

Association of Transportation Safety Information Professionals

Application for Best Practices Recognition
2004

Part One: Project Summary

Project Title: Improving Blood Alcohol Concentration (BAC) Reporting from Medical Examiner Offices in Texas

Project Description: This project included identification of the many problems associated with obtaining BAC test results for drivers involved in fatal crashes in Texas. Subsequently, a highly successful BAC workshop was held to bring together persons and agencies involved in all aspects of testing, reporting, and using this information to reduce the toll that impaired driving is currently taking on Texas roadways. Research of the statutes pertaining to BAC reporting was conducted and additional efforts are underway to ensure that changes in the quality and quantity of data are incorporated into the Texas traffic records system.

Nominating Person Contact Information:

Name: R. Gary Taylor

Title: Senior Regional Program Manager

Agency and Office: National Highway Traffic Safety Administration (Region VI)

Address with City, State, ZIP: NHTSA Region VI
819 Taylor Street, Room 8A38
Fort Worth, TX 76102-6177

Telephone: (817) 978-3656

FAX: (817) 978-8339

E-Mail: Gary.Taylor@nhtsa.dot.gov

Project Manager Contact Information:

Name: Becky T. Davies

Title: Research Scientist

Agency and Office: Texas Transportation Institute, Center for Transportation Safety

Address with City, State, ZIP: Texas Transportation Institute
Texas A&M University System
College Station, TX 77843-3135

Telephone: (979) 862-6300

FAX: (979) 845-4872

E-Mail: b-davies@tamu.edu

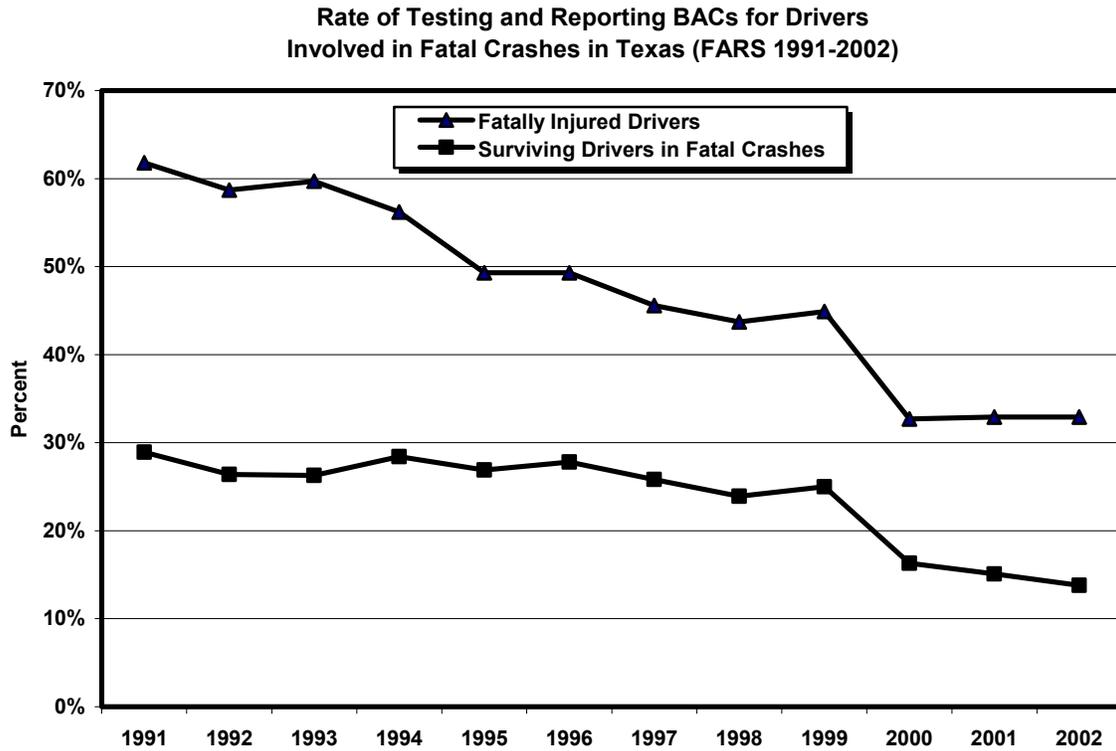
Lead Agency for Project: Texas Transportation Institute

Participating/Cooperating Agencies: Texas Department of Public Safety

Which National Agenda goals apply?

2. To establish a means by which collection, management, and use of highway safety information could be coordinated among all organizations at all jurisdictional levels with responsibility for highway transportation policy.

implementation, and evaluation of countermeasures to address impaired driving. In Texas, the rate of reporting BACs for fatally injured drivers has fallen from 62% in 1991 to 33% in 2002. The graph presented below illustrates the dramatic decline in reporting BACs for both fatally injured drivers and drivers who survive an otherwise fatal crash in Texas.

