



MEETING MINUTES

TAP and IACP staff members in attendance: Special Officer Joe Abrusci, Morris County (NJ) PD; Dr. Don Alves, MD State Police; Jonlee Anderle, WY HSO; Beth Barnes, AZ TSRP/AZ GHSO; Sam Capogrossi, IACP; Dr. Karl Citek, Pacific University School of Optometry (OR); Kyle Clark, IACP DEC Program Eastern Region Project Manager; Sgt. Don Decker, Nahant (MA) PD/MA DRE State Coordinator/DRE Section Chair; Darrell Edmonds, Institute of Police Technology and Management (FL); Chuck Hayes, IACP DEC Program Western Region Project Manager; Lt. Michael Iwai, OR State Police; Deputy Chief Jim Maisano, Norman (OK) PD; Lt. Don Marose, MN State Police/MN DRE State Coordinator; John Marshall, NHTSA; Cecelia Marquart, Sam Houston State University/TX DRE State Coordinator; Director Amy Miles, WI State Laboratory of Hygiene; Lt. Matt Myers, Peachtree City (GA) PD; Bethany Peterson, IACP; Jennifer Rolfe, IACP DECP Program Manager; D'Arcy Smith, RCMP, National Traffic Services; Chief Robert Ticer, Loveland (CO) PD; Captain Helena Williams, CA Highway Patrol; and Executive Director Dan Zivkovich, MA Municipal Police Training Committee.

Guests: Nicole Cofer, WV TRSP; Robert Duckworth, IN DRE State Coordinator; Christine Frank, NM DRE State Coordinator/DRE Section Vice-Chair; Glen Glaser, CA DRE State Coordinator; Rachel Huggins, Public Safety Canada; Steve Johnson, Washington State Liquor and Cannabis Board; Joey Koher, WV DRE State Coordinator; Ray Moos, RCMP/CN DRE Coordinator; Bill O'Leary, NHTSA; and Tom Woodward, MD DRE State Coordinator.

The annual meeting held in Philadelphia, PA on October 20, 2017, was called to order at 8:42 am.

Welcome and Introductions

Chair Ticer welcomed everyone to the meeting and asked all attendees to introduce themselves. Introductions were made around the room and an attendance roster was completed. Chair Ticer reviewed the mission of the IACP TAP with the attendees. Chair Ticer drew attention to the opioid problem and the continuing marijuana problem, and how the increase in drug-impaired driving has brought positive attention to the DEC Program. He also reminded everyone that we have opportunities to further engage our communities on this topic.

Review/Approval of Minutes from San Diego, CA

The meeting minutes from the 2017 San Diego, CA annual meeting were reviewed and approved.

Membership Updates

Chair Ticer reported that Captain Helena Williams from the California Highway Patrol, and Darrell Edmonds from the Institute of Police Technology and Management, have replaced existing members

on TAP. Chair Ticer added that additional information about re-appointments and appointments will be discussed later in the meeting.

IACP Updates

Chuck Hayes reported on the new IACP DEC Program coordination and explained how the country is now divided among Eastern and Western DEC Program Project Managers. States within NHTSA Regions 1-5 are being coordinated by Kyle Clark, the IACP Eastern Region Project Manager. States in NHTSA Regions 6-10 are now being coordinated by Chuck Hayes, the IACP Western Region Project Manager. An update was provided regarding the number of ARIDE schools, as well as information on the increase in DREs nationally to a historical point of 9,645 IACP credentialed DREs. Several states have shown large increases in DRE evaluations in the database, including New York and West Virginia, which may be partially attributed to their use of DRE tablet programs. It was emphasized that the need for these tablet programs to be able to communicate with the NHTSA database is required.

Jennifer Rolfe reported there were 1,087 attendees at the 2017 Drugs, Alcohol, and Impaired Driving (DAID) Conference held in National Harbor, MD. The conference added approximately 150 new IACP members and 80 new DRE Section members. She reported that the 2018 DAID conference will be a Monday through Wednesday event, August 13-15th, and will be held at the Gaylord Opryland in Nashville, Tennessee. The State Coordinators' meeting will be on Sunday, August 12th. The government per diem rate has been secured for the hotel.

