



Source Investigations: A Tool to Combat Impaired Driving

U.S. Department of Transportation
National Highway Traffic Safety Administration

NHTSA
www.nhtsa.gov

TECHNICAL REPORT DOCUMENTATION PAGE

1. Report No.	2. Government Accession No.	3. Recipient's Catalog No.
DOT HS 811 519		

4. Title and Subtitle;	5. Report Date
Source Investigations: A Tool to Combat Impaired Driving	November 2011
	6. Performing Organization Code

7. Author(s)	8. Performing Organization Report No.
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9. Performing Organization Name and Address	10. Work Unit No. (TRAIS)
Pacific Institute for Research and Evaluation 11720 Beltsville Drive, Suite 900 Calverton, MD 20705-3111	11. Contract or Grant No. DTNH22-08-H-00197

12. Sponsoring Agency Name and Address	13. Type of Report and Period Covered
National Highway Traffic Safety Administration Office of Impaired Driving and Occupant Protection 1200 New Jersey Avenue SE. Washington, DC 20590	Final Report July, 2008– March, 2011
	14. Sponsoring Agency Code

15. Supplementary Notes

Robert L. Hohn and Kari Kinnard were the Contracting Officer's Technical Representatives.

16. Abstract

In 2008, the National Highway Traffic Safety Administration funded the National Liquor Law Enforcement Association and the Pacific Institute for Research and Evaluation to review law enforcement crash investigative programs and methods used to identify sources of alcohol sales and consumption related to those crashes. Many State and local law enforcement agencies have implemented source investigations as a strategy to determine where alcohol was purchased and/or consumed when an alcohol-impaired driving crash has occurred.

Our methodology for this case study began with informally inquiring about the use of source investigations around the country. After identifying a number of programs, we selected three States based on three key factors: (a) each State must conduct at least three source investigations each year, (b) each State must be geographically different, and (c) the three States selected must represent a combination of control and license States including at least one State that has the enforcement mechanism located within the liquor control department and one State that has the enforcement arm located in another department. Ohio (control, with external enforcement mechanism), Washington (control with internal enforcement mechanism) and Louisiana (license with internal enforcement mechanism) were selected. After identifying the States, we obtained an inventory of source investigations conducted since 2006. We then conducted semi-structured discussions with three agents/officers and three supervisors/managers from each agency.

The most noteworthy finding from the qualitative research was that, although source investigations are resource intensive, the results—holding the provider of the alcohol accountable and generating positive public relations—appear promising. This report concludes with recommendations relating to improved interagency collaboration, training and policy enhancements, and optimizing the use of the media.

17. Key Words	18. Distribution Statement
Alcohol, source investigation, law enforcement	Document is available to the public from the National Technical Information Service www.ntis.gov

19 Security Classif. (of this report)	20. Security Classif. (of this page)	21 No. of Pages	22. Price
Unclassified	Unclassified	36	

FORM DOT F 1700.7 (8/72) REPRODUCTION OF COMPLETED PAGE AUTHORIZED

ACKNOWLEDGEMENTS

The authors thank the Washington State Liquor Control Board, the Ohio Investigative Unit of the Department of Public Safety, the Louisiana Office of Alcohol and Tobacco Control of the Department of Revenue, and the California Department of Alcoholic Beverage Control. These agencies' willingness and cooperation in sharing information about this evolving program in the area of alcohol law enforcement is greatly appreciated.

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EXECUTIVE SUMMARY

In 2008, the National Highway Traffic Safety Administration funded the National Liquor Law Enforcement Association (NLLEA) and the Pacific Institute for Research and Evaluation to review law enforcement crash investigative programs and methods used to identify sources of alcohol sales and consumption related to those crashes. Many State and local law enforcement agencies have implemented source investigations, as they have become known, as a strategy to determine where alcohol was purchased and/or consumed when an alcohol-impaired-driving or underage-drinking-and-driving crash occurred. Although source investigations can consume significant resources, this approach can potentially change the behavior of both commercial and social providers by identifying and holding them accountable for selling alcohol to intoxicated patrons or to minors.

Our methodology for this case study began with informally inquiring about the use of source investigations around the country. After identifying a number of programs in California, Georgia, Missouri, Utah, and Virginia, among others, we selected three States based on three key factors: (a) each State must conduct at least three source investigations each year, (b) each State must be geographically different, and (c) the three States selected must represent a combination of control and license States including at least one State that has the enforcement mechanism located within the liquor control department and one State that has the enforcement arm located in another department. Ohio (control, with external enforcement mechanism), Washington (control with internal enforcement mechanism), and Louisiana (license with internal enforcement mechanism) were selected.

After identifying the States, we obtained an inventory of source investigations conducted since 2006. We then conducted semistructured discussions with three agents/officers and three supervisors/managers from each agency.

The key elements sought from each agency were—

- The number of cases per year for 2006 through 2009;
- The administrative and criminal charges filed;
- The disposition of charges;
- The training offered;
- The existing policies and procedures;
- The recurring barriers to successful resolution; and
- The overall assessment of effectiveness of the source investigation program.

The most noteworthy finding from the qualitative research is that, although source investigations are resource intensive, the results—holding the provider of the alcohol accountable and generating positive public relations—appear promising. The second notable finding is that the three case study States have solid programs that can be tweaked for improvement. This report concludes with recommendations to improve interagency collaboration, seek funding opportunities, develop training and policy enhancements, optimize media use, and adequately monitor and report outcomes from source investigations.

INTRODUCTION

Background

Underage drinking and overconsumption of alcohol are well-known problems in many communities across the country and, frequently, this alcohol misuse results in tragic crashes on our highways. The latest annual report from the Fatality Analysis Reporting System indicates that 10,839 people died in alcohol-impaired driving traffic fatalities in 2009 (NHTSA, 2010). Undoubtedly, these two issues—underage use and overconsumption of alcohol—consume considerable time and attention of alcoholic beverage control agencies and law enforcement agencies, depleting their limited resources. Many tactics have been deployed to help prevent impaired driving including sobriety checkpoints, underage compliance check operations, shoulder tap programs, cops in shops, place-of-last-drink programs, keg registration, and social host ordinances.

A tactic long used by some law enforcement agencies is showing promise for dealing with the unwanted consequences of alcohol misuse. This strategy, known as "source investigations," uses criminal and administrative investigative techniques to determine the original source of alcohol when a tragedy occurs.