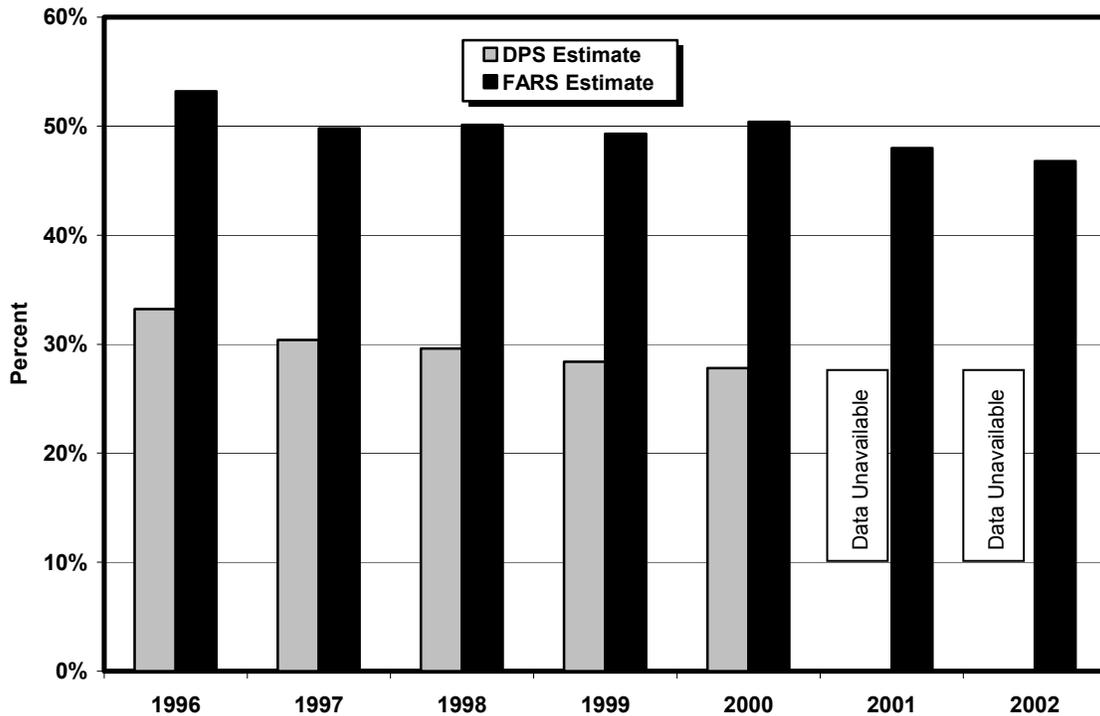


Surviving Drivers in Fatal Crashes. Testing and reporting BAC results for surviving drivers has fallen from 29% in 1991 to 13% in 2002, while the percentage of surviving drivers taken to a hospital following a fatal crash has remained relatively constant. The most likely reason for this discrepancy is that Texas is one of the states yet to repeal a provision in the Insurance Code (commonly referred to as the *Intoxicants Clause*) that allows insurance companies to deny payment of claims for reimbursement for the cost of treating drivers involved in crashes when those drivers are found to be under the influence of alcohol or other drugs. This clause has prompted many emergency medical facilities to adopt a policy whereby injured drivers are not routinely tested for impairing substances for fear that the hospital will not be reimbursed for treatment costs.

Alcohol-Related Fatal Crashes. NHTSA's Fatality Analysis Reporting System (FARS) estimates that 47% of the fatal crashes that occurred in Texas in 2002 were alcohol-related. The FARS estimate is based on several driver and crash variables found to be associated with alcohol-related crashes over the past 25 years (e.g., driver age, single-vehicle crash, time of day, etc.). FARS uses a multiple imputation procedure to provide estimates for the BAC results that are missing from a state's database of fatal crashes.

Until very recently, Texas has traditionally relied upon the estimate of alcohol-related fatal crashes provided by the Texas Department of Public Safety (rather than the FARS estimate) to set the goals for reducing impaired driving fatalities and injuries. The “DPS Estimate” is obtained from crash reports on which the investigating officer indicates that alcohol may have contributed to the crash. Funding decisions for administering the Alcohol and Other Drug Countermeasures Program Area in Texas have been based upon this estimate. As the graph presented below illustrates, the FARS Estimates and DPS Estimates for recent years differ dramatically. Note that the DPS Estimates for 2001 and 2002 remain undetermined due to a serious back-log within the current Texas traffic records system.

DPS Estimate vs. FARS Estimate of Alcohol-Related Crashes in Texas (1996-2002)



The project outlined in greater detail in the Major Process Steps section provided below addressed the issue of Texas’ declining rate of reporting BAC results and the effect this is having on the traffic safety community’s ability to reduce impaired driving in Texas.

