



IACP DRE TAP Mid-Year Meeting

April 29, 2021 11:00 AM – 4:00 PM (EST)

Virtual Meeting

TAP 2021 Mid-Year Minutes

TAP members in attendance:

Beth Barnes	Darrell Edmonds	Mike Iwai	D'Arcy Smith
Paul Batcheller	Charlie Files	John Marshall*	Gary Tamkin
David Beatty	John Flannigan	Pat McNichol	Helena Williams
Karl Citek	Glen Glaser	Matt Myers	
Kyle Clark*	Mike Hanson	Tim Plummer	
Sam Criswell	Jennifer Harmon	Brett Railey	

* *Ex-officio members*

Members unable to attend: Clint Shrum

IACP/NHTSA Staff in Attendance:

Joe Abrusci	Chuck Hayes	Christine Frank	Keith Williams
Jim Maisano	Bill O'Leary		

Guests:

Mike Blute	Candace Hill	Dennis Milette	Ramsey Ross
David Botham	Mike Kelly	Ty Milless	Mike Sabol
Nicole Cofer	Robert Klin	Robert Paul	Grayson Smith
Sarah Garner	Jen Knudsen	Vin Petty	Joanne Thomka
Leo Haggerty	Don Marose	Holly Reese	
Tim Hanks	Jeremy Messinger	Robert Richardson	

INTRODUCTIONS OF NEW MEMBERS

Kyle Clark opened the meeting and introduced the new chair, Chief Brett Railey. Chair Brett Railey welcomed all the committee members and introduced all new members to the committee.

TAP MEMBERSHIP MISSION/RESPONSIBILITIES AND GOALS

Kyle Clark reviewed the TAP Missions, Responsibilities and Goals with the group.

REVIEW/APPROVAL OF TAP ANNUAL MEETING MINUTES

The October 16, 2020, Virtual Meeting minutes were reviewed with no corrections needed and approved.

IACP Updates

Kyle Clark provided an update on the following items on behalf of IACP:

2021 DAID CONFERENCE

The 2021 IACP Training Conference on Drugs, Alcohol, and Impaired Driving (DAID) Conference will be a combined in-person and virtual event. This year there will be over 40 workshops. Registration is currently open, and all attendees, in-person and virtual, will have ability to view recorded content for 3 months. DAID conference dates are August 14-16, 2021 in Orlando, Florida, at the Omni Championsgate hotel.

FUTURE DAID CONFERENCES

Future DAID conferences will follow the West-Central-East rotation. There is no set location for 2022 at this time, however it will be in one of the Western Region states.

IACP DIDET FUNDING FOR ARIDE/DRE TRAINING

IACP continues working with NHTSA to manage training funds provided for ARIDE and DRE classes. Ten contracts have been executed and several are in the review process. Contractors have a year or until May 31, 2022, whichever is earliest, to complete the training. Kyle thanked NHTSA for extending the funding period due to the COVID related training issues.

DRE CREDENTIALLING

There are currently 980 credentialed DREs in Canada and just over 8,000 credentialed DREs in US. All credentials for new DREs or recertification are up to date. The goal remains to have all forms processed within 30 days, but requests are frequently completed in 10 days or less.

DRE ANNUAL REPORT

The 2020 DECP Annual Report is currently in publication review and should be out by June 1st.

TAP TALK

Five issues have been distributed with good success. Only about five people have opted out of receiving the email of over 9000 receiving the TAP talk newsletter. This publication is the TAP's opportunity to explain new issues which they have addressed. Kyle encouraged TAP members to provide new topics for future publications. He also invited TAP members to help write the informational section of these newsletters.

NHTSA Updates

John Marshall thanked everyone for serving as TAP members and their dedication to DEC Program. He welcomed Chief Railey and thanked him for his leadership. He thanked the IACP for their critical partnership with NHTSA and for all that IACP staff is doing. John congratulated Sergeant Glen Glaser for being recipient of a Lifesaver's conference award and thanked him for all his work in the DEC program. NHTSA has had a change in administration to Secretary Peter Buttigieg. Dr Steven Cliff has been appointed as Deputy Administrator for NHTSA, and he extended his thanks to all of TAP's work.

