

**Place of Last Drink (POLD):
A Case Study of Implementation of POLD by the
Vermont Department of Liquor and Lottery**

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This case study was developed for the National Liquor Law Enforcement Association (NLLEA) and the Vermont Department of Liquor and Lottery (DLL), with funding support from the National Highway Traffic Safety Administration (NHTSA). Please contact Carrie Christofes (carrie.christofes@nleea.org) or Skyler Genest (Skyler.Genest@vermont.gov) for information on dissemination or sharing of any of its contents.

Introduction

According to its mission statement, “The Vermont Department of Liquor and Lottery provides a regulatory framework of licensing, compliance, enforcement, and education for the responsible sale and consumption of alcohol, tobacco, and gaming entertainment, ensuring public safety and contributing 100% of profits to Vermont communities through the General and Education funds.”¹

The Vermont Department of Liquor and Lottery (DLL) Office of Compliance and Enforcement is responsible for monitoring and enforcement of liquor laws and regulations, responding to incidents, and working with local jurisdictions and other law enforcement agencies to protect the public safety. The DLL staff is comprised of 20 full-time positions, including thirteen in enforcement, four in licensing, two trainers, and one supervisor. DLL investigators are sworn law enforcement personnel and have both criminal and administrative authority.

One public safety issue DLL focuses on is working with licensees to prevent drunk-driving incidents related to overservice of alcohol. In addition to education and training with licensees and their employees, DLL collaborates with Vermont law enforcement agencies to investigate DUIs (driving under the influence). In some instances, an impaired driver consumed alcohol at a licensed establishment, indicating that some establishments may overserve patrons.² To identify establishments that are potentially associated with overservice, DLL is implementing Place of Last Drink (POLD).³ When law enforcement officers respond to an alcohol-related traffic stop, they investigate if an impaired driver’s last drink was associated with a licensed alcohol establishment. This information is shared with DLL investigators, who conduct an investigation to determine if overservice has occurred.

This study examines DLL’s implementation of POLD, including development and start-up, criteria for triaging POLD incidents for further investigation, data from 2020 to 2022, and stakeholder perceptions of its value.

Background/history

Vermont was one of three states that participated in a pilot of POLD in 2018, with support from the National Liquor Law Enforcement Association (NLLEA) and funded by the National Highway Traffic Safety Administration (NHTSA). The pilot lasted for approximately nine months and demonstrated to DLL that collecting POLD data and following up on incidents with licensees was valuable for addressing problems related to overservice of alcohol.

¹ Vermont Department of Liquor and Lottery website, <https://liquorcontrol.vermont.gov/>.

² Cotti, C; Dunn, RA; and Tefft, N. (2014). Alcohol-impaired motor vehicle crash risk and the location of alcohol purchase. *Social Science & Medicine*. Vol 1098, pp 201-209. <https://doi.org/10.1016/j.socscimed.2014.03.003>.

³ National Liquor Law Enforcement Association website, <https://www.nllea.org/IDC-POLD.html>.

The pilot provided valuable lessons to inform institutionalization of POLD in Vermont. The pilot showed that a disparate reporting system was inefficient, as it required officers to go to a separate reporting system to document POLD data. This added steps in the initial reporting process. The separate reporting system also made it more cumbersome for DLL investigators to access the data. Another lesson learned from the pilot was that it was unworkable to ask officers to enter licensee information by looking up the licensee number, as this was prone to errors and omissions in the data. Creating extra, disparate steps for officers at the scene of an incident was not resulting in the quality and timeliness of data the Department desired.

POLD implementation in Vermont

Vermont DLL built on the experience and lessons in the pilot, and began exploring how to continue implementation of POLD in Vermont. DLL learned that the state of Washington was documenting POLD data directly into its DataMaster (DMT) reporting system. Every law enforcement agency in Vermont uses the DMT system, which made this a feasible solution for Vermont. DLL reached out to the Vermont Forensic Lab to explore adding a POLD question to the DMT. Together, with input from the Traffic Safety Resource Prosecutor (TSRP), they developed a question to be added to the DMT:

Did your investigation determine that the place of last drink for this arrest was a licensed liquor establishment or permitted event?

The Director described their rationale:

“We wanted to build the process so that it wasn't left up to the arresting officer to remember to do this, so the methodology that we took is that they're forced to at the very least report if they have that information...All they have to do is correctly answer yes or no. And then if it meets our criteria, then we're going to be in touch with them, we're going to learn more about the arrest, we're going to try and verify the establishment and then actually prove that the individual was in the establishment. And then we can certainly prove culpability for the establishment. So, we purposefully designed it that way so that we didn't have to rely on the officers to remember to do the work.” (KII-10)

Triage criteria

The next decision point was developing criteria to triage the POLD cases that would be investigated. With limited resources, it was not practical or feasible to try to follow up on every DUI. DLL investigators identified three types of cases that would be triaged for further investigation:

1. Any DUI involving someone under age 21;
2. Any crash where a licensed establishment was indicated; or
3. All DUIs where a Blood Alcohol Count (BAC) was 0.18 or higher.

A cut-off of 0.18 was decided upon because it is over twice the legal limit and a level at which even heavy, habitual drinkers could be expected to show some signs of intoxication that should be apparent to a server. There was also concern that many cases involving a lower-level BAC could be difficult to prove.

Training

The POLD question is covered in training at the Vermont Police Academy, which all new Vermont law enforcement officers are required to attend. Officers are instructed to ask the question as part of the DUI investigation. DLL participates in providing training on alcohol license and enforcement at the Academy. Current officers were informed of POLD through a memo that explained the new question when it was added to the DMT.

