

**IACP DRUG EVALUATION AND CLASSIFICATION PROGRAM**  
**Annual TECHNICAL ADVISORY PANEL Meeting**  
**Friday, October 22, 2010**  
**Orlando, Florida**

The annual meeting of the IACP Technical Advisory Panel to the DEC Program was held on Friday, October 22, 2010, at the Rosen Center Hotel, in Orlando, Fla.

**PRESENT:** Earl Sweeney, TAP Chair; Sergeant Danny Lamm, California Highway Patrol; Chief James P. Leonard, California Highway Patrol; T/Sergeant Doug Paquette, New York State Police; Joe Turner, Indiana Law Enforcement Academy; Sergeant Don Decker; Marblehead, Massachusetts, Police Department; Sergeant Rob Martin, York Regional Police Canada; Timothy Plummer, chair, IACP Drug Recognition Expert Section; Paul Cappitelli, International Association of Directors of Law Enforcement Standards and Training (IADLEST); Troy Costales, Oregon Department of Transportation Safety; Cynthia Burbach, Colorado Toxicology Laboratory; Major Jim Maisano, Norman, Oklahoma, Police Department; Jack Richman, O.D., New England College of Optometry; Lt. Jonlee Anderle, Laramie, Wyoming, Police Department and DRE state coordinator; Garrett Morford, National Highway Traffic Safety Administration (NHTSA); Ken Lebrato, prosecutor, Carteret, New Jersey; and Bob Jacob; director of the Institute of Police Technology and Management.

**IACP STAFF:** Carolyn Cockroft, Ernie Floegel and Chuck Hayes

**Guests:** Joanne Michaels, National Traffic Law Center; Sergeant Mike Iwai, DRE state coordinator, Oregon State Police; Sergeant Don Marose, state DRE coordinator, Minnesota State Patrol; Bill Tower, Law Enforcement Liaison, NHTSA Region III; Evan Graham, Royal Canadian Mounted Police, national DRE coordinator; Keith Derksen, Royal Canadian Mounted Police; Commander Joe Klima, Phoenix, Arizona, Police Department; Doug Opterbeck, Phoenix, Arizona, Police Department; Joe Abrusci, Mount Olive, New Jersey, Police Department, DRE Section 4th vice chair; Officer Dan Mulleneaux, Phoenix, Arizona Police Department; Sandy Richardson, NHTSA Region Region IV; Joel Bolton, NHTSA Headquarters; Bill O'Leary, NHTSA Headquarters, and Don Alves, M.D., Maryland State Police.

The chair called the meeting to order at 9:00 AM. He greeted those present and had the 33 attendees introduce themselves. The chair specifically asked Donald W. Alves, M.D., MS, FACEP, who is the medical director /tactical physician for the Maryland State Police to give a summary his background.

**I. IACP Updates:**

- **IACP's 16<sup>th</sup> Annual Training Conference on Drugs, Alcohol and Impaired Driving:** Approximately 580 persons attended the conference in Pittsburg, PA. The critiques and comments were favorable and the conference was successful. Carolyn expressed thanks to Corporal David Andrasik, Pennsylvania State Police, and his conference staff for helping to make the conference a success.

- **IACP's 17<sup>th</sup> Annual Training Conference on Drugs, Alcohol and Impaired Driving** will be held in Montreal, Canada, July 19 – 21, 2011.
- The Office of National Drug Control Policy continues to express support of DRE, DITEP and ARIDE.
- With the addition of Alabama in 2009, 46 states plus D.C. participate in the DEC Program. States not in the DECP are Connecticut, Michigan, Ohio and West Virginia. Michigan and Ohio will be discussed and voted on at this TAP meeting.

As of August, the IACP DRE certification database contained approximately 6,200 DREs, including approximately 1,300 DRE instructors. Within the past FY, IACP staff processed almost 1,000 progress logs for new DREs and recertified about 1,315.

- There are 34 states in the Drug Impairment Training for Education Professionals (DITEP).
- At the end of 2009, 214,702 evaluations (training & enforcement) had been entered into the DRE data collection.
- To date, 58 DRE schools have been conducted in 2010; approximately 900 DREs were trained. Four more DRE schools are scheduled for 2010.
- Committee members were reminded of their responsibility to respond to request of committee assignments in a timely manner.
- **IACP In-Kind Service Form:** TAP members again were reminded of the need to fill them out and submit to Carolyn.

**II. TAP Meeting Minutes:** The TAP minutes from the Denver meeting, October 1, 2009, were approved.

**III. OLD Business:**

- **DEC Program Training Manuals, SFST / DRE / WORD:** Garrett Morford, NHTSA, reported that the Traffic Safety Institute had had some personnel changes. The individual in charge, John Phillips, had a background in adult learning principles and extensive experience in curriculum development. Due to miscommunication with NHTSA, the current DRE manuals had formatting changes of which NHTSA and the curriculum revision team were unaware. That will not happen again and if necessary, the manuals will be put back into their previous format if instructors determine that the revised format is not acceptable. These types of changes will be discussed and reviewed in the future to see if they would be beneficial to the DRE program. These future changes would be more along the line of more contemporary learning styles.