Keith Williams thanked everyone and welcomed the new chair. He thanked all TAP members for the work they do in keeping the roadways safe. Keith also congratulated Bill O'Leary who has announced his retirement as of June 30 and for his 45 years of dedication and combined service.

NATIONAL DRE DATA SYSTEM (NDDS)

Christine Frank reported NHTSA holds a monthly meeting with the developers who provide technical system releases once per month. Both get input from IACP and the DRE community, and a release was expected tonight. The new release will have new ad hoc reports available and will be incorporating an audit log. A meeting was conducted with IACP and there will be continued future work on the reporting tabs and the data it generates. The drug taxonomy list will be expanded with items Chuck Hayes provided. The developers are working to update the drawing tabs to make it easier to update a drawing without clearing all the drawing box. The arresting officer's agency box will be changed to a fillable text. They are working to let the state coordinators have more control on editing items such as the rolling log numbers which were ingested from the old legacy system. She expressed appreciation for the additional input from the regions and thanked everyone for allowing her to attend the regional state coordinator meetings. Work continues and the 3rd party data system ingestion process should be completed by May.

CURRICULUM UPDATES

Christine expressed thanks to everyone on the curriculum team. The Workgroup has not been able to work together in-person and has been working in virtual meetings, so many members have worked on their own time to keep the project moving forward. She thanked the TAP Scientific Committee for assisting with reviews of some of the material being considered for updates. The workgroup hopes to pilot the updated courses in the summer or early fall and have the curricula released late in the year. Kyle mentioned the Workgroup continued efforts to maintain synchronized language in all the impaired driving curricula.

SFST DRY LAB & TRUTH IS IN THE EYES VIDEOS UPDATE

NHTSA and the South Carolina Criminal Justice Academy have a memorandum of understanding in place and NHTSA hopes to film the new videos in September. They are planned for release early next year.

ONLINE ARIDE REFRESHER & DRE COURTROOM TRAINING

An online ARIDE Refresher class is being developed. It will be solely for those who have attended ARIDE and are seeking key concepts from the instructor-led 16-hour ARIDE class. Christine indicated she has a team in place and hopes to have the final product out by the end of the year. The other web-based course, DRE Courtroom testimony, is a new class and they are having to build it from scratch. They have developed an initial template for the training, and it is being reviewed. She hopes to have this project completed early next year.

NEW IMPAIRED DRIVING RESEARCH

Bill O'Leary reported there are multiple items in progress, but the information is not ready to be released publicly yet. NHTSA research personnel will present at DAID with Christine. As the research projects progress, they will provide information when available.

Bill thanked all the TAP members for their work. He expressed a need for more use of DREs in the future as we see more marijuana legalization. Keith Williams continues to seek methods to expand support DRE while NHTSA is in the budget procurement process. This includes looking at infusing tablets in more states, assistance in establishing e-warrant systems, and establishing call-out systems in DEC states. They are also working to identify shortcomings to help maximize the use of DREs.

Old Business

Drugs and Human Performance Fact Sheets

Chuck Hayes reported the committee continues to work on this project. The Washington State Patrol Crime Lab has the lead on this project. The first and second drafts have been reviewed. Many new drugs are being added and the cannabis section is expanded and maybe adding information about Delta 8 THC. The Workgroup was hoping for release mid-year but have been delayed. The Workgroup wants to make sure data about effects, duration and indicators is complete and consistent with the DEC program. This product may be released later this year.

