

DRE Technical Advisory Panel Annual Meeting Minutes October 5, 2018 Orlando, Florida

Attendees:

Bob Ticer, Chair	Joe Abrusci	Beth Barnes	Daven Byrd
Karl Citek	Kyle Clark	Don Decker	Rob Duckworth
Duane Ellis	Christine Frank	Glen Glaser	Darrin Grondel
Chuck Hayes	Sarah Horn	Steve Johnson	Nicole Kofer
Joey Koher	Tina Maier	Jim Maisano	Don Marose
Cecelia Marquart	John Marshall	Amy Miles	Ray Moos
Matt Myers	Bill O'Leary	Eric Riley	D'Arcy Smith
Richard Sullivan	Jessica Vanderpool	Helena Williams	Keith Williams
Dan Zivkovich			

Welcome and Introductions

Robert Ticer, DRE Technical Advisory Panel (TAP) Chair, opened the meeting at 8:31 AM. Introductions were made around the room and Chair Ticer expressed the importance of all of the subject matter experts serving on TAP and their motivation to address impaired driving offenses.

Review of TAP Mission/Responsibilities and Goals

Chair Ticer read the TAP Mission statement to the attendees and listed the TAP Duties. Chuck Hayes advised the group about some needed changes to the TAP Mission/Responsibilities and Goals. The Drug Evaluation and Classification Program and Standardized Field Sobriety Testing are mentioned, but Advanced Roadside Impaired Driving Enforcement (ARIDE) is not. ARIDE needs to be added to the list of curricula which TAP oversees. Also, because of recent changes in the cooperative agreement with the National Highway Traffic Safety Administration (NHTSA), TAP now meets twice per year, so this requires a correction to this document as well. This

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document currently describes the composition of membership on TAP, including four regional coordinators. However, with a recent re-alignment undertaken by the IACP to three regional project managers, it was recommended to re-align from the current four regions to three regions and coincide with the IACP regions. **Action Item: Modify current TAP Mission/Responsibilities and Goals and TAP Regions.**

Chair Ticer invited the panel to consider adding an additional Ontario Provincial Police position to the current membership.

Review/Approval of Mid-Year Minutes, Aurora, CO

The minutes from the March mid-year meeting were approved.

IACP Updates

DAID Conference update – Christine Frank reported there were 1,113 attendees at the DAID Conference, including 236 DRE Section members registered, and this conference has picked up a new sponsor – Lyft.

Future DAID Conferences – Christine announced future DAID Conferences have been scheduled for: August 10-12, 2019 in Anaheim, California at the Marriott; August 6-8, 2020 in San Antonio, Texas at the Grand Hyatt; and August 14-16, 2021 in Orlando, Florida at the Omni.

DEC Program Website – Kyle Clark provided an update on the new website, including information on how state coordinators can access curricula and needed forms. All of the information formerly on the previous site has been migrated into the new one. The state coordinators' resources page houses all of the curricula and uses the same password as previously used. The current link, decp.org, will continue to direct users to the new website.

DECP Regional Coordinators – Chuck described the alignment of the IACP TAP Regions and how they will line up with the DRE Section regions. These regions are delineated by NHTSA regions: Regions 1-4 are the Eastern region, Regions 5-7 are the Central region, and Regions 8-10 are the Western region. Chuck also invited TAP to review and offer revisions to the TAP Responsibilities, Mission, Duties, and Appointments.

DRE Credentialing Update – Christine reported there are currently 8,970 DREs in the U.S., and 823 international DREs.

DRE Annual Report – Christine informed the group the 2017 annual report is available on the website, and emphasized the need for state coordinators to submit their information by the deadline to ensure we are able to disseminate the information to a variety of traffic safety partners. Chuck added the readers of this report continue to grow, including NHTSA Regional Administrators and state highway safety office administrators.

NHTSA Updates

John Marshall thanked the committee for the important work being done in the field of impaired driving enforcement. He introduced Keith Williams who provided some brief remarks of appreciation regarding the panel's work in impaired driving enforcement. NHTSA remains very supportive of the direction the programs are moving. Keith also reported NHTSA now has two national messages concerning drug-impaired driving, and additional research is ongoing to support efforts to stop impaired driving.

