Association (MCAA), a non-profit organization dedicated to serving Montana prosecutors and their staff, was not addressed during the assessment. MCAA's stated mission is to provide education and training to prosecutors and provide county attorneys the ability to collectively voice their concerns about public policy issues affecting their offices, the criminal justice system in Montana, and public safety. It would be useful to have a better understanding of the appetite of the prosecutors in the state to increase the effective prosecution of DUI. Are the prosecutors interested in the DUI outcomes? What are the priorities of the prosecutors? It would be helpful to know what specific resources the prosecutors need to improve the prosecution of the DUI cases.

There were reports of plea agreements that diminish the importance of DUI prosecution. It is difficult to determine to what extent DUI cases are being dismissed, deferred, or plead off. Where are the plea bargains being done and why are the prosecutors willing to engage in the practice? Is the evidence inadequate or was there an officer's mistake? Is the case load so overwhelming that the deals are necessary to move the case. Information was received that indicates that jury trials are increasing. The question is "why?" Because the data gaps are large, answers to these questions will not be easy. The lack of critical information blocks the improvement of the management of DUI cases. There are important questions about the information management and electronic communications systems. The need for improvement in the ability to transmit records to and from the prosecutors' offices is clear.

The prosecutors participate in the DUI courts. Is this a good use of their time? Are the prosecutors contributing to better DUI court outcomes? A well-designed evaluation of the DUI courts is needed that takes a look at the role and needs of the prosecutors for participation. Such evaluations should include the costs of the prosecutor's time.

The questions around the effective prosecution of DUI cases are important in planning future approaches. The prosecutors are essential as are the defense attorneys in planning how to improve prosecution and adjudication of DUI cases.

Recommendations

- Fund a comprehensive review of the prosecuting attorneys' information systems and plan the necessary upgrades and improvements.

- Conduct an assessment of the TSRP functions and provide additional resources to maximize productivity.
- Implement a Driving Under the Influence tracking system from traffic stop to post adjudication.
- **Mandate by legislation a Driving Under the Influence tracking system from traffic stop to post adjudication including enrollment and completion of assessment and treatment.**

C. 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 supervision⁹ is housed within the judicial branch, the guidelines of Section V(A)(1) should be utilized by the judiciary.

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

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

States should:

- *Involve the State's highest court in taking a leadership role and engaging judges in effectively adjudicating impaired driving cases and ensuring that these cases are assigned to knowledgeable and experienced judges;*
- *Encourage consistency in the adjudication of impaired driving (including youthful offender) cases, and the imposition of effective and appropriate sanctions, particularly when impaired driving resulted in a fatality or injury;*

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

- *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.¹⁰*
- *Eliminate ethical obstacles, such as ex parte or commitment communications, by adopting the current Model Code of Judicial Conduct so that judges can participate more freely in DWI Court administration;*
- *Provide adequate staffing and training for community supervision programs with the necessary resources, including technology such as IID and electronic confinement, to monitor and guide offender behavior and produce periodic reports on offender compliance; and*
- *Incorporate into judicial education and outreach administration the position of Judicial Outreach Liaison as a judicial educator and resource on highway traffic safety issues including impaired driving, and as an agent to create more DWI Courts.*

Status

Montana has an assortment of courts. Montana's court system is comprised of Courts of Limited Jurisdiction (Justice, City and Municipal), State District Courts, and the State's highest court, the Montana Supreme Court. Courts dealing with specific issues are called specialty courts and include Youth Courts, Drug Courts, Water Court, and Workers' Compensation Court.

Montana has one Supreme Court and no intermediate Court of Appeals. Montana's 56 District Courts are administratively structured into 22 judicial districts and served by 46 District Court Judges. The District Courts are courts of general jurisdiction. General jurisdiction courts process all felony cases and exercise general jurisdiction for both civil and criminal cases, and also appeals from decisions of select lower courts.

The single Montana Water Court facilitates statewide adjudication of water rights claims based on State, Indian and Federal laws.

¹⁰ Freeman-Wilson, Karen and Michael P. Wikosz, "Drug Court Publications Resource Guide, Fourth Edition." Alexandria, VA: National Drug Court Institute, 2002.

The Courts of Limited Jurisdiction in Montana are comprised of the Justice Courts, City Courts, and Municipal Courts. There are 61 Justice Courts, 84 City Courts, and 6 Municipal Courts. Although the jurisdiction of these courts differs slightly, collectively they address a total caseload about five times greater than that of the District Courts in Montana.

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. In 2011, there were 112 Limited Jurisdiction Court Judges. Numerous judges serve as both Justice of the Peace and City Judges.

There are six dedicated DUI Courts in Montana and an additional thirty-nine other treatment courts that have specialized dockets. Treatment courts other than DUI Courts may or may not serve offenders that have a history of DUI. How often that occurs and how many offenders are served is unclear. No data was presented showing how many DUI cases are filed each year in each of the different courts. It would be helpful to examine the statistics showing where the cases are filed, court-by-court, to better understand how much penetration the DUI courts have and how they are serving Montana.

It was reported that the DUI Courts adhere to national standards. While there were several mentions of evaluations of the DUI Courts, the design of the evaluation and the accuracy and completeness of the data used to create the evaluations is unclear. One evaluator accessed the National Crime Information Center (NCIC) as the evaluator's source of the defendant's records. NCIC is a computerized index of criminal justice information i.e.- criminal record history information, fugitives, stolen property, missing persons. NCIC may or may not have adequate reporting of the type of crimes reported because it is unclear whether DUIs are reported if they are not conviction of a felony. Unless most states are reporting both felony and misdemeanor DUIs routinely, more information is needed before concluding that an evaluation automatically proves that the court program is a success. Relying on reported convictions or even rearrests likely compromises the degree of reliability of an evaluation. Without more detailed follow-up to determine sobriety and decrease in use of substances, the conclusion that a defendant has not reengaged in the prohibited behavior is not justified. Montana needs a well-designed evaluation of the DUI courts that includes an appropriate sample of the non-DUI courts to evaluate the relative effectiveness of the courts in Montana with the State cultures.

The effectiveness of enforcement and prosecution efforts are strengthened by knowledgeable, impartial, and effective adjudication. Montana should provide state-of-the-art education to judges, covering Standardized Field Sobriety Testing, Drug Evaluation and Classification Program, alternative sanctions, and emerging technologies.

Montana judges have access to a variety of judicial training opportunities. Because a large number of the limited jurisdiction court judges are not law-trained, the training content provided will vary. No information was provided on the minimum continuing legal education requirements for the judges. Montana Department of Transportation allocates funding every year for new/existing courts to receive best practice treatment training.

Montana is to be congratulated on its progress in moving the courts' records on to a new single technology platform, "Full Court." Information from Montana Supreme Court web site indicates that, as of April 2022, 41 percent of all courts were installed, 25 of 56 District Courts were installed and 54 of 136 Limited Courts were installed. Although record sharing with Tribal courts would be good, no indication of the participation of Tribal courts with the records system was given. No information was presented on the extent that the "Full Court" system will share data with the Department of Transportation, Drivers' licensing, and the police agency systems

Recommendations

- Conduct a well-designed evaluation of the Driving Under the Influence courts that includes an appropriate sample of the non-DUI courts to evaluate the relative effectiveness of the courts in Montana with the State cultures.
- **Develop a plan to connect the Courts to the other Driving Under the Influence related systems, especially Drivers' Licensing, and fund the connectivity of Full Court to those systems.**

D. 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.¹¹

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

D-1. Administrative License Revocation and Vehicle Sanctions:

Advisory

¹¹ Robertson, Robyn D. and Herb M. Simpson " DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution. Ottawa, Traffic Injury Research Foundation, 2002

Each state's Motor Vehicle Code should authorize the imposition of administrative penalties by the driver licensing agency upon arrest for violation of the state's impaired driving laws. Administrative sanctions allow the licensing agency to maintain its authority to determine the safety and competence of the driver to whom it has issued a license, and to determine whether, at any time, continued provision of driving privileges is warranted. Administrative sanctions provide for consistency and uniformity of both sanction and treatment of offenders, apart from the political or social viewpoints of the various judicial jurisdictions within a state.