Instructor Observed Evaluations (Virtual observations)

Helena Williams reported this topic can be withdrawn as more states are opening from COVID-19 restrictions. California has held 72 recertification classes to date and are working to catch up DREs who dropped into an expired status last year during COVID-19. As training also increases in other states, the issues about instructor-observed evaluations is no longer a critical problem. **Action Item: Item Closed, No Action**

DEC Program International Standards Revisions/Update

REMOVAL OF MANDATORY WRITTEN APPLICATION FOR DRE IDC (DRE Standard 2.2) - Removed language requiring a written application to attend DRE IDC training. **Action Item: APPROVED**

OFFICIAL DATE FOR RECERTIFICATION OF DRE (DRE Standard 3.2): Clarified language that a DRE is recertified for the next two-year cycle when the state coordinator signs the Recertification and Assurances form. **Action Item: APPROVED**

SUBMISSION OF RECERTIFICATION FORM (DRE Standard 3.3): Clarified language that recertification paperwork may be submitted to the IACP within six months of the DRE's current expiration date. **Action Item: APPROVED**

MAINTAINING SFST LOG (SFST Standard 1.2 Commentary): Removed requirement that an SFST officer must maintain a log of all SFSTs administered but does require SFST logs to be completed within the alcohol workshop reviews during SFST training. **Action Item: APPROVED**

REMOVAL OF MANDATORY WRITTEN APPLICATION FOR SFST IDC (SFST Standard 2.2): Removed language requiring a written application to attend SFST IDC training. **Action Item: APPROVED**

REVIEWING OF ALTERNATIVE TRAINING PROGRAMS (SFST Standard 2.3): The section in the original SFST manual about submission of an alternative course was deleted because in the combined impaired driving program standards, the process is already included to apply to SFST/ARIDE/DRE. **Action Item: APPROVED**

Enhanced State DEC Program Standards

Helena Williams provided an overview of the enhanced standards submitted or rolled over to 2021. A list of submitting states was provided in the packet along with a detailed list of state enhanced standards which were new or modified. Helena Williams expressed concerns that some states appear to be writing enhanced standards which are rewording the same issue as written in the international standards and believes some are just a duplication of effort. She recommended state coordinators be informed there is no need to duplicate what is already in the standards for future submissions or modifications of enhanced standards.

DRE Training & Field Certifications

Chuck Hayes stated DRE training is increasing around the county. The Western Region has completed nine DRE schools so far this year, with twenty-one classes during the remainder of year. Chuck was pleased to announce that LAPD is revitalizing their DRE program and currently have four new DRE schools scheduled. Chuck reminded the members that we ask the state coordinators to notify the IACP about SFST Instructor, ARIDE, and DRE trainings for the IACP national training calendar. Chuck expressed appreciation to the California Highway Patrol for working to allow field certifications in Sacramento. Two field certification events have also been conducted at the Mesa, AZ, police department. The new jail at Maricopa County is still on hold due to COVID-19 issues and staff still needs to setup the new jail for out of state classes to conduct certification training. A good partnership is being established with Reno, NV, jail and will be expanded to more states later. Jim advised classes are picking up in the Central Region also. South Carolina had success at the OKC county jail with a mid-size DRE class and completed their full certification in a week. IACP is exploring options with the Houston, TX, PD regarding the use of their new jail in future by other states for certification events. Joe indicated the Eastern Region is active at their certification sites. Jacksonville has remained very active, and Philadelphia has demonstrated success in allowing states to come in and use this location. Oral fluid testing has been implemented at this facility due to large number of synthetic drugs being abused. There are additional efforts to open additional sites by the end of the year.

SFST and ARIDE Virtual Training

TAP was asked by IACP to provide additional guidance relative to virtual training with the SFST and ARIDE curricula following the 2020 Mid-Year meeting. Chuck Hayes reported a review was conducted to identify which sessions could be conducted in a virtual setting. Following the Annual TAP meeting in October 2020, and at the direction of the Chair, more specific guidelines were established by the Curricula Workgroup

and prosecutors to address any concerns. The guidelines included the IADLEST model for best practices for virtual learning to ensure the quality of the training is not compromised. The updated statement identified which sessions must be conducted in-person. **Action Item: Motion and approved for statement from TAP**

MADD Law Enforcement Regional Summits

Chuck Hayes reported MADD regional meetings have been delayed. Funding is in place for the meetings, and MADD is considering starting with NHTSA Region 6 in Texas. Chuck will notify TAP members when the regional meetings are scheduled.

