



Meeting Minutes Nevada Interim Committee on Testing for Intoxication (COTI)

Attendance	DATE	October 3, 2022
	TIME	9:06 a.m.
	METHOD	Zoom Teleconference Meeting ID: 827 6694 3594 Dial in: +1 (301) 715-8592
	RECORDER	Meg Matta
Appointed Voting Members		
Shannon Bryant, Chair	Deputy District Attorney, Washoe County District Attorney's Office	X
Dr. William Anderson	Forensic Toxicologist, NMS Labs	X
Eric Bauman	Chief Deputy District Attorney, Clark County District Attorney's Office	X
Stephen Johnson	Supervising Criminalist, Washoe County Sheriff's Office Forensic Science Division	Abs.
Kim Murga	Executive Director, Las Vegas Metropolitan Police Department Forensic Laboratory	X
Others Invited		
David Astle		X
Marlissa Collins	Las Vegas Forensic Laboratory	X
David Johnson		X
Darby Lantz	Las Vegas Metropolitan Police Department Forensic Laboratory	X
Anastacia Melendy	Supervising Criminalist, Washoe County Laboratory	Abs
Rebecca Nelson	Washoe County Laboratory	X
Michael Stypa	Forensic Laboratory Supervisor, Las Vegas Metropolitan Police Department Forensic Laboratory	X
Terri Suffecool	Las Vegas Metropolitan Police Department Forensic Laboratory	X
Brad Taylor		X
Legal and Support		
Nathan L. Hastings	Senior Deputy Attorney General, State of Nevada / Office of the Attorney General – Transportation Division	X
Meg Matta	Impaired Driving Program Manager, Department of Public Safety, Office of Traffic Safety	X

1. **CALL TO ORDER** (Non-Action Item)
Mr. Bryant, Chair, opened the meeting at 9: 06 a.m.
2. **ROLL CALL, CONFIRM QUORUM, AND INTRODUCTIONS** (Non-Action Item)
Roll was taken, introductions were made, and a quorum was established.
3. **PUBLIC COMMENT** (Non-Action Item)
There was no public comment.
4. **INTOXILYZER 8000 OBSOLESCENCE** (Discussion / Non-Action Item)
Mr. Bryant opened the conversation by explaining that COTI has not actively met in three years and this Interim Committee has been appointed to focus on one problem: evidentiary breath testing in Nevada. He identified the problem with the CMI Intoxilyzer 8000 which is the approved evidentiary breath testing device in use across Nevada. The device has fallen into obsolescence due to the fact that CMI is no longer manufacturing them, and the replacement

parts are getting harder to find. At this point, Nevada is in danger of losing capacity to conduct evidential breath testing as units become broken and unrepairable.

Mr. Astle added that in a conversation with CMI in December of 2021, he was informed that they would not continue to sell the 8000 due to the unavailability of parts. While they are not out of instruments completely, at this point they have seven to eight instruments that are now unusable.

Ms. Lanz confirmed Mr. Astle's statement and said that in the Metro Lab, they are unable to find replacements for keyboards and are no longer able to find work-arounds or substitutions.

Mr. Baumann added that any case without an evidentiary test confirming impairment will not make it to the Clark County DA for prosecution.

Mr. Bryant established a consensus that this constituted a problem. None dissented.

5. **INTOXILYZER 9000 DISCUSSION** (Discussion / For Possible Action)

Mr. Bryant discussed the possibility of officially adopting the Intoxilyzer 9000. He stated that some of the disposable pieces, such as mouth pieces, are already in inventory and can be used with the 9000; and also that there are similarities between the two instruments and the learning curve will not be as steep. In accordance with NRS 484.388, the COTI approved list of evidential breath-testing devices for use in Nevada. In the list, last reviewed on April 4, 2012, the Intoxilyzer Model 8000 is listed as approved, but model 9000 is not included. However, the governing statute NRS 484C.610 2.(a) states that to "determine whether a device is designed and manufactured to be accurate and reliable for the purpose of testing a person's breath to determine the concentration of alcohol in the person's breath the Committee may: (a) Use the list of qualified products meeting the requirements for evidential breath-testing devices of the National Highway Traffic Safety Administration;" Intoxilyzer Model 9000 is included in the notices (Docket No. NHTSA-2017-0053) updating the Conforming Products List published in the Federal Register (77 FR 35747), and therefore meets the requirements to adopt use of the 9000 without taking time to test for reliability. Mr. Bryant concluded that the Intoxilyzer Model 9000 meets standards and proposed that for the sake of efficiency and expediency that model be approved by the Committee.

Mr. Astle commented that the Committee also should take into consideration the timing needs for acquisition, training and roll-out.

Mr. Johnson was absent for the vote, but provided the Chair with a statement of his approval for adopting the Model 9000 based on NHTSA's Conforming Products List as well as CMI's experience with the equipment.

Ms. Lanz stated her approval of adopting the Model 9000 but added that the big delay will be the interaction with CMI to get software written and validated. That response time will be the most important consideration; actual training of officers is secondary.

Mr. Bryant stated that purchase and training will be handled by a different governmental body. He then called for approval of adding the Model 9000 to the COTI list, and asked for any further comments.

Dr. Anderson asked if anyone had followed the use of the Model 9000 in the field.

Ms. Lanz replied that it has been in use in the field since 2013 or 2014 and there have been no negative reports that they are aware of.

Mr. Bryant commented that he has a close working relationship with Colorado's TSRP, who said that they have had no issues from the standpoint of prosecutions.

Ms. Murga added that she spoke with people in CMI and specifically asked them for a prediction on end of life for the Model 9000 or any announcements regarding termination. She was informed that they are not coming out with a new model.

ACTION:

Mr. Bryant moved to add the CMI Intoxilyzer Model 9000 to the Nevada Committee on Testing for Intoxication's list of approved evidentiary breath testing devices for use in this state.

Ms. Murga seconded the motion.

It was unanimously approved.

6. **PUBLIC COMMENT** (Non-Action Item)

There was no public comment.

7. **ADJOURNMENT** (Discussion / For Possible Action)

Mr. Bryant moved to adjourn the meeting.

Dr. Anderson seconded the motion.

The meeting was adjourned at 9:40 a.m.