

Technical Advisory Panel 2020 Mid-Year Meeting Minutes

Welcome and Introductions: The virtual meeting was called to order by Chair Ticer at 11:00 am EST. Kyle Clark of the IACP DEC Program started the meeting by giving an overview of the RingCentral platform to assist attendees in using the system for the on-line virtual meeting. Chair Ticer then welcomed the attendees and conducted an audio roll call of the TAP members and guests.

TAP members in attendance: Beth Barnes, Paul Batcheller, David Beatty, Daven Byrd, Karl Citek, Don Decker, Darrel Edmonds, Darrin Grondel, Jennifer Harmon, Mike Iwai, Don Marose, Cecilia Marquart, John Marshall, Matt Myers, Jim Roy, Clint Shrum, D’Arcy Smith, and Helena Williams.

IACP DEC Program staff attendees: Joe Abrusci, Kyle Clark, Chuck Hayes and Jim Maisano.

Guest attendees: Renee Borden, David Botham, Nicole Cofer, Charlie Files, John Flannigan, Christine Frank, Mike Gibson, Glen Glaser, Geoffrey Hossack, Joanne Kurt-Hilditch, Robert Klin, Bill O’Leary, Todd Olmstead, Vin Petty, Tim Plummer, Ken Slocum, George Sway, Joanne Thomka, Shauna Tozser, Keith Williams, and Tom Woodward.

After the introductions, Chair Ticer thanked everyone for joining the on-line virtual meeting format explaining that this is outside the normal TAP meeting process. He also indicated we will get through the TAP business but will miss the comradery of everyone getting together. Chair Ticer then spoke about the decrease in DUI and traffic enforcement with the COVID-19 issues, but that law enforcement is seeing speeds going up due to lower traffic volumes on the roads. Chair Ticer reported his department in Loveland, Colorado is still making DUI arrests and at a higher rate than last year. He hopes all law enforcement departments are still enforcing DUI during the current pandemic.

Review of TAP Membership Mission, Responsibilities and Goals: Chair Ticer reviewed the mission and responsibilities of the TAP.

Review and Approval of Annual Meeting Minutes – Chicago, IL: After one clarification question, which was addressed, a motion was made and seconded to approve the Chicago meeting minutes. The motion carried and the meeting minutes were approved.

IACP Updates: Kyle Clark provided updates on the following IACP activities:

2020 DAID Conference: IACP is still moving forward to have the conference on-site in San Antonio, Texas, August 6-8th at the Grand Hyatt on the Riverwalk. The annual DRE State Coordinator meeting is scheduled for August 5, 2020. Early registration has been extended through July 1, 2020. Regular registration will be in effect through August 8th with no late registration fees. IACP will continue to monitor the COVID-19 situation and any possible impact on the conference.

Future DAID Conferences: The 2021 DAID Conference will be held in Orlando, Florida. The dates are August 14-16, 2021. The 2022 conference will be held in a yet to be determined western region city. Future conferences will follow the West – Central - East rotation. Since the city has

not been selected yet for 2022, suggestions are welcome and can be directed to the IACP DEC Program staff.

DRE Credentialing Update: The IACP DRE credentialing has been moved from a Microsoft Access database and moved into Nimble, a cloud-based system. Previous backlogs are caught-up and have been up to date since mid-March. All states are established in a workflow rotation which will ensure quicker turnaround of credentialing requests. New DREs will take priority in getting their DRE numbers assigned, returned to the state coordinator, and entered into the IACP data system. IACP wants to showcase the status of the DREs, so in the future new, professional-looking DRE cards will be processed and mailed to the state coordinators for distribution.

Drug Impaired Driving Enforcement Training (DIDET) Contract Updates: IACP is continuing to process proposals for funding supplemental training classes for DRE and ARIDE. The funding is available as a contract from the IACP with the use of NHTSA funding. Currently, Montana and Washington are in the contract process and two others, Cook County, Illinois, and the Luzerne County DA's Office are in the review process. Don Decker indicated he has had questions about what is allowed and not allowed in the proposal process to be included in the budget. This included questions concerning whether overtime for the DRE students or for back-fill officers is covered as part of the contract. Kyle clarified that overtime cannot be paid using the contract funds.