Many enforcement agencies target efforts toward the apprehension and prosecution of underage or intoxicated people who are often the violators. This traditional enforcement strategy acts as a deterrent by focusing on the users of alcohol.

Frequently, however, for every underage-drinking or impaired-driving tragedy, the supplier of the alcoholic beverages may have been in a position to mitigate the resulting consequences. The agencies we examined are beginning to realize that focusing resources exclusively on the user is not efficient or necessarily just. Further, enforcement and regulatory agencies are beginning to understand that if a commercial source is routinely serving alcoholic beverages to underage or intoxicated people, then that source must be cited and dealt with immediately and appropriately.

Case Studies

These case studies describe how source investigations are conducted, determine the resources (including staffing and associated costs) expended in pursuit of these investigations, assess the organizational structures that best accommodate the implementation of source investigations, and determine the degree of cooperation and assistance from other governmental agencies.

We began our examination of source investigations by informally questioning some of NLLEA's member agencies to determine the ability of State alcohol beverage control (ABC) agencies to conduct source investigations. The results of that inquiry indicated that there is great variation in the use of these types of investigations among law enforcement and ABC agencies. For example, Idaho and Vermont reported conducting a few source investigations each year, whereas the Georgia Department of Revenue's Alcohol and Tobacco Division reported that it does not conduct any source investigations, primarily because it lacks the resources. Source investigations can be labor intensive and, with dwindling Government resources, some agencies have declined to initiate this type of demanding investigation.

Some agencies use source investigations to address different issues. For example, the State College, Pennsylvania, Police Department uses source investigations to minimize the problems of off-campus parties involving primarily Penn State University students (Borough of State College Government, 2005). In a typical year, State College police officers respond to more than 1,500 party complaints about noise, parking problems, litter, and vandalism. The use of source investigations has helped the State College Police Department address a significant problem in neighborhoods adjacent to the campus and ease the concerns of residents in those communities, but the State College Police Department has not focused primarily on traffic crashes (Borough of State College Government, 2005).

One of the earliest documented approaches to implementing source investigations is California. That State initiated its TRACE (Target Responsibility for Alcohol Connected Emergencies) protocol in 1994 with the help of several other agencies, including the California Highway Patrol, the Attorney General's Office, the Office of Traffic Safety, and the California Police Chiefs Association. The program was the outgrowth of an impaired-driving fatality in which the mother of the victim asked why there was not a better method for investigating who gave or sold the alcohol to the 19-year-old driver who crashed into her daughter's vehicle. Although the police had investigated the crash and the impaired driver was imprisoned, there was no effort to identify the illegal source of alcohol. These questions led to the formation of the TRACE program within the California Alcoholic Beverage Control (CABC) agency. A grant of $800,000 from the Office of Traffic Safety established the program (CABC, 2008b).

The TRACE program, now a formalized policy within CABC, includes most of the essential aspects of an effective source investigation program. The protocol calls for immediate notification to CABC by first responders when there is a death or serious injury involving underage drinking. Immediate notification greatly improves CABC's ability to conduct a successful source investigation. CABC conducts an investigation parallel with the law enforcement agency to determine where the alcoholic beverages were sold or consumed or both. The policy calls for CABC investigators to be on the alert for evidence that may indicate where the alcohol was obtained originally. This evidence includes false identifications, bags, labels, receipts, matchbooks, and witness statements. If the investigation reveals that a licensed establishment furnished alcohol to an underage person, CABC will file administrative charges

against that establishment, which can result in suspension or revocation of its license (CABC, 2008a).

Since the inception of TRACE, CABC has conducted more than 500 investigations and trained 325 law enforcement agencies in program protocols. Between January 1, 2010, and May 15, 2010, CABC conducted 36 TRACE investigations leading to 4 arrests and 2 administrative charges against licensed businesses (CABC, 2010).

The Utah Department of Public Safety (DPS) also initiated a TRACE program in 2007. Like its California predecessor, Utah's TRACE program holds the provider of the alcohol accountable if any State laws or State license agreements are violated. When DPS identifies someone who may have purchased or been served an alcoholic beverage illegally by a licensed establishment, then DPS notifies the Department of Alcoholic Beverage Control for possible administrative action. The criterion for initiation of a TRACE investigation in Utah includes an alcohol-related fatality or serious injury involving a minor or intoxicated person (Utah Department of Public Safety, 2007).

These source investigation programs ensure that irresponsible licensed entities and sellers and servers are held responsible for providing alcoholic beverages to ineligible people illegally. The benchmark in conducting source investigations was established by California whose comprehensive program includes an effective policy and sufficient personnel and oversight to fulfill its mission. California has expended significant resources to train its law enforcement agencies in the details and protocols associated with source investigations and to ensure that these agencies know the proper point of contact within CABC. These resources enable CABC to conduct thorough source investigations when problems arise and to monitor the results of those investigations. CABC's managerial oversight ensures that cases are consistently investigated. Further, it proactively seeks potential cases to investigate. The key difference between CABC's program and other programs examined in this case study is that California obtained substantial resources to establish its program. Thus, California had sufficient resources to build its program from the ground up and to include key components to ensure optimal results.

METHODOLOGY AND LEGAL LANDSCAPE

Methodology

Louisiana, Ohio, and Washington were selected for this case study based on their geographic diversity, their placement of the enforcement apparatus within State government, and their ongoing source investigations each year. Further, the States constitute a mix of control and license jurisdictions. Although California has an ongoing comprehensive program, it was not selected for this case study because it is highly structured and is well funded. Likewise, while not as well funded as the California program, Utah had a framework in place to conduct source investigations. For these case studies, we wanted to examine the operations of jurisdictions with less structured programs so we could gain a better understanding of the challenges faced by jurisdictions that conduct source investigations without dedicated funding.

States fall under one of two systems for alcohol distribution: control States and license States. Both systems regulate the distribution and sale of alcoholic beverages through the licensing of outlets, taxation, limiting hours of sale, advertising, and trade practices, among other limitations and restrictions. Control States differ from license States in that control States assume ownership of the beverages during the distribution cycle (wholesale and/or retail) and become the exclusive seller of the alcoholic beverages. In addition, we selected a combination of States that either have the enforcement mechanism located within the liquor control department or have the enforcement arm located in another department. The placement of the enforcement apparatus in the alcohol control agency as opposed to a separate law enforcement/public safety agency may reveal differences in how cases are pursued or prosecuted.

