[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #1 Technical corrections due to unintended consequences of DUI Bill (House Bill 2010-1347).

Recommendation FY11- D #1:

The Commission recommends that technical corrections be made to any of last year's (2010) multiple offense DUI provisions as set forth in H.B. 10-1347 that inadvertently created unintended consequences for first-time DUI violations.

Discussion:

The statute should be clarified to state that probation is mandatory for second and subsequent offenses and discretionary for first time offenders, and that courts have the discretion to suspend fines for first, second, third and subsequent offenses.

Note: Subsequently, the provisions of these technical corrections appeared in House Bill 2011-1268.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #2 Establish a "per se" violation for driving under the influence

Recommendation FY11- D #2:

Establish a "per se" violation for driving under the influence of marijuana by establishing that it shall be an unclassified misdemeanor traffic offense for any person to drive a motor vehicle or vehicle when the person has a level of 5 nanograms of THC/mL whole blood or more at the time of driving or within two hours after driving.

Discussion: *(Applicable to FY11 D #2 through D #6)*

Approximately 15 states have statutes that identify a specific limit for the amount of THC/ml at which point driving is considered (per se) to be impaired (see footnote). High levels of active THC may remain in the blood long after use, perhaps up to 24 hours, whereas impairment that would negatively affect driving occurs closer to the time the THC was consumed. While BAC (Blood Alcohol Content) can be accurately measured and correlated with driving impairment, this is more difficult with cannabis. Alcohol is water soluble whereas cannabis is stored in the fat and is metabolized differently, making a direct correlation with behavior difficult to measure.

Science is clear that the use of cannabis leads to immediate behavioral impairment which can negatively affect driving. However, there is a lack of consensus among experts about the duration of impairment (approximately 2-4 hours for smoking, 8 hours for edibles). Expert opinions about "per se" limits related to driving impairment range from 1-2 ng/ml to 15 ng/ml. A low threshold may include individuals whose driving ability was not impaired because consumption occurred many hours prior to the blood test. Also, a low threshold may not necessarily imply driving impairment, especially for chronic users. However, a high threshold may make prosecution for nanogram levels below the designated number very difficult, possibly resulting in dismissed cases. The proportion of drivers, especially chronic users, whose behavior may not be impaired while testing positive at, for example, 5 ng/ml is unknown. In addition, the Commission finds that administrative sanctions (such as revocation of a driver's license) for impaired driving due to active THC in the blood are a critical ingredient for a successful "per se" law but will likely result in a fiscal impact.

Note: The information contained in this discussion is from testimony provided by multiple experts to the Marijuana/DUID per se Working Group of the Drug Policy Task Force. Also, the resulting legislation, in House Bill 13-1325, was modified from a "per se" violation to a "permissible inference."

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #3 Clarify the express consent statute regarding blood testing

Recommendation FY11- D #3:

Amend or clarify the express consent statute to clearly ascertain that in the event an officer establishes probable cause to believe that a person is driving under the influence of marijuana, the person shall submit to a blood test, if necessary.

Discussion: *(Applicable to FY11 D #2 through D #6)*

Approximately 15 states have statutes that identify a specific limit for the amount of THC/ml at which point driving is considered (per se) to be impaired (see footnote). High levels of active THC may remain in the blood long after use, perhaps up to 24 hours, whereas impairment that would negatively affect driving occurs closer to the time the THC was consumed. While BAC (Blood Alcohol Content) can be accurately measured and correlated with driving impairment, this is more difficult with cannabis. Alcohol is water soluble whereas cannabis is stored in the fat and is metabolized differently, making a direct correlation with behavior difficult to measure.

