

**IACP Drug Evaluation and Classification Program
Annual Technical Advisory Panel Meeting
Friday, October 1, 2009
Denver, Colorado**

The annual meeting of the IACP Technical Advisory Panel to the DEC Program was held on Friday, October 2, 2009, at the Grand Hyatt, in Denver, CO.

PRESENT: Earl Sweeney, TAP chair; Sergeant Danny Lamm, California Highway Patrol; Gary Fief, assistant chief (retired), California Highway Patrol; T/Sergeant Doug Paquette, New York State Police; Frank Kowaleski, law enforcement liaison, Virginia Highway Safety Office; Officer Dan Mulleneaux, Phoenix, Arizona, Police Department; Joe Turner, Indiana Law Enforcement Academy; Sergeant Don Decker; Marblehead, Massachusetts, Police Department; Sergeant Rob Martin, York Regional Police, Canada; Lt. Tom Woodward, Maryland State Police; Troy Costales, Oregon Department of Transportation; Cynthia Burbach, Colorado Toxicology Laboratory; Major Jim Maisano, Norman, Oklahoma, Police Department; Dr. Jack Richman, O.D., New England College of Optometry; Garrett Morford, NHTSA; Ken Lebrato, prosecutor, Carteret, New Jersey; and Bob Jacob; director of the Institute of Police Technology and Management.

IACP STAFF: Ernie Floegel and Chuck Hayes

Guests: Mark George, Boulder, Colorado, Police Department; Joanne Michaels, National Traffic Law Center; Tim Gaffney, Pinal County, Arizona, Sheriff's Office; Sergeant Courtney Stewart, state DRE coordinator, Washington State Patrol; Senior Trooper Mike Iwai, state DRE coordinator, Oregon State Police; Glenn Davis, state DRE coordinator, Colorado Department of Transportation, Jim Williamson, Littleton, Colorado, Police Department (retired); Sergeant Don Marose, state DRE coordinator, Minnesota State Patrol; Keith Benz, Minnesota State Patrol; Bill Tower, law enforcement liaison, NHTSA Region III; Commander Joe Klima, Phoenix, Arizona, Police Department; and Major Dave Salmon, New York State Police.

The meeting was opened by the chair at 9:05 a.m. He greeted those present and had each of the 31 attendees introduce themselves. The attendance roster was completed.

The chair asked Bob Jacob to discuss the issue of funding in Florida being taken away from IPTM by the state. Bob assured the TAP that IPTM still had funding to manage the DEC Program and that the other funding was being challenged.

The chair asked Rob Martin to give an update on the Canadian DEC Program. There are now 434 DREs throughout Canada.

The chair then acknowledged TAP member Frank Kowaleski who was the POST agency representative, who now has taken a position as a law enforcement liaison with the Virginia Highway Safety Office. Frank will remain on the IACP's Highway Safety Committee but will be replaced on the TAP by a representative from IADLEST.

The chair recognized Dan Mulleneaux, who is resigning as a TAP member, for his faithfulness and many outstanding contributions to the TAP.

The chair held a brief discussion on using technology that would allow the TAP to conduct additional meetings. Currently, TAP meets only once year because of limited travel funding. He mentioned GoToMeeting and other virtual meeting software. Dan Mulleneaux discussed the use of Webinar's Go to Meeting, which he has used extensively including the meetings of the TAP Curriculum Committee. The chair also advised that some free software is available to conduct these kinds of meetings.

I. IACP Updates:

- **2008 DRE Training Conference on Drugs, Alcohol and Impaired Driving:** More than 600 persons attended the conference in Little Rock, Ark. The critiques and comments were favorable and the conference was successful.
- With the addition of Mississippi in 2008 there are now 45 states plus the D.C. in the DEC Program. States not participating are Alabama, Connecticut, Michigan, Ohio and West Virginia.
- The IACP DRE certification database contains records for approximately 6,149 DREs and 1,288 DRE instructors for 2008. In 2008 alone 1,027 DREs and approximately 200 DRE instructors were credentialed by IACP.
- Thirty-three states are involved in the Drug Impairment Training for Education Professionals (DITEP).
- By the end of 2008 159,463 evaluations (training and enforcement) had been entered into the DRE data collection.
- Fifty DRE schools have been conducted so far this year; more than 1,000 officers were trained. Six more DRE schools are scheduled for 2009.
- Committee members were reminded of their responsibility to respond to requests of committee assignments in a timely manner.
- **IACP In-Kind Service Form:** TAP members again were reminded of the need to fill out the IACP in-kind services form and submit them to Carolyn Cockroft. Example: The CHP has contributed over 300 hours to the production of the DRE videos. IACP is required to report these contributions to NHTSA.