Referring to the National Agenda Goals, tell how your project relates to each one you listed in Part One of this application:

With respect to the **National Agenda for the Improvement of Highway Safety Information Systems**, this project sought to reverse the current trend in Texas whereby the availability of highway safety information is declining at a time when the problem of impaired driving has shown no signs of improvement. In accordance with **Goal II** of the National Agenda, the current project brought together agencies involved in the collection of data (e.g., Medical Examiners and Texas DPS) with users of traffic safety information (i.e., Texas Department of Transportation (TxDOT), DPS, TTI, and injury prevention centers within the state). TxDOT and DPS are currently working together to implement a

new database of traffic crashes that will become available in 2005. The Crash Records Information System (CRIS) will provide the means by which crash information can be entered electronically, and should alleviate the crippling effect that paper submissions have had on management of the Texas traffic records system.

With more timely and useful data at hand, all agencies will have a more complete picture of the magnitude of the traffic safety problems that need to be addressed. Improving the availability and usefulness of data elements is essential for setting goals and planning future highway safety programs such as the Alcohol and Other Drugs Countermeasures Program Area (**Goal III**). Although one of the primary goals of the CRIS database is to provide highway safety information in a timely manner, the practical problems with *BAC data collection* in Texas would have remained unchanged without the efforts put forth in the current project. The project manager has been working with officials responsible for implementing CRIS to ensure that the data elements incorporated into the CRIS database will be useful for traffic safety research (**Goal VI**). An example of this collaboration will be evident in the coding and inclusion of information regarding alcohol and other drugs found in drivers involved in crashes.

Referring to the management approach to highway safety, tell how your project supports the management steps you listed in Part One:

As indicated throughout this application, the capability of Texas to properly address its serious problem with impaired driving has been compromised by a lack of timely and comprehensive data on the BACs and other drugs found in crash-involved drivers. The result is that Texas has not been in a position to establish realistic traffic safety goals or plan programs and countermeasures to effect the changes necessary to improve the current situation. The project described herein identified a number of problems with the collection, management and use of this information. The availability and use of these data by traffic safety professionals are essential for evaluation of the effectiveness of future changes in legislation, implementation and evaluation of alcohol programs and other countermeasures, and identification of at-risk groups of drivers.

Describe the major process steps for your project, including any unique aspects that enhanced success:

1. PREVIOUS STUDIES. Preliminary investigations in which the project manager obtained missing BAC data directly from Medical Examiner (ME) Offices in Texas revealed that the overwhelming majority (>95%) of the fatally injured drivers whose bodies were sent to an ME Office were tested for alcohol. However, it was also determined that these BAC test results remain at the ME Office unless the law enforcement officer who investigated the crash initiates follow-up action to obtain the results and document them on the crash report, or file a supplemental report with the updated information. Thus, one of the primary reasons for Texas' low rate of documenting BAC test results for fatally injured drivers lay within the inefficient procedures for *reporting* the results rather than simply a failure to test for alcohol. In light of this finding, it was decided that a more in-depth investigation of the problems with the collection and reporting of BAC test results for fatally injured drivers in Texas was warranted.

2. BAC WORKSHOP: In November 2002, TTI sponsored the first BAC Workshop to address the problems with missing BAC test results in Texas. The workshop brought

together officials from TxDOT, NHTSA and ME Offices, DPS Traffic Records, the Texas District and County Attorneys Association, the DPS Crime Lab, the Texas Municipal Police Association, the Injury Prevention Center of Greater Dallas, MADD, the Texas Department of Health Epidemiology Division, DPS Law Enforcement Division and several law enforcement officers, the Texas Police Chiefs Association, the Texas Department of Insurance, the Texas Hospital Association, and legislative staff for members of the Texas Legislature. This was the first time that most of these officials had the opportunity to meet one another, learn about Texas' problem with impaired driving and BAC data collection, share contact information with one another, and begin communicating about ways to improve BAC testing and reporting in Texas.

Workshop attendees were provided data demonstrating the decline in reporting BACs for fatally injured drivers in Texas. A copy of Texas statutes pertaining to BAC testing and reporting was distributed, and the applicability of these statutes to the various agencies was discussed. It was apparent that few of the agency representatives were aware of the statutes or the applicability of these statutes to their respective agencies. The statutes pertaining to traffic fatality reporting requirements in Texas were found to be particularly troublesome.

Sections 550.064 and 550.081 of the Texas Transportation Code contain language requiring the reporting of all traffic fatalities to DPS by persons responsible for death investigations in Texas. Although each of these statutes refers to "coroners" as those persons responsible for reporting traffic deaths, there are no "coroners" in Texas. Rather, Texas has a mixed death investigation system consisting of Medical Examiners and *Justices of the Peace who act as coroners* in death investigations in those counties without an established Medical Examiner Office. These officials were unaware of their duty to report traffic fatality information to DPS. Likewise, DPS was unaware of its duty to provide the forms on which this information was to be reported.