Science is clear that the use of cannabis leads to immediate behavioral impairment which can negatively affect driving. However, there is a lack of consensus among experts about the duration of impairment (approximately 2-4 hours for smoking, 8 hours for edibles). Expert opinions about "per se" limits related to driving impairment range from 1-2 ng/ml to 15 ng/ml. A low threshold may include individuals whose driving ability was not impaired because consumption occurred many hours prior to the blood test. Also, a low threshold may not necessarily imply driving impairment, especially for chronic users. However, a high threshold may make prosecution for nanogram levels below the designated number very difficult, possibly resulting in dismissed cases. The proportion of drivers, especially chronic users, whose behavior may not be impaired while testing positive at, for example, 5 ng/ml is unknown. In addition, the Commission finds that administrative sanctions (such as revocation of a driver's license) for impaired driving due to active THC in the blood are a critical ingredient for a successful "per se" law but will likely result in a fiscal impact.

Note: The information contained in this discussion is from testimony provided by multiple experts to the Marijuana/DUID per se Working Group of the Drug Policy Task Force.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #4 Amend administrative laws regarding driver's license revocations

Recommendation FY11- D #4:

Amend current administrative laws relating to driver's license revocations and hearings on revocation as applicable to establish a mandatory license revocation of three months for a first offense (DUI/DUID), one year for a second offense (DUI/DUID) and two years for a third and subsequent offense (DUI/DUID) resulting from driving under the influence of marijuana per se.

Discussion: *(Applicable to FY11 D #2 through D #6)*

Approximately 15 states have statutes that identify a specific limit for the amount of THC/ml at which point driving is considered (per se) to be impaired (see footnote). High levels of active THC may remain in the blood long after use, perhaps up to 24 hours, whereas impairment that would negatively affect driving occurs closer to the time the THC was consumed. While BAC (Blood Alcohol Content) can be accurately measured and correlated with driving impairment, this is more difficult with cannabis. Alcohol is water soluble whereas cannabis is stored in the fat and is metabolized differently, making a direct correlation with behavior difficult to measure.

Science is clear that the use of cannabis leads to immediate behavioral impairment which can negatively affect driving. However, there is a lack of consensus among experts about the duration of impairment (approximately 2-4 hours for smoking, 8 hours for edibles). Expert opinions about "per se" limits related to driving impairment range from 1-2 ng/ml to 15 ng/ml. A low threshold may include individuals whose driving ability was not impaired because consumption occurred many hours prior to the blood test. Also, a low threshold may not necessarily imply driving impairment, especially for chronic users. However, a high threshold may make prosecution for nanogram levels below the designated number very difficult, possibly resulting in dismissed cases. The proportion of drivers, especially chronic users, whose behavior may not be impaired while testing positive at, for example, 5 ng/ml is unknown. In addition, the Commission finds that administrative sanctions (such as revocation of a driver's license) for impaired driving due to active THC in the blood are a critical ingredient for a successful "per se" law but will likely result in a fiscal impact.

Note: The information contained in this discussion is from testimony provided by multiple experts to the Marijuana/DUID per se Working Group of the Drug Policy Task Force.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #5 Amend administrative laws regarding driver's license revocations

Recommendation FY11- D #5:

Amend the administrative laws where necessary to establish that a violation or conviction for driving under the influence of marijuana per se shall mirror the consequences of conviction for a DUID per se violation regarding the administrative penalties and procedures for reinstatement of a license, insurance via SR-22, and court ordered treatment programs as reasonably necessary to effect the purpose of treating a DUID marijuana as seriously as a DUI alcohol offense.

Discussion: *(Applicable to FY11 D #2 through D #6)*

Approximately 15 states have statutes that identify a specific limit for the amount of THC/ml at which point driving is considered (per se) to be impaired (see footnote). High levels of active THC may remain in the blood long after use, perhaps up to 24 hours, whereas impairment that would negatively affect driving occurs closer to the time the THC was consumed. While BAC (Blood Alcohol Content) can be accurately measured and correlated with driving impairment, this is more difficult with cannabis. Alcohol is water soluble whereas cannabis is stored in the fat and is metabolized differently, making a direct correlation with behavior difficult to measure.