NHTSA Updates: John Marshall of NHTSA thanked the TAP members and their commitment to reducing impaired driving and their support of the DEC Program. He also thanked the IACP for their support of the program, and for hosting this important meeting. He also thanked Chair Ticer for his TAP leadership. He stated the DEC Program remains a high priority to NHTSA and that James Owens, the new deputy administrator, is very supportive of DRE and the DRE Data System.

Keith Williams reported there is a lot of interest from Congress about impaired driving issues. He also reported that research projects are still ongoing. He reported on several which included the prevalence of drug-involved fatal crashes and the collection of blood samples. He also reported that work continues in trying to identify SFSTs for marijuana and there is interest from Congress on oral fluid testing. NHTSA will report as more updates become available on these various research projects.

National DRE Data System (NDDS): Christine Frank reported on the new DRE Data System and that the system went live on 1/28/2020. Currently there are over 8000 users in the system. NHTSA is working with states that have their own system or 3rd party vendors to ensure they can import their data. She reported on some updates that were completed on 4/29/20 that included: 1) State coordinators can now delete duplicate records, 2) NHTSA staff can now view records and reports, 3) Resolution of the "Down for maintenance issue," 4) DRE state coordinators can now edit the DRE name along with the email address, and 5) Added a report to show activity for individual DREs, not just the entire state. Christine also reported that in the future the DRE Rolling Log will reflect all evaluations entered by a DRE instead of just going back for two years. Some additional items under review include printing features for all report tabs and adding different sorting features.

Curriculum Updates and Dry Lab Videos: Christine Frank reported the SFST Dry Lab videos updates are being scheduled and an MOU is in place. However, the COVID-19 issues have caused a delay in that work. NHTSA is hoping to film them August. The next curriculum work group meeting scheduled for June may have to be rescheduled or conducted virtually due to COVID-19. Christine thanked everyone on the work group and expressed her surprise in the

amount of work that goes into the updates. Christine also reported that an ARIDE refresher course is being developed which may be about 4 hours in length.

National Association of State Boating Law Administrators (NASBLA) Seated Field Sobriety Test Battery: Bill O’Leary provided an update on the work and interaction being conducted with NASBLA over the past few years regarding the seated FSTs they teach. NHTSA is currently not at a point to accept their program as it was developed, but plans are in place to work with them on the testing.

Drug Fact Sheets Updates: At the request of Bill O’Leary, Chuck Hayes provided an update on the NHTSA Drug and Human Performance Fact Sheets. Chuck represents the IACP on the workgroup updating the Fact Sheets, which were last updated in 2014. The last workgroup meeting was held on March 4, 2020 and included a review of the initial draft. The document will be expanded to include more of the commonly encountered drugs and drug combinations involved in impaired driving cases. The updated version will be an excellent resource for DREs, prosecutors and toxicologists. The work group includes several members from the TAP Curricula Work Group as well as some subject matter experts, including Dr. Marilyn Huestis. Expectations are for a release in 2021.

NHTSA Region DRE “State of the States”: Bill O’Leary reported that NHTSA HQ is conducting DRE “State of the States” meetings with the NHTSA regions. The first of these meetings, which occurred in Region 3, proved to be very successful regarding DRE issues and was beneficial for that region. NHTSA is continuing to hold the meetings, with the latest conducted a few weeks ago for NHTSA Region 10.

DRE Field Certification Sites: Bill also reported that with the COVID-19 issues and the IACP DEC Program team limitations in their travel, they have been asked to look for new potential DRE field certification sites. The goal is to locate some additional sites to assist those DRE state coordinators that are unable to conduct in-state training and rely on other locations for their training.

Old Business

TAP Appointments / Workgroup (WG) Updates: Chair Ticer clarified the assignments on TAP Workgroups. As of January 2020, the three are; Curricula, Scientific, and Standards and include the following TAP members: Curricula: Don Decker – Chair, Paul Batcheller, David Beatty, Darrell Edmonds, Mike Iwai, Don Marose, and Jim Roy, with Chuck Hayes serving as the IACP liaison. Scientific: Matt Myers – Chair, Daven Byrd, Karl Citek, Jennifer Harmon, and D’Arcy Smith, with Joe Abrusci serving as the IACP liaison. Standards: Helena Williams – Chair, Beth Barnes, Darrin Grondel, Tina Maier, Cecelia Marquart, Clint Shrum, and John Marshall, with Jim Maisano serving as the IACP liaison. Chair Ticer reminded the members that the 2020 TAP roster includes the members term expiration dates. Those with December 2020 term expirations include, David Beatty, Daven Byrd, Don Decker, Cecelia Marquart, and Jim Roy, which is an annual appointment as the DRE Section Chair. Kyle Clark explained the application process and that the IACP will post for open solicitation each year for up-coming vacancies. TAP members were reminded that if they desire to seek reappointment, they will need to reapply and submit letters of support from their DRE state coordinator, agency, and highway safety office.