After State selection, we examined the success rates of each State's source investigation program and other law enforcement methods used to identify sources of illegal alcohol purchases and/or consumption associated with impaired-driving crashes. We obtained the cases investigated since 2006 by these jurisdictions and, if available, dispositions and penalties.

Between December 2009 and March 2010, we had informal discussions with key officials who had been involved in source investigations. In each jurisdiction, three supervisors and three officers/agents who had conducted and/or managed source investigations were asked a series of open-ended questions, followed by a participant-led conversation to determine what had worked well and what needed improvement. A different set of topics were covered for the agents and the supervisors. We spoke with key officials in each State separately.

Conversations with agents focused on the following topics:

1. Extent of their involvement with source investigations;
2. Processes and protocols within the agency to monitor source investigations;
3. Training provided to assist with these investigations;
4. Extent of media coverage and the effect of that coverage, if any;
5. Cooperation from law enforcement and other agencies; and
6. Overall assessment of the source investigation's effectiveness.

Conversations with supervisors and managers covered the same issues, but also included the following topics:

1. How the agency initially became involved in source investigations;
2. If additional resources were authorized;
3. What obstacles/barriers routinely materialized; and
4. The primary source of information that initiated source investigations.

Legal Landscape

Because so many source investigations are precipitated by the actions of an intoxicated person, we examined the statutes for sales to intoxicated people for the three case study States.[1] Louisiana's criminal and administrative liability for selling to or serving an intoxicated person applies to both the licensee and the employees, but it does not prohibit an intoxicated person from consuming alcoholic beverages or remaining on the premises (Mosher et al., 2009).

Ohio has laws that attach criminal liability to both the licensee and its employees for selling to or serving an intoxicated person, but its laws only assign administrative liability to the licensee. An intoxicated person is not prohibited from consuming alcohol or remaining on the licensed premises.

In Washington, criminal and administrative liability for the sale and service to an intoxicated person applies to both the licensee and the employee. Additionally, it is unlawful for an intoxicated person to consume alcoholic beverages on the licensed premises.

None of the case study States tracked the results of source investigations separately, as source investigations are simply another type of general investigation. Each agency therefore had to perform a manual search through all the records to segregate the data for source investigations. In some jurisdictions, the information was collected by the field agents who had conducted the

[1] While we conducted a cursory review of the pertinent underage drinking laws, only the Louisiana statute granted an exception that appeared relevant to source investigations and one case in particular for that State. This law is described in more detail in the section on Louisiana.

source investigations and who relied on their own records and personal knowledge and recollection. Because of turnover at the agent/officer level within these organizations, it is probable that some cases dealing with source investigations have not been identified.

Additionally, some of the data, such as resources dedicated to the investigation, had to be estimated by the agents and supervisors as it was impossible to accurately reconstruct the precise amount of time spent conducting these investigations. Data on source investigations—though an important and integral part of each agency's mission—were not segregated and monitored separately by any of the agencies we interviewed.

CASE STUDIES

Louisiana Alcohol and Tobacco Control

Structure and Authority

The Louisiana Office of Alcohol and Tobacco Control (ATC) is located within the Department of Revenue with a mission to "fairly and efficiently collect state tax revenues to fund public services and regulate the sale of alcoholic beverages, tobacco, and charitable gaming with Louisiana" (Louisiana Department of Revenue, 2010). Unlike Ohio and Washington, Louisiana is a license State and allows the sale of alcoholic beverages through a network of approximately 13,000 private distributors and retailers that ATC licenses and monitors (NABCA, 2008).

To enforce the State alcohol and tobacco laws, ATC employs nearly 50 law enforcement agents across the State in 5 regional offices. The agents are fully commissioned law enforcement officers who monitor licensed operations for compliance with the law. ATC agents conduct approximately 5,000 underage alcohol compliance checks a year with a 7.5-percent noncompliance rate (NABCA, 2008). For sale of alcoholic beverages to an underage person, a typical penalty for a licensee on a first offense is a $400 penalty. A second offense usually incurs a penalty of $800, and a third offense, a penalty of $1,200 and a 3- to 10-day suspension (NABCA, 2008). For sale of alcohol to an intoxicated person, the range of penalties established by ATC include a $50 to $500 fine for the first offense, $250 to $1,000 fine for the second offense, and $500 to $2,500 fine for the third offense. The penalty is based on both the facts of the case and the aggravating circumstances, if any (Mosher et al., 2009).

Louisiana's Responsible Vendor Program was established by the legislature in 1997. Under this law, an individual employee can also be issued an administrative violation citation. All managers and other servers of alcoholic beverages are required to attend training that focuses on ways to mitigate sales and service to underage and intoxicated people. More than 100,000 new and renewal permits are processed every year by ATC (2010). Participation in Louisiana's Responsible Vendor Program protects the licensed retailer from a suspension or revocation of his/her license for a first offense (Mosher et al., 2009).

Source Investigations

Source investigations by ATC began in the mid-1990s. At that time, ATC widened its mission, including the initiation of source investigations. Source investigations conducted by ATC are limited to cases involving an underage person. Cases involving an intoxicated adult typically are not investigated unless a complaint is received.

Recently, ATC has established a Special Investigative Unit (SIU) that deals with more complex investigations, such as financially related crimes dealing with tax evasion, money laundering, and fraud. SIU has also assumed the primary duty of conducting source investigations, although it occasionally seeks assistance from field agents. Most ATC officers were recruited from other law enforcement departments and have received general investigative, interviewing, and interrogation training; however, no training is geared specifically toward conducting source investigations. Management frequently assigns more-experienced officers who have previously conducted source investigations to work with less-experienced officers to provide on-the-job training. This is the only training offered that focuses exclusively on source investigations.

ATC has conducted approximately 18 source investigations over the last 4 years. All of the cases involved selling or consumption of alcohol by an underage person who then caused or was involved in a traffic- or boating-related incident that included a fatality. All source investigations are launched initially as criminal investigations because the acquisition of evidence and the burden of proof is more stringent. ATC takes this approach to protect the integrity of the investigation in case criminal charges are discovered during the investigation.

Two of these investigations led to both criminal and administrative charges against the license holder/seller, and seven led to criminal charges. The administrative charges against the licensees were substantiated and civil fines were imposed ($7,500 in one case).