University of CA San Diego Cannabis Study

Helena Williams reported this project continues to progress. COVID-19 has slowed and researchers are working through the administrative process to secure approval to dose humans and drive the emergency vehicle operation course. A law was passed to provide an exemption on CHP property to allow the impaired persons to drive as part of the research. A vehicle with dual brake controls was acquired for added safety measures. Researchers have secured a building for dosing, which will be conducted in compliance with DEA.

Scientific Workgroup Literature Review

Matt Myers reported numerous research papers are provided to the Scientific Workgroup. The workgroup will review and prepare a summary of the articles and they will be saved in the Higher Logic community. About 15 have been sent to IACP and no changes to the curriculum were required. Joe Abrusci has been collecting them and will house them on Higher Logic in the TAP community. Recent studies include one on body temperature and another on pulse rate. The workgroup will continue to review and report their findings to TAP at future meetings.

Roadside Testing - Vendor Products

Joe Abrusci reminded attendees there are several private ventures trying to develop and market products related to drug usage/impairment. State coordinators and individual DREs are often contacted and requested to test these devices at certifications sites and other locations. IACP is tracking these requests and state coordinators are encouraged to notify IACP when these requests are made.

TAP Community – Higher Logic

Jim Maisano reported that all TAP members are setup in the HL community in both their workgroup and a main TAP community. If anyone is not receiving messages posted online to the community, let him or other project manager know so the member's permissions can be checked.

New Business

Future TAP Vacancies & Appointments

Kyle Clark reported on the upcoming TAP vacancies and appointments that will be expiring for the end of this years. Postings will be made later in the year for individuals to apply for a position or to seek reappointment.

DEC Program Website

Joe Abrusci reported the DECP website has been updated and IACP continue to keep it current. State coordinator resources are now housed in the Higher Logic community. Chuck reminded TAP that new articles and updates on the site are published under the "What's New" section of the DECP page.

Toxicology Reporting: Parent Drugs, Metabolites, etc.

Jennifer Harmon gave an update on the national reporting conducted by labs. They are wanting to show testing results that are indicative of drug trends. Jennifer is also presenting a DAID workshop, "Is it a parent drug or a metabolite?", which highlights testing results featuring metabolites and which metabolites are psychoactive. She is also assisting the Curricula WG with metabolite language in the next revision.

Review of DRE Standard 1.10.01

D'Arcy Smith provided an update on the Quebec standard exception related to the use of actors during field certification. Due to COVID-19, they were required to use actors and requested to keep the exception at this time. Work continues in Canada to develop additional certification training sites, so the exception may no longer be necessary within a year or two. It may be sooner as COVID restrictions are loosened. Thus far, feedback indicates DREs using actors have demonstrated comparable success to traditional certification training. There have been no legal challenges involving DREs who utilized actors as a portion of their field certification training. Canada maintains the practice of requiring additional evaluations when actors are part of the certification process.

DRE Reconstruction / Forensic Review

Helena Williams brief TAP regarding recent inquiries about DRE Reconstruction. She reported DRE reconstruction for more than ten years, and Tom Page did a presentation in 2012 about it. Two books review the DRE reconstruction process, and she shared the definition used in one publication for DRE Reconstruction. Recent events prompted IACP to solicit TAP'S guidance for this topic, particularly as it pertains to a DRE's written opinion in these cases. In normal DRE investigations, DRE's offer an opinion that the subject "is under the influence" and they name a category or categories of drugs. The opinion is based on their own observations of the individual. During reconstruction cases, they do not have the same person to person observations and are relying on observations of others. is sought if it needs to be a standard and should something be added to the curriculum. The discussion included adding this to standards, including this in the curriculum, and considering other language such as observations were consistent with and indicating the category or categories. Chuck Hayes indicated that he and Beth Barnes will be doing a presentation at DAID on this topic. He did one many years back, before it was called DRE Reconstruction and was able to give opinion of "consistent with". Tim Plummer indicated he has testified after reviewing cases using this method. Beth Barnes recommended a slow and cautious approach before modifying any standards. She favored first addressing some notes in the curriculum and maybe creating a best practices document. While it is not new to all of us, it will be a new topic to the courts. Matt Myers stressed the importance of including the proper scientific backgrounds, as there are other disciplines that have methods to render opinions. Bill O'Leary expressed concern that reconstruction cases should be handled by experienced DREs/instructors due to the limited information available, unlike a full evaluation. He suggested the need for some type of protocol, maybe by number of evaluations, number of years of experience and some other general guidelines. Jim Maisano will chair a temporary ad-hoc committee and report back at the next TAP meeting.