International Standards of the DEC Program Revisions: Helena Williams and Jim Maisano reported on the following recommended International Standards revisions that were reviewed and recommended by the Standards WG. They included:

Definitions – A motion was made to amend the Records definition from “written records” to “records (written or electronic)”. An additional motion was made for the Rolling Log definition to add toxicology testing results, “if available”. These were approved by TAP.

Standard 1.10 – Rolling Log Information; Motion was made to remove “after the testing results are available” and add “as soon as practical.” Approved by TAP.

Standard 3.1 – Records Maintained: This included a rework from a previous TAP meeting and feedback. The new language addressed maintaining records in accordance with local requirements. Many issues were discussed regarding “Shall be maintained” and the statutory regulations in various states. The approved language listed, at a minimum, which records shall be maintained by each group. Input included striking the last of the sentence; “including in electronic format.” Recommendation was to add “at a minimum” in the last sentence. Approved by TAP.

Standard 4.1a – Decertification – Cause: Discussion included the term used for “evaluation.” It was suggested to change “DRE evaluation” to “evaluation as a DRE” as written in the curriculum. An additional recommended change was “DRE evaluation” in second sentence to “perform evaluations as a DRE.” Approved by TAP.

Standard 5.3 – Time for Reinstatement: The words “for reinstatement” were removed from the sentence as it is repeated language. It was recommended to add with “state coordinator” to include “or designee.” Approved by TAP.

A question that resulted from the Standards discussion was the title describing a drug evaluation. The DRE curriculum refers to “drug influence evaluation” and some states refer to it as a “DRE evaluation” or “drug evaluation” and use that title on their forms. Chuck Hayes explained that the term “drug influence evaluation” has been handed down through the years from the original LAPD DRE days and has therefore remained that way in the curricula. Chuck reminded the members that states are not required to use “drug influence evaluation” but it will likely stay in the curricula unless recommended to be changed by the Curriculum WG. **(Action Item)**

The approved revisions to the Standards will be incorporated into the next update of the IACP International Standards for the Drug Evaluation and Classification Program. **(Action Item)**

Enhanced State DEC Program Standards Review: Jim Maisano reported on the State Enhanced DRE Standards. No action needed since there are no conflicts with the IACP International Standards.

DRE Best Practices Guide (Number of field certs): Chuck Hayes provided a status overview of the document. IACP has been working on a best practice guide for field certifications, including a listing of the various field certification sites. One issue that arose was the number of certification evaluations which should be conducted in one day/night. Some states are limiting to four and some to six evaluations. One report received was that DRE candidate did all 12 certification evaluations in one night. There are concerns that evaluation overload could hinder the learning process and compromise the candidate’s retention. A discussion ensued and most agreed that a best practices guide would be preferred to a standard. Darrell Edmonds stated in Florida they bring in more instructors, so it is 2:1 ratio for students. Overall, the opinion was to have a recommendation of four evaluations with a maximum of six per session as a best practice. Kyle Clark informed the members that no motion was needed because this item is not in the Standards and will be added to the Best Practices Guide. **(Action Item)**

SFST/ARIDE/DRE Curricula Updates: Don Decker thanked the Curriculum WG members for all the work they have done. He reminded the members that receiving input from the DRE School Course Manager reports is extremely helpful when making necessary curricula revisions. They continue to be beneficial for aiding in finding issues which need to be addressed. The Curriculum WG is currently involved in updating the SFST, ARIDE and DRE curricula. Thus far, it includes a lot of ministerial changes. There have been a few significant changes which have been sent to the Scientific WG and will be reported on later. Chuck Hayes reported that the WG is recommending removing the scenarios from ARIDE to try to address the “DRE-Lite” issues with ARIDE-trained officers thinking they can make drug category calls like DREs do. Darrin Grondel expressed concerns regarding ARIDE-trained officers mistakenly believing they no longer need the full DRE evaluation.