Table 1.
Source Investigations in Louisiana: 2006–2009

Month/Year	Cause for Investigation	Criminal Charges Filed	Administrative Charges Filed	Disposition of Case	If no charges filed, why not?
1/2006	DUI fatality	No	No	N/A	Unable to identify specific provider of alcohol.
3/2006	DUI fatality	Yes—clerk for sales to minor	Yes—sales to minor	Misdemeanor/ fine	N/A
6/2006	DUI fatality	Yes—adult provider arrested	No	None	Felony prosecution declined by local DA
8/2006	DUI fatality	Yes—bartender arrested	No	None	Felony prosecution declined by local DA
10/2006	DUI fatality	Yes—adult provider arrested	No	N/A	Grand Jury/no true bill on felony
3/2007	DUI fatality	Yes—adult provider arrested	No	N/A	Grand Jury/no true bill on felony/mis-demeanor
6/2007	DUI fatality	Yes—bartender	Yes—sales to underage	$7,500 fine	Grand Jury/ no true bill; N/A for

Month/Year	Cause for Investigation	Criminal Charges Filed	Administrative Charges Filed	Disposition of Case	If no charges filed, why not?
		arrested			administrative charge
6/2007	DUI fatality	No	No	N/A	Unable to identify specific provider of alcohol
6/2007	Pedestrian fatality	No	No	N/A	Unable to identify specific provider of alcohol
6/2008	Boating fatality	No	No	N/A	Unable to identify specific provider of alcohol
6/2008	DUI fatality	No	No	N/A	Alcohol provider died in crash
6/2008	DUI fatality	Yes—provider arrested	No	Case pending at local DA's office	Case pending
4/2009	DUI fatality	N/A	N/A	Ongoing investigation	Investigation continues
5/2009	DUI fatality	Yes	No	Case pending at local DA's office	Case pending
6/2009	DUI and pedestrian fatality	Yes—driver arrested	No	N/A	Underage consumed at private residence
6/2009	DUI fatality	No	No	N/A	Unable to identify specific provider of alcohol
6/2009	DUI fatality	No	No	N/A	Alcohol provider died in crash
9/2009	DUI fatality	N/A	N/A	Ongoing investigation	Investigation continues

An interesting aspect of Louisiana's law is that an underage person consuming alcoholic beverages at a private residence is not in violation of the law. Likewise, consumption of alcoholic beverages by an underage person at licensed premises is also allowed as long as a parent, guardian, or spouse who is at least 21 years of age accompanies the underage person. These exemptions in the law can frustrate the successful prosecution of a source investigation.

Key Findings

Source investigations by ATC typically are initiated based on information from the local police departments, the State Police, or the local media. Occasionally, information comes into ATC from the public through a complaint hotline. Many of the complaints received by ATC involve the consumption of alcohol by underage people at residences, which terminates the investigation early on because it is lawful for an underage person to possess or consume alcohol at a private residence.

From the time the incident occurs until the time an ATC agent responds is usually within a day or two, but it can take up to 2 weeks if the reports of the investigating law enforcement

agency must clear its internal review before being released. As mentioned, an immediate response maximizes the likelihood of a successful investigation and prosecution. Cooperation from other governmental agencies in Louisiana has been excellent. Law enforcement agencies provide copies of their reports, list of the witnesses, statements of the witnesses, and on at least one occasion, actually assisted in pursuing the source of the alcohol. Resource constraint and lack of expertise in alcohol laws are identified as the biggest reason other law enforcement departments are not participating in the source investigation.

ATC occasionally uses its inspection powers to gain access to records and videos at licensed premises, but because ATC launches source investigations as a criminal investigation, it usually obtains information from licensed premises through search warrants and subpoena *duces tecum*.[2] ATC's inspection authority is used occasionally to access records at the licensed premises (cash register tapes, receipts, videos, and other documentary evidence).

Barriers that typically emerge during these investigations are the same as those that materialize during most criminal investigations, including lack of cooperation from witnesses, an inability to find witnesses, and inadequacy of the Louisiana law in dealing with the criminal liability of furnishing alcohol to underage people at private residences.

ATC has no formal policy or procedure specifically for source investigations. The policy calls for supervisors and managers to monitor source investigations via the general investigation policy, but in reality, these investigations are monitored more closely because of their high profile and the amount of effort that goes into them. There is a high degree of self-imposed pressure to bring swift and successful closure to the investigation.

ATC source investigations do not usually receive much interest from the media. The agency issues press releases occasionally, but typically, there is not much interest from the press.

All the ATC agents and managers interviewed believe these are worthwhile investigations, even though they are labor intensive. On average, each investigation consumes in excess of 60 staff hours. Nonetheless, those interviewed unanimously felt it was worth the effort in terms of positive public relations and fulfilling their mission to bring closure to these tragic incidents.

A constant theme that surfaced during the conversations with ATC agents and managers was the inadequacy of existing law concerning the prominent issues that frequently arise during source investigations. Repeatedly, when agents are investigating the results (death or injury) of the unlawful provision of alcohol to an underage person, they have found that prosecutors are reluctant to pursue significant charges (felony or major misdemeanor) against the person who provided the alcoholic beverages to the underage person. Many suggested that model legislation that attaches considerable criminal liability to the provider of alcoholic beverages who illegally

[2] A subpoena *duces tecum* is an order to a person to produce documents or other tangible evidence (such as video recordings) for use at a hearing or trial.

sells alcohol to an underage person and that act contributes to injuries or deaths would be helpful in addressing this issue in Louisiana.[3]

Ohio Investigative Unit

Structure and Authority

The Ohio Investigative Unit (OIU) is located within the Ohio Department of Public Safety with a mission to provide "quality enforcement of State, Federal, and local laws with emphasis on liquor, food stamp and tobacco offenses, further offering educational guidance and professional assistance to law enforcement agencies and to the general public" (Ohio Department of Public Safety, 2010). Ohio is a control State and is the sole purchaser and distributor of distilled spirits; however, spirits are sold through 442 private businesses known as "agency" outlets that contract with the Division of Liquor Control to serve as its sales agents (Ohio Division of Liquor Control, 2009). Beer and wine are not distributed directly by the State but are sold through the private sector that is licensed by the Division of Liquor Control and monitored by OIU.

In 1995, the Enforcement Division of the Department of Liquor Control was transferred to the Ohio Department of Public Safety. After transferring to that department, the OIU assumed additional responsibilities while maintaining primary responsibility of the enforcement of Title 43—Ohio Liquor Laws (Ohio Department of Public Safety, 2008).