Timely access to POLD data

At least once a day, DLL receives an emailed report from the Vermont Forensic Lab with all DUI incidents that an officer selected “yes” in the DMT, indicating that the incident involved a licensed establishment as a place of last drink. DLL reviews the reports for all “yes” responses, then triages them to identify cases to assign to investigators. While the BAC information for nearly all cases is reported by the DMT, there may be exceptions. A driver involved in a crash may be transported to the hospital before BAC is recorded, so the BAC data may need to be obtained from the Agency of Transportation (AOT). If a driver refuses to test, data also may not be available.

The report that DLL receives includes the case number and has been scrubbed of personal identifying information (PII). DLL investigators can look up the incident reports to quickly assess the information available and start the investigation in a timely manner.

Methods

This study employs a case study method to assess the implementation of Place of Last Drink (POLD) using key informant interviews and an examination of POLD data. The evaluator, NLLEA Executive Director, and key staff from the Vermont Department of Liquor and Lottery Office of Compliance and Enforcement met regularly to make decisions about the case study. This planning group helped identify stakeholders for interviews, focus of the interview questions, and provided feedback on findings and content.

The evaluator conducted semi-structured qualitative interviews with key informants. Interviews were conducted by telephone and took approximately 30 minutes. The evaluator explained the study, its partners and funders, its purpose, and offered the opportunity to ask any questions prior to the interview. Interviews were recorded, after obtaining permission from respondents, and transcribed. Interviews were analyzed to identify common and unique themes based on the

interview topics. The evaluator facilitated a member check with the evaluation planning group to review and validate the main themes prior to finalizing the report.

Sample

The evaluator conducted 10 interviews with 12 people between April 22 and July 28, 2022. One interview was a group interview with three members of the leadership of Vermont Department of Liquor and Lottery (DLL). Interviews included alcohol retailers (n=3), chemists from the Vermont Forensic Lab (n=2), local law enforcement (n=2), and DLL investigators (n=2).

The Director of Enforcement and Compliance of the Vermont Department of Liquor and Lottery (DLL) helped the evaluator identify individuals to invite to be interviewed, based on their experience with a POLD investigation. The Director sent an email invitation to these individuals, explaining the study, its purpose, an introduction to the evaluator, and to request their participation. The evaluator followed up with these individuals to schedule and conduct interviews. From the initial list of 14 potential interviewees, two declined.

Interview content included assessing familiarity with POLD, their experience with the investigation process, impressions of POLD, its value, and recommendations. Some interviewees were involved in planning and development of POLD, some investigate POLD incidents, and some represent an establishment that had been identified in a POLD investigation.

POLD Data

In addition to interviews, POLD data from December 7, 2020 to July 13, 2022 were examined and summarized.

Findings

Summary of POLD Activity December 7, 2020 to July 13, 2022

POLD data were examined for the period of December 7, 2020 to July 13, 2022. During that period, 3,244 DUIs occurred. Of these, for 594 incidents, the arresting officer selected “Yes” in the DMT to the question, “**Did your investigation determine that the place of last drink for this arrest was a licensed liquor establishment or permitted event?**” (For 2,650 incidents, the response selected was “No”.) Figure 1 shows the distribution of Yes and No responses.

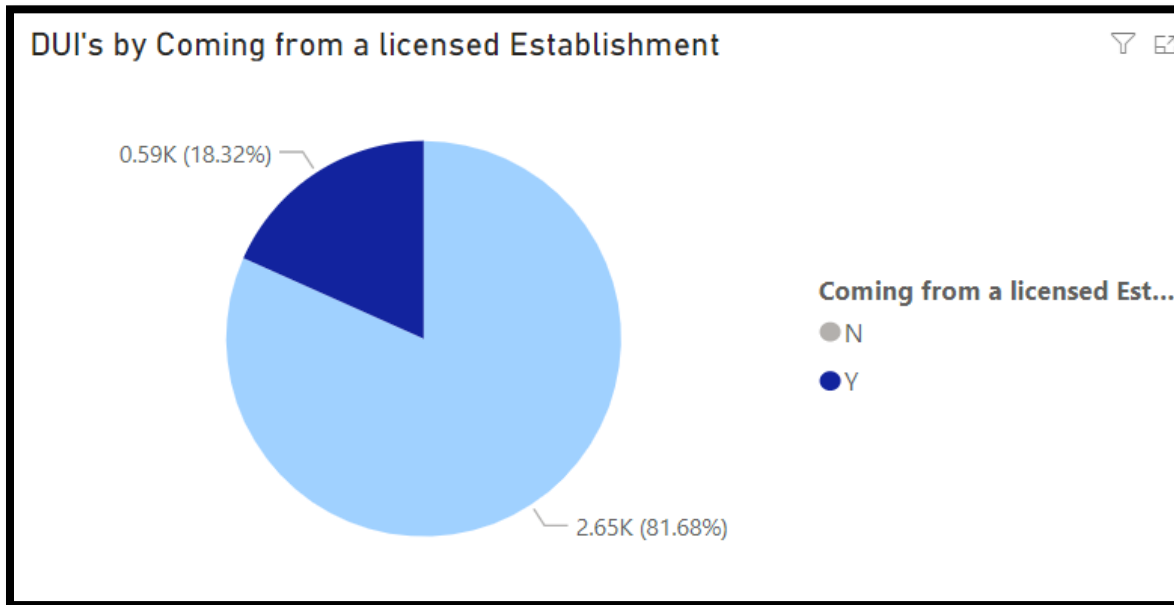


Figure 1: DUIs by Coming from a Licensed Establishment

The **most frequent reason for administering a BAC test** was a traffic stop, followed by a crash, and then other reason (which includes fights, domestic assaults, or a call for service other than an officer stop or responding to a crash), and then a checkpoint. Table 1 shows the distribution of reasons for administering a BAC Test.

