Denver Marijuana Management Symposium 2018
Enforcement and Measuring Cannabis Impaired Driving
Glenn Davis
Highway Safety Manager since 2004
Colorado Department of Transportation (CDOT)

Highway Safety Office (HSO)
Impaired Driving
Standard Field Sobriety Testing
Motorcycle Safety
Law Enforcement Coordination
Police Traffic Services
Speed Enforcement and Control

glenn.davis@state.co.us
Colorado DUI Definition

• A Person

• Operates a Motor Vehicle/Vehicle

• **Impaired** = slightest degree/Influenced = substantially incapable by Alcohol, 1 or more Drugs or a combination of Alcohol and Drugs
Change in DUI Law since Legalization

• Five nanograms or more of delta 9 tetrahydrocannabinol per milliliter in the whole blood = permissible inference that the defendant was under the influence of one or more drugs.

• Arrestees can choose to refuse, breath (alcohol only) or blood

• Law Enforcement may often choose breath if alcohol is dominant drug
Challenge of Delta-9 THC Over Time

DUI/DWI Case Filings in Colorado, Fiscal Year (FY) 2009 to Fiscal Year 2018

Source: Colorado Judicial Branch Annual Statistical Report, Fiscal Year 2018
DUI Citations Colorado State Patrol

Note: Drug impairment determination is based on trooper’s informed perception and not toxicology results.
Marijuana-involved Fatalities on Colorado Roadways

Source: Colorado Department of Transportation, Data Intelligence Group, Toxicology Data (2018).
Note: a) Numbers are based on toxicology results where at least one driver was tested for drugs after a crash.
   b) The presence of a cannabinoid does not necessarily indicate recent use of marijuana or impairment.
Marijuana-involved Fatalities on Colorado Roadways

Source: Colorado Department of Transportation, Data Intelligence Group, Toxicology Data (2018).

Note: Percents are based on tested drivers, which are about 46% of all drivers involved in fatal crashes. Colorado has established a "permissible inference of impairment at 5 ng/mL Delta-9 THC."
Cannabis-Involved Fatalities in Colorado
(Uniform Reporting Began in 2016)

Fatalities with drivers testing positive 5ng or greater Delta 9 THC

<table>
<thead>
<tr>
<th>Year</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>52</td>
<td>35</td>
</tr>
</tbody>
</table>

Source: Colorado Department of Transportation, Fatality Analysis Reporting System

Notes:
1) Prior to 2016, data collection on Delta 9 was incomplete.
2) Only active forms of THC, such as Delta 9, can cause impairment.
3) Delta 9 level information was not available prior to 2014.
4) Data includes fatalities where alcohol or other drugs may have been present.
5) In Colorado there is a “permissible inference” that a person is under the influence of a) cannabis - if their blood contains 5 nanograms or more of Delta 9-TCH per milliliter in whole blood or b) alcohol - if their blood contains .08 grams or more of alcohol per 100 grams in the whole blood.
Best Practices/Lessons Learned

• Find the/a baseline
• Identify barriers (Peace Officer Training, Definitions of Impairment, Public Attitudes, Arrestee Options)
• Take advantage of environment ($) to improve data
• Find ways to reach your audience (cannabis consuming roadway users)
• Have a position, theory, sound bite for results
• Colorado’s goal is to create new social norms leading a path for the US.
For Information on CDOT Impaired Driving Programs

Glenn Davis
Highway Safety Manager
Colorado Department of Transportation
Office of Transportation Safety
Highway Safety Office

glenn.davis@state.co.us
303 757 9462
City of Sacramento, CA

- Located 90 miles north of San Francisco
- Capitol of California
- Population of 500,000
- 100 square miles
- Approximately 700 sworn officers
Response to indoor residential grows

• Over 600 houses using more than 4,000 kWh
  Average house in Sacramento uses 500-1,000 kWh

• City ordinance: $500 per plant fine

• Created three enforcement teams, each with one sergeant and four officers
Three paths voluntarily, criminal and civil

**Voluntary compliance**

- Warning letters (under 8,000 kWh)
- Voluntary inspections
- Knock and talks for non-response
Criminal

- Search warrant if over 8,000 kWh
- All marijuana, lights and ballast seized
- Bank freeze/seizure orders
- Building inspector condemns house
- Power company removes the meter
Civil

• Civil citation issued to owner
  $500 per marijuana plant (six plants allowed)

• City Attorney’s Office handles civil action

• Liens placed on houses

• Civil nuisance lawsuits filed on repeat offender
COLORADO
VICE DRUG CONTROL BUREAU

LT. ANDREW HOWARD HOWARD

- 2010 Happy Narcotics Sergeant
- First ever Marijuana Enforcement Team
- First Craigslist Marijuana deal
- Numerous hours with D.A.’s
- Plant sampling protocol
- Major issues: diversion and home grows
- 2013 Rec MJ becomes legal -- leave to task force
- August 2016 come back-more regulation, more bureaucracy-same problems
- Currently have 3 sgts and 13 detectives dedicated to marijuana
THINGS TO REMEMBER