ARIDE Standards: Jim Maisano provided an overview of proposed ARIDE Standards. There have never been standards for ARIDE and TAP requested they be developed. One question was regarding a passing grade on the ARIDE exam which was needed. After discussion, it was recommended ARIDE candidates must obtain a minimum of 80% on the final examination. Approved by TAP. **(Action Item)**

Scientific Literature Review: Joe Abrusci and Matt Myers reported the Scientific Workgroup has been working on updating and providing supporting documentations of research material used for SFST, ARIDE and DRE. Matt expressed the need to be prudent to pause and explain where we are in going forward. The Curriculum WG requested the Scientific WG to look at some of the references. Many are older studies or are not what would be called a “primary source”. The literature can be limited on many of the topics in the DEC Program, to either support the curriculum or DRE matrix. It was recommended that TAP should continue to use a systematic review of the supporting material and resources. In addition to the literature review, the Scientific WG also reported on the following:

Pulse Rate Revision Recommendation: Joe Abrusci and Matt Myers reported a concern was raised by a nurse assisting in a DRE class. She indicated other medical organizations utilized a clinical range for pulse rate of 60-100 bpm, which is different than what is used in the DEC Program (60-90 bpm). The Scientific WG researched this issue and did not find a consensus of why those numbers were selected by any medical groups and it appears it was a compromise. There has been debate among doctors about the proper clinical range. There was one study that recommended 60 – 90 bpm, or even 50 - 90. The Scientific WG collected pulse rate data from approximately 1,100 people before they participated in alcohol wet workshops. These people resembled the general population and included those with underlying medical issues or daily medication use as would be expected in drivers during DUI arrests. The degree of the data collected reflected that the 60 to 90 bpm pulse rate range for non-impaired people for the DEC Program is appropriate. Therefore, the Scientific WG recommended no change to the DRE average range for pulse rate.

AAA DECP Research Study Update: Joe Abrusci and Matt Myers reported that part of the AAA Study of the DEC Program included a recommendation to consider the use of a 2nd blood pressure check during the DRE drug influence evaluation. The Scientific WG again collected data from over 200 evaluations and it was determined there was no significant supportive data which would impact the evaluator’s opinion by conducting a second blood pressure check. Matt reported that part of the issue could be the “white coat hypertension” theory. It is recommended, based on the research and review, that a 2nd blood pressure is not needed and would not change the opinion made by the DRE. Plus, it was pointed out, that a DRE is not prohibited from conducting a second blood pressure check if he or she believes one is

warranted due to a change in the person's condition or a questionable result being obtained from the first check.

Lack of Convergence (LOC) Curriculum Wording: Matt Myers reported there are no changes being recommended to the way the LOC test is administered. The issue was language in the curricula for the "suggestion" to check for LOC twice during the testing procedure. Language was crafted and approved by the WG and sent to the Curriculum WG for the DRE curricula. The modified language clarifies a minimum of two checks of the test be performed to confirm their finding and to be consistent with the other eye exams. **(Action Item)**

Equal Tracking Curriculum Clarification: A question had been raised about the amount of repetitions and language to clarify the speed at which the equal tracking is checked. Dr. Citek conducted research and found reference material and suggested language to be sent to the Curriculum WG to help clarify and give consistency for the administration of equal tracking checks in the curricula. The language was reviewed and will be added to the DRE curricula. **(Action Item)**

DRE Section Community Update: Jim Maisano provided an update on the DRE Section Community webpage, which is supported and maintained by the IACP. There are about 525 current DRE Section members and approximately 140 have accessed the site. Through the website, one webinar (Marijuana Impaired Driving, by Chuck Hayes) has been conducted and the next one is scheduled for May 13, 2020 at 2:00 EST. The topic will be "Using DREs in Specialized Enforcement" and will be presented by Lt. Matt Payne of the Kansas Highway Patrol. The site has areas for Discussion, Announcements, as well as a Resource Library. The goal is to make this a one-stop resource area for DRE Section members.