Reason for Test	Yes, POLD at licensed establishment		No, POLD not at licensed establishment		ALL/Combined	
	n	%	n	%	n	%
Stop	355	60%	1320	50%	1675	52%
Crash	156	26%	791	30%	947	29%
Other	83	14%	527	20%	610	19%
Checkpoint	0	0%	12	0%	12	0%
Total Tests	594	100%	2650	100%	3244	100%

**Table 1: Reason for Test
Dec 7, 2020 to July 13, 2022**

A crash was the reason for administering a test in 26% of stops where a licensed establishment was indicated at the place of last drink.

For the 594 cases that indicated an establishment as the POLD, BAC ranged from 0.003 to 0.323. The distribution of BAC counts for “Yes” answers is shown in Figure 2 below.

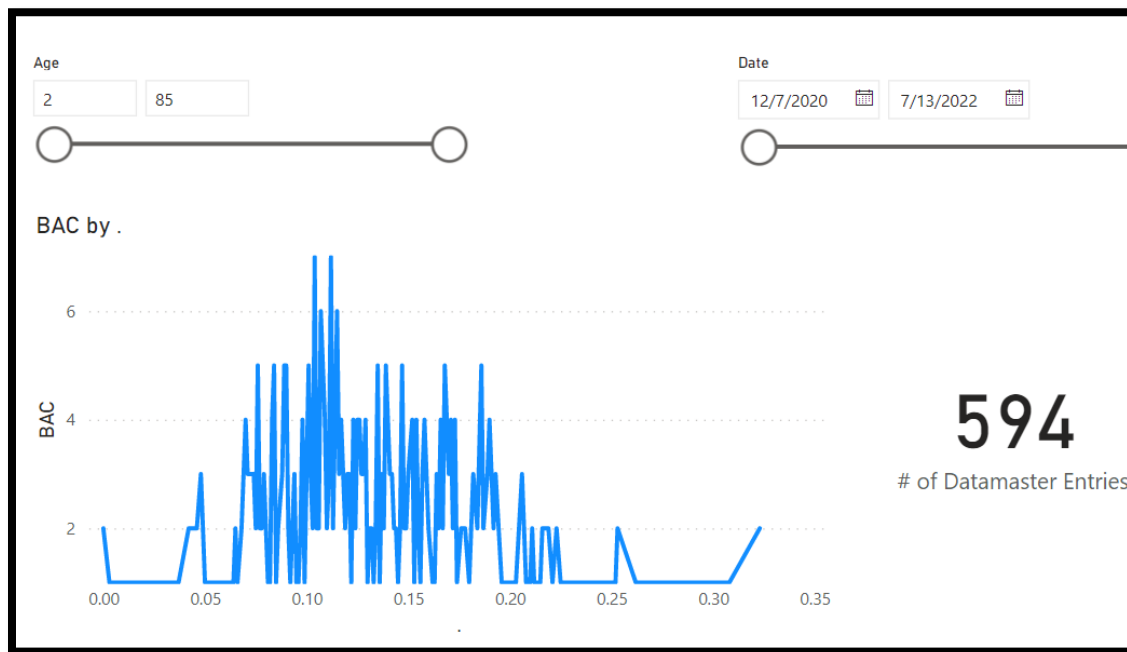


Figure 2: BAC Distribution for “Yes” Responses

DLL triages cases with a BAC of 0.18 or higher for investigation. **During this period, 75 cases (13%) were 0.18 or above.** Another 43% (n=258) were above the legal limit of 0.08 but lower than 0.18; 9% (n=55) were under 0.08. No BAC was recorded for 35% (n=206) cases. This may indicate a refusal to test, transporting for medical care, or other reasons.

BAC Levels	Yes, POLD at licensed establishment		No, POLD not at licensed establishment		ALL/Combined	
	n	%	n	%	n	%
0.18 or over	75	13%	377	14%	452	14%
Between 0.08 and 0.18	258	43%	894	34%	1152	36%
0.08 or under	55	9%	270	10%	325	10%
No BAC recorded	206	35%	1109	42%	1315	41%
Total Tests	594	100%	2650	100%	3244	100%

**Table 2: BAC Levels
Dec 7, 2020 to July 13, 2022**

Table 3 shows the age of arrestees. **Just 2% (n=14) of POLD associated with a licensed establishment were people under age 21.** This is lower than those not associated with a licensed establishment—which was 7% of ‘No’ cases.

Age of Operator	Yes, POLD at licensed establishment		No, POLD not at licensed establishment		ALL/Combined	
	n	%	n	%	n	%
Under age 21	14	2%	189	7%	203	6%
21 or older	580	98%	2461	93%	3041	94%
Total Tests	594	100%	2650	100%	3244	100%

**Table 3: Age of Operator
Dec 7, 2020 to July 13, 2022**

The **distribution of violation types** is shown in Figure 3 below. Not all POLD incidents resulted in a violation. Table 4 on the next page presents the types of violations issued during this period.

