

# Understanding the Facts about Drugged Driving – DUID data analysis

## **The Problem**

CDOT reports that typically 25,000 DUI citations are issued annually<sup>1</sup>. C.R.S. ¶42-4-1301 combines the causes of DUI (alcohol, drugs, or a combination) into a single statute offense, making it virtually impossible to analyze DUID prevalence, trends and causes in our state. This is a major contributor to the data deficit acknowledged at the January 2015 Marijuana Impact on Public Health and Safety conference<sup>2</sup>. Lacking real data, policy makers rely upon surrogate measures such as NHTSA's FARS reports, even though NHTSA cautions against use of those reports to understand DUID.<sup>3</sup>

## **Legislative Remedy**

- Amend C.R.S. ¶42-4-1301 to provide separate statute offense numbers for DUI alcohol, DUI caused by drugs, and DUI caused by combinations of alcohol and drugs.
- Fund an agency to collect, analyze, and publish DUID data annually for use by policy makers.

## **Supporting DATA**

1. At the 2/26/2013 Judiciary Committee hearing on HB 13-114, Rep. Joe Salazar asked Tom Raynes of CDAC what the conviction rate was for DUID. Mr. Raynes testified that the DUID conviction rate cannot be known.
2. A pilot study performed by DUID Victim Voices<sup>4</sup> on 2012 vehicular homicide and vehicular assault cases begins to answer the above question. The study found that only 40% of the DUID cases were found guilty of DUI, and none of the DUI-marijuana cases were found guilty of DUI. As a pilot study, the sample numbers were too small to be significant or representative (10 DUID cases and 2 DUI-marijuana cases). No other data are available on DUID conviction rates in Colorado.
3. The Governors Highway Safety Association has published the following policy recommendation<sup>5</sup>:  
"amend statutes to provide separate and distinct sanctions for alcohol- and drug-impaired driving that could be applied individually or in combination to a single case"
4. At least 25 other states have separate statute numbers for DUI alcohol and DUID<sup>6</sup>: AL, AZ, CA, DE, GA, HI, IN, KS, KY, LA, MD, MN, MS, MT, NV, NM, NY, ND, OK, PA, SC, VT, VA, WV, WY.
5. California was the state to most recently adopt GHSA's recommendation. Chris Murphy, Region 9 NHTSA administrator in Sacramento reported that the idea to have separate statute numbers came from a DRE in California. There were no objections raised when the bill authorizing the change was passed by the legislature. The change went into effect January, 2014.

## **FAQs**

1. How can simply revising the statute make DUID data available?  
Statute revision alone will not solve the problem, hence the need for a funded agency to perform data analysis and publication. The funded agency cannot cost-effectively collect data to analyze unless the statute is revised, so they can narrow the focus of their data quest.
2. Can law enforcement agencies identify DUID suspects to be able to use a revised structure?  
Law enforcement agencies are developing their drugged driving identification capability now. In 2013 The Colorado State Patrol began identifying DUI-marijuana and DUID drivers separately from DUI-alcohol drivers. The Larimer County Sheriff's office, Denver Police Department and the Lakewood Police Department have done the same. However, none of these *ad hoc* programs enable those agencies to understand judicial outcomes of their DUID cases, since their codes are not linked into state judicial databases.
3. How should we deal with DUI caused by alcohol and drugs combined?  
Different states do this differently. Some charge a defendant with DUI-alcohol and with DUID. Others charge a defendant with DUI-alcohol and drugs combined.

<sup>1</sup> CDOT 2013 Problem Identification Report

<sup>2</sup> Wood, Ed. The Data Dearth and Heads in the Sand. <http://duidvictimvoices.org/the-data-dearth-and-heads-in-the-sand/>

<sup>3</sup> *Limitations of Drug Test Information, Reporting, and Testing Practices in Fatal Crashes*, NHTSA, November 2014 DOT HS 812 072

<sup>4</sup> Presented at the November 2014 Colorado Task Force on Drunk and Impaired Driving

<sup>5</sup> *2014-2015 Policies and Priorities*, GHSA, [ghsa.org/html/publications/pdf/14-15PP.pdf](http://ghsa.org/html/publications/pdf/14-15PP.pdf)

<sup>6</sup> See individual state statutes. Refer to *A State-by-State Analysis of Laws Dealing With Driving Under the Influence of Drugs*, by Michael Walsh, DOT Report HS 811 236 for a handy reference.