There are more than 20,000 licensed alcoholic beverage establishments in Ohio. OIU employs approximately 110 law enforcement agents across the State in 7 regional and field offices to enforce the State alcohol, tobacco, and food stamp laws. These agents are commissioned law enforcement officers who monitor the licensed establishments for compliance with the law. OIU officers conduct approximately 1,500 underage compliance checks a year with a 25-percent noncompliance rate.

Licensees who violate alcohol laws are subject to disciplinary action by the Liquor Control Commission. When an administrative violation is issued to a licensee, he/she can receive a fine, a license suspension, or both. Repeat and chronic offenders may have their licenses revoked by the Commission.

The Liquor Control Commission has not established a formal range of penalties, but a typical penalty for a licensee for a first offense of selling to an intoxicated or underage person is a 5-day suspension or $500 monetary penalty. Subsequent offenses by the licensee usually involve stiffer penalties, including suspension of the license (NABCA, 2008).

[3] California has adopted legislation (California Business and Professions Code 25658) that provides for a separate criminal penalty against anyone who provides alcoholic beverages to a person younger than 21 and that underage person then consumes the alcohol and causes bodily injury or death to himself/herself or any other person.

All managers and other employees who serve alcoholic beverages are encouraged to attend beverage service training, but it is not mandatory (National Instititue on Alcohol Abuse and Alcoholism, 2010). The beverage service training class focuses on the responsibilities of the server, including detection of fraudulent identifications and recognizing and dealing with underage and intoxicated patrons.

Source Investigations

Source investigations by OIU began before 1979. None of the agents or supervisors we spoke with was employed with the agency before that date, and they therefore have no personal knowledge of the commencement of these types of investigations. However, source investigations have been conducted since that time. No additional resources have been authorized recently for OIU to conduct source investigations. OIU conducts a source investigation into all allegations of inappropriately providing alcohol to underage people or adults in which licensed establishments are implicated.

No specialized unit within OIU is devoted exclusively to conducting source investigations. An officer may conduct investigations anywhere within the assigned region. Most officers have received general investigative, interviewing, and interrogation training. No training, however, is geared specifically toward conducting source investigations, although agents indicated this type of training would be helpful if available. Management frequently assigns more experienced officers who have previously conducted source investigations to work with less experienced officers to provide on-the-job training. This is the only training that focuses exclusively on source investigations.

OIU has conducted approximately 18 source investigations during the last 4 years. Most cases involve selling to, or allowing the consumption of alcohol by, an intoxicated person who is involved in a traffic fatality. Two investigations (one dealing with a commercial provider and one consumption at a private residence) dealt with serving an underage person or allowing an underage person to consume alcohol.

Five of these investigations led to administrative charges against the licensees and one led to criminal charges (filed by the Ohio State Highway Patrol). Table 2 provides a summary of the source investigations conducted by the OIU from 2006 through 2009.

Table 2.
Source Investigations in Ohio: 2006–2009

Month/Year	Cause for Investigation	Criminal Charges Filed	Administrative Charges Filed	Disposition of Case	If no charges filed, why not?
1/2006	DUI fatality	No	No	N/A	Unfounded
2/2006	DUI fatality	No	No	N/A	Unknown
4/2006	DUI fatality	No	No	N/A	Unfounded
7/2006	DUI fatality	No	Yes—afterhours, sale to an intoxicated person	Dismissed	N/A
10/2006	DUI fatality	No	No	N/A	No liquor permit involved
3/2007	DUI fatality	No	No	N/A	Unfounded
5/2007	DUI fatality	No	No	N/A	Unfounded
7/2007	DUI fatality	No	No	N/A	Unfounded
8/2007	DUI fatality	No	No	N/A	Unfounded
10/2007	DUI fatality	No	No	N/A	Unfounded
12/2007	DUI fatality	No	Sales to an intoxicated person, encouraging excessive consumption	$50,000 fine in lieu of revocation	N/A
1/2008	DUI fatality	No	Furnishing alcohol to an intoxicated person	$5,000 fine	N/A
4/2008	DUI fatality	No	No	N/A	Closed via arrest of person who purchased alcohol for underage decedent. Prosecutor did not file charges against purchaser (developmentally disabled adult).
4/2008	DUI fatality	No	No	N/A	Unfounded
6/2008	DUI fatality	No	No	N/A	Unfounded
1/2009	DUI fatality	No	Pending—furnishing alcohol to intoxicated person	N/A	Pending before Liquor Control Commission
6/2009	DUI fatality	No	Yes—sale to an underage person	$700 or 7-day suspension	N/A
9/2009	DUI fatality	No	Pending—encouraging excessive consumption, offering unlimited alcohol for one price		Pending before Liquor Control Commission

One criminal case, not included in the chart above because it did not implicate a licensed establishment, involved a 17-year-old who was provided alcohol by one of his "of age" friends. This minor and a couple of his friends then consumed the alcohol at the home of one of the juveniles, whose father was present. The minor then left the residence to drive home and was killed in a single-vehicle crash. One person was convicted of "allowing an underage person to consume alcohol and/or be intoxicated at the residence." The case against the furnisher of the alcohol was dismissed. Civil litigation ensued and the family of the deceased was awarded more than $750,000 against the same defendants as those criminally charged.

Key Findings

Source investigations by OIU typically are initiated based on information from the local police departments and the Ohio Highway Patrol. In rural areas of Ohio, most of the information comes from the Highway Patrol, which has the resources to investigate fatal crashes (reconstruction teams, etc.) that many local departments do not have. Occasionally, media coverage makes OIU aware of a recent fatal crash involving alcohol, as do calls into OIU's hotline where violations can be reported by the public. Place-of-last-drink information from the Highway Patrol was terminated approximately 2 years ago because of data-processing compatibility issues. Information provided by the Highway Patrol was not easily integrated into OIU's information system, and resource constraints prevented the agency from re-entering the data. The place-of-last-drink information had been helpful in pursuing some source investigations.

From the time that the incident occurs until the time that an OIU agent responds can range from a couple of hours to one or two days. An immediate response maximizes the likelihood of a successful investigation and prosecution. Possibly frustrating an immediate response is a somewhat unusual aspect of the Ohio Administrative Code—Section 4301:1-1-61 (B). This section, commonly referred to as "Rule 61 (B)," provides that a long-term investigation must be authorized by the "superintendent of the division of liquor control or the director of the department of public safety." This rule was originally adopted in 1950 and was intended to dissuade possible corruption or the perception of corruption. Obviously, seeking authorization before an investigation can start is an obstacle that may delay the immediate initiation of the source investigation.