The code should provide for:

- *Administrative suspension of the driver's license for alcohol and/or drug test failure or refusal;*
- *The period of suspension for a test refusal should be longer than for a test failure;*
- *Prompt suspension of the driver's license within 30 days of arrest, which should not be delayed, except when necessary, upon request of the State;*
- *Vehicle sanctions, including suspension of the vehicle registration, or impoundment, immobilization or forfeiture of the vehicle(s), of repeat offenders and individuals who have driven with a license suspended or revoked for impaired driving; and*
- *Installation of ignition interlock device(s) on the offender's vehicle(s) until a qualified professional has determined that the licensee's alcohol and/or drug use problem will not interfere with their safe operation of a motor vehicle. Specific agencies within a State should be given responsibility and authority for oversight of the interlock program, including vendor selection, certification, and monitoring; review of data downloaded from the individual devices; and responsibility for administrative rules that guide sanctions for circumvention or other non-compliance with ignition interlock licensure. Licenses for drivers required to have ignition interlock devices installed on vehicles that they operate should be easily identifiable by law enforcement officers, either by virtue of a different colored background on the license or large print indicating that an ignition interlock device is required.*

Status

The Montana Department of Justice Motor Vehicle Division (MVD) is responsible for all processes related to driver licenses from issuance to suspension or revocation. The current data system, Montana Enhanced Registration and Licensing Information Network (MERLIN) is an update to the legacy system in place at the time of the previous impaired driving assessment. Despite the recent update, another system upgrade is underway to improve some areas of functionality that were not resolved with MERLIN. The greater functionality in the updated system will continue to improve MVD operations and will continue to enhance the State's ability to track licensing and conviction data that can be used for highway safety program evaluation efforts.

Title 61, Chapter 8, Part 10 of the Montana Code Annotated governs the penalties associated with impaired driving in the State. In Montana, impairment is defined as a BAC of 0.08 g/dl for adults aged 21 and older operating a private vehicle, 0.04 g/dl for operators of a commercial motor vehicle, and 0.02 g/dl for those under the age of 21. A driver is also considered impaired when operating a motor vehicle with a delta-9-tetrahydrocannabinol level of 5 ng/ml or higher. Montana’s implied consent law means that any person who operates a motor vehicle in the State agrees to have a blood, breath, and/or urine test performed to determine alcohol level or presence of drugs, whenever a law enforcement officer has reasonable grounds to believe the person is operating a motor vehicle while under the influence. The vehicle operator has the right to refuse to submit to a test and that refusal will result in the suspension of that person’s driver license for up to 1 year. If the arrested person has refused a test in prior investigation, the peace officer may apply for a search warrant to collect a sample of the person’s blood for testing.

In the case of an alcohol test refusal or failure and administrative conviction, the following sanctions may be imposed:

Charge/Offense Level	License Suspension
Under Age 21 (0.02+ mg/dl) <ul style="list-style-type: none"> - First conviction - Second conviction - Third conviction 	90 days 6 months 1 year
Age 21 and over (0.08+ mg/dl) <ul style="list-style-type: none"> - First conviction/refusal - Second or subsequent conviction/refusal 	6 months 1 year
Commercial Driver (0.04+ mg/dl) <ul style="list-style-type: none"> - First violation - First violation (hazardous materials) - Second or subsequent violation 	1 year 3 years Life (reinstatement possible after 10 years)
Refusal to submit to alcohol testing <ul style="list-style-type: none"> - First refusal - Second or subsequent refusal 	6 months 1 year

Upon arrest, the offender’s driver license is confiscated if the BAC is 0.08 g/dl or higher or if the evidentiary test is refused. At that time, a temporary driving permit will be issued. The permit becomes valid 12 hours after the arrest and will be valid for 30 days. The offender may request a hearing, or the driver license will be automatically suspended on the 31st day for a period of up to one year. Each license suspension carries with it a \$206 reinstatement fee.

Impaired driving convictions are recorded on the driver history record at the MVD. Driver history records can be used to determine the number of prior impaired driving offenses. Efforts are also made to obtain violations that are issued out-of-state. Driving license records are available to the judiciary and law enforcement through electronic queries. Convictions remain on the driving record in perpetuity and are only purged through a court order.

The Montana 24/7 Sobriety Program began in March of 2010. Under the 24/7 program, offenders accused of their second or subsequent impaired driving offense can be ordered by a judge to take twice-daily alcohol breath tests as a condition of their release from jail pending trial. Offenders may also be sentenced to the program if they plead or are found guilty of DUI.

Montana's ignition interlock program went into effect in 2009. A driver who has been convicted of a DUI or with a BAC of 0.08 g/dl or more may be restricted to operating a vehicle that is equipped with an ignition interlock device. The driver license for those enrolled in the ignition interlock program will be marked so peace officers are aware of the requirement of a testing device inside the offender's vehicle. While the program is available to all judges as a sanction, it is not a requirement nor is it available in all areas of the State. At last report, fewer than 200 interlock devices were in use. The MVD only tracks the installation and removal dates of the devices to ensure they are following the court order. Positive test results from the ignition interlock device are not tracked.

Recommendations

- Develop an Ignition Interlock Device Program that includes driver resources, financial assistance, Driver and Motor Vehicle Services, Court Services, Alcohol and Drug Screening Specialists, Manufacturer Representatives Services, and Technician Resources.

E. Programs

Advisory

Each state's driver licensing agency should conduct programs that reinforce and complement the state's overall program to deter and prevent impaired driving, including:

- (1) *Graduated Driver Licensing (GDL) for novice drivers. GDL programs have been widely evaluated and all studies, although results vary significantly, have shown a reduction in crash and fatality rates.*

States' GDL program should involve a three-stage licensing system for beginning drivers (stage 1 = learner's permit; stage 2 = provisional license; and stage 3 = full license) that slowly introduces the young, novice driver to the driving task by controlling exposure to high risk driving situations (e.g., nighttime driving, driving with passengers, and driving after drinking any amount of alcohol). The three stages of the GDL system include specific

components and restrictions to introduce driving privileges gradually to beginning drivers. Novice drivers are required to demonstrate responsible driving behavior during each stage of licensing before advancing to the next level.

Each stage includes recommended components and restrictions for States to consider when implementing a GDL system.

Stage 1: Learner's Permit

- *State sets minimum age for a learner's permit at no younger than 16 years of age;*
- *Pass vision and knowledge tests, including rules of the road, signs, and signals;*
- *Completion of basic driver training;*
- *Licensed adult (who is at least 21 years old) required in the vehicle at all times;*
- *All occupants must wear seat belts;*
- *Zero alcohol while driving;*
- *Learners permit is visually distinctive from other driver licenses;*
- *Must remain crash and conviction free, including violations of the seat belt, zero tolerance, speed and other GDL provisions, for at least 6 consecutive months to advance to the next level;*
- *Parental certification of 30 to 50 practice hours; and*
- *No use of portable electronic communication and entertainment devices while driving.*

Stage 2: Intermediate (Provisional) License

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

Stage 3: Full Licensure

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

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

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

Status

Montana's graduated driver licensing law (GDL) created a three-step program to allow persons under the age of 18 to develop their driving skills. Individuals applying for a Learner's License must be at least 14 ½ years old and must be enrolled in a State-approved traffic education program. Alternatively, students that are at least 15 years old may, with parental consent, obtain a learner's permit by successfully passing the State's written driving test. The Learner's License is valid for up to one year and, for teenagers under the age of 18, must be held for a minimum of six consecutive months before applying for a First-Year Restricted License. During the permit stage, teen drivers must obtain at least 50 hours of supervised driving, including 10 hours at night. Driving must be supervised by a licensed parent or guardian or a licensed driver age 18 or older who has been authorized by the parent or guardian. Everyone in the teen driver's vehicle must wear a seatbelt and the teen driver must not receive any traffic violations in the six months prior to advancing to the next step.

Upon completing all the requirements of the Learner's License, the teen may apply for a First-Year Restricted License. At this stage, the teen's driver license will show a restriction code on both the front and back. As with the Learner's License, all persons in the car must wear a seatbelt and driving may not occur between 11pm and 5am (with certain exceptions). For the first six months, only one unrelated passenger under 18 may be in the vehicle unless supervised by a licensed driver 18 or older. For the second six months, three unrelated passengers under the age of 18 may be in the vehicle. Violations of these restrictions will result in between 20 and 60 hours of community service for a first offense and a six-month suspension of the teen's driver license for a second offense.