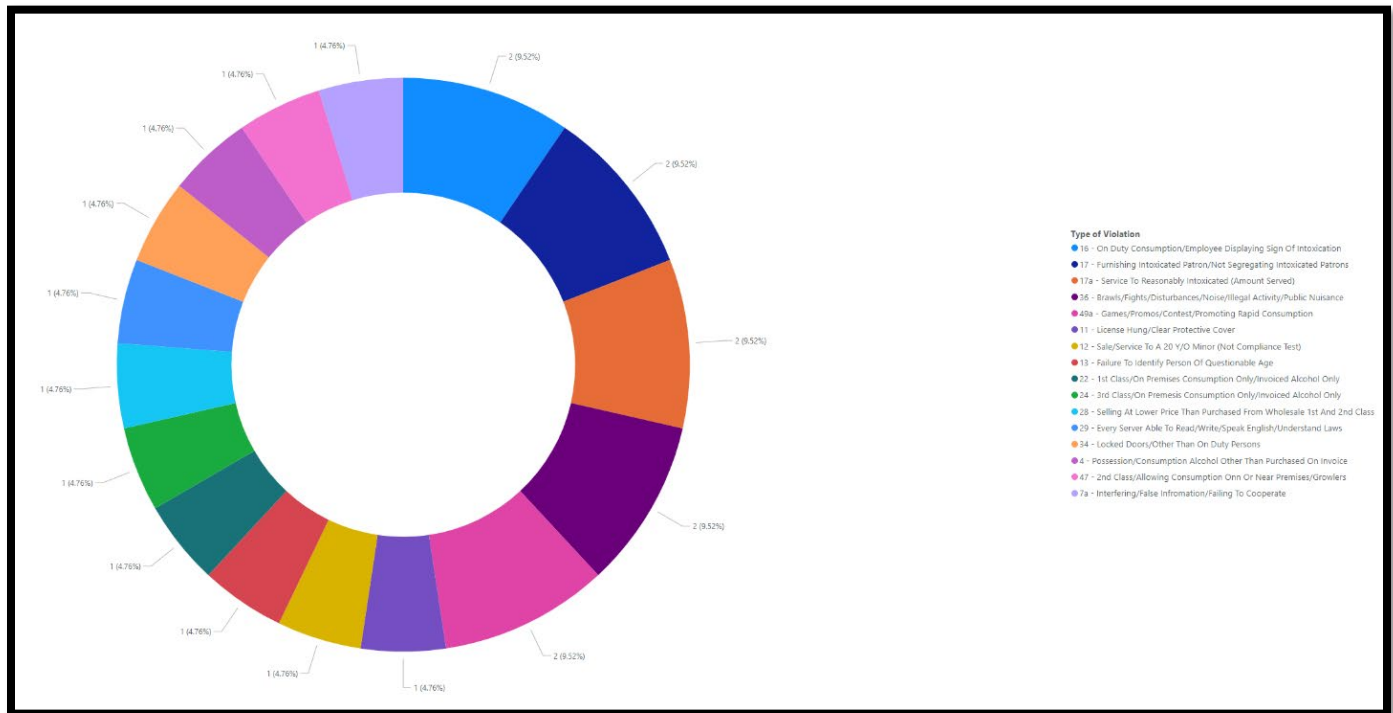


Figure 3: Count of Violation by Type of Violation

#	Type of Violation
2	16-On Duty Consumption/Employee displaying signs of intoxication
2	17-Furnishing Intoxicated Patron/Not Segregating Intoxicated Patrons
2	17a-Service to Reasonably Intoxicated
2	36-Brawls/Fights/Disturbances/Noise/Illegal Activity/Public Nuisance
2	49a-Games/Promos/Contest/Promoting Rapid Consumption
1	1-License Hung/Clear Protective Cover
1	12-Sale/Service to a 20 y/o Minor (Not a compliance test)
1	13-Failure to Identify Person of Questionable Age
1	22-1st Class/On Premises Consumption Only/Invoiced Alcohol Only
1	24-3rd Class/On Premises Consumption Only/Invoiced Alcohol Only
1	28-Selling at Lower Price Than Purchased from Wholesale 1st and 2nd Class
1	29-Every Server Able to Read/Write/Speak English/Understand Laws
1	34-Locked Doors/Other Than On Duty Persons
1	37-Exceeding 4 oz/32 oz/multiple drinks served at one time
1	4-Possession/Consumption Alcohol Other than Purchased on Invoice
1	47-2nd Class/Allowing Consumption on or Near Premises/Growlers
1	49-No Happy Hours/Reduced Drink Prices
1	7a-Interfering/False Information/Failing to Cooperate
1	Unknown/not specified
24	Total Violations

**Table 4: Violation Types
Dec 7, 2020 to July 13, 2022**

Development of Data Collection Process

The Vermont Forensic Laboratory serves the entire state of Vermont. It does all of the evidence testing for any crime that occurs in Vermont. In toxicology, the lab tests blood and breath for the presence of drugs and alcohol. For breath testing, they have about 85 instruments at 69 different locations throughout the state of Vermont. The Vermont Forensic Lab calibrates, certifies, and maintains the breath-testing instruments so officers can collect an evidentiary breath sample to be used in DUI cases.

Adding a question to the DMT to collect Place of Last Drink information

When DLL began exploring, collecting and using POLD information, they worked with the Forensic Lab and stakeholders to figure out the best procedure for collecting and documenting POLD. The Department of Public Safety (DPS) was already planning software updates when these discussions were starting, so the timing was convenient to add a question about POLD. DLL, law enforcement stakeholders, DPS, the Forensic Lab, and the Traffic Safety Resource Prosecutor (TSRP) worked together to determine what information was needed and to develop a question and ensure it was worded appropriately. It was important to be sure the question does not violate Miranda rights of the vehicle operator (person driving the vehicle).

Training

Forensic lab staff teach at the police academy five times a year, training new officers to use the breath-testing equipment. Their instruction includes teaching about blood testing and how to collect a blood sample. One of the forensic chemists at the Lab explained the training:

“As part of the academy course, every full-time class has a POST-basic DUI investigation course, which is a week-long course taught at the Vermont Police Academy. It's hosted by the Vermont Criminal Justice Training Council. The last day of the course, the lab actually goes down, and has a full lab day. Basically, we do three to four hours of some fundamental science stuff. And then, the rest of the day is hands-on experience with the DMT. They administer some practice tests, and do a practical, and take a written test. As far as the POLD question, it's really only a small part of this training. But we do explain to them the purpose of the POLD question, as well as how to properly answer it, in the sense of, it's a question for the officer, not for the subject. It's whether or not during your investigation, this takes place.” (KII-3)

Veteran officers already trained on the DataMaster said they received information on the new POLD question through a memo. The question pops up when an officer is entering information on a DUI incident, so they know to enter the information.