NHTSA Updates

John Marshall thanked the Chair and IACP for their leadership and for the work being done relative to impaired driving. Bill O'Leary reported that the FARS data indicates a 5.6% increase in traffic fatalities in 2016, including a 1.6% increase in impaired driving fatalities. He also spoke about a successful best practices workshop for DEC Program State Coordinators that was recently delivered at the GHSA annual conference. He provided an update concerning the Cooperative Agreement with the IACP, which includes adding a third Project Manager to divide up the NHTSA regions among three positions nationally beginning possibly in July 2018. He also spoke about the Maricopa County training site for certification training and complimented all those involved for its ability for conducting DRE field certification training.

Bill also spoke about the proposed updates to the DRE National Tracking System. Thirteen subject matter experts have helped develop a more robust system and it is currently in pilot phase. It is expected to roll out in early 2018. He also reported that the NHTSA database totals for DREs per state is updated twice per year and may not reflect the current totals because some of the paperwork may not have been submitted in a timely manner.

Bill also reported that NHTSA has requested funding be provided to the IACP for site visits to help troubleshoot any DEC Program concerns or issues that may arise because of the growth in the program. If complaints or allegations are raised about a state's program, these site visits can help resolve and offer solutions to those issues.

On behalf of NHTSA, Bill O'Leary presented Michael Iwai with a special recognition plaque for the excellent work he has provided on behalf of the TAP Curriculum Committee. Some other members of the Curriculum Committee had previously been recognized during the DAID Conference in Maryland.

Bill reported that NHTSA is continuing to move forward with the name change for the online ARIDE to make it “Overview of Drug Impaired Driving” (ODID). It may take approximately 18 months to accomplish the official name change.

He reported on a couple of significant issues with the expansion of the DEC Program. One is the need for sufficient laboratory testing equipment to support the increased DUID arrests. Another is the need to expand the TSRP program in the states. In regard to the laboratory equipment, one of the concerns is the “Buy America Act” which limits government purchases to American-made products, and much of the toxicology lab equipment is made outside the county. John Marshall will provide a synopsis of the Buy America Act to be disseminated to the members of the committee and to the relevant parties.

ACTION ITEM

Bill also reported that because of officer safety issues, many law enforcement agencies are no longer field-testing drugs, but are sending everything to the labs for analysis, which has also increased the demand on laboratory testing equipment. Chair Ticer echoed this practice as becoming more widespread throughout the country.

Bill reported on a recently released NHTSA Marijuana-Impaired Driving report. The report was included in the TAP notebook.

Information was provided on the curriculum updates. ARIDE and SFST have gone out for pilot testing and DRE will soon follow. Mental illness is becoming more of an issue with DREs and the DEC Program. The IACP has developed a “One Mind Campaign” and will explore if there are areas from this program applicable to DRE. Mike Fergus from the IACP was asked to provide an overview of this program. He reported that there are four criteria an agency must achieve when they pledge to join: 1) Create some sort of relationship with a Mental Health organization within their jurisdiction; 2) Agencies must create a policy to deal with these individuals; 3) Have 100% of their officers trained in Mental Health First Aid (MHFA); and 4) At least 20% of employees (officers, dispatchers, non-sworn employees) must be trained in crisis intervention training. The agency will receive IACP recognition once these are achieved. The Curriculum Committee will be reviewing this material and see if it can be incorporated into the DRE Schools. Tom Woodward spoke about potential partnerships they are looking at with Baltimore treatment specialists for those certification training subjects who are seeking treatment and with assisting them to get access to those services.

Old Business

TAP Appointments

Chair Ticer reminded the committee about upcoming TAP appointments that are expiring. The following member appointments expire December 31, 2017: Jonlee Anderle, Don Decker, Chuck Hayes, Jim Maisano, Cecelia Marquart, D’Arcy Smith, Helena Williams and Dan Zivkovich. He requested that any current member wishing to be considered for reappointment provide that information to him by email along with any supportive documents.