3. RESEARCH AT THE TEXAS LEGISLATIVE REFERENCE LIBRARY: Given the results of the discussion at the BAC Workshop, the project manager conducted research at the Texas Legislative Reference Library to determine the legislative history of Sections 550.064 and 550.081 of the Texas Transportation Code as follows:

Transportation Code - Title7 (Vernon's Civil Statutes):

§ 550.081. Coroner's Report.

A coroner or other officer performing similar functions shall, not later than the 10th day of each month:

(1) report in writing to the department the death of a person within the officer's jurisdiction during the preceding calendar month as the result of a traffic accident; and

(2) include in the report the time, place, and circumstances of the accident.

Although compliance with this statute has not been enforced, it was first enacted in 1947. The timeline is as follows:

1947 -- The 50th Texas Legislature passed SB 172, which became the *Uniform Act Regulating Traffic on Highways: Chapter 421, Article IV – Accidents. Sec. 46. Coroners to Report.* The statute was incorporated into Article 6701d of *Vernon's Civil Statutes*.

1954 -- The Model Post-Mortem Examinations Act notified each state of the need to establish a Post-Mortem Examinations Office, headed by a trained pathologist. This Act paved the way for Texas' current Medical Examiner system.

1955 – The 54th Texas Legislature passed HB 539 authorizing County Commissioners Courts to establish Medical Examiner Offices. Once a Medical Examiner Office or ME District is established, the duties of Justice of the Peace in death investigations and inquests are transferred to the Medical Examiner's Office.

1956 – Bexar County established the first Medical Examiner Office in Texas.

Also included in Title 7 of the Transportation Code is a directive to the Department of Public Safety ("the department") to furnish reporting forms. This statute has also been in place since the 1947 legislative session.

§ 550.064. Accident report forms.

(a) The department shall prepare and when requested supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals the accident report forms appropriate for the persons required to make a report and appropriate for the purposes to be served by those reports.

Texas DPS prepares and distributes the *Texas Peace Officer's Accident Report (ST-3)* for reporting all traffic accidents to the Traffic Records Division. However, until the BAC Workshop was held and this legislative history was conducted, DPS was unaware of the need to furnish report forms to coroners (i.e., Justices of the Peace *acting as coroners*, Medical Examiners, and *other officers performing similar functions*).

4. FOLLOW-UP ACTIVITIES: The results of the legislative history outlined above were prepared and submitted to Colonel Davis, Director of the Texas Department of Public Safety, for review by his legal staff. It was concluded that the statutes are legally binding. However, the language contained in the statutes should be amended via future legislation to more appropriately address the current duties and agencies to which the statutes are intended to apply. DPS has agreed to continue to work closely with TTI to ensure that this is accomplished. TTI will also be working with DPS to create a form for MEs and JPs to use in reporting traffic fatalities. Efforts are also ongoing to pursue the feasibility of electronic submission of the data directly from Medical Examiner Offices to DPS for inclusion in the new Crash Records Information System (CRIS) database of Texas traffic crashes which will become available in 2005. Additional efforts will be necessary to inform and educate the more than 900 Justices of the Peace in Texas concerning their duties to report this information *when acting as coroners in death investigations*.

Provide the evidence and reasoning used to determine the success of the project:

The immediate success of this project was realized when the first BAC Workshop was well-attended by professionals from many disparate agencies. The willingness of these agencies to cooperate in addressing the many problems associated with the decline in BAC reporting in Texas cannot be overstated. The ultimate success of the project in reversing the trend in BAC reporting will not be fully evident until the statutory language

in the Transportation Code is amended and all parties responsible for reporting traffic fatalities can be educated and provided with information and tools necessary to comply with the full intent of the statutes. Additional evidence of success will be realized when the CRIS database is implemented and traffic safety professionals can begin using current comprehensive data to formulate countermeasures and programs to effect a reduction in the number of deaths and injuries caused by impaired driving in Texas.

Why should this project be recognized as a best practice in traffic records?

A compilation of all statutes pertaining to BAC testing and reporting, and a white paper outlining the remaining impediments to reducing impaired driving in Texas, have been widely distributed to traffic safety professionals, members of the medical professions, and legislators. This project has been conducted in an incremental, methodical manner to identify the sources of the BAC testing and reporting problems in Texas. The research that has been conducted to determine the legislative history of current statutes as well as ongoing efforts to change out-dated statutory language and ill-conceived, ambiguous (and frequently contradictory) statutes has gained the recognition and support from many agencies that will be integral to achieving further improvements in the Texas traffic records system.