Forensic Lab involvement in POLD planning

As DLL began planning for implementation of POLD, it became evident that working with the Forensic Lab would be essential, since all of their instruments are networked. Data for every breath test in the state is tracked and there was already a history of sharing information with law enforcement partners, including DLL. (KII-1)

The DLL Director began discussions with the Forensic Lab on how a POLD data collection question could be added into the DMT. According to one of the forensic chemists,

“When the Place of Last Drink became something that the state was more interested in, they saw the DMT, which is our breath-testing instrument, as a really good host to collect that data without really asking the officers to do any more work so they could ... We ended up putting a question into the software of our instruments...Because that information gets transmitted to our central computer, we can provide that back to Liquor and Lottery so that they can then follow up with these officers and get that information in a really easy manner. There's no extra paperwork. There's not a lot of extra steps. We were just a really good host for them to collect data.” (KII-3)

Collecting POLD in the DataMaster (DMT) evidential breath testing instrument

Officers collect BAC using the DMT. This is the only approved system for administering breathalyzer tests in the state, and is used by all law enforcement agencies.

If an officer has reason to believe a person who is driving under the influence is coming from a licensed establishment, they enter “yes” right into the DMT. Officers enter their reporting information into the DMT, so answering a question related to POLD is simple and quick to enter as part of their reporting process. Information entered into the DMT can be printed out for the officer on the scene and is also transmitted electronically to the system at the Forensic Lab so they have the necessary information immediately.

All DMT instruments are networked to a central computer through a secure server that stores data. Pertinent information is shared with DLL, but reports are scrubbed to remove any personal information about the suspect. The case number is sent to DLL automatically through secure servers, so DLL receives it immediately. One of the forensic chemists at the Vermont Forensic Lab explained the process:

“Each time a DUI test ticket is run, that data is sent to the lab via a secure server. Each morning, lab staff reviews all of the breath alcohol tickets throughout the entire state of Vermont. When we update the data, we pull it into our system. In this process, it is put into a SQL database, and then [DLL] can actually go in and import the data from our SQL database, and when he does it, he's importing a scrubbed version of the data.” (KII-3)

“As part of our lab accreditation, we have personal identifying information. We need to basically protect that information from our DUIs. We had to set up another program in the background, with IT and our vendor, to make sure that the data was scrubbed properly, so the personal identifying information was not sent out. Basically, [this is] anonymized information, and case information, but not a person's identifying information, when it's sent to the Department of Liquor and Lottery, to do their data testing...[DLL] basically gets the case number, that way they can contact the officer involved. They get the officer's name, the BAC result, the type of incident. On our DMTs, we say whether or not it's a crash, stop, other, for a DUI checkpoint. They get the test reason, and whether or not the person is known to have had a drink at a licensed liquor establishment, or a permitted event.” (KII-3)

Planning and development considerations

It is essential to consider the needs of all partners: Needs of enforcement agencies are different from data collection and analysis, so it was important for partners to have clear understanding of and respect for each other's roles. Framing and administration of the POLD question should be carefully planned and considered. Someone from the Forensic Lab explained these dynamics:

“When it was first brought to our attention, one of the first things that we had to consider, in terms of decision making, is where the POLD question fell in terms of the lab's role in collecting data. Basically, we had some internal discussions on whether or not it was an appropriate question, as part of a DUI investigation, mostly for perception of bias, I think we had a little bit of concern on. The idea of the POLD could effectively be used to target DUIs, and then, targeting DUIs can go towards whether or not the lab should be doing that. I think it was a very indirect concern, but it's something that we thought about. Ultimately, we were able to overcome that.” (KII-3)

Be sure that the administration of the POLD question does not conflict with Miranda rights: Vermont stakeholders deliberated how best to collect POLD data while not violating an arrestee's Miranda rights. This is important from an ethical perspective as well as to ensure that the information is collected appropriately so it can be used in prosecutions. The Forensic Lab staff described this deliberation:

“There are also some concerns with Miranda. Basically, there's concern about officers asking the question to people after they've been Mirandized, as opposed to the question being framed towards officers in the DMT. We spent some time talking about these concerns, and making sure that the question was at least phrased properly, as if it's a question to the officer, whether or not, during their investigation, they were able to gather this information, as opposed to asking the person, "Hey, where was your last drink?" That was something that we were able to find language that we were comfortable with, that it was a data collection process.” (KII-3)

Be aware of the needed and available financial resources: While adding one item to a data collection process may sound simple, it may involve considerable planning and resources to implement, as well as staff time for administration. The funding for the addition of a POLD question on the DMT came from the Vermont Traffic Records Coordinating Committee (TRCC) via passthrough NHSTA funding. TRCCs are integral in NHTSA’s strategic planning for the reduction of highway safety deaths across the country. The TRCC is comprised of representatives from various State and local agency staff who are involved with the collection, dissemination, or analysis of crash data. The TRCC includes representation from the Department of Health, the Department of Information and Innovation, the Agency of Transportation and Department of Motor Vehicles, the Department of Public Safety including the Vermont State Police and the Governor’s Highway Safety Program, as well as Federal Highway Administration including the Federal Motor Carrier Safety Administration, and local law enforcement agencies.

This made it feasible to add a POLD question to the DMT. A staff person from the Forensic Lab explained the value of this support:

“In terms of other decision-making points, updating the software on one of these instruments can cost a significant amount of money. We can't just go change our software on a whim... Without that funding, I don't know if we would've been able to implement this.” (KII-3)

Collecting POLD Data—Role of Local Law Enforcement

Local law enforcement officers view Place of Last Drink information as a routine part of their work: Officers don’t always use the expression “place of last drink” or “POLD” but feel that asking about it is part of the job: “I don't use that expression. I just see where they're last served. So, I guess we were always essentially trained where was their last service of alcohol, whether it was at a friend's house or whether at an establishment or a restaurant.” (KII-5) They view POLD as a normal part of their incident reporting rather than as a “program”.