Bill O'Leary expressed his gratitude to the IACP for their assistance at the DAID Conference and let the committee know Ms. Heidi King, the Acting Administrator for NHTSA is very receptive to input to help make enforcement more effective.

DRE National Tracking System – Bill reported the Syneren database remains fully functional, but the other database will be online shortly. He thanked the states who have participated in the pilot testing.

SFST, ARIDE and DRE Curriculum Updates – Bill reported the next update will be starting soon, forecast to be funded in fiscal year 2019, and there is currently at least one vacancy for the curriculum team. Jonlee Anderle has recently taken a position with NHTSA and will likely not be available to continue his important work with the curricula.

Online Drug Impaired Driving (ODID) Training – Bill indicated the funding to modify this training has been approved and a curriculum team will be created soon.

Dry Lab Videos – NHTSA is hiring a new staff member who will be working on this project. This project was delayed because of the need to locate a new production team. South Carolina is currently working with NHTSA to help on this project.

Classroom ARIDE Review – Bill indicated there was no updates to provide on this item.

Seated FSTs – Bill reported that the National Association of State Boating Law Administrators (NASBLA) has requested NHTSA's endorsement of the seated field sobriety tests. NHTSA's research team has reviewed it and needs to answer some questions about the NASBLA study, therefore, NHTSA is considering research in a more detailed manner to answer them. A different name for these tests is also being considered. These tests may have the potential for aiding in investigations involving drivers who may not be physically capable of performing the traditional SFSTs. Chuck Hayes reported NASBLA training is coming to Washington state where they plan to use Washington DREs in the training and other officers in these series of tests. A concern was also raised regarding prosecutors' familiarity with these tests as they prepare for delivering a case for prosecution in which an officer may be using the NASBLA evaluation methods. NASBLA also would like to change the verbiage in the curricula in DRE and ARIDE to reflect there are other "standardized tests."

Social Media - Bill also raised concerns about DREs rendering opinions on social media regarding observations solely from a video or news story. There were high profile examples

cited. These comments could be detrimental to the credibility of the DREs in the DEC Program. Bill plans to address this at the next state coordinator meeting. In the discussion, it was noted the state coordinators already have the ability to address these actions of DREs in the International Standards.

Toxicology Testing - Chuck asked if there was an update on a poll of toxicology labs that was initiated by the NHTSA Region 8 Administrator. Bill O'Leary reported the survey from RA Region 8 that only one item was currently in compliance with the "Buy America Act" and eligible for reimbursement: Shimadzu tandem system.

Old Business

Mid-Year TAP Meetings – Christine reminded the group there are now two TAP meetings per year, and the next TAP meeting will be held during the timeframe of April 24-26, 2019 probably in Orlando, Florida. More information will be coming out on that soon.

DEC Program International Standards – Jim Maisano has joined the IACP and is no longer serving as the chair of the standards working group. Helena Williams is the new chair and addressed the concern regarding the definition of "institution" as part of Standard 1.1. She proposed a simpler definition to be added to the standards for institution and this was discussed and modified by the panel. The final definition was "An entity receiving funding from federal agencies, IACP, or the State Office of Traffic or Highway Safety, for instruction or research of the DEC curriculum; or state P.O.S.T.-recognized training academy." This definition was approved and voted to be applied retroactively.

State DEC Program Enhanced Standards Review – Helena reported two states (California and New Jersey) submitted their enhanced standards and no issues were identified.

SFST Dry Lab Videos – NHTSA and IACP are currently working with South Carolina in filming new Dry Lab videos. Oregon has also offered to assist and may be called upon in the event the South Carolina site does not work out.

State to State DRE Assistance – During this past year a non-credentialed DRE Instructor was used in several states and signed progress logs that jeopardized the credentials of DRE candidates. Chuck recommended the standards working group consider adding an additional item to International Standard 2.9 that would help prevent this issue. This matter was referred to the Standards Working Group to identify some appropriate language to be added to the standards that would help prevent future incidents. **Action Item**

SFST/ARIDE/DRE IDC Revisions – Course manager reports are received and reviewed for potential curriculum or training revisions. Numerous items have been identified and will be raised for consideration during the next revision. Instructor Development Courses (IDC) typically do not have course manager reports, so feedback is solicited from state

coordinators for input. NHTSA has requested funding to initiate the next set of revisions for fiscal year 2019.