All first-year restrictions automatically end on the date indicated on the driver license or when the teen turns 18, whichever comes first. At this point, the driver license confers full privileges.

The Montana Alcoholic Beverage Control Division (ABCD) administers the Responsible Alcohol Sales and Service Act through a training program entitled "Your Community Matters." The State requires alcohol server training be obtained from a State-approved program within 60 days of being hired and renewal training every three

years. This requirement applies to any person who will be selling or serving alcohol in the State.

Montana has two programs designed to restrict alcohol sales to underaged people. The Alcohol Reward and Reminder is an educational program conducted by private citizens. The purpose of the program is to use young adults of legal drinking age to survey alcohol outlets to see if they are checking IDs of anyone who appears to be under 35 years of age. A “Reminder” card printed with Montana laws is given to servers who do not check for ID. A “Reward” in the form of a chance to win a gift card is given to those who ask for ID and refuse to sell when one is not provided. Alcohol Sales Compliance Inspections (compliance checks) are law enforcement activities conducted by law enforcement officers working in conjunction with underage volunteers. The volunteers will attempt to purchase alcohol from servers and sellers and those who illegally allow the purchase of alcoholic beverages will be cited. The ABCD is notified when a citation is issued.

The MVD has several mechanisms in place to prevent issuance of fraudulent identification cards or licenses, including staff training and database identity confirmation. The driver system also utilizes facial recognition software to identify and deter identity fraud, such as an individual obtaining multiple licenses using different identities. Facial recognition is completed in an overnight batch process. Discrepancies are handled by a manual investigation.

Recommendations

- None.

IV. Communication Program

States should develop and implement a comprehensive communication program that supports priority policies and program efforts, including high visibility enforcement (HVE). Communication strategies should specifically support efforts to increase the public perception of the risks of detection, arrest, prosecution and sentencing for impaired driving. Additional communication strategies should address underage drinking, impaired driving, and reducing the risk of injury, death and the resulting medical, legal, social and other costs if there are specific programs underway in the community. Communications should highlight and support specific program activities underway in the community and be culturally relevant and appropriate to the audience.

Advisory

States should:

- *Focus their publicity efforts on creating a perception of risk of detection, arrest, prosecution and punishment for impaired driving;*
- *Use clear, concise enforcement messages to increase public awareness of enforcement activities and criminal justice messages that focus on penalties and direct costs to offenders such as loss of license, towing, fines, court costs, lawyer fees, and insurance;*
- *Employ a communications strategy that principally focuses on increasing knowledge and awareness, changing attitudes and influencing and sustaining appropriate behavior;*
- *Develop a year-round, data-driven, strategic and tactical communication plan that supports the state's priority policies and programs such as alcohol's effects on driving and consequences of being caught driving impaired or above the state's zero tolerance limit;*
- *Implement a communication program that:*
 - *Uses messages that are coordinated with National campaigns and messages that are culturally relevant and linguistically appropriate;*
 - *Considers special emphasis during holiday periods and other high risk times throughout the year, such as New Year's, 4th of July, Labor Day, Halloween, prom season and graduation;*
 - *Uses paid, earned and donated media coordinated with advertising, public affairs, news, and advocacy; and*
 - *Encourages communities, businesses and others to financially support and participate in communication efforts.*
- *Direct communication efforts at populations and geographic areas at highest risk or with emerging problems such as youth, young adults, repeat and high BAC offenders and drivers who use prescription or over-the-counter drugs that cause impairment;*

- *Use creativity to encourage earned media coverage, use of a variety of messages or “hooks” such as inviting reporters to “ride-along” with law enforcement officers, conducting “happy hour” checkpoints or observing under-cover liquor law enforcement operations, and use of social media;*
- *Monitor and evaluate the media efforts to measure public awareness and changes in attitudes and behavior; and*
- *Ensure that personnel who are responsible for communications management and media liaison are adequately trained in communication techniques that support impaired driving activities.*

Status

The Montana Department of Transportation (MDT) conducts a focused media campaign entitled “Vision Zero-zero deaths, zero serious injuries”. This is a multipronged initiative with the goal of eliminating injuries and fatalities on all of Montana’s roadways. MDT has recently updated the campaign that features a new logo. Several media spots have been developed under the Vision Zero banner to address impaired driving. The spots are available on the website, <https://www.mdt.mt.gov/visionzero>.

MDT supports traffic enforcement efforts during national mobilizations with a variety of media platforms highlighting local enforcement officers to deliver the message of an increased enforcement presence on Montana’s roadways enforcing the state’s impaired driving laws. These campaigns included the use of public service announcements (PSA) and press releases through placements delivered through television, radio, social media, and other internet-based messaging. MDT utilizes a Montana Highway Patrol (MHP) trooper to serve as spokesperson in statewide messaging and a local Selective Traffic Enforcement Program (STEP) law enforcement officer to deliver the messages recorded for local placement during the mobilizations. The local STEP officer utilized varies from location-to-location, utilizing officers within the given community.

Montana strives to compliment and leverage national media buys that are done by the National Highway Traffic Safety Administration (NHTSA) within the state. Placement of paid media is provided by the media contractor secured through a request for proposal (RFP) process. Typically, media is placed at times and on platforms where the impaired driving message will reach the greatest number of individuals in the target demographic group. The group identified as the target demographic group is that of 18–34-year-old males.

Community coalitions such as Driving Under the Influence (DUI) Task Forces and Buckle Up Montana coalitions provide additional education regarding impaired driving and the importance of seat belt and child restraint use during mobilizations. These groups increase their educational outreach during each mobilization period. These groups also utilize local talent to deliver the message being delivered during the mobilization period. When possible, local creative talents are utilized for camera work and other skills needed to develop the creative piece.

Media and educational outreach efforts are provided for the Native American Traffic Safety programs primarily through the Safe On All Roads (SOAR) program in all Tribal Reservations. The SOAR program also utilizes local talent for these campaigns. The focus of the SOAR traffic safety efforts is directed to impaired driving, unrestrained occupants, and child passenger safety, based on the significant loss of life to Native Americans due to these traffic safety issues. The annual campaigns include a basketball season buckle up campaign, a summer impaired driving campaign, and a back-to-school child passenger safety campaign.

Montana is commended for the use of local talent and creative work in the development of the media spots and campaign materials. This provides additional local buy-in to the traffic safety efforts and provides the materials developed with local flavor and feel. This practice should be continued as often as possible.

In addition to support of the national mobilization periods, MDT provides year-long impaired driving and seat belt usage messages. This provides additional focus on these priority issues that have proven to be challenging traffic safety issues for Montana but are extremely important to the efforts underway to lower traffic fatalities.

A review of the educational materials developed, and creatives placed on various media platforms, revealed messaging was soft on the traffic enforcement efforts. It is critical to influence behavioral issues of motor vehicle drivers and passengers to deliver a message that promotes the idea that law enforcement will stop vehicles if they are observed being operated by an impaired driver. This is a proven and effective deterrent to impaired driving.

Recommendations

- Develop and place advertisements that support the impression that if a driver chooses to drive impaired, they will be arrested for driving under the influence. Maximize the use of media platforms to advertise this message.

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.¹² 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.¹³

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

Nationally, the number and diversity of problem solving courts has grown dramatically. One such problem solving model is the DWI Court. These courts provide a dedicated docket, screening, referral and treatment and intensive monitoring of impaired driving offenders. States and localities that implement DWI Courts should ensure that they are established and operated consistent with the Guiding Principles recommended by the National Center for DWI Courts. www.dwicourts.org/sites/default/files/ncdc/Guiding_Principles_of_DWI_Court_0.pdf

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

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

A. Screening and Assessment

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

¹² Repeat DWI Offenders in the United States. “Washington, DC: NHTSA Technology Transfer Series, Traffic Tech No. 85, February 1995.