II. TAP Meeting Minutes: The TAP minutes from the San Diego meeting, November 7, 2008, were approved.

III. OLD Business:

- **DEC Program Training Manuals, SFST / DRE / WORD:** Garrett Morford, NHTSA, reported that the project being conducted by TTI had been completed. He extended thanks to the IACP staff for their help, with a special thanks to Chuck Hayes. Discussion ensued as to doing a final edit. Chuck would like to do one more pilot and then the final edits at a later date to avoid delaying the distribution of the manuals anymore than possible. The suggested pilot school was to be in Phoenix, Ariz., to start on October 26; however, that could not be arranged so it was suggested that they be piloted at the South Dakota School starting on November 9. Discussion followed whether to have another pilot or to release the manuals as soon as possible. A motion was passed and approved to do one more pilot then the edits. A target date of release was set at January 1, 2010. All agreed.

There were questions about who would be doing the final changes after the pilot school. Garrett Morford said this is something that still needs to be decided.

Garrett also discussed issues with NHTSA on the federal level. NHTSA has no budget and is under continuing resolution. He discussed new legislation in Congress. The House of Representatives is currently considering a reauthorization of SAFTEALU sponsored by Representative Oberstar. There will be a lot more accountability with the new legislation by gathering more data. It will be performance-based. Money still is available for the TAP's activities in 2010.

Garrett expressed a concern that came from a NHTSA regional office concerning the left-handed officer safety issue for SFST. Chuck Hayes had spoken to Wil Price about this and when NHTSA convenes a work group to work on the SFST curriculum, this issue will be addressed.

- **Mississippi:** The pilot conducted for the year was completed, and a motion was made to accept Mississippi into the DEC Program as an official DRE state. Motion approved.
- **New DRE Drug Category Videos:** The videos have been reviewed and distributed to the states. Thank-you letters were sent to the California Highway Patrol and Evan Graham, the Canadian DRE coordinator, for their roles in getting this project completed. Some minor corrections have been suggested by the states, and they will be completed during the next revision.
- **Lack of Convergence:** The change in wording concerning the wearing of glasses had been submitted to the Curriculum Committee; this was added to the Instructor's Manual as an instructor's note.

- **On-Site Testing Devices:** The wording in the minutes from the last meeting should not have included “evidentiary”. When a urine sample is taken as the result of an arrest, and that sample is not tested and not entered into evidence, an on-site testing device can be used to determine the actual drug so that the DRE can then enter that information into the data system. **Action Item:** Dan Mulleneaux will submit wording for suggested inclusion into DECP international standards.
- **ARIDE:** This training continues to get good feedback from the states. Questions arose as to the need for editing the ARIDE manuals and if, in fact, the ARIDE curriculum had been approved by the TAP. It was concluded by the chair that the ARIDE curriculum had been approved with the proviso that the Curriculum Committee will be reviewing it to determine if any items conflict with what is taught in SFST and DRE schools, and if so, these items should be corrected in future manual revisions. Approximately 75 ARIDE classes will be conducted in 2009. The state coordinators have been asked to provide success stories as well as any needed editorial revisions.

Action Item: The curriculum committee will begin a review of the ARIDE manuals to determine if any items conflict with what is taught in SFST and DRE schools that should be corrected in future manual revisions.

Medical Conditions / Vital Signs: Joe Turner said that, after careful evaluation and discussion with members of the medical community, it was not plausible to move forward at this time. The chair expressed the need for a medical doctor to be on the TAP. He appointed a committee of Garrett Morford, Dr. Jack Richman, and Joe Turner to look for potential candidates in the medical field position on TAP. **Action Item:** Committee will begin search.