Another potential obstacle that routinely emerges is the timeliness of the information received after a fatal crash or other alcohol-related tragedy. As previously noted, the sooner a source investigation can be initiated after the incident, the fresher the information will be, thus increasing the likelihood of a successful conclusion. To help ensure timely notification, agents in the Athens OIU office visit all the local police and sheriff's departments within the district to inform them about OIU's mission to conduct source investigations and to have current contact information for the appropriate OIU agents.

Cooperation from other governmental agencies, such as the Highway Patrol, local police departments, and the Coroner's Office, has been excellent. These agencies willingly provide copies of the investigative reports, the list of witnesses, and the statements of witnesses. After the local department or the Highway Patrol concludes an investigation of the actual crash, these agencies offer little assistance in finding the source of the alcoholic beverages. Determining the source of the alcoholic beverages is left to OIU. Resource constraint is identified as the biggest reason other law enforcement departments do not provide assistance in the actual source investigation. The investigations by OIU and the police agency run parallel, and occasionally, both OIU and the local police department interview a witness together if there is concurrent interest.

OIU's administrative power to "inspect" licensed premises and any records on those premises is of significant assistance in conducting source investigations. The Ohio Revised Code provides for access to the premises, the books, and the records of any licensee and provides separate penalties for a retailer that hinders the inspection of the documents and other business records. The authority provided in the code is used occasionally to gain access to cash register tapes, receipts, videos, and other documentary evidence and is essential to completing a successful investigation. OIU agents, however, frequently obtain a search warrant to seize evidence, especially if there is a possibility that criminal charges will derive from the investigation.

Because OIU has no formal policy or procedure focused specifically on source investigations, the supervisors and managers monitor source investigations through their policy for a general investigation. The managers usually follow source investigations more closely than other investigations because they are high profile and they require a large amount of resources. In addition, because source investigations cannot be initiated until after a Rule 61 (B) (superintendent authorization) has been obtained, managers monitor them more closely and attempt to bring them to an early and successful closure so that the Rule 61 (B) authorization does not need to be renewed.

Source investigations by OIU usually do not attract media attention. The crash itself typically receives media coverage, especially if there is a press release by the investigating police department. That coverage, however, does not extend to the source investigation, so it gets very little, if any, coverage.

All the OIU officers and managers interviewed believe source investigations are worthwhile, even though each investigation consumes a large amount of resources. On average, each investigation uses in excess of 60 person hours. Nonetheless, the agents and supervisors we spoke with unanimously felt it was worth the effort in terms of developing a positive image among victims and victims' families by holding retail licensees responsible for illegal acts, and demonstrating to other law enforcement agencies the capabilities of OIU and the effectiveness of administrative penalties.

Washington State Liquor Control Board

Structure and Authority

The Washington State Liquor Control Board (WSLCB) has a mission to "contribute to the safety and financial stability of our communities by ensuring the responsible sale, and preventing the misuse of, alcohol and tobacco" (WSLCB, 2008). Washington is a control State and is the sole distributor and retailer of distilled spirits. Beer and wine are not distributed directly by the State but are sold through the private sector with regulatory oversight by WSLCB.

There are approximately 18,000 licensed alcoholic beverage establishments in Washington. WSLCB employs 49 liquor and tobacco enforcement agents across the State in 7 regional and field offices that enforce the State alcohol and tobacco laws. The agents are limited-authority, commissioned law enforcement officers who are empowered to issue verbal or written warnings for lesser offenses and administrative violation notices for more serious transgressions or repeat offenders.

WSLCB officers conduct approximately 3,500 underage compliance checks a year, with a 20-percent noncompliance rate. A typical penalty for a licensee for a first offense is a 5-day suspension or $500 monetary penalty. Subsequent offenses by the licensee call for a 7-day suspension for a second offense and a 30-day suspension for a third offense (NABCA, 2008). For sales to a visibly intoxicated person, the penalty for a first offense is a 5-day suspension or $500 fine. For a second offense, the licensee is suspended for 5 days or is assessed a $2,500 fine, and for a third offense, the licensee is suspended for 10 days or is assessed a $5,000 fine (National Alcohol Beverage Control Association [NABCA], 2008). Licensees who violate alcohol or tobacco laws are subject to disciplinary action by WSLCB. When an administrative violation notice is issued to a licensee, he/she can receive a fine, a license suspension, or both. Repeat offenders may have their licenses revoked by the WSLCB.

Since 1995, all managers and other employees who serve alcoholic beverages or who supervise the service of alcohol must successfully complete a Mandatory Alcohol Server Training program within 60 days of hiring. The 3-hour class must be conducted by a WSLCB certified trainer, and attendees receive a 5-year permit. The class focuses on the responsibilities of the server, including detection of fraudulent identifications and recognizing and dealing with intoxicated patrons (WSLCB, 2009).

Source Investigations

WSLCB's involvement in source investigations evolved overtime with no single triggering event. It also appears that no single decision by management led to the initiation of source investigations. Source investigations occurred because certain agents began looking into high-profile cases creating an expectation that these investigations would be pursued. No additional resources—personnel or equipment—were authorized because of WSLCB's

involvement with source investigations. WSLCB conducts source investigations on all allegations of alcohol overservice to an adult or underage person by a licensed establishment.

WSLCB does not have an investigative unit that conducts inquiries into allegations of alcohol overservice. Officers are assigned a specific geographic territory and conduct all investigations within that area. Most officers have received general investigative, interviewing, and interrogation training, but none of the training is geared specifically toward conducting source investigations. Most WSLCB officers also have advanced investigative certification. Although this certification is not specific to source investigations, it is relevant and many of the training elements are transferrable. Even though these investigations are not conducted by a corps of specially trained officers, management frequently assigns the more experienced officers to work with the less experienced officers to provide a meaningful on-the-job learning opportunity. Agents indicated that training specifically geared towards teaching them the most effective strategies for conducting source investigations would be helpful.

WSLCB has conducted approximately 14 source investigations during the last 4 years. Most of the cases involved selling alcohol to, or allowing the consumption of alcohol by, an apparently intoxicated person. These overservice cases were all related to driving-under-the-influence (DUI) fatalities, except two: one was an intoxicated pedestrian who was struck and killed on a freeway after exiting a taxi, and the other was an underage person who was sold alcohol and later fell to his death from the roof of a building. All of the investigations involved commercial outlets. Two of the investigations (which did not result in the filing of administrative charges) were initiated after underage individuals were found in possession of alcohol in their vehicle or their residences. In both cases, the alcohol was purchased from a licensed establishment by a person older than 21. WSLCB does not conduct source investigations unless a licensed establishment is implicated. Table 1 provides a summary of the source investigations conducted by the WSLCB from 2006 through 2009.