¹³ On average, 772 such episodes, according to Zador, Paul, Sheila Krawchuck, and Brent Moore, “Drinking and Driving Trips, Stops by Police, and Arrests: Analyses of the 1995 National Survey of Drinking and Driving Attitudes and Behavior.” Washington, DC: U.S. Department of Transportation, NHTSA Technical Report No. DOT HS 809 184, December 2000.

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.

Assessment and treatment for DUI offenders is addressed in Montana Code Annotated 2021-TITLE 61. MOTOR VEHICLES-CHAPTER 8. TRAFFIC REGULATION-Part 10. Driving Under Influence of Alcohol or Drugs

Assessment and treatment are required for all DUI offenses.

Driving Under Influence -- Assessment, Education, And Treatment Required

61-8-1009. Driving under influence -- assessment, education, and treatment required. (1) In addition to the punishments provided in **61-8-1007** and **61-8-1008**, regardless of disposition, a defendant convicted of a violation of driving under the influence, including **61-8-1002**, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state shall complete a chemical dependency assessment and:

(a) for a first conviction, except as provided in subsection (8)(b), a chemical dependency education course; and

(b) for a second or subsequent conviction for a violation of driving under the influence, including **61-8-1002**(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in **61-8-1001**, or a similar offense under previous laws of this state or the laws of another state, except a fourth or subsequent conviction for which the defendant completes a residential alcohol treatment program under **61-8-1008**(1)(a)(i), or as required by subsection (8) of this section, chemical dependency treatment.

(2) 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.

(3) 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 and must be conducted by a licensed addiction counselor. Approved programs must be evidence-based programs. 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 and may use health insurance to cover the costs when possible.

(4) The assessment must describe the defendant's level of addiction, if any, and contain a recommendation as to education, treatment, or both. The assessment must conform to quality standards required by the department of public health and human services. 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 the department of public health and human services.

(5) 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. The rules must include evidence-based treatment programs or courses approved by the department that are likely to reduce recidivism. Upon determination, the court shall order the defendant's appropriate level of treatment. If more than one counselor makes a determination as provided in this subsection, the court shall order an appropriate level of treatment based on the determination of one of the counselors.

Treatment providers must report DUI offenders' enrollment and compliance/failure to the court.

(6) Each counselor providing education or treatment shall, at the commencement of the education or treatment, 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 course or treatment program, the counselor shall notify the court of the failure.

(7) A court or counselor may not require attendance at a self-help program other than at an open meeting, as that term is defined by the self-help program. A defendant may voluntarily participate in self-help programs.

(8) (a) Chemical dependency treatment must be ordered for a first-time or second-time offender convicted of a violation of driving under the influence, including **61-8-1002**, an offense that meets the definition of aggravated driving under the influence in **61-8-1001**, or a similar offense under previous laws of this state or the laws of another state upon a finding of moderate or severe alcohol or drug use disorder made by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services.

Education course is not required if treatment is required.

(b) If treatment is ordered under subsection (8)(a) for a first-time offender, the offender may not also be required to attend a chemical dependency education course.

One year of monitoring is required for repeat offenders.

(9) (a) On a second or subsequent conviction, the treatment program provided for in subsection (5) must be followed by monthly monitoring for a period of at least 1 year from the date of admission to the program.

Consequences of failure to comply.

(b) If a defendant fails to comply with the monitoring program imposed under subsection (9)(a), 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 1 year.

(10) Notwithstanding **46-18-201(2)**, whenever a judge suspends a sentence imposed under **61-8-1007** and orders the person to complete chemical dependency treatment under this section, the judge retains jurisdiction to impose any suspended sentence for up to 1 year.

Description of alcohol information course and treatment.

61-8-732. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- alcohol information course required. (1) (a) In addition to the punishments provided in [61-8-714](#), [61-8-722](#), and [61-8-731](#), regardless of disposition, a defendant convicted of a violation of [61-8-401](#) or [61-8-406](#) shall complete an alcohol information course at an alcohol treatment program approved by the department of public health and human services, which may include alcohol or drug treatment, or both.

(b) As long as the alcohol information course is approved as provided in this section and the treatment is provided by a certified chemical dependency counselor, the defendant may attend the information course and treatment program of the defendant's choice. 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 certified chemical dependency counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human

services. Upon determination, the court shall order the defendant's appropriate level of treatment. If more than one counselor makes a determination as provided in this subsection, the court shall order an appropriate level of treatment based upon the determination of one of the counselors.

(c) Each counselor providing education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been enrolled in an alcohol information course or treatment program. If the defendant fails to attend the information course or treatment program, the counselor shall notify the court of the failure.

(d) A court or counselor may not require attendance at a self-help program other than at an "open meeting" as that term is defined by the self-help program. A defendant may voluntarily participate in self-help programs.

(2) Alcohol or drug treatment, or both, must be ordered for a first-time offender convicted of a violation of [61-8-401](#) or [61-8-406](#) upon a finding of chemical dependency made by a certified chemical dependency counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services.

(3) (a) On conviction of a second or subsequent offense under [61-8-714](#) or [61-8-722](#) for a violation of [61-8-401](#) or [61-8-406](#), in addition to the punishment provided in [61-8-714](#) or [61-8-722](#), regardless of disposition, the defendant shall complete an alcohol information course at an alcohol treatment program approved by the department of public health and human services, which must include alcohol or drug treatment, or both.

(b) (i) On a second or subsequent conviction, the treatment program provided for in subsection (1) must be followed by monthly monitoring for a period of at least 1 year from the date of admission to the program.

(ii) If a defendant fails to comply with the monitoring program imposed under subsection (3)(b)(i), the court shall revoke the suspended sentence, impose any remaining portion of the suspended sentence, and may include additional monthly monitoring for up to an additional 6 months.

To address the statutory requirements described above, Montana Department of Public Health and Human Services (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. The assessment results in diagnosis based on American Society on Addiction Medicine (ASAM) criteria. 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 are based on the assessment and 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 process by which the assessment is initiated relies on the offender providing a copy of a court order or on the court sending the recommendation. There is no system for electronic notification which results in orders for assessment being transmitted via email, fax, or mail. It is not clear how often courts rely on the offender to initiate the assessment process. There were examples of drivers appearing months or even years after sentencing. Thus, offenders can delay or avoid assessment and treatment. Initiation of treatment as close to the sentinel event, i.e., DUI arrest, is a significant variable in attaining positive treatment outcomes.

In some jurisdictions, the presiding judge can order an assessment prior to sentencing. This does not appear to be common practice and most courts rely on the system described above to complete assessment and subsequent treatment.

Recommendations

- Implement an electronic assessment notification system by which assessment agencies are notified immediately of offenders' court order for assessment.

A-2. Medical and Other Settings

Advisory

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

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

Screening and brief intervention should be:

- *Conducted by trained professionals in hospitals, emergency departments, ambulatory care facilities, physicians' offices, health clinics, employee assistance programs and other settings;*
- *Used to decide whether an assessment and further treatment is warranted;*
- *Based on standardized screening tools (e.g., CAGE, AUDIT or the AUDIT-C) and brief intervention strategies;¹⁴ 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 (DPHHS) partner with hospitals and healthcare providers to implement Screening, Brief Intervention and Referral to Treatment (SBIRT) to address the high rate of alcohol and drug-related traffic crashes. The goals of this project are to:

- reduce alcohol and drug-related fatalities
- reduce the rate of alcohol and 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 emergency department, trauma services, social services, primary care clinics, and university medical clinic settings to learn about and implement SBIRT. DPHHS and the Montana Healthcare Foundation have worked together to identify barriers to implementing SBIRT.

Nationally, SBIRT has been used in several non-hospital settings including family practices, colleges, high schools, and local jails at time of booking. Some high schools in Montana are using the Teen Intervene SBIRT program.

¹⁴ For a discussion of assessment instruments, see: Allen, John and M. Columbus (Eds.), NIAAA Handbook on Assessment Instruments for Alcohol Researchers (2nd edition). Rockville, MD: National Institute on Alcohol Abuse and Alcoholism, 2003. For an overview of alcohol screening, see: "Screening for Alcohol Problems – An Update," Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, Alcohol Alert No. 56, April 2002. For a primer on helping patients with alcohol problems, see: "Helping Patients with Alcohol Problems: A Health Practitioner's Guide," Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, NIH Publication No. 04-3769, Revised February 2004.