TAP Responsibilities

Chair Ticer reviewed the TAP membership responsibilities and duties for TAP members and encouraged feedback if anything was missing. No additional items were suggested. Chair Ticer then reviewed the short-range goals of TAP and encouraged suggestions to expand upon them. The members felt the current goals are adequate and nothing was added. For the long-range goals, several suggestions were offered by Dan Zivkovich, which included: 1) Inserting a long-range goal concerning the idea of helping to enhance the DEC Program practitioner's abilities to detect mental illness; 2) Include an endorsement concerning assisting and supporting ODID as an ARIDE refresher and for those officers who are unable to attend a classroom ARIDE course; 3) Assisting states with model legislation that includes alcohol and drug-impaired driving; and 4) Encourage states to assess similar or more severe sanctions to drug-impaired drivers as alcohol-impaired drivers. **ACTION ITEM**

International Standards for DEC Program

Jim Maisano provided recommendations from the Standards Committee to the current International Standards, which included the following:

1.1 Consideration for becoming a DRE – added language that people who are awarded the position of DRE Emeritus or DRE Ambassador as being ineligible for certification as a DRE. Approved.

1.10 & 1.11 Instructor Concurrence for DRE Evaluations – this proposal concerned certification training evaluations in which confirmation testing is not available, and how it is done and how it applies in the process. When confirmation testing is not available, instructors must ensure the DRE candidate is correctly applying their knowledge and experience in drawing their opinions. Evaluations in which no forensic testing was obtained will not be counted towards the required minimum number of confirmed toxicology evaluations. A discussion ensued regarding forensic testing and point of collection devices. A work item was assigned to the Standards Committee regarding the use of Forensic Testing throughout the Standards, and include a definition that would include “forensic testing” and point of collection devices. **ACTION ITEM**

1.11 Alcohol as a drug category – for purposes of drug category detection accuracy, it was agreed that alcohol will not be considered as confirming the presence of a depressant drug. An amendment was proposed to insert the words “for purposes of certification only.” The amendment was passed and the remaining motion was approved.

1.11 Toxicology results for positive opinion – a proposed amendment to the Standards was made to tighten up the number of drug categories that must be corroborated for the DRE to be considered correct in his/her opinion. Only one category can be missed (beyond 2) for the opinion to be considered correct. This standard is applicable in those cases involving subjects with four or more drug categories impairing them at the same time. An amendment was proposed and was not approved by the committee. No change to the current Standard.

3.4 Evaluations reviewed for recertification – a clarification regarding the number of evaluations that must be reviewed and approved by a DRE instructor was discussed. The question was, “Are all evaluations required to be reviewed, or only the four necessary for recertification?” The proposal was made that only the four evaluations that qualify for recertification are required to be reviewed by a DRE instructor. An amendment was proposed to add verbiage “in person” for a DRE instructor

witnessing a DRE evaluation for recertification. The amendment was approved. A second amendment was offered to amend to “One evaluation shall be witnessed in person by a certified DRE instructor.” Amendment passed and the proposal was approved.

DRE Recertification (Re-work)

A proposal addressing the procedures dealing with a DRE seeking recertification and what constitutes an acceptable or unacceptable rate of accurate opinions was made. This motion was passed.

DRE Jurisdiction (definition and 7.1) and “State” definition to include other jurisdictions – a motion was made to amend the definition of Drug Recognition Expert and to amend 7.1 to require certification in the State wherein they have law enforcement jurisdiction or the state of their primary employment. It also expounded upon the State Coordinator definition as it applies to other countries and territories. The proposed new definition would include the Provincial Coordinator in Canada. An amendment was offered to have the national coordinator recognized by the IACP TAP, which is currently the Royal Canadian Mounted Police. This amendment was accepted. Both of the proposals were approved.

State Enhanced DRE Standards– Jim Maisano submitted each states’ enhanced standards to the committee. All enhanced Standards were approved.

DRE Drug Category Video Updates – Chuck Hayes reported three new videos provided by the Arizona DPS are being reviewed to determine their potential in replacing three of the older DRE drug category videos in the DRE curriculum. The Curriculum Committee will continue working on the videos and they will be tested in the DRE School pilots scheduled for December.

Arizona DRE Validation Study - Chuck Hayes updated the committee concerning the study and how it initially appears to be favorably demonstrating corroboration between DRE opinions and the toxicology results. The actual release of the study is not known at this time.

National Sheriff’s Association DRE Resolution - Chuck Hayes reported that the IACP is occasionally receiving requests for the NSA Resolution endorsing DRE and the assistance in identifying possible field certification sites similar to the Maricopa County Jail in Arizona. The NSA Resolution was included in the TAP Notebook for the committee members reference and to share as needed.