Synthetic Drugs (DRE Drug Category) – Amy Miles and Chuck reported the Novel Psychoactive Substances (NPS) often appear as polycategory cases and are currently described within the Drug Combinations session of the DRE School. The Scientific Working Group will continue to update these substances in future curriculum editions. Amy will request the Society of Forensic Toxicologists (SOFT) NPS committee to provide a list of current NPS drugs annually and this will be published on the state coordinator website and inserted into the next DRE School curriculum.

Arizona DRE Validation Study – Daven Byrd reported the data has been collected for blood and oral fluid and this data is currently being analyzed for the Arizona DRE validation study. The study has been modeled after the LAPD field validation study, but in this study the cases were conducted “blind” in that the DRE did not know if the person had been arrested. The study started with 260 evaluations, and 231 were complete evaluations with blood panels. Of these, 133 resulted in an opinion of impairment. Of the impaired subjects, 116 had active drug in blood. There were 106 opinions that were partially correct by category (79%). Any impairment with any drug category was 87% accurate. This study will be finalized and peer-reviewed prior to publication. A limited oral fluid comparison was conducted and will be published with the final report.

A brief discussion was held regarding peer review as a function of the Scientific Working Group. Dr. Citek related how several NHTSA published studies have been later subjected to a peer review and published in scientific journals. The decision was to have the Scientific Working Group screen items submitted to the Curriculum Working Group for use in the manuals, but not to be a body for reviewing scientific studies impacting the DEC Program. The curricula revision process is essentially a subject matter expert peer review.

New Business

Future TAP Appointments/Vacancies – Chair Ticer identified those members whose term expires at the end of this calendar year. He reminded them to submit their letters of interest with support letters from their highway safety office by December 1, 2018 if they wish to seek reappointment.

DRE Equipment – Chuck reported many states are seeking for TAP-approved equipment they can buy to use in their DRE kits for DRE candidates. TAP and IACP cannot endorse any items, but a list of suitable “Made in America” items has been collected and is available for state coordinators to consider in their purchases. It is an informative list only and not necessarily any form of recommendation. One of the common questions received concern the specifications of penlights. Dr. Citek was asked for some guidance on this issue in helping identify appropriate penlights, and he identified some optimal specifications. A hand-out of these guidelines was distributed. If specifications for a penlight are provided by the manufacturer, a penlight with stated intensity of approximately 4 lumens should prove

to be satisfactory. In all cases, the beam should produce a circular area of illumination of about 2 inches in diameter when held 4-6 inches from the eye. A draft of guidelines for considerations in identifying acceptable penlights was prepared and submitted to the Scientific Working Group for approval and to be included in the next DRE manual revision. Don Marose recommended the guidelines also be included in the DRE State Coordinator Best Practices document. A final draft of the penlight guidelines was provided to the panel.

Action Item: Approved for dissemination.

DRE State Coordinator Best Practices – Chuck announced the DRE State Coordinator Best Practices has been compiled by looking at many states’ programs and learning successful practices that could be shared to others to enhance states’ programs. Existing field certification site guidelines and protocols are included in the document. DRE equipment can also be included. Chuck invited additional topics for inclusion. Chuck cited an example of how the field certifications can be beneficial to the local community where California field certification events frequently offer shoes and socks to volunteers after completing the evaluation. Many states offer drug counseling services and meal cards to volunteers. Cecelia Marquart complimented the document as something that is both a good reminder for state coordinators as well as an excellent guide for new state coordinators.

New DRE Field Certification Sites – Jim Maisano reported the Oklahoma County jail is available for DRE field certifications where about 3-5 candidates over several days can accomplish their certification goals. Arkansas is considering certification training at this location. Chuck also reported Washoe County jail’s participation is pending as well and he will be making another site visit to the jail in February to determine its potential for other states to use.