Table 3.
Source Investigations in Washington: 2006–2009

Month/ Year	Cause for Investigation	Criminal Charges Filed	Administrative Charges Filed	Disposition of Case	If no charges filed, why not?
9/2006	DUI fatality (pedestrian)	No	Yes—employee intoxicated on the premises	$500 fine	N/A
12/2006	DUI fatality	Yes—vehicular homicide	Yes	Guilty plea, written warning	N/A
12/2006	DUI fatality	No	No	N/A	Unknown
1/2007	Sale to intoxicated person	No	Yes—allowing intoxicated person to consume alcohol	Written warning	N/A
7/2007	Overservice, sale to underage person	No	Yes—allowing intoxicated person to consume	$500 fine	N/A

Month/ Year	Cause for Investigation	Criminal Charges Filed	Administrative Charges Filed	Disposition of Case	If no charges filed, why not?
			alcohol, sale to underage		
9/2007	DUI fatality	Unknown	Yes—employee intoxicated	$1,500 fine	N/A
12/2007	DUI fatality	Unknown	Unknown	Unknown	Unknown
12/2007	DUI fatality	Unknown	Unknown	Unknown	Unknown
12/2007	DUI fatality	Unknown	Unknown	Unknown	Unknown
8/2008	Pedestrian fatality	Unknown	Yes—sale to intoxicated person and after hours consumption	15-day suspension	N/A
11/2008	DUI fatality	No	No	N/A	Unknown
6/2009	DUI fatality	No	Yes—employee intoxicated on premises	$500 fine	N/A
10/2009	DUI fatality	No	No	N/A	Unknown
10/2009	DUI fatality	No	No	N/A	Unknown

Seven of these investigations led to administrative charges against the licensee, and one led to a criminal charge of vehicular homicide. The administrative charges were all substantiated, and the following penalties were imposed against the licensees:

- Two were issued written reprimands for serving an intoxicated person.
- Two were fined $500 for having an intoxicated employee on the premises.
- One was fined $500 for allowing an intoxicated person to consume alcohol and for sale to an underage person.
- One was fined $1,500 for allowing an employee to be intoxicated, to drink on duty, and to have unauthorized liquor on the premises.
- One had his license suspended for 15 days for serving an intoxicated person and allowing afterhours consumption of alcohol.

The criminal charge dealing with vehicular homicide led to a guilty plea. In the remaining cases, however, several data elements were missing. For some cases, we often could not determine whether criminal and/or administrative charges had been filed, and we could not establish the outcomes or the reasons for not pursuing charges. Despite several followup requests for additional information, WSLCB could not readily retrieve the data requested. As noted later in this discussion, none of the study sites tracked source investigations as a separate and distinct function of the agency, making data retrieval impractical or impossible.

Key Findings

Source investigations by WSLCB typically are initiated when it receives information from local police departments, other first responders, the Washington State Patrol, media coverage, or the victim's family.

From the time that the incident occurs until the time that a WSLCB agent responds can range from an hour to a month. The quicker the investigation is initiated by WSLCB, the better the information is from witnesses and other parties and the greater the likelihood of a successful outcome. If an agent is notified immediately and appears at the scene of the crash, the agent can independently look for evidence that other law enforcement officers may not fully appreciate and understand—for example: receipts, retailer-identified bags, matches, napkins, or other items that may identify a specific licensed establishment. Additionally, a simple inquiry to those involved about where they have been and how much alcohol they have consumed can help in successfully locating and prosecuting the alcohol provider.

Cooperation from other governmental agencies in Washington has proven beneficial in effectively prosecuting these cases. Law enforcement agencies routinely provide copies of its report and other evidence collected at the scene of the crash. Local police departments willingly re-inventory vehicles to look for receipts or other retail-specific evidence. Medical examiners have been helpful in providing the blood alcohol concentrations of deceased drivers and other particulars that may assist with the investigation. Frequently, other police departments also provide assistance in following up on leads and in locating witnesses.

Of significant assistance in conducting source investigations is WSLCB's statutorily granted administrative power to inspect licensed premises. The Revised Code of Washington 66.08.130 provides for unencumbered access to the books and records of any licensee and provides separate penalties for the retailer who fails or refuses to allow agents to inspect documents and other business records. This authority is used routinely to gain access to cash register tapes, receipts, videos, and other documentary evidence that suggests how long a patron was on the premises, the volume of alcoholic beverages purchased and/or consumed, and the identity of the server. Inspection authority is tantamount to a warrantless search, and though it must be used judiciously and appropriately, it is still a powerful tool in getting immediate access to information for administrative prosecutions.

Barriers that frequently arise during source investigations are (a) an occasional delay in receiving information from the local police or State Patrol; (b) waiting for the criminal case, if any, to conclude; and (c) lack of specific procedures and training for source investigations. Sometimes, usually because of communication and procedural issues, WSLCB does not receive timely information about incidents that might trigger a source investigation. For example, WSLCB might not receive information about a fatal crash for weeks because the local police department did not notify it. In other instances, the prosecuting attorney compels that the criminal proceeding be finalized before allowing the administrative investigation to advance. Although most agents indicated that receiving information and initiating the source investigation quickly was critical to a successful source investigation, other agents understood the need to delay the administrative investigation to maximize the chances of a successful criminal prosecution.

WSLCB managers monitor source investigations under a policy that deals with general investigations. No specific policy or procedure governs how a source investigation should be conducted; however, managers usually monitor these investigations more closely because of the high profile and sensitive nature. Media coverage of these tragic incidents is probable, ensuring that these investigations become a priority within the organization in terms of monitoring and early resolution.

WSLCB source investigations usually receive some interest from the media. That interest varies depending on several factors, including the ages of the victims, the number of victims, the degree of intoxication of the suspect, or other aggravating circumstances surrounding the incident. Media involvement is sometimes a minor inconvenience, but overall, it is beneficial as it keeps the issue in front of the public and clearly identifies the role of WSLCB.

All the officers and managers interviewed believe that source investigations are worthwhile, even though these investigations consume a large amount of time. On average, each investigation uses 30 to 40 staff hours, but those interviewed unanimously felt it was worth the effort in terms of positive public relations and holding retail licensees responsible for illegal acts.