1. Get things figured out in advance
2. Spend time with District and City attorneys- get cell phone numbers for the 1am phone calls
3. Create zoning rules regarding number of plants, locations, access allowed, fire safety
4. Begin building relationships with other City Agencies now: ALL of THEM.
   This is critical to successful enforcement and protection OF FIRST RESPONDERS.
CITY OF DENVER’S APPROACH TO MJ ENFORCEMENT

* Enforcement of Colorado’s Title 18– DTO’s, Large unlicensed commercial grows, Residential Grows, Hash-Labs, etc.

* Strong Effective Regulatory Enforcement– Enforcement of Colorado Rules AND criminal laws; CRS Title 12 to discipline individuals and license holders

* Collaborative enforcement– and problem solving with all applicable agencies and groups
RESIDENTIAL GROWS IN GARAGES
HOMICIDE
NUMBER ONE CITIZEN NARCOTIC COMPLAINT

- Effects quality of life

- Hard to investigate -- odor and venting are no longer probable cause!!

- Hard to prosecute -- medical vs rec; Caregiver model

- Make it easy for citizens to report -- specific phone number, website, twitter, social media, etc
CITIZEN COMPLAINT RESULTS

* Approx. 184 investigated in 2017

* 11 Hash labs investigated this year

* Over 80 + active complaints
DIFFERENT GROWS

Licensed:
- Monitored by the marijuana enforcement division
- Both state and local licenses
- Regulated and monitored
- Less chance of illegal chemicals (sulfur and/or pesticides)
- Less chance of too much CO2 in the environment
- SWAT more likely to be called to check location due to valid alarms
- Possible armed guards

Unlicensed:
- Not regulated by Marijuana Enforcement division
- No licenses
- Usually clandestine and possibly illegal
- More of a possibility of parties inside being armed
- Increased chance of illegal pesticides being used
- Increased chance of CO2 being used in an excessive manner
- Increased chance of Mold
- Increased chance of fire or electrical hazards
- Higher chance of illegal mezzanine and dangerous interior structures
COORDINATION

- Bi-weekly meetings with marijuana team & city and district attorney
- Analyzing cases
- Staying up to date on new case law/legislation
- This relationship was unheard of prior to legalization of marijuana
- DPD gets the equipment needed because of the office of marijuana policy
- Nothing brings people together like “weed”
<table>
<thead>
<tr>
<th></th>
<th>QUARTER</th>
<th>2016</th>
<th>2017</th>
<th>CHANGE</th>
<th>%</th>
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<tr>
<td><strong>Arrests</strong></td>
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<td>Felony Arrests</td>
<td>85</td>
<td>165</td>
<td>80</td>
<td>94.1%</td>
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<td>Misdemeanor Arrests</td>
<td>53</td>
<td>53</td>
<td>0</td>
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<td><strong>Seizures / Recovered</strong></td>
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<tr>
<td>Guns</td>
<td>83</td>
<td>143</td>
<td>60</td>
<td>72.3%</td>
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<td>Currency</td>
<td>$1,193,635.10</td>
<td>$1,679,939.84</td>
<td>$486,304.74</td>
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<td>Vehicles</td>
<td>35</td>
<td>13</td>
<td>-22</td>
<td>-62.9%</td>
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<td>Crack (g)</td>
<td>0</td>
<td>0.14</td>
<td>0.14</td>
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<td>Cocaine (g)</td>
<td>8132.269</td>
<td>1339.179</td>
<td>-6793.09</td>
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<td>Meth (g)</td>
<td>977.605</td>
<td>1663.257</td>
<td>1565.852</td>
<td>1601.4%</td>
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<tr>
<td>Marijuana (lb)</td>
<td>1713.13</td>
<td>2822.498</td>
<td>1109.368</td>
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<td>Marijuana Plants Recovered</td>
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<td>Marijuana Hash Products (g)</td>
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<td>Marijuana Edibles</td>
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<td>-222</td>
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<td>Heroin (g)</td>
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<td>164.37</td>
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<td>Club Drugs (g)</td>
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<td>40.786</td>
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<td>Other Drugs (g)</td>
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<td>6447.916</td>
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<td><strong>Operations</strong></td>
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<td>Marijuana Grows Investigated</td>
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<td>260</td>
<td>68</td>
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<td>Hash Lab Investigated</td>
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<td>Buy / Bust Operations</td>
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<td>13</td>
<td>-2</td>
<td>-13.3%</td>
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<td>Sting Operations</td>
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<td>3</td>
<td>1</td>
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<td>Controlled Buys</td>
<td>17</td>
<td>75</td>
<td>58</td>
<td>341.2%</td>
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<td>Surveillance</td>
<td>409</td>
<td>562</td>
<td>153</td>
<td>37.4%</td>
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<td>Patrol / Agency Assists</td>
<td>19</td>
<td>43</td>
<td>24</td>
<td>126.3%</td>
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<td>Protests Monitored</td>
<td>4</td>
<td>3</td>
<td>-1</td>
<td>-25.0%</td>
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<td><strong>Investigations / Contacts</strong></td>
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<tr>
<td>Knock and Talk / Consent Searches</td>
<td>149</td>
<td>130</td>
<td>-19</td>
<td>-12.8%</td>
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<td>Search Warrants Executed</td>
<td>127</td>
<td>125</td>
<td>-2</td>
<td>-1.6%</td>
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<tr>
<td>Felony Case Filings</td>
<td>50</td>
<td>61</td>
<td>11</td>
<td>22.0%</td>
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COMMUNITY OUTREACH AND AWARENESS