Canada RCMP SFST Proposal – D’Arcy Smith provided a briefing regarding challenges they are facing in securing sufficient volunteer drinkers for SFST training. He offered a proposed SFST schedule that would permit the use of a small portion of the course participants as volunteer drinkers by implementing additional repeated sessions and alcohol workshops to ensure all students receive two alcohol workshops and attend all of the training sessions. The request was to have a maximum of 25% of a class of students be utilized as volunteer drinkers, while 75% remain in class. A total of four drinking labs are required and the class spans six days total. A motion was passed to allow Canada to conduct a pilot project using this model and D’Arcy will provide an update at the mid-year meeting.

MADD Law Enforcement Summit – Jim reported information about the MADD Law Enforcement Summit November 13-15, 2018 in Alexandria, Virginia. The IACP DEC Program staff will be providing an update on SFST, ARIDE and DRE at the Summit.

AAA DRE Expert Witness Training – Kyle provided an update on the AAA DRE Courtroom training that has been offered throughout this year. By the end of 2018, NHTSA regions 1-4 and 9 will have received this free training, with the other NHTSA regions expected to be delivered in 2019. Some NHTSA regions may receive additional offerings of this program

once all regions have received it. Participants cover their own travel expenses, but AAA covers all of the other costs of this training.

AAA DEC Program Research Paper – Christine announced AAA has undertaken a review of the DEC Program in ways to enhance the program. The draft is still being reviewed, but there are no significant concerns with the recommendations they have offered, only with how the literature review is discussed. Once the final draft has been completed, it will be provided to TAP for review and comment. **Action item**

NTLC DEC Program Monograph – Chuck reported the National Traffic Law Center (NTLC) DEC Program monograph has been updated from its original publication. It has the most recent information concerning the DEC Program and provides courtroom predicate questions. Chuck thanked the NTLC for updating the document and making it available to help promote the DEC Program and as a resource for prosecutors.

HGN Curriculum update – Christine reported several requests have been received concerning whether displayed HGN clues should be considered as causing impairment. This question was referred to Dr. Citek for input. Dr. Citek advised acquired nystagmus reduces visual function, therefore impairment is present when a person exhibits HGN. He will provide the Curriculum Working Group with specific information that could be considered for future curricula with suitable references. **Action Item**

DITEP Project – Christine reminded the panel NHTSA no longer financially supports the Drug Impairment Training for Education Professionals (DITEP). She advised the IACP is seeking additional partners for DITEP to expand this training and ensure the curriculum remains current. Chuck related to the panel how the IACP has enhanced the impaired driving component of DITEP making it more applicable to impaired driving. Cecelia Marquart expressed her gratitude for the IACP continuing to keep DITEP going forward.

NY ARIDE request – Kyle reported a training academy in New York was requesting to have ARIDE training delivered in the basic recruit academy setting. The academy requested the removal of verbiage from the ARIDE Administrator Guide that discouraged ARIDE training being delivered in the academy, and requested regular updates be made to the 4-Hour Introduction to Drugged Driving and the 8-Hour Drugs that Impair Driving. Kyle reminded the panel that the 4-hour Introduction to Drugged Driving is currently updated with the other impaired driving enforcement curriculum, with the latest version being released in February 2018. The 8-hour Drugs that Impair Driving curriculum is no longer maintained by NHTSA because it was replaced with the more robust ARIDE course. A discussion ensued about these requests. Dan Zivkovich and several others on the panel expressed disapproval to this suggestion. NHTSA expressed their position that this program was not intended to be delivered in the basic academy as it was intended to be taught to officers who have some street experience with DWI investigations and drug-impaired persons so it can rely upon the participant's experiences as a teaching aid. Other members of TAP similarly expressed disapproval of changing the delivery method as it is currently recommended in the

Administrator Guide. Chuck reported there are some states that currently offer the 8-hour Drugs that Impair Driving curriculum that they maintain on their own, and this can be offered to New York if they are interested in working with it. No changes were made.

NHTSA Drugged Driving Initiative – NHTSA Acting Administrator Heidi King provided an update of NHTSA accomplishments and plans in place relative to drug-impaired driving. Thus far, NHTSA, starting on March 15, launched an initiative to combat drug-impaired driving. What precipitated this impetus was the data, though regionalized, pointed toward a big DUID problem. In addition to the March initiative, three other regional summits have occurred across the country: Seattle, Washington; Baltimore, Maryland and Nashville, Tennessee. The information gleaned from these summits provides valuable input in the direction NHTSA takes in addressing this issue. Acting Administrator King related NHTSA can and will adjust its research to focus on the important items.

