

Illinois Forensic Science Commission- Public Policy Subcommittee

Meeting Minutes

June 7, 2024, 11:30 a.m. meeting

I. Call to order

John Hanlon, chairperson of the subcommittee, called the meeting to order. The meeting was held via WebEx.

II. Roll-call

The following people were present:

1. John Hanlon, FS Commission Member, subcommittee chairperson
2. Jillian Baker, FS Commission Member, subcommittee member
3. Claire Dragovich, FS Commission Member, subcommittee member
4. Cris Hughes, FS Commission Member, subcommittee member
5. Amy Watroba, Executive Director-Forensic Science Commission
6. Sabra Jones, Regional Toxicology Liaison-NHTSA Region 5
7. Larry Shelton, ISP, Toxicology Training Coordinator & Acting Technical Leader
8. Timothy Ruppel, Kane County
9. Sarah Ware, Kane County

III. Review/Adoption of the Minutes

1. The Meeting Minutes of 4/26/24 were adopted by unanimous vote.

IV. Cannabis Impairment- Discussion

1. Illinois Impaired Driving Task Force-Discussion

- i. Mr. Hanlon noted that several subcommittee members and ED Watroba attended the online meeting of the Illinois Impaired Driving Task Force which was held on May 17, 2024. ED Watroba, Ms. Dragovich, and Ms. Baker summarized discussion points of note from the meeting, including the fact that it seems that blood is the preferred substrate for testing. Mr. Hanlon asked Ms. Jones about urine testing and she responded that standards are clear that urine test results should not be used to infer impairment except where the literature supports it. Mr. Hanlon mentioned the conversation during the Task Force meeting related to subsection (a)(6) of the DUI statute, which the subcommittee

is not examining. ED Watroba noted that the presentations addressed the history of testing and how it has impacted the issue of whether urine or blood are the preferred substrate for testing. Mr. Shelton expounded on this point and discussed the topic of the future of testing and the disconnect with law enforcement that has resulted. Science is evolving and the scientific community is moving towards using the results of blood tests as evidence in DUI cases. ED Watroba stated that hopefully meetings such as the Task Force meeting, which brought people together from various groups, to hear from toxicologists will help law enforcement understand why the scientific community is moving towards blood as the preferred testing substrate.

- ii. Ms. Jones commented on oral fluid as another possible substance that could be used for roadside testing or evidence testing. ED Watroba asked about whether states moving towards oral fluid for evidentiary purposes are moving away from blood. Ms. Jones responded that it differs by state. Ms. Dragovich commented that she saw a presentation from Alabama about how it took six years to roll out their oral fluid program. Ms. Dragovich said it would be interesting to see if the roadside pilot program in Illinois mentioned by Ms. Jones was considered unsuccessful because they were not finding active components in oral fluid but were finding inactive components in urine. She indicated it could also have been a technology issue based on previous technology, depending on when the pilot program took place. Ms. Jones noted that it would be interesting to see the data from the pilot program. It is unclear what agency performed the pilot program. ED Watroba indicated that Jennifer Cifaldi (Illinois Traffic Safety Resource Prosecutor) may have information about that program and that she will reach out to her before the next meeting.
- iii. ED Watroba also noted that there appears to be confusion about what the law is for prosecuting DUI-cannabis with blood results collected outside the 2-hour window in (a)(7) and suggested that Ms. Cifaldi could speak to that topic.
- iv. Mr. Hanlon asked about a comment during a presentation before the Impaired Driving Task Force that referenced the proper storage of urine and the results for D9 THC in urine. Ms. Dragovich responded that she believes the comment was in reference to a particular study or studies. Mr. Hanlon also asked about how long inactive D9 THC glucuronide can be detected in urine and Ms. Jones indicated that she could not pinpoint an exact number of days, but that it was many days in a chronic user.

2. Illinois Law Enforcement Phlebotomy Program-Discussion

- i. ED Watroba indicated that she spoke with Larry Brooks, the Illinois Law Enforcement Phlebotomy Coordinator, and Mr. Brooks provided materials which she shared with the subcommittee. Ms. Jones indicated that the use of law enforcement phlebotomists varies state by state. These programs are law enforcement initiatives that address the sample collection time from a tactical law enforcement perspective. Ms. Jones noted that communication between law enforcement, prosecutors, and the toxicologists is essential to identify where the challenges are for collection and what is the best path forward (i.e. challenges with warrants, access to someone trained to collect sample). Mr. Shelton added that he has heard of the difficulties of collecting samples, especially in remote areas. With regard to the 2-hour time, the lab does not pay attention to when the sample was collected, they test it. Ultimately, the quicker samples are collected the better chance of getting results that are above the per se amount for cannabis because of the concentration drop off for cannabis, which is different from alcohol. ED Watroba noted that ultimately those are policy decisions for lawmakers, but the Commission wants to make sure that the policy makers have the scientific information they need to examine the issue of the collection window for per se DUI cases.
- ii. Ms. Dragovich noted that most toxicological labs know about ASB 037 and the fact that there is no back extrapolation on THC or inference on how much someone may have consumed when they consider whether they should expand the collection window. It is important for the scientists to convey what the limits are to their testing and their testimony because of science, so that these can be considered when examining the issue of collection time. Ms. Dragovich and Ms. Baker noted that the Commission benefits from a global perspective of the issues related to the question the Commission is examining, but that is important to remember that the Commission is only tasked with making recommendations related to forensic science, not things like a law enforcement phlebotomy program.
- iii. Mr. Shelton commented on the importance of communicating the limits of a toxicologist's testimony to prosecutors and discouraging them from pushing those limits. Ms. Jones talked about their judicial liaison program and how Illinois's representative would be a good resource to communicate the limitations of testimony to everyone, including judges. Mr. Shelton also discussed the important difference between testimony from a lab analyst and someone who has spent their career doing research on a particular topic.

iv. Ms. Jones stated that everyone is welcome at the all-day toxicology summit in September in Springfield hosted by IDOT.

V. Old Business
None presented.

VI. New Business
None presented.

VII. Public Comment

Ms. Dragovich asked Mr. Ruppel if Kane County is doing toxicology testing and he indicated that they plan to do both pre-mortem and postmortem toxicology. Mr. Ruppel shared his contact information and stated that they are actively shopping for instrumentation to do some of the things discussed during the meeting and are including oral fluid in their capabilities. Mr. Ruppel further indicated that they plan to do a pilot program for oral fluid, blood, and urine in DUIs. Mr. Ruppel indicated that they are still in the planning stages.

VIII. Meeting Schedule
The next meeting was scheduled for July 19, 2024, at 11:30 a.m.

IX. Adjournment

Subcommittee chairperson John Hanlon left the meeting at 12:30 p.m. and Ms. Dragovich thereafter adjourned the meeting at approximately 12:36 p.m.