Science is clear that the use of cannabis leads to immediate behavioral impairment which can negatively affect driving. However, there is a lack of consensus among experts about the duration of impairment (approximately 2-4 hours for smoking, 8 hours for edibles). Expert opinions about "per se" limits related to driving impairment range from 1-2 ng/ml to 15 ng/ml. A low threshold may include individuals whose driving ability was not impaired because consumption occurred many hours prior to the blood test. Also, a low threshold may not necessarily imply driving impairment, especially for chronic users. However, a high threshold may make prosecution for nanogram levels below the designated number very difficult, possibly resulting in dismissed cases. The proportion of drivers, especially chronic users, whose behavior may not be impaired while testing positive at, for example, 5 ng/ml is unknown. In addition, the Commission finds that administrative sanctions (such as revocation of a driver's license) for impaired driving due to active THC in the blood are a critical ingredient for a successful "per se" law but will likely result in a fiscal impact.

Note: The information contained in this discussion is from testimony provided by multiple experts to the Marijuana/DUID per se Working Group of the Drug Policy Task Force.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #6 Amend administrative laws regarding driver's license revocations

Recommendation FY11- D #6:

Clarify wherever necessary in the DUI and administrative statutes the inclusion of DUID/marijuana per se as a qualifying offense for application any multiple offense DUI/DWAI/habitual/UDD/vehicular homicide and assault convictions and penalties.

Discussion: *(Applicable to FY11 D #2 through D #6)*

Approximately 15 states have statutes that identify a specific limit for the amount of THC/ml at which point driving is considered (per se) to be impaired (see footnote). High levels of active THC may remain in the blood long after use, perhaps up to 24 hours, whereas impairment that would negatively affect driving occurs closer to the time the THC was consumed. While BAC (Blood Alcohol Content) can be accurately measured and correlated with driving impairment, this is more difficult with cannabis. Alcohol is water soluble whereas cannabis is stored in the fat and is metabolized differently, making a direct correlation with behavior difficult to measure.

Science is clear that the use of cannabis leads to immediate behavioral impairment which can negatively affect driving. However, there is a lack of consensus among experts about the duration of impairment (approximately 2-4 hours for smoking, 8 hours for edibles). Expert opinions about "per se" limits related to driving impairment range from 1-2 ng/ml to 15 ng/ml. A low threshold may include individuals whose driving ability was not impaired because consumption occurred many hours prior to the blood test. Also, a low threshold may not necessarily imply driving impairment, especially for chronic users. However, a high threshold may make prosecution for nanogram levels below the designated number very difficult, possibly resulting in dismissed cases. The proportion of drivers, especially chronic users, whose behavior may not be impaired while testing positive at, for example, 5 ng/ml is unknown. In addition, the Commission finds that administrative sanctions (such as revocation of a driver's license) for impaired driving due to active THC in the blood are a critical ingredient for a successful "per se" law but will likely result in a fiscal impact.

Note: The information contained in this discussion is from testimony provided by multiple experts to the Marijuana/DUID per se Working Group of the Drug Policy Task Force.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #7 Establish a parole pilot program

Recommendation FY11- D #7:

Create a parole board pilot program to further encourage and facilitate parole board release approval, and corresponding community services, for parole-eligible inmates currently incarcerated with a controlling sentence for drug use or possession.

Discussion:

In 2010, H.B. 10-1352 lowered sentences for convictions for drug use and possession offenses and redirected cost savings from corrections to behavioral health treatment. H.B. 10-1352 was based on recommendations approved by the Commission which determined that supervision and treatment in the Community would be a more effective use of resources than the current system of escalating punishments that often results in a prison sentence for those convicted of drug use and possession.

The sentencing reforms in H.B. 10-1352 cannot be applied retroactively to those inmates who committed a drug use or possession offense prior to its enactment. According to information received from the Department of Corrections, as of August 2010 there were approximately 1,600 inmates in prison whose governing sentence was for drug use/possession who were sentenced prior to the enactment of H.B. 10-1352. Of this group, 92% are or will be past their parole eligibility date by the end of the year.