NHTSA is now working closer with the Department of Justice and the Office on National Drug Control Policy (ONDCP). The Food and Drug Administration has raised concerns about pharmaceutical abuse as it relates to this issue. NHTSA has held several meetings with many representatives from the U.S. House of Representatives to educate them about drugged driving and addressing concerns and reservations they held. Jonlee Anderle, NHTSA Region Five Administrator and former TAP Regional Representative, addressed these concerns and members of Congress have expressed support to help address this issue. Acting Administrator King further indicated that DUID attracts bipartisan support.

Acting Administrator King expressed her pleasure with the success of the press event in August in Nashville, Tennessee held in conjunction with the IACP DAID Conference. The press event resulted in some of the best impaired driving media coverage in over ten years with over 430 million impressions made during the September impaired driving campaign. Research has shown most people are naïve in regards to the dangers of marijuana-impaired driving, and most users believe they drive better after using the drug.

Acting Administrator King indicated NHTSA is working on setting a long-term goal for the nation that will extend beyond the term of a political appointment. This goal includes making everyone aware of the dangers surrounding impaired driving. However, more data is needed to identify the magnitude and details of the drugged-driving problem. There is also a need for more and better toxicology equipment and staff to use it. Modifications are needed to the Fatality Analysis Reporting System (FARS) model to better collect relevant data. An inventory of data sources suggests a more robust infrastructure to deal with this problem is needed. An example regarding research was – “we don’t know as much as we think we know.” Some other knowledge gaps which need identifying include: providing a clear depiction of impairment; helping the criminal justice system to characterize and document impairment; prosecutor support for dealing with these cases; judicial support in the form of adjudicating complex impairment cases; tools for dealing with addiction; treatment and best practices for screening; and good legislation to help DUID offenders be identified, convicted, and treated. NHTSA has materials available for download to help

educate the public about these dangers and to help prevent and reduce incidents of drugged driving.

TAP Member Reports

Administrator– Helena Williams reported the legalization of cannabis has placed additional burdens on her agency, the California Highway Patrol (CHP). Research has been requested to study the effects of cannabis-impaired driving and studies will be commencing in the Spring using the CHP emergency vehicle operations track. Also, research of alcohol and cannabis are being studied in a simulator. CHP is looking at adopting the tablet reporting system to assist in data collection. Once that happens, then plans are to get the tablets into other California agencies soon after.

At-Large DRE – Joe Abrusci reported he has received some feedback on the Certification Knowledge Exam which he will be delivering to the Curriculum Working Group. Matt Myers provided an update of the Cobb County-ACLU lawsuit. Mike Iwai was unable to attend the meeting and no report was provided.

Governors Highway Safety Office – Darrin Grondel announced he is the chair of the Governor’s Highway Safety Association (GHSA) this year. He reported the GHSA and the Foundation for Advancing Alcohol Responsibility awarded five grants to states/territories out of 12 applications this year. The five states receiving the grants were: Idaho, Minnesota, New York, Rhode Island, and Vermont. NHTSA has since come forward to fund the remaining seven: Delaware, Guam, Illinois, Kentucky, Massachusetts, Oklahoma, and West Virginia. GHSA is striving to help law enforcement agencies make traffic safety part of their top priorities. GHSA indicated grants will be provided again in 2019. There was discussion concerning the short application period and GHSA indicated they will attempt to provide earlier notice in the 2019 application process. GHSA is also preparing for post-election funding for traffic safety. GHSA and AAA teamed up to host a prescription and over the counter medication and impaired driving policy forum. This forum was originally scheduled for September 14, but has been rescheduled for February 22, 2019 in Washington, DC. Data Driven Approaches to Crime and Traffic Safety (DDACTS) is demonstrating effectiveness in reducing crime and reducing crashes. Chief Ticer reported that his city of Loveland, Colorado noted a 14% decline in Part I crimes after the implementation of the DDACTS model.