Employer Drug Impairment Training (EDIT) Update: Joe Abrusci reported on the progress of the EDIT training program. The course has been completed and plans are to pilot the training and get feedback on the curriculum. Due to the COVID 19 issues, the pilot roll-out has been postponed. The training is about six hours in length and is designed to educate workplace employers on the hazards of drug impairment and drugged driving. Anyone interested in piloting the training should contact Joe Abrusci. Once tested the training program will be shared with all state coordinators.

TAP Talk: Kyle Clark reported the IACP will begin sending out monthly topics generated from TAP for the DRE community. These will be short informational blasts. The IACP DEC Program team has put together a list of topics to cover the first year and is hoping to implement the TAP Talk distributions in the next couple of months. **(Action Item)**

New Business

Future TAP Vacancies and Appointments: Kyle Clark reported that TAP is now a stand-alone advisory group within the IACP and is no longer a workgroup of the Highway Safety Committee (HSC). Chief Ticer has been designated as the Chair. The HSC will be asked for a recommendation for their representative for TAP. Due to a job change, Darrin Grondel's position representing the Highway Safety Office's (HSO) will be filled by another HSO representative. In addition, due to the retirement of Don Marose from the Minnesota State Patrol, his position as the Central Region TAP representative will be open as the position must be filled by a DRE state coordinator. These vacated positions will be posted soon, and names collected for consideration. In addition, Dr. Don Alves' medical position is currently open, and a replacement will be sought to fill that vacancy.

DRE Section DAID Eligibility Criteria: Jim Roy and Kyle Clark reported the IACP and the DRE Section have identified criteria require for people attending the DAID Conference. The IACP is now vetting registrations to ensure eligibility.

University of CA San Diego Cannabis Study: Helena Williams provided an update on the study conducted in San Diego. The researchers are now ready to move to the actual driving phase of the study. They will be using the CHP driving track and testing cannabis and alcohol-impaired subjects. Due to the COVID-19 issues, the next part of the study is on hold. Chief Ticer asked if members could be notified when the driving part of the study will take place should any members wish to attend. **(Action Item)**

DRE Field Certification Training: - Chuck Hayes reported IACP is working with NHTSA regarding DRE field certification training sites. The IACP DEC Program staff is trying to visit the various field certification sites, whether they are a training center used for out-of-state training, or if they are only providing service for DRE candidates from their own state. Chuck reported California has opened a third certification site for use and will be allowing some out-of-state groups to attend. Chuck visited the Vancouver, British Columbia site and reported there was a solid field certification process in place. IACP will continue to work to identify and develop more certification sites for DRE training needs. If anyone has any suggestions or recommendations, they are encouraged to contact their IACP DEC Program regional coordinator.

Using INSITE in SFST/ARIDE Training: Cecelia Marquart, Texas state coordinator, reported that in 2019, Sam Houston University began to use the INSITE virtual HGN software in both ARIDE and SFST classes. They have used the system with over 300 students. They utilized the software with a Texas DPS class and received good feedback and comments about the use of the system as part of the training. The INSITE is being looked at as an additional tool to be used to assist with recognizing HGN and other eye indicators and is not a substitute for hands-on practice in the curriculum. The system can also be a practice tool for preparing for proficiency testing.

Michigan Legislative Bill: Beth Barnes provided information about a state senator in Michigan who introduced a legislative bill that would require the training of the DRE curriculum to non-law enforcement personnel, which may include defense attorneys. The bill stated that anyone successfully completing the training “shall” be certified as a DRE. It also read that anyone certified will do the same duties as a regular DRE, except issues such as arrest and searches. Beth reported that bill failed but could be introduced again next year.

DRE School Graduations: Chuck Hayes reported on attending a Colorado DRE School in 2019 which included the end of the school ceremonies. Chuck remarked the school graduation was the best end-of-school ceremony he had ever witnessed and was an outstanding event. The graduation included chiefs, sheriffs, troop commanders, and highway safety officials in attendance. Chuck put together a document on the graduation, which was included in the TAP notebook should any states wish to consider doing something similar. Chair Ticer added to the discussion stating, “We put on ties, dress up for the event, invite colonels, chiefs, sheriffs and others to attend”. He also indicated that the Colorado DRE state coordinator was responsible for the excellent event and that the idea is to try to give recognition to the DRE candidates, show them the importance of their accomplishment, and help them as they move into the field certification process.