Mid-Year Meeting - Chair Ticer led the discussion concerning a second TAP meeting each year to come into compliance with the new DEC Program Cooperative Agreement with NHTSA. Several proposals were offered, which included holding it at the annual DAID Conference, the Mid-Year HSC meeting, or during the IACP Agenda Screening meeting. One of those dates will be identified for a mid-year meeting to be held in 2018 and the information will be provided to the members. **ACTION ITEM**

Synthetic Drugs (DRE Category) - Amy Miles reported on the work by the Scientific Committee regarding research on the New (or Novel) Psychoactive Substances (NPS) and the difficulties experienced with their poly-category appearance. The Scientific Committee delivered their recommendations to the Curriculum Committee, which included adding information on the NPS drugs to Session 24 (Drug Combinations) of the 7-Day School curriculum. The language will be added to

Session 24 and the Curriculum Committee will seek input on the additions from the DRE School pilots. **ACTION ITEM**

New Business

DRE Facesheet – Kyle Clark reported on the proposed changes to the DRE Facesheet which will include adding oral fluid as a toxicology specimen, adding language in the WAT and OLS boxes for using check marks or a number to record the number of clues, adding verbiage to the Modified Romberg Balance (MRB) test to reflect “approximate inch sway,” and “Time Estimation” replacing the words “Internal Clock”. Also, Pupillary Unrest has been removed from the Facesheet. There was a request to add check boxes for “Refused to Participate” and “Stopped Participating in Evaluation” for when those instances occur, and to reflect what is also included in the electronic Facesheet submissions. This was agreed upon by the Curriculum Committee and the changes will be made to the next revision of the DRE Facesheet coming out with the next DRE curriculum. **ACTION ITEM**

DRE Field Certification “Best Practices” - Chuck Hayes and Kyle Clark provided information on a new DRE Field Certifications Best Practices Guide for DRE State Coordinators. The Guide was developed to help ensure that the field certification process is conducted in accordance with the DEC Program International Standards and that proper safeguards are in place.

DITEP Updates - Kyle Clark updated the committee on the progress of the 2017 DITEP curriculum that has been updated through some assistance from the New York and Texas DITEP programs, among others. It is now updated with the same statistics as found in the DRE curriculum, along with new PowerPoint slides and material on some new drugs. It is in the pilot-phase now and should be ready by the end of the year. Once the pilots are completed and suggested revisions made, the new DITEP curriculum will be made available to the DRE state coordinators. **ACTION ITEM**

National Safety Council (NSC) Position Paper on Marijuana and Driving - Chuck Hayes reported on the NSC endorsement the DEC Program and their stance of not supporting the 5 ng/mL of THC per se level in Cannabis impaired driving cases. The Position Paper was included in the members TAP Notebook for review. Matt Myers proposed that a TAP Resolution be drafted and forwarded to the IACP Highway Safety Committee supporting the National Safety Council’s *Position on Cannabis and Driving* paper, and encouraging law enforcement leadership to take the position with their legislative bodies that there is no scientific basis for the adoption of THC *per se* legislation. This motion was approved by the committee and relegated to the Scientific Committee for completion. **ACTION ITEM**

TAP Member Reports

NHTSA- John Marshall reported that other than what was discussed earlier in the meeting during the NHTSA updated, he had nothing further to report.

Administrator - Helena Williams reported that the California Highway Patrol (CHP) has received supplemental grant-funding to allow officers to attend ARIDE and DRE schools. The CHP has nearly reached their goal of training all their road officers in the classroom ARIDE training and expect to have met their goal by the end of the year.

At-Large – Matt Myers reported on the expanded use of DREs beyond the DUI investigations in the form of Commercial Vehicle Enforcement through speaking with the drivers and checking logbooks at CMV facilities. It has resulted in the identification of numerous drug-impaired drivers that would otherwise have gone undetected by regular CMV officers. He has also been involved in judicial education workshops and provided demonstrations on HGN. He also reported that Georgia experienced an adverse decision from the Supreme Court that the Modified Romberg Balance test requiring a *Harper hearing* which was remanded to the trial court.

Mike Iwai reported on the new dynamics in Oregon between law enforcement and the various community partners due to the recent legalization of marijuana. He also reported that since the legalization occurred, there is much more interest in ARIDE and DRE training.

Joe Abrusci reported that he was pleased to be involved in the curricula updates with the Curriculum Committee in Oklahoma City. He also stressed the need to increase DRE officers via quality versus quantity.

