

**Amendment 64 Sub-Committee Meeting
Law Enforcement Issues of Criminal Justice working Group
544 Sherman – Denver, Colorado
12/17/13**

The meeting started at 1010 hours

The sub-committee attendees included:

Larry Abrahamson, Chair
Mark Biller, for Lauren Davis
Marco Vasquez
Ed Wood
John Jackson

Public Comment section:

Wanted answers about an ordinance in Greenwood Village that may regulate the right to restrict the open transport of marijuana on roadways.

The police are not re-growers or gardeners, could the State run a grow house and there is a concern about how law enforcement keeps plants that are seized alive.

The enforcement of DUI, the U.S. Supreme Court case in the State of Missouri, which required to have a warrant to draw blood from a suspect. The requirement of a medical professional to only draw blood. There is anecdotal evidence that some officers are drawing blood. It needs to be a medical regulated staff.

Law enforcement needs to realize that the public has spoken on the issue of marijuana. We need to try to get money to better test and protect people on the roads. We need to regulate like alcohol, because we have 80 years of study on this

End of public comment, 1020 hours

There was discussion about a concern that multiple groups were having dual discussions on the same topics. We should not create conflicts in our discussion. The sub-committee all agreed that we need to focus on the law enforcement issues related to what these common topics could be.

The DUID issue is being tabled and we are staying away from that discussion and the industrial hemp issue for these discussions in the working group.

We do not want to second guess the CCJJ on their DUID recommendations that they have been working on for 2 plus years.

Some suggestions have been made to the statute group on the legalities of some of these issues and laws that might need to be changed.

Ed Wood provided the below listed 4 areas that he has personally communicated to the legal working group:

1. 42-4-1301.1 “Expressed consent” is designed primarily for alcohol assays. Breath tests won’t work for Δ^9 THC, and urine tests don’t provide usable results either. Blood tests must be used. The statute needs multiple changes to reflect this reality.
2. 42-4-1301.1 (8) provides for mandatory testing of dead or unconscious drivers. This should be expanded to require testing of all drivers involved in crashes that cause death or injury serious enough to transport a victim to a hospital.
3. 42-4-1301 (6)(a)(I) provides a presumption of innocence for a driver testing below 0.05 BAC. This may be a valid presumption when alcohol is the only legal intoxicant, but is out of date when THC is legal. A combination of a non-impairing dose of alcohol along with a non-impairing dose of THC will render a driver profoundly impaired. Rather than defining limits for various combinations (this really can’t be done), it’s best to simply delete this presumption.
4. 42-4-1301 (1) and its subsets combine DUI and DUID. Therefore judiciary data cannot distinguish between DUI and DUID. It’s time to restructure the law so that these two conditions can be tracked and studied separately. Historically, I believe that only New York and Hawaii have done this, but recently, California accomplished this change with AB 2552.

There was an explanation of 3 sub-groups of our larger sub-committee

Legal/Statute group

Terminology group

Law enforcement issue group (Our group)

We then spend considerable time outlining the many issues that have been raised. All members contributed their cumulative thoughts:

(It should be noted that we did not complete the discussion of these prior to the end of the meeting. Those items with a () beside them were specifically outlined as issues that need further research and discussion as they have a direct law enforcement impact.*

Issues list as a whole:

- * How would LE deal with marijuana social clubs in their communities
IF ALLOWED—Then: To OK them and Regulate or Prohibit them?
 - Second hand smoke and issues for officers
 - Driving after issues after (DUID)
 - Organized criminal ownership/Need for backgrounds
 - Open inspection to law enforcement, similar to retail bar establishments
 - Licensed by local and state authorities with rules

- * Marijuana vending machines and control of sales
 - Allowed under medical marijuana code
 - Where are they located?
 - How is the sale regulated?
 - Compliance checks must be done by law enforcement
 - Not a good idea for efficient use of law enforcement, prohibit them
 - Not go into other retail establishments such as bars and restaurants

- * The PDs and SO's are going to have employment issues with sworn personnel
 - Spell out in statute for public safety sensitive positions prohibited by law to consume marijuana or have THC in their blood
 - Violation of Federal law for employment positions

- * Home Cultivation and the issues surrounding grows
 - Denver's examples of renting homes to be specific grow houses
 - The confusion with local authority and marijuana center versus care givers
 - 2 models
 - The need to go to one code that governs all to reduce confusion
 - Number of plants in homes to people
 - What is the "Product" from the production of those plants, could be above 1 oz.
 - Not a lot of crime around home grows
 - Some home invasions
 - Concern for more violent crimes
 - The amount of cash in any grow home, makes vulnerable
 - Numbers of plants to the number of family members?
 - Limit the number of plants per structure
 - Tie to residents over 21 in the home
 - Limiting the number of plants, per structure, to not conflict with medical marijuana
 - The seizing of plants and what to do with it, law enforcement is not gardeners, what to do?
 - The mold in the grow houses and disclosure at sale of the grow fact
 - Public Health issue more

- * One common code that deals with marijuana issues
 - When and where cases are filed in criminal court, where is the line?

How do we deal with minors in possession and where to charge?
Inconsistencies in amendment how much can be legally possessed
Plants versus dry weight, or product of the plants
Explanation of what product means
See a potential weight grey area issue for law enforcement
Violation of Federal laws?
Child abuse issues to come out of the home(s) where people are smoking
Should we push drug cases to charge, that aren't to a CCJJ type board for review?

- * The sale of marijuana and how to track it?
 - DPD has recognize the sale of marijuana on Craig's list
 - Regulate Internet sales?
 - Advertising to minors
 - Terminology very important in this area
 - Open and Public is important
 - Transportation and manifesting for deliveries of marijuana

The County Jails are not taking marijuana as contraband in the facility, what to do?
The maintenance of the marijuana in property rooms after seizure?
What type of training are we going to develop for law enforcement?
How would law enforcement work together to share information?
What response do we have with people who sell marijuana to people under the age of 21
Blood draw improvements for DUID
4th Amendment issues with search and seizures in the field

- Canine issues with searches

How to weigh the marijuana versus oils in the field?
MIP Public Education with law enforcement and community
Distribution of plants back to citizens from property room, a violation of Federal law?
Whether law enforcement can assist state to state agencies on distribution?
A needed Express/Implied Consent for Delta 9 THC through blood only

- Electronic warrant system to get a warrant for blood in 15 minutes
- Doing in Fort Collins presently. Need to get that information and make statewide

Arizona has a program to train other states in how to improve field blood tests

- Arizona officers do draw blood
- 600 officers who draw blood
- No need in urban
- Not a one size fits all, CSP may be the most interested
- 5 vehicles in Phoenix and they draw blood
- Widen the ability to draw blood

A person under the age of 18 must pass a urine test to get DL.

***The meeting ended at 1205 hours
Minutes prepared by John Jackson***