As a result of Medicaid Expansion, 42,000 additional Montana residents became eligible for Medicaid. DPHHS uses the Medicaid enrollment process as an opportunity to screen individuals for alcohol and substance use problems using SBIRT. As part of Medicaid Expansion, alcohol screening questions have been added to a Health Risk Assessment (HRA), which is given to all Medicaid members during an outpatient visit to their healthcare provider. The assessment is of primary chronic diseases and offers healthcare providers an opportunity to follow-up with a brief intervention using motivational interviewing to promote behavior change with risky drinking behaviors. The DPHHS *Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health* Policy Number 125 (July 1, 2020) states, “Screening, Brief Intervention, and Referral to Treatment (SBIRT) is an evidence-based primary care intervention to identify those members at risk for psychosocial or health care problems related to their substance use. Montana Medicaid encourages its use by community providers to determine if a complete assessment and possible referral to treatment is needed.”

While Medicaid Expansion has made it possible for thousands more to receive screening, one of the biggest barriers cited to SBIRT expansion is in Medicaid rules that prohibit Licensed Mental Health Counselors and other counselors from billing for SBIRT unless they are working in a State-approved medical or treatment facility.

Recommendations

- None

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

Despite the comprehensive system designed in law and policy, it is not clear how many DUI offenders actually complete appropriate treatment. Procedures for reporting progress of convicted drivers through the assessment, education, and treatment process appear to be loosely defined and inconsistent in application. Some courts ask treatment providers to complete a compliance form when an offender has completed the prescribed course of treatment or has dropped out of the program. The current system at the Office of Court Administration includes information on the elements of the sentences but not on completion of specific interventions. It was not possible for the assessment team to determine the number of offenders who completed each step in the countermeasure process.

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. In Montana treatment is a condition of sentence and offenders who fail to comply can be subject to harsher penalties. The current data/information systems do not support evaluation of how often or how well this happens.

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.

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. For offenders assessed as not needing interventions beyond the course, completion of Prime for Life satisfies the sentencing and licensing requirements related to ACT.

There are 39 Drug Treatment Courts and six dedicated DUI Courts. There are also Drug Treatment Courts and Veterans' Courts that manage DUI offenders. Some treatment courts reserve slots for DUI offenders. Under 61-8-741, MCA, if a person participates in a DUI court, which is voluntary, 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.

Evaluations of DUI courts analyzed recidivism for DUI or other criminal behavior. The results of these analyses indicated low rearrest rates for program participants. However, the significant limitations on accuracy and completeness of DUI arrest and conviction data systems are problematic for accurate determination of impact. In addition, the DUI court population includes individuals with advanced alcohol and/or substance use or chemical dependency as well a host of significant social-emotional, mental health, and physical conditions related to their substance use. Avoidance of arrest for DUI is only one indicator of these issues. A more comprehensive evaluation which includes monitoring these issues would better document the full impact of the program and provide information for program improvement. DUI courts are required to have an evaluator as part of the project team. These evaluators should be documenting both implementation issues, i.e., adherence to the 10 principles of treatment courts, and impact on the offenders overall health status.

Operational since 2002, Montana's WATCH program is a six-month (180 days) residential treatment program for those with a history of multiple DUI convictions. The program is the result of a partnership between the Montana Department of Corrections (MDOC) and Community, Counseling and Correctional Services Inc. Individuals who have four or more DUI convictions are mandated to serve 13 months in MDOC or a residential treatment program operated or approved by the department. The 13-month sentence cannot be suspended, nor can the offender be paroled. Virtually all individuals who meet these criteria are admitted to the program. Offenders with a sexual crime history, violent crime history or a high-security classification are excluded from the program. Offenders with medical or cognitive impairments that would prevent full participation in treatment are also excluded. Participation is voluntary. At the conclusion of the six-month program, graduates spend the remainder of their sentences (seven months) on probation.

The overarching goals of the treatment program are to assist offenders in developing the skills necessary to make lasting positive life changes, reduce criminal thinking and behavior, and succeed when released. The program has three phases:

- Phase 1, "Challenge to Change:" The initial phase of the program is devoted to introspection. Goals during this phase are self-disclosure, self-awareness and developing an ability to receive feedback from family members and program staff.

- Phase 2, “Action Phase:” This portion of the program is devoted to identifying the life situations that contributed to the current circumstance and developing behavioral change and improvement goals; and
- Phase 3, “Ownership of Change:” Here, the goal is stabilization and maintenance with an eye toward strengthening the commitment to behavioral change.

Since the establishment of DUI courts, which provide an alternative to incarceration, demand for the WATCH program has decreased.

Aside from the two programs that serve the most problematic offenders, i.e., four or more DUI offenses, there is no consistent approach to monitoring DUI offenders in Montana. Assessment and treatment providers generally report completion of sentence requirements to the courts, however, there is no uniform system for tracking cases/drivers. As a result, the system is “passive”, that is, in most cases only satisfaction of requirements is reported, and non-compliance can be overlooked.

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. 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 the code, 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 expanded 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 42 counties 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 can require 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. A drug patch is being used to test for some substances.

One concern related to 24/7 is that as a sobriety monitoring program it does not require treatment. Some offenders who do not actively participate in substance use treatment will maintain sobriety without any consideration for or amelioration of the underlying causes of their alcohol or other substance misuse. 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. Most 24/7 participants will also participate in treatment as part of ACT and/or as part of Drug Treatment or DUI Court. A requirement for treatment as a condition of participation in 24/7 might enhance the long-term and overall benefits for participants.

Recommendations

- Conduct a well-designed evaluation of the Driving Under the Influence courts that includes an appropriate sample of the non-DUI courts to evaluate the relative effectiveness of the courts in Montana with the State cultures.
- Require participants of 24/7 to complete an assessment and comply with the recommended treatment program.
- Mandate by legislation a Driving Under the Influence tracking system from traffic stop to post adjudication including enrollment and completion of assessment and treatment.
- Institute 24/7 consequences for noncompliance when tests are failed.

Program Evaluation and Data

A. Evaluation

Advisory

Each State should have access to and analyze reliable data sources for problem identification and program planning as well as to routinely evaluate impaired driving programs and activities in order to determine effectiveness. Development of a Strategic Highway Safety Plan and a Highway Safety Plan, are starting points for problem identification and evaluation efforts. Problem identification requires quantifying the problem, determining the causes, and identifying available solutions. Strategies should be evaluated for their cost effectiveness and potential for reducing crash risk. Evaluations should include measurement of activities and outputs (process evaluation) as well as the impact of these activities (outcome evaluation). Evaluations are central to the State's traffic safety endeavors and provide a guide to future projects and evaluations.

Evaluations should:

- Be planned before programs are initiated to ensure that appropriate data are available and adequate resources are allocated to the programs;*
- Identify the appropriate indicators to answer the question: What is to be accomplished by this project or program?*
- Be used to determine whether goals and objectives have been met and to guide future programs and activities;*
- Be organized and completed at the State and local level; and*
- Be reported regularly to project and program managers and policy makers.*

The process for identifying problems to be addressed should be carefully outlined. A means for determining program/project priority should be agreed upon, and a list of proven methodologies and countermeasures should be compiled. Careful analysis of baseline data is necessary, and should include historical information from the crash system. Other data that are useful for evaluation include data from other records systems as well as primary data sources such as surveys. Record systems data include state and driver demographics, driver histories, vehicle miles traveled, urban versus rural settings, weather, and seatbelt use. Survey data can include attitudes knowledge and exposure to risk factors.

The Traffic Records Coordinating Committee can serve as a valuable resource to evaluators by providing information about and access to data that are available from various sources.

Status

The Montana Department of Transportation (MDT) State Highway Traffic Safety Section (SHTSS) is responsible for administering federal traffic safety funds in the State. The SHTSS utilizes available traffic safety data to support the development of Montana's annual Highway Safety Plan and associated problem identification and program evaluation processes. This data also supported the MDT's development of the State's

Comprehensive Highway Safety Plan (CHSP) which was most recently updated in 2020. In addition to fatalities, Montana uses injury crashes and total crashes to better represent trends and analysis of crash types and contributing circumstances.