This parole pilot program is a strategy that aims to apply the Commission's new drug crime philosophy combining treatment and accountability to those sentenced before the passage of H.B.10-1352 (see footnote). Providing for more comprehensive pre-release planning, community-based treatment and support services to parolees is expected to increase success on parole and reduce recidivism. Therefore, the Commission recommends developing legislation to establish a pilot program creating a presumption, subject to the final discretion of the Parole Board, that the Parole Board grant parole to those inmates currently convicted and incarcerated with a "controlling sentence" for drug possession or use occurring prior to the enactment of H.B. 10-1352 provided they meet core criteria. The release criteria for the pilot program would include those to whom H.B. 10-1352 would have applied to had their crime been committed today and also that the inmate meet the following conditions:

- be at or past his or her parole eligibility date (PED);
- has no current or prior felony convictions for violent crimes, crimes against children, weapons offenses or a sex offense;
- has a record of acceptable institutional conduct to include no Class I COPD convictions within 12 months, no Class II COPD convictions within 3 months;

[As approved]

- has not refused to participate in any DOC recommended programs;
- has no active felony or immigration detainer; and
- has an approved parole plan including information relating to treatment need level and
- amenability to treatment.

While such a presumption of release shall exist if the conditions are met, the Parole Board shall always retain the discretion to deny parole when appropriate. All or some of any cost savings from DOC resulting from this program should be reinvested into pre-release services inside of DOC and toward expanding current funding for community based behavioral health treatment and wrap-around services for parolees. The DOC and the Parole Board should be mandated to provide an annual status report to the General Assembly on the impact of this program.

Note: Please see the White Paper from the Treatment Funding Working Group (December 2010) for more information on the treatment/accountability approach to sentencing and corrections, available at: http://www.colorado.gov/ccjjdir/Resources/Resources/Report/2010-12_TxtFundingWP.pdf. Subsequently, the provisions of this recommendations appeared in House Bill 2011-1064.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #8 Revise habitual criminal offense charges in relation to drug offenders

Recommendation FY11- D #8:

Simple possession drug offenses (Class 6 felony or attempt or conspiracy to commit simple possession) shall not qualify as the presenting offense for the filing of habitual criminal offense charges under 18-1.3-801, CRS. This change in law would be effective only for new offenses committed after the 2011 effective date of the bill.

Discussion:

In 2009, the Commission voted for and supported a new approach to sentencing drug offenses that clearly distinguished possession offenses from sale, distribution, or intent to distribute offenses. The new approach emphasizes a combination of treatment and accountability, and is consistent with the approach recommended by the National Institute on Drug Abuse (see footnote). A review of the data (see Table 4.2 in FY 2011 Annual CCJJ Report) indicates that the charge of possession of a controlled substance is infrequently used as a presenting offense for habitual offender charges; nevertheless, this recommendation is intended to ensure consistency in charging practices across the state and to emphasize that a possession offense should be treated differently from other drug crimes.

Note: This philosophy is expressed in the Commission's November 2009 report and its December 2009 addendum to that report, and may be found at the following links:
http://www.colorado.gov/ccjjdir/Resources/Resources/Report/2009-11_SB286Plan.pdf and
http://www.colorado.gov/ccjjdir/Resources/Resources/Report/2009-11_SB286Dec-Addendum.pdf.
Subsequently, the provisions of this recommendations appeared in Senate Bill 2011-096.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #9 Sealing of records (#1): Petty drug offense

Recommendation FY11- D #9:

For petty drug offenses, records may be sealed three years from final disposition of the case or release from supervision, whichever is later. Sealing will be automatic upon filing if the offender pays the fee and proves there were no convictions incurred and are no charges pending during the waiting period. Notice to the district attorney is not required.

Discussion: *(Applicable to FY11 D #9 through D #18)*

Current law allows for drug possession convictions to be sealed after a ten year waiting period. The recommendations presented here reduce the waiting time period for low level offenses and recommend waiting periods consistent with the research which has found that that after a certain period former offenders create no higher risk to public safety than those with no criminal history. Specifically, researchers have found that the likelihood to reoffend decreases dramatically for those who remain crime-free for 7 years, nearly matching the risk of new offenses among those with no criminal history.