From the Floor

No New business

TAP Member Reports

Administrator: Helena Williams reported that with COVID-19 most of us have experienced issues and with the protests, agencies have been trying to pivot and provide training when practical. In California, DRE training has been limited, however funding was located to allow some to travel to provide DRE in-service trainings. Eleven DRE trainings have been scheduled through the remainder of 2021. California also has 17 million dollars in grant

funding and is working to enhance their labs to all have the same testing standards and capabilities. Some funds come straight to CHP for training and best practices as well as grants for cannabis-related education and programs. Grant funds cannot be provided to state agencies and their labs.

DRE At-Large:

West - Mike Iwai, reinforced Chuck Hayes' earlier comments about the importance of the regional MADD summits. As more emphasis is placed in all areas of traffic safety, it will be important to get law enforcement executives involved. He thanked the representatives of California and Washington for working together to do a Western state combined enforcement effort. He let the attendees know the Director of Oregon DOT is retiring but will still be around and that there will be a reorganization of the Highway Safety Office. Mike addressed DRE retention and recruiting as being a concern: how many years are DREs staying in the program, and how do we retain them and their experience/knowledge? He also asked the group to consider how to message enforcement efforts moving forward, including green initiatives and equity.

Central - Paul Batcheller had to leave due to a call out.

East – Patrick McNichol reported he was recently appointed to TAP and is looking forward to working with the members and DRE community.

DRE Section: Glen Glaser indicated we currently have 558 section members and growing. Members are looking forward to in-person events.

Highway Safety Committee (HSC): Matt Myers nothing new to report and reminded the group the HSC is tomorrow.

Highway Safety Office: Michael Hanson reported the federal transportation bill is up for reappropriation. His office is watching it carefully to see what will be approved. Most states are seeing an increase in drugged driving.

International: D'Arcy Smith reported Canada was shut down like much of the United States due to COVID-19. Depending on the impact/restrictions of border openings, it will guide their DRE class scheduling. On a truly international level, Israel and Brazil have reached out to Canada about the legalization of cannabis issues, how and what actions they had to take in Canada.

Medical/Optomety:

Dr. Gary Tamkin: Nothing additional to report. He thanked TAP for the opportunity to have been part of the Scientific Workgroup document review process.

Dr. Karl Citek: Reported the National Traffic Law Center (NTLC) has recently issued the second addition of *HGN the Science and the Law*. He indicated officers, prosecutors and judges should find it helpful.

NHTSA: John Marshall provided closing comments and expressed appreciation on behalf of NHTSA. He echoed accolades to Bill for his service, commitment, and passion in his work.

Police Training: Darrell Edmonds had to step away. No report.

POST: David Beatty indicated there was nothing to report from IADLEST. He spoke about training in Oregon and the impact of COVID-19 on suitable venues for training. Venues have gone from nice training centers to a barn. The number of students applying has declined. He indicated some of this is the result of COVID-19, but overtime is needed to cover shifts due to the number of officers retiring and resigning their positions. This may create a need for more SFST and DRE instructors to be able to staff smaller training classes.