The MDT crash database is used for most highway safety decisions. The SHTSS Safety Operations Research Manager oversees the analysis of the crash data and its use in the development of the State's highway safety plans. Additionally summary reports are made available on the MDT website. Data are broken down by program area and county which allows local jurisdictions to readily obtain data to support problem identification in local highway safety plans.

The Montana Highway Patrol (MHP) is responsible for the collection and management of the police reported crash data. This data is then transferred nightly to the Montana Department of Transportation (MDT). While many crash reports are submitted electronically under a common format, as many as 12,000 crash reports are entered manually by the investigating agency. Depending on the reporting agency, these reports may only contain a subset of the data elements included on the MHP data collection form. Additionally, these reports require an additional level of quality review before being uploaded to the MDT database. Availability of all data elements may limit the State's ability to accurately conduct problem identification and program evaluation efforts. The existence of 'mirrored' data sets provides an opportunity here is to establish clear and defined documentation on the roles and responsibilities between the two crash database systems and how to make the full database available for use by other highway safety partners.

Montana's electronic crash report is in line with Version 5 of the Model Minimum Uniform Crash Criteria (MMUCC) guidelines and utilizes the 5-point injury severity scale. Other data sources are also available, such as roadway characteristics, injury surveillance data, and behavioral surveys that may assist with project prioritization.

For SHTSS activities, law enforcement grantees who receive funds for impaired driving are required to report the number of arrests and citations issued during those funded hours. Process evaluations include documentation and tracking of milestones and deliverables for each grant funded project. Outcome evaluations consist of a review of crash report data to determine the number of crashes, injuries, fatalities, and their location of occurrence on Montana roadways. Outreach and communication programs also conduct outcome evaluations in the form of media impressions, pre- and post-surveys, or other methods for collecting feedback.

The MHP has access to their individual data reports and the agency generates annual summary reports. The ability of other law enforcement agencies to access crash data to support highway safety efforts varies across the State. Enforcement activities are directed, where feasible, towards identified high crash corridors and locations.

The current CHSP (2020-2024) uses recent crash data to identify realistic and achievable targets for a comprehensive set of metrics including each of the five required federal

performance measures (overall fatalities, fatality rate, serious injuries, serious injury rate, and non-motorized fatalities and serious injuries). A Vision Zero state, Montana has established an overarching goal of achieving fewer than 476 combined annual roadway fatalities and serious injuries by 2030. Sources of behavioral data include the Youth Risk Behavior Survey (YRBS), the Behavioral Risk Factor Survey (BRFS), and Montana State’s Annual Drive Sober Survey. Overall, MDT’s CHSP and SHTSS’s Highway Safety Plan reflect data-driven strategies designed to reduce all crashes, fatalities, and serious injuries on Montana roadways. While the plans largely focus on the use of crash data, the State has the potential to enhance their use of crash data and to take advantage of other available data resources and partners to effectively use traffic records data to improve programs and evaluation efforts.

Recommendations

- **Establish a uniform statewide crash report to collect data from all State law enforcement agencies to improve evaluation of highway safety programs.**

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

Montana's Traffic Records Coordinating Committee has representation from key data owners in the State and can provide the structure to improve the use of traffic records data in the support of all highway safety programs. Despite the availability of available statewide traffic records data, the Montana Department of Transportation (MDT) and its partners rely primarily on crash and fatality data for problem identification and program evaluation activities. The inclusion and analysis of other available data sets and improving the completeness, uniformity, and timeliness of the crash data will greatly benefit the MDT's ability to accurately identify emerging highway safety challenges.

The Montana Highway Patrol (MHP) uses the SmartCOP software program to collect data on crashes and citations/warnings. Several other law enforcement agencies also use this application, but an increasing number of agencies are using a different vendor and are not able to electronically submit reports to MHP. MHP provides a copy of the crash database to MDT for highway safety analysis. The data used to support the State's major highway safety plans is based on crash information collected by peace officers.

Using their copy of the crash database, MDT analyzes and publishes, on a regular basis, statistical information based upon the crash reports. Summary reports of crash data and a minimal Excel file, including GPS coordinates, are available on the MDT website. Due to privacy concerns, only a limited number of data elements are included on the summary reports. Crash maps are developed and available to the public but do not contain information related to the cause of the crash or other contributing circumstances.

Montana law enforcement agencies report approximately 23,000 crashes per year. Only those agencies using the MHP version of SmartCOP, approximately 50 percent of the State's crash reports, are submitting crash reports electronically to the State file. Other agencies submit paper reports which must be hand entered by MHP staff. Those agencies that use electronic crash data collection programs other than SmartCOP must still generate a paper copy that can be sent to MHP for data entry. While all fatalities are reported to MHP, only a small percentage of crashes reported on tribal lands are submitted.

Montana's Fatality Analysis Reporting System (FARS) contains data for all fatal traffic crashes occurring in the State. Alcohol and drug test results for drivers involved in a fatal crash and for persons fatally injured as the result of motor vehicle crash are obtained from the investigating officer, the treating hospital facility, or the Montana Department of Justice's toxicology unit as appropriate and available. The majority of all motor vehicle fatalities, including non-fatally injured drivers involved in a fatal crash, are tested for the presence of alcohol and/or other drugs. Montana is to be commended for a high degree of alcohol testing of their FARS cases.

Driver and vehicle data are managed by the Montana Department of Justice Motor Vehicle Division. The current system, the Montana Enhanced Registration and Licensing

Information Network (MERLIN), tracks approximately 1.2 million active registered vehicles and 825,000 active licensed drivers. Convictions placed on the driving record, including those for impaired driving, are maintained indefinitely. This policy can support the identification of habitual offenders. General information from the driver and vehicle system is also maintained indefinitely and can be used for developing trend analyses which are useful for problem identification and countermeasure development although analysts need to account for active versus historic records.

Montana's SmartCOP program is used to support the issuance of warnings and citations by the State's law enforcement officers. Presently, MHP and other participating agencies can see the history of warnings/citations issued to drivers stopped by their agency. Many smaller agencies use a different data collection platform which prevents the sharing of information thereby making it difficult for peace officers to easily identify persons with multiple offenses.

Agencies utilizing SmartCOP can also submit citations electronically to the Judicial Branch. Citations from other agencies and jurisdictions may be handled differently thus making them more difficult to track.

Montana has a well-established statewide EMS agency along with injury surveillance data available from the State's trauma centers. The use of these data sets, either individually or through integration with the State's crash data, will support better estimations on the severity and cost of motor vehicle crashes throughout the State. While approximately 70 percent of the State's EMS agencies are manned by volunteers, over 90 percent of the run reports are submitted electronically to the Department of Public Health and Human Services. Additionally, the most recent NHTSA-facilitated Traffic Records Assessment indicates the availability of hospital discharge and emergency department data. With the availability of all sets of injury surveillance data, the State has a prime opportunity to investigate data related to fatalities and serious injuries especially with regard to response time and transport time in the rural areas of Montana. NHTSA Fatality Analysis Reporting System has estimated that two out of every five motor vehicle fatalities are alive when EMS crews initially respond. Identifying strategies to improve response and transport times, regardless of the contributing circumstances, to transport crash victims to definitive care will help the State reach its Vision Zero goals.

Limited data is available for impaired driving treatment outcomes. Violations from the ignition interlock program are not tracked by the MVD. Similarly, offenders referred to the 24/7 program are not tracked for adverse events, only program completion. Capturing these pieces of information increases the State's ability to track an impaired driver from offense through treatment.

With the availability of several statewide traffic records data systems, there is an opportunity to develop data linkages and interfaces. These links could increase accuracy and completeness of the data thus improving their use for highway safety program planning.

Recommendations

- Mandate by legislation a Driving Under the Influence tracking system from traffic stop to post adjudication including enrollment and completion of assessment and treatment.
- Remove restrictions to the use of non-PII data elements collected on the crash report to allow highway safety partners to accurately identify locations of impaired driving crashes.