Note: Subsequently, the provisions of this recommendations appeared in House Bill 2011-1167.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #10 Sealing of records (#2): M2 and M3 drug offense

Recommendation FY11- D #10:

Records may be sealed three years from final disposition of the case or release from supervision, whichever is later. Sealing is automatic if notice is sent to the district attorney, no objection is filed by the district attorney, and the petitioner demonstrates that there were no convictions or pending charges incurred during the waiting period.

Discussion: *(Applicable to FY11 D #9 through D #18)*

Current law allows for drug possession convictions to be sealed after a ten year waiting period. The recommendations presented here reduce the waiting time period for low level offenses and recommend waiting periods consistent with the research which has found that that after a certain period former offenders create no higher risk to public safety than those with no criminal history. Specifically, researchers have found that the likelihood to reoffend decreases dramatically for those who remain crime-free for 7 years, nearly matching the risk of new offenses among those with no criminal history.

Note: Subsequently, the provisions of this recommendations appeared in House Bill 2011-1167.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #11 Sealing of records (#3): M1 drug offense

Recommendation FY11- D #11:

Records may be sealed five years from final disposition of the case or release from supervision, whichever is later. Sealing is automatic if notice is sent to the district attorney, no objection is filed by the district attorney, and petitioner demonstrates there were no convictions or pending charges incurred during the waiting period.

Discussion: *(Applicable to FY11 D #9 through D #18)*

Current law allows for drug possession convictions to be sealed after a ten year waiting period. The recommendations presented here reduce the waiting time period for low level offenses and recommend waiting periods consistent with the research which has found that that after a certain period former offenders create no higher risk to public safety than those with no criminal history. Specifically, researchers have found that the likelihood to reoffend decreases dramatically for those who remain crime-free for 7 years, nearly matching the risk of new offenses among those with no criminal history.

Note: Subsequently, the provisions of this recommendations appeared in House Bill 2011-1167.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #12 Sealing of records (#4): F6 and F5 drug possession

Recommendation FY11- D #12:

Records may be sealed seven years from final disposition of the case or release from supervision, whichever is later. Sealing requires filing of a petition and notice to the district attorney. If there is no objection by the district attorney, it is at the court's discretionary if there needs to be a hearing to determine eligibility based on statutory criteria (this is the same as current practice but is codified). The petitioner must demonstrate that there was conviction or pending charges incurred during the waiting period.

Discussion: *(Applicable to FY11 D #9 through D #18)*

Current law allows for drug possession convictions to be sealed after a ten year waiting period. The recommendations presented here reduce the waiting time period for low level offenses and recommend waiting periods consistent with the research which has found that that after a certain period former offenders create no higher risk to public safety than those with no criminal history. Specifically, researchers have found that the likelihood to reoffend decreases dramatically for those who remain crime-free for 7 years, nearly matching the risk of new offenses among those with no criminal history.

Note: Subsequently, the provisions of this recommendations appeared in House Bill 2011-1167.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #13 Sealing of records (#5): Any other felony drug offenses

Recommendation FY11- D #13:

Records can be sealed ten years from final disposition or release from supervision with district attorney approval. Court review is required to determine eligibility based on statutory criteria. The petitioner must demonstrate that there was no conviction or pending charges incurred during the waiting period.

Discussion: *(Applicable to FY11 D #9 through D #18)*

Current law allows for drug possession convictions to be sealed after a ten year waiting period. The recommendations presented here reduce the waiting time period for low level offenses and recommend waiting periods consistent with the research which has found that that after a certain period former offenders create no higher risk to public safety than those with no criminal history. Specifically, researchers have found that the likelihood to reoffend decreases dramatically for those who remain crime-free for 7 years, nearly matching the risk of new offenses among those with no criminal history.

Note: Subsequently, the provisions of this recommendations appeared in House Bill 2011-1167.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #14 Sealing of records (#6): District Attorney guidance

Recommendation FY11- D #14:

District Attorney approval shall be guided by the current statutory criteria in 24 -72-308.5, CRS to provide for consistency and transparency.