- Educate the community via social media: https://www.facebook.com/denverpolice/videos/1230042947100686/
- Consolidate complaint intake: 911, 311, narcotics, etc...
What has LAPD done?

- Roadside screening tools
  - Drager Drug Test 5000
- Streamline warrant system
  - Currently working on e-warrant from police car
- Phlebotomist at all checkpoints
  - Selecting mobile phlebotomy company (24hrs)
- Vertical DUI-D Prosecution
What has LAPD done?

- Public Education
  - Schools
  - Colleges
  - Grade schools
  - Dept. Child and Family Services
  - Flyers at checkpoints
    - Partnership with AAA
- Cannabis & Driving Study
  at Center for Medicinal Cannabis Research
- Reviewed CDE (California Department of Education) Blueprint

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**ESTIMATED COSTS OF FIRST MISDEMEANOR DUI CONVICTION (CALIFORNIA)**

- Fine (minimum) $390
- Booking (fingerprinting, mug shot, etc.) Fee $170
- Penalties & Assessments* $1700
- Bail $2,500
- Vehicle Towing & Impound Fee $685
- DUI Traffic School (3 month) $650
- DMV License Re-Issue Fee $125
- Auto Insurance Increase** $12,011
- Attorney and Legal Fees (fees will vary) $3,500
- Total Cost $21,731

**ADDITIONAL COSTS TO CONSIDER**

- Lost Wages from time missed at work – It will be hard to work from jail or while completing community service.
- Alternative transportation costs during license suspension.

Besides the financial costs associated with a DUI, the possibility of causing injury or death to yourself or someone else is something that never goes away.

* Penalties & assessments vary from locality to locality.
** Based on premium increase over 10 years for a 25-year-old male driver with 9 years’ experience.

All fees are based on the minimum DUI 1st offense not involving a collision resulting in bodily injury or property damage.

*NTSA Traffic Safety Facts DOT HS 812 231

So if you think you’re in the clear while driving high, you better

**Think Again!**

Drive High. You Get a DUI.

If you intend to drive, the safest option is not to have any alcohol or drugs in your system at all. Never drive impaired and plan ahead:

- Arrange for a designated driver
- Call a cab or a friend
- Use public transportation or a ride service

For more information, please visit [AAA.Com/DriveSober](http://AAA.Com/DriveSober)

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California’s Recreational v. Medical Marijuana

**Recreational**
- 21 Years and older
- Possess up to 1 ounce Cannabis
- Possess up to 8 gross grams of Concentrated Cannabis
- Grow up to 6 plants per residence
- $9.25 per ounce State tax
- Local Sales tax
- 15% excise tax

**Medical**
- 18 Year and older
- No limit on plants but cultivation limited to 100 sq. feet
- 13 Debilitation medical conditions as opposed to 9 in Colorado
- Doctor recommendation needed
  - 758,607 card holders in 2016
- No sales tax
- Subject to other taxes
Contact information

Kamaron Sardar #37806
DRE Agency Coordinator
p. (323)276-2396
e. 37806@lapd.online
Lieutenant Patrick Condon
Cannabis Contraband Division

November 2, 2018
Octobre 17th
2018
# Regulatory framework

| Federal | Supervision of production for commercial purposes (private enterprises)  
| Renaming cannabis of the CDSA and creation of new Criminal Code offenses  
| Legalizing the possession and sharing between adults of 30 grams |
| Provincial | Supervision of distribution and sales  
| Creation of Société québécoise du cannabis (SQDC)  
| Branches and online sales |
| Penal offense:  
| Personal production: Illegal in Québec  
| Storage in a dwelling house (150 grams)  
| Limited public consumption and possession places |
| Municipal | Restrictions regarding zoning for the production and sale of cannabis |
Cannabis
Contraband
Division

- Cut off illegal supply line (home grows, outdoor productions, importations)
- Disrupt illegal distribution (marijuana dealer)
- Unsettle online black market

ACCES
Cannabis