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 Montana Department of Justice Motor Vehicle Division (MVD) is responsible for maintaining all driver license and history information for State residents. All convictions from impaired driving offenses are transmitted from the courts to the MVD and posted on the driver record. The MVD is also responsible for enforcing driver license suspensions and revocations. The MVD has developed interfaces with compatible law enforcement and court data systems for exchange of information. Where applicable, these protocols allow for accurate evaluation of drivers on the roadside and in the courtroom.

The driver data system complies with national standards and systems in place to reduce identity fraud including the Social Security On-line Verification databases, the Problem Driver Pointer System, and the Commercial Driver's Licensing Information System.

Driver license and history data are maintained on the mainframe system. Convictions placed on the driving record are maintained indefinitely. Data may be extracted from this system for use by researchers and State partners but does not appear to be a common practice. The State would benefit from utilizing driver histories available through the MVD to better describe the nature and extent of impaired driving across Montana.

Recommendations

- Utilize driver history to develop annual reports on impaired driving recidivism.

APPENDIX

Agenda

Montana Impaired Driving Assessment Agenda
Holiday Inn Express & Suites
3170 North Sanders
Helena, Montana 59602
November 14-18, 2022

Monday, November 14th	
8:00 am – 8:15 am	Welcome and Introduction to Assessment Team Judge Linda Chezem, Impaired Driving Assessment Team Lead
8:15 am - 9:15 am	Comprehensive Highway Safety Plan, Executive Leadership Team, State Highway Safety Section Overview Pam Langve-Davis, Comprehensive Highway Safety Plan, Montana Department of Transportation Janet Kenny, Supervisor, State Highway Traffic Safety Section, Montana Department of Transportation Rob Stapley, Administrator, Montana Department of Transportation
9:15 am – 10:15 am	Impaired Driving Data Mark Keeffe, Safety Operations Research Analyst, State Highway Traffic Safety Section, Montana Department of Transportation Brooklyn Johns-Blassic, FARS Analyst, Montana Department of Transportation Patricia Burke, Traffic Safety Engineering Supervisor, Montana Department of Transportation Sergeant Tammy Perkins, Records Management Supervisor, Montana Highway Patrol, Montana Department of Justice Lisa Mader, Information Technology Director, Office of the Court Administrator
10:15 am – 10:30 am	Break

<p>10:30 am – 11:30 am</p>	<p>Toxicology, Breath Test Program</p> <p>Elizabeth A. Smalley, Toxicology Supervisor, Forensic Science Division, Montana Department of Justice</p> <p>Ben Vetter, Breath Alcohol Section Supervisor, Forensic Science Division, Montana Department of Justice</p>
<p>11:30 am – 12:30 pm</p>	<p>Prosecution</p> <p>Ed Hirsch, Assistant Attorney General, Traffic Safety Resource Prosecutor, Prosecutor Services Bureau, Montana Department of Justice</p>
<p>12:30 pm – 1:30 pm</p>	<p>Lunch</p>
<p>1:30 pm – 2:30 pm</p>	<p>Judicial Outreach, Adjudication; Treatment Court</p> <p>Beth McLaughlin, Supreme Court Administrator, Office of Court Administration</p>
<p>2:30 pm – 2:45 pm</p>	<p>Break</p>
<p>2:45 pm – 3:45 pm</p>	<p>Law Enforcement: Administration and Training</p> <ul style="list-style-type: none"> • Administration <ul style="list-style-type: none"> ▪ Standard Field Sobriety Training (SFST); ▪ Advanced Roadside Impaired Driving Enforcement (ARIDE) ▪ Drug Recognition Expert (DRE) <p>Lt. Colonel Kurt Sager, Montana Highway Patrol, Montana Department of Justice</p> <p>Sergeant Douglas Samuelson, Traffic Safety Resource Officer, Montana Highway Patrol, Montana Department of Justice</p>

<p>3:45 pm – 5:00 pm</p>	<p>Law Enforcement: High Visibility Enforcement</p> <ul style="list-style-type: none"> • Law Enforcement Contracts • Law Enforcement Liaison • Safety Enforcement Traffic Team (SETT) • Selective Traffic Enforcement Program (STEP) • Law Enforcement Mini-Grants <p>Spencer Harris, Law Enforcement/EMS Programs, State Highway Traffic Safety Section, Montana Department of Transportation</p> <p>Law Enforcement Liaison, E.J. Clark, Clark’s Consulting</p> <p>Sergeant Derek Stoner, Montana Highway Patrol</p> <p>Lieutenant Jayson Zander, Helena Police Department</p> <p>Patrol Sergeant Chris Weiss, Lewis & Clark County Sheriff’s Office</p> <p>Tom Grimsrud, Jefferson County Sheriff Department</p>
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Tuesday, November 15th

<p>8:00 am – 8:30 am</p>	<p>State Highway Traffic Safety Media</p> <p>Janet Kenny, Supervisor, State Highway Traffic Safety Section, Montana Department of Transportation</p> <p>Sheila Cozzie, State Highway Traffic Safety Section, Montana Department of Transportation</p>
<p>8:30 am – 9:00 am</p>	<p>Motor Carrier Services</p> <p>Eric J. Belford, Bureau Chief, Commercial Vehicle Operations, Montana Department of Transportation</p>
<p>9:00 am – 9:30 am</p>	<p>Alternative forms of Transportation</p> <p>John Iverson, Governor’s Affairs Director, Montana Tavern’s Association</p> <p>Bruce McCullough, Tri-County Hospitality Association</p> <p>John Hayes, Representative from Local Tavern - Great Falls (Zoom)</p>

<p>9:30 am – 10:15 am</p>	<p>Responsible Alcohol Sales and Service Training</p> <p>Dacia M. English, Outreach and Education Coordinator, Alcohol Beverage Control Division, Department of Revenue</p> <p>Kent Haab, Program Officer II, Alcohol Beverage Control Division, Department of Revenue</p>
<p>10:15-10:30</p>	<p>Break</p>
<p>10:30 am – 11:15 am</p>	<p>Felony Offense Treatment, Reentry Services and Probation</p> <p>Megan Coy, Bureau Chief, Department of Corrections</p> <p>Melissa Kelly, Community Counseling, and Correctional Services</p> <p>Deana Lougee, Probation and Parole</p>
<p>11:15 am – 12:00 pm</p>	<p>Law Enforcement Engagement in Schools</p> <p>Corporal Christopher Norris, Lewis and Clark Sheriff’s Office</p> <p>Officer Jesse Stovall, Belgrade Police Department</p> <p>Chris, Criner, Lewis and Clark Sheriff’s Office</p>
<p>12:00 pm – 12:45 pm</p>	<p>Lunch</p>
<p>1:00 pm – 1:45 pm</p>	<p>County DUI Task Forces</p> <p>Kevin Dusko, Transportation Planner, State Highway Traffic Safety Section, Montana Department of Transportation.</p> <p>Barb Reiter, Prevention Specialist, Jefferson County DUITF Coordinator</p> <p>Steve Schmidt, Coordinator, Missoula County DUI Task Force</p> <p>Officer Brandon Ihde, Billings Police Department (Zoom)</p>
<p>1:45 pm – 2:30 pm</p>	<p>Prevention Services, Community Coalitions</p> <p>Kimberly Koch, Prevention Services Supervisor, Montana Department of Health and Human Services</p> <p>Coleen Smith, Director, Youth Connections</p>

2:30 pm – 2:45 pm	Break
2:45 pm – 3:30 pm	<p>24/7 Sobriety Program</p> <p>Sergeant Lacie Wickum, 24/7 State Coordinator, Montana Highway Patrol</p> <p>Sergeant Shawn Wittmer, Lewis and Clark Sheriff’s Office</p> <p>Brandon Staley, Anaconda Deer Lodge County</p> <p>Sergeant Don Rickett, Yellowstone County Sheriff’s Office (Zoom)</p>
3:30 pm – 4:15 pm	<p>Emergency and Trauma Services</p> <p>Alyssa Johnson, Montana Trauma System Manager, Montana Department of Health and Human Services</p> <p>Shari Graham, Emergency Services System Manager, Montana Department of Health and Human Services</p> <p>Spencer Harris, Law Enforcement/EMS Programs, State Highway Traffic Safety Section, Montana Department of Transportation</p>
4:15 pm – 5:15 pm	<p>Safe on all Roads/Northern Tribes DUI Task Force, Tribal STEP</p> <p>Sheila Cozzie, Cultural Liaison, State Highway Traffic Safety Section, Montana Department of Transportation</p> <p>Darcee Belgarde, Fort Peck Tribe, Safe On All Roads (SOAR) SOAR Coordinator</p> <p>Craig Smith, Vice President of Institutional Development, Fort Peck Tribal College, Member of Northern Tribes DUI Task Force (Zoom)</p> <p>Eileen Henderson, Blackfeet Tribe, Safe On All Roads (SOAR) Coordinator (Virtual)</p>
Wednesday, November 16th	
8:00 am – 8:30 am	<p>Infrastructure; Roadway Departure; Highway Safety Improvement Plan</p> <p>Gabe Priebe, Traffic and Safety Engineering Bureau Chief, Montana Department of Transportation</p> <p>Patricia Burke, Traffic Safety Engineering Supervisor, Montana Department of Transportation</p>