Discussion: *(Applicable to FY11 D #9 through D #18)*

Current law allows for drug possession convictions to be sealed after a ten year waiting period. The recommendations presented here reduce the waiting time period for low level offenses and recommend waiting periods consistent with the research which has found that that after a certain period former offenders create no higher risk to public safety than those with no criminal history. Specifically, researchers have found that the likelihood to reoffend decreases dramatically for those who remain crime-free for 7 years, nearly matching the risk of new offenses among those with no criminal history.

Note: Subsequently, the provisions of this recommendations appeared in House Bill 2011-1167.

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #15 Sealing of records (#7): For convictions before the 2011 effective date of the bill

Recommendation FY11- D #15:

The time periods identified in FY11-D9 through FY11-D14 shall be applicable for record sealing of convictions before the 2011 effective date of the bill, however district attorney approval shall always be required when district attorney approval is required under current law. Note that DA approval is required for all drug offenses committed before July 1, 2008. For possession offenses between July 1, 2008 and July 1, 2011, assuming the latter is the effective date of the bill, there will be a ten year waiting period and district attorney notice. Court approval shall be required.

Discussion: *(Applicable to FY11 D #9 through D #18)*

Current law allows for drug possession convictions to be sealed after a ten year waiting period. The recommendations presented here reduce the waiting time period for low level offenses and recommend waiting periods consistent with the research which has found that that after a certain period former offenders create no higher risk to public safety than those with no criminal history. Specifically, researchers have found that the likelihood to reoffend decreases dramatically for those who remain crime-free for 7 years, nearly matching the risk of new offenses among those with no criminal history.

Note: Subsequently, the provisions of this recommendations appeared in House Bill 2011-1167.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #16 Sealing of records (#8): Exception to the need for DA approval

Recommendation FY11- D #16:

Allow sealing for all old drug petty offenses without District Attorney approval (veto power) but with court approval.

Discussion: *(Applicable to FY11 D #9 through D #18)*

Current law allows for drug possession convictions to be sealed after a ten year waiting period. The recommendations presented here reduce the waiting time period for low level offenses and recommend waiting periods consistent with the research which has found that that after a certain period former offenders create no higher risk to public safety than those with no criminal history. Specifically, researchers have found that the likelihood to reoffend decreases dramatically for those who remain crime-free for 7 years, nearly matching the risk of new offenses among those with no criminal history.

Note: Subsequently, the provisions of this recommendations appeared in House Bill 2011-1167.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #17 Sealing of records (#9): Number and dates of offenses

Recommendation FY11- D #17:

Amend current law to require that the court and the district attorney consider the number of convictions and the dates of the offenses in granting a petition to seal. Under current law, there is no limitation on the number of cases or criminal episodes that are eligible for sealing after the statutory waiting period.

Discussion: *(Applicable to FY11 D #9 through D #18)*

Current law allows for drug possession convictions to be sealed after a ten year waiting period. The recommendations presented here reduce the waiting time period for low level offenses and recommend waiting periods consistent with the research which has found that that after a certain period former offenders create no higher risk to public safety than those with no criminal history. Specifically, researchers have found that the likelihood to reoffend decreases dramatically for those who remain crime-free for 7 years, nearly matching the risk of new offenses among those with no criminal history.

Note: Subsequently, the provisions of this recommendations appeared in House Bill 2011-1167.

[As approved]

DRUG POLICY TASK FORCE

RECOMMENDATION PRESENTED TO THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
November 12, 2010

FY11-D #18 Sealing of records (#10): Conviction inquiries

Recommendation FY11- D #18:

Amend 24-72-308.5(2)(d) to state that the defendant and law enforcement agencies may properly reply, upon inquiry, that no "public" conviction records exist with respect to the defendant.

Discussion: *(Applicable to FY11 D #9 through D #18)*

Current law allows for drug possession convictions to be sealed after a ten year waiting period. The recommendations presented here reduce the waiting time period for low level offenses and recommend waiting periods consistent with the research which has found that that after a certain period former offenders create no higher risk to public safety than those with no criminal history. Specifically, researchers have found that the likelihood to reoffend decreases dramatically for those who remain crime-free for 7 years, nearly matching the risk of new offenses among those with no criminal history.

Note: Subsequently, the provisions of this recommendations appeared in House Bill 2011-1167.