DISCUSSION AND RECOMMENDATIONS

In examining the information from the various States and the responses from the informal discussions, several common themes emerged.

1. No additional resources were authorized in any of the three case study States.
2. Local and State law enforcement agencies were generally cooperative with the case study agencies in providing information after an incident.
3. None of the case study States has a specific policy for conducting and monitoring source investigations.
4. None of the case study States has a customized training program for conducting source investigations.
5. Media coverage in the case study States occasionally materializes, but it could be more extensive.
6. Source investigations should be monitored and accounted for as a distinct task within the agency.

These six themes are discussed in the following paragraphs.

First, no additional resources were authorized in any of the three case study States. In this current economic environment, most alcohol control agencies are strapped for resources, while simultaneously assuming more ancillary roles, such as tobacco enforcement and food stamp fraud, that further diminish the agencies' efficacy. Although source investigations use tremendous resources, this additional activity was assimilated into the activities of the organizations without the benefit of additional resources. The agencies should be commended for willingly assuming this role without the necessary resources to optimize the effectiveness of the function.

It is most important to allocate dedicated funding sources to source investigative activities so that agencies currently conducting source investigations can enhance effectiveness and other alcohol control agencies are encouraged to initiate similar investigations and activities. Adequate funding for source investigations will ensure that responsible agencies can investigate all allegations (not just those involving underage individuals) and train other law enforcement departments in the intricacies of these investigations. Sufficient funding will also allow the commitment of resources to adequately monitor the results of these investigations.

Second, local and State law enforcement agencies were generally cooperative with the case study agencies in providing information after an incident; however, it is apparent that a more proactive and systematic approach in reaching out to local and State law enforcement agencies would provide more timely information after an incident. Agents repeatedly pointed out that initiating a source investigation as quickly as possible after an incident increases the likelihood of a successful outcome. Interagency collaboration is essential to a successful outcome, and receiving the initial information quickly is a critical aspect of that collaboration.

An excellent solution to this issue can be found in the approach adopted by OIU in its Athens' office. It plans to visit all the local law enforcement departments in the district to ensure that they have current contact information so they can notify OIU immediately after an incident or traffic crash. Giving local law enforcement departments the proper contact information and encouraging them to be cognizant of certain types of evidence and statements that might implicate a licensee or seller/server could be the difference in whether a case is substantiated. Sharing the load of this resource-intensive activity lessens the burden on all the agencies involved. Further, it is important for law enforcement agencies to collaborate when educating policymakers about the essential nature of source investigations. Changing the priorities of policymakers may be simpler if done by a consortium of law enforcement professionals.

Third, none of the case study States have a specific policy for conducting and monitoring source investigations. These investigations are controlled generally by the provisions of the policy on general investigations, even though substantial differences in a source investigation may lend itself to a separate policy dealing exclusively with conducting and monitoring the investigations. For example, because these investigations are typically high profile and resource intensive, it may be in the agencies' interest to have a separate activity category to track the expenses associated with the investigations and to track the progress and results of the investigations. As discussed earlier, the lack of separate monitoring of the outcomes of source investigations was problematic in obtaining a complete inventory of previously conducted source investigations, the amount of resources devoted to each individual investigation, and the precise results of the agencies' efforts. When a license holder or seller/server is found culpable in a case, it could serve as a significant deterrent to have the cost of investigation included in the monetary penalty.

Fourth, as with the lack of specific policy and procedure, none of the case study States has a customized training program for conducting source investigations. Training for source investigations consists of integrating the core concepts of general investigative training and the techniques dealing with interrogation and interviewing, and then translating that into the nuances of a source investigation. In all the case study States, the primary tool for training less senior agents is on-the-job—that is, a senior agent with experience in conducting source investigations is paired with the newer agent during the investigation.

Although on-the-job training is certainly beneficial and is an essential aspect of mentoring less experienced agents, a more structured and specific training program for source investigations should be developed and delivered during the initial orientation of newly hired agents/officers. This would formalize the practice of conducting source investigations and amplify the importance of the activity within and outside the agency. The training could address the agency's expectations regarding (a) conducting both proactive and reactive investigations; (b) interviewing licensees, employees, and other patrons/witnesses; (c) collecting evidence; (d) conducting an inspection versus procuring a search warrant or subpoena *duces tecum;* (e) writing a comprehensive investigative report; and (f) preparing an administrative/criminal case focused on the essential elements of the charges.

Fifth, media coverage in the case study States occasionally materializes, but it could be more extensive. Typically, there is coverage of the initial crash or incident, but the actual source investigation is not covered as extensively, unless it involves aggravating circumstances. The States use media releases to draw attention to their efforts and to inform the public of the consequences of inappropriate behavior. These media release efforts, however, do not seem to be routine and well-coordinated. The strategic and proactive use of media to bring attention to the agency's role in determining the source of alcoholic beverages could help educate the public, other law enforcement departments, and policymakers about the agency's mission and the laws prohibiting overservice of alcohol. To be successful in this arena, the agency must (a) monitor the media for potential source investigation cases; (b) identify and disseminate interesting stories about the need for source investigations; (c) provide access to experts that can assist the media; (d) respond to inquiries from journalists; and (e) prepare press releases and background papers about the status and results of the investigations. Media advocacy is opportunistic. By using the media and demonstrating in a high-profile case the leverage and expertise that alcohol control agencies can bring to bear in holding licensed and unlicensed providers accountable can pay many dividends in positive public relations and educating policymakers.

Sixth, source investigations should be monitored and accounted for as a distinct task within the agency. As mentioned, none of the case study States has a mechanism for tracking the specifics—resource allocation, results, etc.—of source investigations. Although there is a high degree of confidence in the estimates provided by the States, it would be far more precise to have established systems to collect and analyze enforcement data for source investigations. Adequate funding to support source investigations can be accelerated if documented evidence demonstrates the staff and resource intensive demands of this important function on law enforcement agencies, as well as the results of those efforts.

Source investigations are conducted by many agencies across the country. The three case study States indicate that much of the infrastructure for these investigations is in place, but some improvements could supplement the effectiveness of the investigations. Improvements in collaborating with other departments, collecting and analyzing source investigation data, amplifying the role of the media, and adopting specific policy protocols for source investigations are some of the improvements that can be made to the process.

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DOT HS 811 519
November 2011

U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**