<p>8:30 am – 9:00 am</p>	<p>State Health Improvement Plan, Statewide Substance use Task Force</p> <p>Maureen Ward, Injury Prevention Program Manager, Department of Health and Human Services</p> <p>Tory Traeger, Epidemiologist, Department of Health and Human Services</p>
<p>9:00 am – 9:45 am</p>	<p>Treatment, Assessment, Prime for Life, Provider Insight</p> <p>Isaac Coy, Treatment Bureau, Behavioral Health and Developmental Disabilities Division, Montana Public Health and Human Services</p> <p>Curtis Weiler, CD Program Officer, Behavioral Health and Developmental Disabilities Division, Montana Public Health and Human Services</p> <p>Heather Hundtoft, Director of Substance use Services, Boyd Andrew Community Services</p> <p>Lori Horchorik, Substance use Services, Prime for Life</p>
<p>9:45 am – 10:00 am</p>	<p>Break</p>
<p>10:00 am – 10:30 am</p>	<p>Administrative Sanctions, Drivers Licensing</p> <p>Anna Mhooon, Non-Commercial Supervisor, Motor Vehicle Division, Montana Department of Justice</p> <p>Regina Elmore, Commercial and Medical Supervisor, Motor Vehicle Division, Montana Department of Justice</p>
<p>10:30 am – 11:00 am</p>	<p>Alive at 25 and Driver’s Education</p> <p>Trooper TJ Templeton, Montana Highway Patrol (Virtual)</p> <p>Dwight Nelson, Traffic Education Director, Office of Public Instruction</p>
<p>11:00 am – 11:45 am</p>	<p>Butte DUI Court – A Holistic Approach</p> <p>Michael Clague, Deputy County Attorney</p> <p>Susanne M. Clague, DUI Court Coordinator</p> <p>Community, Counseling, and Correctional Services</p> <p>Leo McCarthy, Mariah’s Challenge (Virtual)</p>

11:45 am – 12:15: pm	<p>Montana’s 2018 Impaired Driving Assessment Recommendations and State Responses. Impaired Driving Strategic Plan Moving Forward</p> <p>Janet Kenny, Supervisor, State Highway Traffic Safety Section, MDT</p> <p>Kevin Dusko, Planner, State Highway Traffic Safety Section, MDT</p>
12:15 pm	Questions/Wrap-up

Wednesday, November 16th , continued	
12:30 pm -	Lunch and Assessment Team Report Development
Thursday, November 17th, continued	
8:00 am- Completion	Assessment Team Report Development
Friday, November 18th	
8:00 am- 10:00 am	Assessment Team Report Presentation

Team Credentials

HONORABLE LINDA L. CHEZEM

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

bench in Indiana and the second woman to serve on the Indiana Court of Appeals.

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

Linda taught forensic science and rural public health law. Her textbook, Science, Ethics, and Justice was published in 2015. Linda also held an adjunct appointment at Indiana University’s School of Medicine working with the Indiana Alcohol Research Center. She currently holds an adjunct appointment at Ivy Tech and teaches Agricultural Data Management and other agriculture classes. Linda is of Counsel at the law offices of Foley, Peden, and Wisco. From this base, she works on federal, state, and local policies on agriculture and related rural safety and health issues. Linda has been particularly interested in addiction in justice system issues and the legal protection of property rights.

Michael S. Iwai

Michael S. Iwai is a 25-year veteran of law enforcement. On March 1, 2022, Michael retired from the Oregon State Police (OSP) and started with the City of Ontario the same day. As Chief of Police, he oversees three divisions: Administration, Field Operations, and Support Services. Michael has a strong background in police operations and administration. Michael enjoyed several specialty assignments which included the following: Special Weapons and Tactics, Technical Collision Investigations, Drug Recognition Expert Instructor, and Dignitary Protection Unit (part-time).

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

Safety Standards and Training.

He served on the IACP Technical Advisory Panel for nine years (2013-2021).

Michael was instrumental in curricula development and worked closely with the Standards

and Scientific subcommittees. He served as the IACP DRE Section and Oregon DRE Steering Committee Chairman. Today, he serves as the Chairman of Oregon MADD State Advisory Board; a member of the MADD National Law Enforcement Committee. and a member of the Oregon Association of Chiefs of Police Intergovernmental and Legislative Committee.

Michael, a U.S. Army veteran, earned a Master of Business Administration from Bushnell University (formerly Northwest Christian University) and a Bachelor of Arts from

George Fox University. He is a proven leader and has been recognized at the state and national levels for his contributions:

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

Timothy Kerns, Ph.D

Timothy (Tim) Kerns, Ph.D. has served as the Director of Maryland Department of Transportation's Highway Safety Office since December of 2018. He previously spent 29 years as a research associate/epidemiologist with the University of Maryland's National Study Center for Trauma and EMS (NSC). While at the NSC, he helped to develop and monitor Maryland's Occupant Protection Survey and served as program manager for the development of the State's Crash Outcome Data Evaluation System (CODES) and the Crash Injury Research and Engineering Network (CIREN). He has served on a variety of highway safety program assessments covering areas such as traffic records, occupant protection, impaired driving, and pedestrian/bicycle safety.

Dr. Kerns has served as a member of the Board of Directors for the Mid-Atlantic Foundation for Safety and Education and the Maryland Division of the American Trauma Society and is a past President of the Association of Transportation Safety Information Professionals (ATSIP).

Robert P. Lillis

Rob Lillis is President of Evalumetrics Research and has been providing planning, research and evaluation services to education, youth development, traffic safety, substance use, criminal justice, health, and mental health programs at the state and local level for over 35 years. He provides evaluation services for school districts for a variety of special programs including 21st Century Learning Center programs, school climate transformation projects, after-school mentoring programs and environmental education programs. He also provides planning, research and evaluation services for several rural Drug Free Community Grant programs and serves as evaluation consultant to the Allegany Council on Alcoholism and Substance use (ACASA) and numerous other local substance use prevention and youth development programs. Mr. Lillis has served as the evaluator for the Ontario County Juvenile Drug Treatment Court, the Finger Lakes Drug Court, Ontario County Youth Court, the Finger Lakes Child Abuse Response Team-Child Advocacy Center and the Ontario County Family Support Center.

Don Nail

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

Governor's Highway Safety Program (1985-2017)

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

Don served on the Board of the Governors' Highway Safety Association (GHSA) as the Region 3 Representative from 2013 to 2017. He also represented GHSA on the Standing Committee for Highway Traffic Safety (SCOHTS) of the American Association of State

Highway and Transportation Officials (AASHTO). He served on the North Carolina Operation Lifesaver Board of Directors (2001-2017), North Carolina Driver Education Advisory Committee (2013-2017), and was appointed by Governor McCrory to serve on the Statewide Impaired Driving Task Force (2013-2017). In 2016, Don was awarded *The Order of the Long Leaf Pine*, one of North Carolina's highest honors, by Governor Pat McCrory.

Education

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

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

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

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

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

Since 1991 Mr. Lillis has served as a member of the Impaired Driver Assessment Consultant Team for the National Highway Traffic Safety Administration (NHTSA) and has conducted over 75 assessments of prevention and treatment programs in 40 states, Puerto Rico and for the Indian Nations. He was the 2011 recipient of the NHTSA Public Service Award.