It is important to have the POLD question in the DMT so officers can quickly and easily document the information: Law enforcement officers are responsible for identifying if a licensed establishment is a potential place of last drink by answering a simple “yes or no” question in the DataMaster. As one officer explained, “There’s a boiler plate question on the processing form that asks that.” (KII-4)

Officers know that DLL investigators will follow up on a “yes” answer in the DMT: The checkbox in the DataMaster forwards the information to DLL immediately, which is helpful for local law enforcement, since they know a DLL investigator will follow up. As one officer said,

“We have other stuff going on. So, it's more helpful if they reach out to us and inquire, that way we can just answer with what they need, if they just give us essentially a checklist. Thank you for making a referral, this is what we need. Because a lot of times, after we've checked that box yes, we don't remember to send over all the information...It's easier if they ask.” (KII-5)

After POLD is Identified (question answered ‘yes’)

DLL investigators contact the arresting officer(s) to obtain information on the case: DLL investigators lead the investigation after the POLD incident is referred to them. Their first step is reaching out to the arresting officer(s) to gather information for their investigation. They obtain details of the arrest, officer video, and affidavit. While DLL takes the case from this point, local officers provide information and support where requested.

Many officers know the DLL investigator assigned to their area and are comfortable reaching out to them about cases. As one officer said,

“It's a collaboration. Generally, we know who our liquor inspector is for the area. So, we'll reach out to them...they're very good about getting back to us and at least talking about it...Generally, we just hand it off to them (DLL) and they take it from there. They'll come in and ask for our processing videos and the paperwork and just all the information we have. The reports, the arrest, the affidavits for the arrest and all that. So, we work with them openly about it...If there's any follow up that we need, that we can't get they'll help us and vice versa.” (KII-4)

Local law enforcement officers understand the value of identifying POLD. They say documenting and investigating POLD incidents is valuable. It helps identify establishments that may have overserved alcohol so that problems can be addressed. Problems might come from one establishment or a handful of establishments—identifying which have been the place of last drink and working to correct those problems helps reduce alcohol-related problems.

“I think the best part is if we have a problem establishment that, generally that's what happens is you'll find out as one establishment that's doing it, and it puts them back in line for where they should be serving or however you want to word it. That's what those warnings, those tickets, everything just puts everything back in line to where it's, it should be as far as people being responsible to include the establishment itself.” (KII-4)

DLL Investigation of POLD Incidents

When a POLD case is assigned to a DLL investigator, the investigation includes the arresting agency, the establishment, and the vehicle operator and passengers.

- *Gather information from the arresting agency:* When an investigator is assigned a POLD incident, they reach out to the arresting agency to get available body camera or dash cam footage, the report and affidavit, and to speak with the arresting officer. Investigators review this information first, to get a good description of the arrestee and familiarize themselves with the incident.
- *Contact the establishment for further investigation:* After reviewing the arrest information, the investigator reaches out to the establishment, where they try to determine the staff on duty at the time of the incident, if there is surveillance video available, and any receipts. “I like to obtain any and all information we can get,” said one investigator. (KII-9)
- *Interview the vehicle operator and passengers:* Investigators may try to contact the vehicle operator and any passengers to gather more information, but note that often they are uncooperative. One investigator said, “I try to run the investigation as if I won't be able to talk to them.” (KII-8)

Considerations for investigating establishments: Investigators take the history and experience of an establishment into consideration when approaching them. It might be appropriate to focus on education with an establishment with no prior incidents, while a licensee with repeated violations may warrant more serious repercussions. Gross negligence like encouraging drinking games or lack of attention would warrant more serious action. One investigator noted that in some cases, smaller establishments may only have basic cash registers without detailed receipts available, which can limit the information collected.

Establishments and local police agencies usually cooperate to help DLL get the information it requests: Local law enforcement usually want to see problems addressed and establishments want to handle issues and operate responsibly, so investigators usually obtain cooperation from both. On the other hand, vehicle operators are often unwilling to cooperate.

A POLD incident is an opportunity for a “teachable moment” with establishments even if an incident doesn’t result in a formal violation: Not all POLD incidents result in a warning or action against a licensee, but DLL investigators say it is a valuable opportunity to work with an establishment to educate them and help them improve practices.

“We can talk to the managers and the owners and [explain], this is what's going on in your establishment...They could better train their employees, be more cognizant of recognizing underage patrons or intoxicated patrons...I think it’s very important to go in there and educate them regardless of if the case is going somewhere or if it's not going

somewhere so they know what's going on in their establishment... We've had some POLD cases where, you know, we've went and talked to the owners about stuff and they've stopped what they're doing. I had a motorcycle crash last year. the guy didn't get injured. He left an establishment, crashed his bike. But afterwards, when I went to talk to the owner, he stopped doing shots... So, they change their behavior.” (KII-9)

Having the licensed establishment (POLD) question in the DataMaster ensures that DLL investigators will receive the information in a timely manner: Local law enforcement officers might not always ask about licensed establishments, and more importantly, that information would likely not get passed on to DLL investigators in a timely manner. Local officers may not understand the importance of the question or how the data is used. As one investigator said,

“It's, it's important [to have the question in the DMT], because otherwise I think very rarely would these issues be brought to our attention, maybe just a handful of times a year. I don't think that the majority of patrol cops would even think to refer something like that.” (KII-8)

Investigators approach establishments with respect and an understanding of their work: Most business owners understand the need for the investigation and are helpful.