International – D’Arcy Smith reported that marijuana legalization takes effect in Canada in 12 days. Canada continues to run multiple DRE schools throughout the country – 22 DRE schools and 130 SFST classes. Canada is conducting DRE certification training in three different sites: Jacksonville, Florida, Phoenix, Arizona, and Vancouver, British Columbia. Quebec has run three hybrid certification training models and has not encountered any issues in court. Oral Fluid device training is underway in preparation for the pending legalization, and devices are being made available for jurisdictions that wish to deploy them.

Medical – Dr. Alves was unable to attend the meeting and no report was given.

Optometry – The Robustness of the HGN Study was recently removed from the curricula because one portion of the study was flawed. Dr. Citek reported that another study was found that could be a suitable replacement for the curricula references to the Robustness Study and he will forward a copy of proposed language to the Curriculum Working Group for consideration.

Police Training – Darrell Edmonds was unable to attend the meeting and no report was given.

POST – Dan Zivkovich announced the SFST training curriculum is available at NHTSA's website and he is making that resource known to academies for their training.

Prosecutor/TSRP – Beth Barnes reported the NTLC has updated many of their monographs and updated the Prosecuting the Drugged Driver curriculum. She also reported that the Robustness study is not causing concerns across the country and that the Florida court decision is considered favorable and was not appealed. It appears this challenge has been alleviated at this time. She also reported a defense attorney in Georgia is challenging implied consent laws and testing, and reported on a case in Indiana regarding the right to legal counsel.

State Coordinator – Cecelia Marquart announced many state coordinators requested information about the employer training for identifying drug impairment. This material has been turned over to the safety council in Texas. The In-Site project is moving forward with the HGN test and it is planned to be implemented into the ARIDE training as a training tool. With the assistance of IACP staff, Cecelia has crafted a policy for in-house ARIDE training in Texas which is still in the review and comment phase.

Toxicology – Amy Miles reported SOFT's conference begins next week and will be featuring a one-day DRE-related training for toxicologists. An Oral Fluid workshop was held in Albany, New York with over 170 attendees (mostly law enforcement) present. This training has been requested to be brought to other areas as well. The NHTSA Drug Facts Sheets are being considered for an update. Amy announced this year's DAID conference had the highest attendance by toxicologists in the history of the conference.

IACP Resolution – Matt Myers reported the TAP resolution recommending no per se levels for cannabis impairment will be voted upon at the 2018 IACP Annual Conference. This is a year-long process and is in its final stage.

Regional Coordinator Updates – Daven Byrd reported the Region 1 meeting was held May 31st in Sacramento, hosted by California Highway Patrol. In attendance were Chris Murphy, Region 9 Administrator, and eleven state coordinators, including Alaska and Hawaii. He reported that Washington is expanding their phlebotomy program and Nevada is

developing a pilot phlebotomy program as well. The territories of American Samoa, Guam and the Commonwealth of Northern Mariana Islands have received additional SFST, ARIDE and DRE recertification training from Arizona DREs.

Don Marose announced the Region 2 meeting is scheduled for October 22, 2018. Minnesota is holding a AAA-sponsored courtroom training that is different from the national AAA offering. He also raised concerns about the overall credentialing process and wanted to share some ideas for enhancement. He will provide his recommendations to the IACP for their consideration.

Don Decker reported numerous attempts were made to set a regional meeting, but these were unsuccessful. He is now planning for a March 2019 date. Don and Dr. Jack Richman are conducting an HGN validation study with minimal confirmation bias by using 210 videos and the preliminary results are showing very high agreement with inter-rater reliability. He will have more to report at the mid-year meeting. Dr. Richman has also developed a filter for LED penlights to reduce the intensity of the beam.

Jim Maisano reported the Region 4 meeting was held at the Institute of Police Technology and Management (IPTM) in Jacksonville, Florida in May at the Symposium on Traffic Safety. IPTM waived the fee for state coordinators to attend the conference and the meeting. Future IPTM conferences may also host this regional meeting and they may continue to waive the tuition for state coordinators who attend the regional meeting. This first meeting was scheduled for a half day, but due to the meeting's success, future meetings are planned to be scheduled for a full day.

Chair Ticer announced the list of members on each working group and invited members and guests who wanted to join a group to contact the chair of the working group to express their interest.

From the Floor – No items.

Adjourn – the meeting was adjourned at 4:36 PM.