- **FARS:** Troy Costales led a discussion on why law enforcement officers may be reluctant to enter “alcohol” on the accident report. The chair noted that Marilena Amoni is doing an excellent job getting the data into more useful format. **Action Item:** Include a FARS reporting data overview at the 2010 state coordinators’ annual meeting in Pittsburgh, Penn. Also provide information through the TSRP Web site.
- **Curriculum Revision Process:** The curriculum revision process schedule was updated and distributed. It was revised to reflect only one TAP meeting each year.

IV. NHTSA Research/Studies: Garrett Morford reported on the following NHTSA studies:

- **2007 Roadside Survey of Alcohol and Drug Use**
Published: Results of the 2007 National Roadside Survey of Alcohol and Drug Use by Drivers (Research Note), Compton, R., Berning, A. (2009) DOT HS 811 175

Three full research reports will also be released (currently either in the print queue or in agency review): Methodology; Alcohol Prevalence Rates; and Drug Prevalence Rates. *Status: Pending*

- **The Robustness of the Horizontal Gaze Nystagmus Test**

Published: Burns, M. (2007) DOT HS 810 831

Abstract: Three experiments examined the effects of procedural variations in administration of the HGN test. Variations in stimulus speed and elevation, and distance of the stimulus from the suspect's face were examined in a laboratory experiment. A second experiment conducted in training workshops varied the participants' positions (standing, sitting, lying down). The third experiment examined HGN in participants who have functional vision in only one eye. The data demonstrate the validity of the HGN test with both standard and varied testing procedures. The variations did not alter the occurrence of, or the observations of, HGN.

- **Status of DUID Enforcement and Adjudication in DEC and Non-DEC States**

In Review

This study is part of a broader effort by NHTSA to examine the contribution that illegal drugged driving *per se* laws make in reducing the drugged driving problem in the United States. The original objectives of this project were threefold: (1) to collect nationally representative data regarding the number of drivers arrested, prosecuted, and convicted of DUID from all 50 states; (2) to examine a subset of cases in which a plea agreement was reached and which resulted in charges other than the original DUID charge; and (3) to use the data from the previous two examinations to compare both DRE and non-DRE states with *per se* and non-*per se* states to determine the relative contribution of these two strategic initiatives in arresting, prosecuting, and convicting drugged drivers.

- **Drug *Per Se* Laws: A Review of Their Use in States**

In agency review

This report contains a summary of each *per se* state's DUID law and state code, including a list of any specified prohibited drugs. These states' criminal, court-ordered, and administrative sanctions for DUID sanctions are also noted. The researchers also met with law enforcement officers and prosecutors to learn about how the *per se* laws work in their jurisdictions. Although we had hoped to determine if these laws are effective in increasing driving-under-the-influence of drugs arrests and convictions, agencies' records often did not distinguish whether the arrest was for alcohol or drugs.

- **Phlebotomist Study:** NHTSA is using the Arizona phlebotomist program as a model and is referring inquires about such training to Arizona. There is continued interest in the training. Dan Mulleneaux provided input regarding evidence challenges and liability for officers taking the blood. To date, neither has been an

issue in Arizona. Arizona will replicate this study in two states, which have not yet been determined. *Status: Pending*

- **Methodology Report** – completed and under agency review
 - Alcohol Report – being written
 - Drug Report – must await analysis of blood samples
Status: Pending
- **Parametric Study: Examine Parametric Data on Pupil Size, Blood Pressure, and Pulse Rate in Support of Drug Evaluation and Classification Programs.** Draft report under review. *Status: Pending*
- **Examine the Feasibility of Drug *Per Se* Laws:** Draft final report submitted and is under NHTSA review. *Status: Pending*
- **Drugged Driving Prosecution Study:** The status on this project is unknown.
- **Crash Risk of Drugged Driving: A Case Control Study (Determine the Crash Risk of Alcohol- and Drug-Positive Driving).** In the process of final negotiations for a site. *Status: Pending*
- **Driving Under the Influence of Drugs:** Enforcement and Adjudication in DEC and non-DEC States. Study is completed and report is under review. *Status: Pending*

V. DRE Curriculum Issues:

- **Change in Matrix/Muscle Tone.** The muscle tone column was added to the latest DRE curriculum revisions.
- **Hippus, Rebound Dilation and Pupillary Unrest:** The proposed changes were forwarded to the state coordinators. There were no disagreements and the changes proposed by the TAP were incorporated into the new manual revisions.