International – D’Arcy Smith reported that there are now over 650 DREs in Canada. Canada has legalized marijuana, and this has created a huge demand on law enforcement. The RCMP is planning to get their front-line officers SFST trained and have a goal of training 150 DREs per year. He reported that Quebec did not need to use professional actors for their certification training in the past year, but are looking to increase their DRE training next fiscal year and this may change. Canada continues to collect data concerning the efficacy of using professional actors as part of the DRE certification training. He also reported that Canada is using varying levels of per se limits, including different per se limits when cannabis is combined with alcohol.

Medical – Dr. Citek reported that he continues to forward common eye-related impairment and testing questions he receives as clarifications to both Chuck Hayes and Kyle Clark.

Prosecutor – Beth Barnes reported on some interesting cases concerning DRE nationwide. Current defense strategies seem to be targeting specific parts of the DEC Program instead of the program. She and other TSRPs will continue to get clarifying decisions on McNeely regarding exigency. A brief discussion was held concerning the *Massachusetts v Gerhart* recent decision concerning marijuana-impaired driving. It is believed, that the actual opinion, though not a perfect decision, had only some minor setbacks.

Region 1 – Jonlee Anderle reported that Region I continues to conduct annual regional meetings. The latest meeting was held last May in Salt Lake City. Ten of the thirteen Region 1 DRE state coordinators participated in the meeting. The next meeting is being planned for May 2018.

Region 2 – Don Marose reported about the challenges faced through DUID laws and requiring the impairing substance to be specifically identified in statute to prosecute for DUI. A new e-warrant platform is now up and running in Minnesota and so far, the results are encouraging with warrants being obtained as fast as seven minutes and as long as twenty minutes. He encouraged state coordinators and others interested in learning more about the Minnesota system to contact him.

Region 3 – Don Decker reported on the DRE tablet project, which is being deployed primarily in the northeast portion of the country. He also reported that the Harvard Medical School is considering endorsing the DEC Program, as they believe DRE is the gold standard for identifying drug impairment. Massachusetts has budgeted for 31 ARIDE courses statewide to deal with the recent MJ legalization.

Region 4 – Jim Maisano reported that AAA provided funding to Oklahoma for DRE training in the form of food and hotel assistance. AAA may do the same again next year. He is looking for additional uses of DREs to help promote the program to chiefs and sheriffs who may want to get more DRE involvement.

State Coordinator – Cecelia Marquart reported that the Drug Information Training for Texas Employers (DITTE) is moving to an online format and will be available to Texas employers statewide. The training mirrors DITEP in some ways, and is a very popular training course in Texas. Texas is also exploring the use of tablets for their DREs, and Houston PD is involved in a pilot project using them. She is also working with some of University of Texas professors on virtual reality training and nystagmus training that may be useable in future training.

Toxicology – Amy Miles reported that the Society of Forensic Toxicologists (SOFT) will hold two conferences in 2018 – a make-up conference in January for the one cancelled in 2017, and the annual conference scheduled for Minnesota. Labs are looking outside of highway safety funding because there has not been sufficient sources for upgrading labs to handle the demand for DUID case toxicology analysis. Oral fluid continues to improve and research continues to establish correlations between oral fluid and blood. Amy is a member of the National Safety Council and reported on their support of the DEC Program. She is also working on a combined training program which will train toxicologists and prosecutors.

Items from the Floor

Jennifer Rolfe informed the committee that TAP and DRE Section meeting passes cannot be complimentary for IACP Section members under the IACP bylaws. However, if the meeting(s) is held outside of the dates of the conference, then complimentary passes can be provided. A discussion was held about the possibility of moving the TAP annual meeting to one day earlier and the DRE Section meeting one day earlier to be outside of the dates of conference. This will be explored as will the possible timelines for the TAP mid-year meeting. **ACTION ITEM**

The Scientific Committee recommended a central repository for DRE endorsements and scientific literature (even as far as documenting literature by drug category). The DEC Program can accept these items and will create this repository for prosecutors and states to use when needed. Kyle Clark is taking the lead on this and requested that such documents be submitted to him via email for inclusion in the literature files. **ACTION ITEM**

Adjourn

The meeting was adjourned at 4:05 pm.

Submitted by Chuck Hayes and Kyle Clark
December 29, 2017