Changing the Culture of DRE Use: Kyle Clark and Chair Ticer spoke on the need to try and change the culture of DRE use. There appears to be an increase in DREs just using some of the roadside tests and then they feel they know the category and just go get blood and not do a full DRE evaluation. This type of thinking can be very detrimental to the program and could create bad case law. There are reports of DREs having 30 or more DUID arrests, but they have only conducted 4 or 5 DRE evaluations. TAP, as well as DRE state coordinators, need positive ways to encourage DREs to do their duty. Several comments were made about the importance of having the executive law enforcement leaders on-board and having command staff in support of using DREs properly. Chuck described a recent media story from New York about an interdiction stop and arrest for distribution of drugs and in the news article it reported a DRE conducted a drug influence evaluation on the suspect driver and determined he was under the influence of drugs. Chuck stressed we need to push more success stories like this where a DRE was involved in a major incident like in the New York case. A question was asked about interdiction teams having a DRE on the team or accessible to them to use. Bill O'Leary stated NHTSA has opened a dialog with ONDCP and is trying to find a way in to integrate the DREs with the HIDTA teams, especially in relationship to traffic issues.

Proposed Agenda for TAP updates: Chuck Hayes reported we have "dusted off" the old TAP timeline chart that listed the curricula and standard revision process into the calendar year. The workflow sheet has been updated for TAP members to use as a guideline for submission of agenda items for TAP. Generally, this submission process has been used for curriculum issues only, but now can be used for standards, scientific, or other items which need to be presented to TAP. Chuck expressed that the guideline shows that TAP work is an ongoing process and asked TAP members to be familiar with flowchart.

Other: Darrin Grondel will share a link to track legislative bills which have been introduced in any of the 50 states. He will share the link with the TAP members to assist them in tracking some of the impaired driving bills being introduced nationally.

Virtual Training for SFST/ARIDE: Kyle Clark opened the discussion reporting that both the IACP and NHTSA are hearing of states planning or doing online SFST and ARIDE training. Concerns have been raised of the limitations on how hands-on sessions can be conducted effectively. Chuck Hayes reported this was reviewed by the Curriculum WG, and it was unanimous that the SFST/ARIDE training cannot be fully conducted online because the live feedback and hands-on practice is not readily available. There was also concern that we could be setting ourselves up for bad courtroom decisions. A concern that in a year or two when the officer is on the witness stand and asked if the officer received on-line SFST training during the COVID-19 pandemic and its impact on the case was discussed. Kyle Clark stated parts of the lecture sessions can be conducted online, but the practical, or skill, portions should be in-person. After an in-depth discussion, a position statement was prepared to be delivered from TAP: "At this time, the International Association of Chiefs of Police Technical Advisory Panel do not support the use of virtual training for SFST, ARIDE, or DRE training. The coaching and practical elements are critical parts of the training environment. If during the COVID-19 pandemic an agency elects to use a limited virtual training for non-skill based sessions for SFST or ARIDE, the officer shall be retrained in a complete and full in-person class as soon as practical when conditions allow before being issued a certificate of completion or in-state certification." A motion to approve the statement language was approved. The statement will be forwarded to DRE state coordinators and other training entities. **(Action Item)** An IACP Board of Director's Policy Statement addressing online training will be forthcoming.

From the floor: Jim Maisano described an issue confronting many state coordinators during COVID-19. Standard 1.13 is not clear about the state coordinator having the ability to allow an extension outside of the six-month time limit provided. Jim indicated he and Helena Williams, chair of the Standards WG, had drafted language to address the issue. Draft wording was presented which clarifies the ability of the state coordinator to review the circumstance and to provide a written justification with an established time period for the extension. It was expressed that the required written justification should limit a state coordinator from using a blanket extension for candidates to complete the field certification phase. The draft language was approved. **(Action Item)**

TAP Member Reports (Time permitting): Time did not allow for TAP member reports. Beth Barnes, the TAP prosecutor representative did submit a written overview of DRE-related court cases that were recently decided as well as a list of cases still pending. The list was forwarded to the TAP members after the meeting.

Adjournment: Chair Ticer thanked the members and guests for their patience and for attending the virtual meeting. He expressed his hope that the annual TAP meeting will happen as planned in October during the Annual IACP Conference in New Orleans. The meeting was adjourned at 4:28 pm EST.