Prosecutor: Beth Barnes reported there are currently more TSRPs attending this TAP meeting than she has ever seen. NTLC has released two new monograms, "HGN, the Science and the Law" and a constitutional law monogram. The New Jersey Frye hearing at the State Supreme court is still on-going. The special prosecutor requested new items, and the defense has not yet been provided discovery. The state has added doctors as expert witnesses who are not in, or too connected to, the DEC program yet support it. Among defense arguments, it is anticipated that the defense is going to argue confirmation basis. In another case, US Supreme Court: Torres v Madrid (a civil lawsuit), a suspect is suing the officer and department. The officer was executing a warrant and determined the plaintiff was not the suspect. After initial contact she fled and was shot by the officer. She is later apprehended later at the hospital. The court ruled the application of physical force is a seizure, even if not actually in-custody. The bullet was found by the court to be force and a seizure, although the plaintiff was not immediately taken into custody. The cases considered the officer's objectiveness and the intent to take her into custody at the time of the shooting. In Alaska, a DRE was called as a fact and DRE witness. The trial court ruled the DRE could not be called "expert" but referred to him as "evaluator". Further, the opinion offered by the DRE could not be conclusive and it must be clear that it is an opinion. The case has been remanded for a Daubert hearing. Currently there is no TSRP in Alaska, so Beth Barnes has offered assistance in the absence of the TSRP. WA state, State v Blake, held the possession of a drug was unconstitutional by the law so drug possession was not illegal. Finally, voters in Oregon, through a citizen initiative, decriminalized many drugs.

Regional Coordinators:

Western – Tim Plummer reported that the region is having an impaired driving summit in Laramie, WY. The Western Region State Coordinators Meeting will be held in conjunction with it. Oregon and Idaho had their first cross-border combined ARIDE class. Oregon will be recording a video with Chuck Hayes highlighting Operation Trucker Check to give others an understanding of the program and how implement it too. His state is using a state COVID-19 platform to make an outward looking map to market ARIDE classes. The platform helps coordinate information including location, class size and registration. They have seen an increase in the number of locations selling CBD products. Toxicology results when vaped are indicating Delta-9 and Delta-8. CBD is not regulated in the state so they are not restricted in this content. They contacted NMS labs about testing for Delta 8. The lab cautioned about Delta-6 and Delta-10 also coming up in test results. Ballot measure 110 in Oregon: Decriminalized many drugs down to a similar condition as a parking ticket. Psilocybin is being considered for the treatment of psychoactive disorders. No set guidelines are in place for treatment for people who have everyday anxiety and stress.

Central – Charlie Files reported the Central region meeting was held in Indiana on April 11, 2021. He thanked the host state’s Marshall DePew and Rob Duckworth. Most central states are moving back to teaching as COVID-19 restrictions loosen. New Mexico became the 3rd state in the central region to legalize recreational use. In preparing for legalization, he suggested working to address some issues in advance. After legalization, much attention is given to DREs and training, but this is needed much sooner.

Eastern - John Flannigan reported several east states had been using Maricopa Sheriff’s Office for field certifications, but they have been compelled to use Jacksonville and Philadelphia instead. He expressed appreciation to California for accommodating some of Vermont’s classes. The Eastern Region state coordinator meeting is scheduled for June 22, in conjunction with IPTM (Institute of Police Technology & Management) Symposium on Traffic Safety. Several new state coordinators have been appointed in the region. Recruitment and retention are issues in the eastern region. There has been a problem in getting quality applicants.

Sheriff’s Agency: Clint Shrum not available.

State Coordinator: Sam Criswell reported no report at this time.

Toxicology: Jennifer Harmon reported SOFT will hold in-person conference in November. Amy Miles is doing work with Responsibility.Org and researching what labs need, what quality of testing they can do, and is including medical examiners. This research seeks to secure approval of common lab testing standards. She complimented California for being able to use the funding for labs. There are many test results in their lab of polydrug use or more than one drug in combination with BACs as high as 0.18. There has been an increase in synthetic cannabis, new synthetic opiates, and depressants. The crime lab director is working with their experts and a national movement towards increasing the standards of expert qualifications and limiting what is presented to the jury. This is being driven by the Innocence Project.

Bill O’Leary had a meeting with the District of Columbia Highway Safety Office (HSO) representatives regarding their lack of a DRE program. The HSO plans to train some of their personnel with ARIDE classes as a start. Virginia has only 29 DREs and the state just passed legalization of marijuana. This has placed additional burdens on the Virginia HSO, including an unfunded mandate for ARIDE training. John Flannigan added that training mandates are being promoted in Vermont to have every officer ARIDE-trained, but this is not reasonable or realistic.

2:47 PM EST Adjourn

Next meeting: Annual meeting scheduled for September 11, 2021, New Orleans, LA.