VI. New Business:

- **DRE Data Collection /Sobriety Testing.org:** NHTSA reported that these Web sites have been transferred to a company named Syneren Technologies Corporation effective September 24, 2009.
- **Change to Curriculum / When Do They Start / Preface to DRE Manual:** A draft preface page was incorporated into a document, which was sent to the TAP prior to the meeting. The document was approved with slight modification and will be placed in the front of the DRE manuals.

- **Representing the TAP:** Panel members are to inform Carolyn Cockroft if they are requested to represent the TAP at official functions.
- **Face Sheet Update:** Hippus was removed.
- **Removing Drug Names from Curriculum:** A number of drugs are no longer relevant and it was agreed to have Chuck and the Curriculum Committee remove them from the curriculum. **Action Item:** Remove old drug names
- **ROMBERG + or – 5 seconds:** A question had come from one of the states inquiring how the plus or minus five seconds got incorporated into the Romberg Balance test. In the initial Romberg testing developed many years ago, internal timing was not included in the testing procedure. This was apparently added in the early development of the DRE training to make the test for divided attention and also to try and determine the subject’s internal clock. After some discussion, it was agreed that there needs to be some research conducted to determine if the plus or minus 5 seconds is an acceptable time decision point for the Romberg Balance test. Dr. Richman indicated that he was looking into this and may be able to provide some insight into this through some data he is collecting.
- **DEC Program Course Manager:** Chuck reminded everyone that the DRE school course manager training can be done in the states now. The course manager training curriculum has been updated and is available on www.decp.org. State coordinators are now encouraged to select experienced course managers in their states to conduct the training on an as-needed basis. The training will still be offered each year at the IACP impaired driving conference as well.
- **DRE Workshop:** Chuck mentioned that, for the first time ever, there will be a DRE workshop at the annual IACP conference. The workshop, scheduled for Sunday, October 4, will cover the various aspects of DRE and how some of the other related programs are being used nationally to assist officers in detecting persons impaired by drugs. Chuck will serve as the moderator for a panel discussion that includes Chief Brian Kozak from the Avon, Colorado, Police Department; Troy Costales from the Oregon Highway Safety Office; Glenn Davis, the coordinator for the Colorado DEC Program/Impaired Driving; Gary Fief of the California Highway Patrol; and Ernie Floegel, the IACP’s national training coordinator for the DEC Program. The goal of the workshop is to promote the DEC Program and other related impaired driving training programs.
- **DECP Standards:** A suggestion from a state coordinator relating to Section IV of the standards, “The DECP Standards and Agency Control,” was considered. This would give the agency the ability to deactivate a DRE in the best interest of the DECP. Motion was made and passed. **Action Item:** Changes will be made next time the standards are updated.

- **Alabama:** A last minute request was submitted to the TAP by Brandon Hughes, the Alabama TSRP and designated DRE state coordinator, to make Alabama a DECP state. A site visit had been conducted recently, but the report had not been submitted. In lieu of the report a verbal description of the site visit was given by the chair. Chuck Hayes, who conducted the site visit, provided additional information and recommended that Alabama be accepted as a DECP state. The motion passed, making Alabama the 46th DEC Program state.

VII. TAP Committees:

- **Prosecution:** There was discussion on getting data specifically from those states where marijuana has been legalized. Users of marijuana will be more likely than before to be driving. We are sure where we can get that data. Also discussed was the need for a training bulletin to advise those police officers who are not trained to be able at least to identify the basic physical attributes of marijuana. **Action Item:** Ken Lebrato will draft a training bulletin.
- **Administrator -**
- **State Coordinators -**
- **Regional Updates**
 - **Region I - None**
 - **Region II - None**
 - **Region III - None**
 - **Region IV - None**

The meeting adjourned at 4:50 p.m.

The next annual meeting is tentatively scheduled for October 22, 2010, in Orlando, Florida.

Respectfully submitted,

Ernie Floegel and Chuck Hayes, IACP Staff