“I do understand that when you have a bar full of people, there are challenges involved with monitoring every one of those people. I try to be realistic about the issue and logical and I always assure them that just because I'm here doesn't mean you're getting a violation, but that we have to look into it... They're never happy to see you poking around and asking questions, but they generally understand what the end goal is. For the most part they're helpful because they don't want to do anything to call another issue for their license.” (KII-8)

Following up on the place of last drink for DUIs reinforces the importance of preventing overservice: Investigating POLD incidents and the conversations it allows investigators to have with licensees and their staff reminds establishments of their responsibility to not overserve patrons. One investigator said,

“I do think that the fact that we're following up on all of these DUIs does make the licensees a bit more cognizant about what the responsibilities are as far as not over serving, as far as identifying someone who is intoxicated or not serving people.” (KII-8)

POLD incident data helps investigators in conversations with licensees, creating an opportunity to discuss other issues with an establishment, answer questions, and remind them of their role in preventing alcohol-related harm.

“I think it's a great program, you know, and it gets us out there talking to the licensees, like, ‘Hey, this is what's going on in your bar.’ They will change the performance of what they're doing. I think we have a huge influence when we go to talk to them...I definitely suggest, you know, all states implement this. I know it's probably time-consuming for some other states to get it off the ground, but it lets you get out there and lets you know, where [problems are coming from].” (KII-9)

Retailer Perceptions of POLD

Alcohol licensee representatives were interviewed to learn about their impressions of POLD investigations. The licensee representatives were from establishments that have had one or more POLD investigations.

Interactions with Vermont Department of Liquor and Lottery investigators are professional, respectful, and straightforward: Representatives from alcohol establishments were interviewed about their experiences as an establishment that had been identified as a potential place of last drink. While they generally don't use the term POLD, they understood the process and why a DLL investigator contacted them. Establishment representatives said the DLL investigators were professional and respectful, clearly explained how the establishment had come to their attention, suggested steps the establishment could take to resolve the situation, and that DLL recommendations and action were reasonable.

Establishment representatives who were interviewed say they cooperated with investigators and provided surveillance video and receipts as available. One representative described the communication as “a healthy discussion about how do we get to the bottom line of where [the driver] had their last drink?” (KII-2) This retailer recognizes DLL investigators have a job to do: “They're in charge of public safety and regulation of liquor laws, so I would fully expect that to happen...I believe that their intentions are to make sure that the public is safe and that folks are following the guidance.” (KII-2)

Establishment managers say DLL investigators communicate issues and the reason for the investigation clearly:

“It's 100% straightforward...When the officer comes in, we sit down, we try to pull up the tab if we can find the name and everything, and we try to correspond that with the video footage and see if that record is accurate.” (KII-6)

One retailer observed that DLL investigators understand the challenges that alcohol establishments face even as they expect them to be accountable:

“When they've dealt with us, they've been extremely professional...It's not often you find people in that position that understand how to straddle the line between understanding the nature of the business and dealing with the law. And everybody I've dealt with has been fantastic.” (KII-6)

Retailer establishments believe it is important not to overserve: Establishment managers understand their responsibility as purveyors of alcohol. “As a manager of the restaurant, it's my responsibility to make sure my people are not overserving people. So, I'm not upset that they're (DLL) coming in.” (KII-7) Another added that preventing overserve is “massively, unequivocally important.” (KII-6)

One retailer emphasized the importance of continually focusing on overservice since staff are stretched thin:

“Ethically, morally, philosophically, it's very important [to prevent overservice]. I mean, everybody responds to alcohol differently, so the hospitality field is under a lot of stress as it is dealing with... They're on the front lines of COVID. They're typically the area that's the shortest staffed. They work the longest hours. They have to really grind in the hospitality industry, and it's across the country. It's not unique to Vermont. So, everybody responds to alcohol differently. So, I think that keeping [overservice] part of the conversation is important because of the fact that those are long hours, and you're having to monitor a lot of things at one time, so I think just having the conversation, constantly having it, is beneficial.” (KII-2)

Establishments have clear policies against overservice and staff appreciate management back-up: Retailers said their establishments have clear policies not to overserve customers. One said all staff are backed up, and if they decide not to serve a customer, that's the final word:

“Our house policy is it doesn't matter if I disagree or a manager underneath me disagrees. If somebody makes a call, we enforce it. And that's that...Our in-house policy is, at any level if anybody feels uncomfortable serving, it's backed all the way up to me.” (KII-6)

One retailer stressed the importance of not only having policies, but reinforcing them with staff regularly:

“We have internal policies. We have policies the state asks us to follow...We have conversations all the time about how we handle things like that, and they're unique. You can't cookie-cutter some of these scenarios, right? You have to have someone who's responsible... [Servers are] liable if something ever happens on their watch, so I think

that the fact that we reinforce how important it is reinforces that we care about their livelihood.” (KII-2)

Establishments say DLL resolutions were reasonable; resolutions/actions included warnings, fines, intervention with staff, and providing more training: As one retailer said, “Those issues have been rectified and it's been a learning experience.” (KII-6) Some incidents resulted in a warning or fine from DLL. Retailers took action with staff involved, in at least one occasion terminating an employee. One purchased ID scanning software after an incident and another said they had asked DLL to provide some additional training for staff. One retailer said the POLD investigation reinforced to him how important staff training is:

“It makes you think a lot more about training, you know? It’s made me constantly aware of what's going on, constantly reminding my people, you know, you have potential, you know, there's signs all the time of somebody that could be intoxicated...So it makes us a lot more aware and makes you realize that you've gotta put a lot more training into it. It's a serious issue.” (KII-7)

A manager noted that he found the training valuable for himself as well as for the staff. This manager has participated in the training numerous times and commented that the server training offered in Vermont is a “phenomenal class. I’ve been in this industry for 20-some odd years, and I learn something every time. So, requiring everybody to go through that is a phenomenal policy.” (KII-6)

One retailer said that the POLD incident had helped him to convince the owner of the establishment to take overservice more seriously:

“I'm the first contact for the investigators...I actually asked [the owner] to kind of get involved once we were a little deeper in...it's gotten him a little bit more involved in the situation to understand what's going on.” (KII-7)

Challenges or concerns: One retailer observed that the investigators came at a busy time when it was challenging to meet with them. Another said it is important to consider the types of establishments, noting that his business is primarily food and closes at earlier hours than nearby establishments. While the retailers interviewed said they felt confident in the information presented to them, one raised a concern that a business cannot control where a person stops after leaving their business, or might have a bottle in their car, and suggested that the best way to address those challenges is to have as much information as possible.

Other Uses of POLD Data

While the main use of POLD data is investigations with licensees, information is sometimes shared with other stakeholders.

Local Control Commissions: DLL notifies local Control Commissions, the elected officials who license and authorize licensed establishments in their jurisdictions, so they have the information.

State Attorneys: The information is also sometimes shared with local State Attorneys to provide additional information for prosecuting DUI cases. On occasion, a State Attorney will contact the DLL investigator to request information. “That’s a two-way street and a bridge built where we can help each other.” (DLL 11)

Governor’s Highway Safety Office: The Forensic Lab shares POLD data with the Highway Safety Office which can use it for targeted enforcement or education campaigns.

Vermont Forensic Lab: The Forensic Lab finds POLD data useful when they need more information on a type of drink consumed, so they can access the size, concentration, brands, and pour an establishment uses, to inform their lab work.

Vermont State Police: POLD data has been shared with State Police to help them identify corridors of concern to address highway safety.

Local Select Boards: While rare, local law enforcement sometimes share POLD data with the local Select Board to address issues.

Local prevention partners: Prevention partners have been less likely to be aware of POLD, but there is potential for them to access and use the data.

Lessons Learned

Vermont’s experience implementing POLD provides several lessons learned for other states considering collecting and utilizing Place of Last Drink data.

1. Collecting POLD in connection with the DMT breath-testing instrument works well. Vermont’s DMT uses an automated protocol—the officer presses a button and the DMT takes them through the necessary steps and questions to do the data entry.
2. Carefully consider the language of the POLD question. Vermont involved DLL, the Forensic Lab, and the TSRP in developing the question. The wording is careful to ask the officer if s/he knows where the last drink was consumed and if that place was a licensed establishment, so as not to jeopardize the case.

3. Be strategic on when the POLD question is asked, to ensure it does not cause conflict with Miranda rights. In Vermont, the DMT instrument asks the POLD question at the very end of the process to avoid having a Miranda issue that might impact the ability to use the test in court.
4. Work closely with software and IT team members so that everyone understands the purpose and context for collecting the data. Working with the software and IT team members was important to help them understand the purpose of the data and how it is collected. A good working relationship was helpful so they could design the question in the DMT in a way that works easily for the officers on the scene and those using the information.
5. Determine available and needed finances to support data collection.
6. Keep the question simple—use straight-forward, concise language that officers can quickly document. Avoid asking officers to type in information—make selectable fields such as selecting ‘yes’ or ‘no’ that an officer can answer in seconds.
7. Provide training on collecting POLD data and ensure that officers understand the purpose and how it will be used.
8. Collaboration and open lines of communication between DLL investigators and local law enforcement officers are valuable and help local officers have a better understanding of the type of information that can support an investigation.
9. Local officers appreciate learning the disposition of a POLD case. Follow-up lets them know how the establishment responded and reinforces the value of collecting POLD data.
10. Timely receipt of POLD data is important. Vermont DLL receives POLD data daily. This enables them to contact arresting officers and follow up with establishments quickly while memories are fresher and more evidence is available.
11. Timely follow-up with retailers is important. Retailers appreciate immediate follow-up by investigators, so surveillance footage is still available, memories are sharper, and the incident can be resolved soon after occurrence.
12. Retailers recommend accessing resources and expertise of DLL investigators. DLL can be a valuable resource and help identify areas to prevent problems. It is helpful to know the DLL investigator *before* a problem occurs. DLL investigators are able to offer guidance, expertise, training, and insights that can support sound management practices.

13. Retailers appreciate that DLL investigators are professional and respectful. Even though their interaction with DLL investigators is related to a violation or issue at their establishment, retailers said they were treated respectfully, the information brought to their attention was credible, and that the resolutions were reasonable.
14. Educate local law enforcement agencies on POLD, its purpose, and how it works. If they have a better understanding of POLD's value and purpose, they are more motivated to document POLD and respond to requests for reports and information.
15. Use the opportunity to educate licensees and their employees. Following up on POLD incidents provides the opportunity to remind servers of the importance of preventing overservice, signs of intoxication, and to provide information on newer products, such as craft beers that may have higher alcohol content.
16. Investigators need to work to overcome barriers and resistance when those involved are busy or resistant. Unlike many criminal acts, there is often not a person who has a vested interest in helping an investigator solve the case. The arresting agency may be focused on prosecuting the DUI, while establishments and the vehicle operator may be concerned about incriminating themselves.

Conclusion

Implementation of POLD supports DLL's efforts to identify to and address issues with licensed establishments that may be overserving patrons. DLL built on the experience of the pilot project to develop a POLD strategy that is working well in Vermont. Adding a POLD question in the DMT makes it quick and easy for officers to collect and document that a licensed establishment may have been the place of a driver's last drink. The information is shared daily with DLL investigators so that the follow-up investigation can happen immediately, while memories are fresh and evidence is more likely to be available. Local law enforcement officers and partners in the Forensic Crime Lab see value in POLD as a tool to address overservice of alcohol. Managers and owners of establishments that have been identified as a POLD realize it is in their interest to prevent overservice and think that DLL investigators are professional, respectful, and credible in their approach, and offer solutions to reduce risk of further incidents. A licensed establishment was identified as a place of last drink in almost one-fifth of the DUIs during the time period examined. Implementing POLD gives DLL the opportunity to work with those establishments to address their practices and potentially reduce the risk of future incidents. As one investigator described,

“It also helps [the community's] quality of life as well, because we don't obviously want people leaving their establishment intoxicated...It definitely impacts the community by having POLD.” (KII-9)

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