Garrett Morford reported on the synchronization of the SFST, ARIDE and DRE manuals. This project had been given to a private contractor who did not perform the task in a satisfactory manner; therefore, the process will have to be restarted. A new contractor, M. Davis & Company, is now on board to do the synchronization. Bill Morrison, a DRE instructor in Maryland, will be working with M. Davis & Co. to ensure accuracy and consistency. They will take the reformatted SFST, DRE 2010 and ARIDE to ensure that they are all consistent with one another. This could take two years to complete. Any changes will be funneled through the TAP Curriculum Committee before the changes will be made. Bill O'Leary will be the contact person for NHTSA.

The issue was raised about what should happen to the pending changes to the 2010 DRE curriculum. These changes are in a document that lists the recommended revisions. Since the changes proposed by the Curriculum Committee were mostly grammatical and formatting edits, it was decided to allow these changes to be made. Should the changes be made and sent out, or should we wait until the manuals are completed? A motion was made and carried that the changes be submitted to NHTSA for a release date to the state coordinators in January 2011. They would be considered 2011 revisions.

Discussion ensued on the proposed changes. These changes had been sent out to the TAP Curriculum Committee. Changes are not substantive and do not contain any technical changes. A motion to approve changes carried.

Dr. Richman and Don Decker gave a brief discussion on tracking speed. They are not part of the changes approved to be made. They were tabled for further discussion.

- **Sobrietytesting.org** – Garrett Morford, NHTSA, reported that this Web site is now live. The drop-down box for drug categories in the evaluation box was incorrectly designed to have a multiple listing under the seven drug categories. Syneren is aware of this and will make the necessary correction. **Emphasis was placed on the NSTRC Management System component, which provides a centralized database of qualified SFST practitioners and trainers. The data base is intended for use by the state SFST coordinator to track re-certification dates for certified practitioners and trainers.**
- **Medical Doctor:** The need for a medical doctor on the TAP was discussed. One of the immediate items for his / her attention would be for the Physiology session to be updated.
- **ARIDE:** Continues to get good feedback from the states. There were some questions as to the need for editing the ARIDE manuals. This will be done in connection with the synchronization of the SFST and DRE. Approximately 265

ARIDE classes were held in 2010. The state coordinators have been asked to provide success stories as well as any needed edits. The ONDCP had contacted the IACP concerning online ARIDE training. The IACP (Carolyn Cockroft, Chuck Hayes, and Ernie Floegel), ONDCP (Dan Augenstene) and NHTSA (Garrett Morford and Bill O'Leary) met at the DRE Conference in Pittsburg Conference to discuss funding from ONDCP to develop on-line training for ARIDE. ONDCP has entered into a federal interagency agreement to transfer funding to NHTSA in order to develop the training. The Transportation Safety Institute will do the actual online development in conjunction with NHTSA. TAP will be asked for input during the development of the training. There was some discussion about incorporating some videos of the drug categories for the ARIDE training. NHTSA will explore this when videotaping the new SFST videos.

- **FARS:** A report on FARS reporting data overview, which was to be done at the 2009 state coordinators' annual meeting in Little Rock, AR, has not been completed because of budgetary issues.
- **Training Bulletin on Marijuana:** Kenny Lebrato made up a two-sided card with information on symptoms of marijuana impairment. Dr. Alves suggested this was a good idea and could eventually lead to other such cards for other drugs. Joe Abruzzi suggested that the New Jersey DRE Association could print and distribute them to non-DREs in New Jersey. It was also suggested that a disclaimer be put on the card that says that these symptoms were not absolute indications of marijuana impairment.

**IV. NHTSA Research/Studies:** Garret 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*

***Posted on the Web last December and printed in April. The link to the report is <http://www.nhtsa.gov/DOT/NHTSA/Traffic%20Injury%20Control/Articles/Associated%20Files/811237.pdf>***

- **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.

***The project final report is in review by the NHTSA contracting officer (COTR) and should be submitted for agency review within the next 3 months.***

- **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.

***The report has been through agency review, revised and submitted for printing. NHTSA received a cover design in September and sent back approval. Now it is in the print queue.***

- **Phlebotomist Study (started September 2008):** 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*

NHTSA awarded a cooperative agreement to the Arizona Governors Office of Highway Safety to replicate and evaluate the state's law enforcement phlebotomy program, which was developed more than ten years ago. Under the program, law enforcement officers are trained to serve as phlebotomists and are enabled to draw blood if suspected offender refuses to submit to an alcohol breath test. Initially, Idaho and Texas were selected as replication sites, based on their laws and interest in participating, but the approach has proved to be politically sensitive in some locations and has limited full implementation. The project will be completed in September 2011.

Preliminary results demonstrate that, when adopted, this approach reduces the time it takes law enforcement to complete impaired driving arrests.

***NHTSA plans to document the results. NHTSA will also develop a marketing strategy to promote adoption of this approach in other locations.***

- **Methodology Report** – completed and under agency review
  - Alcohol Report – being written
  - Drug Report – must await analysis of blood samples  
*Status: Pending*

***The report was posted on the Web last December 2009 and printed in April. The link to the report is***

***<http://www.nhtsa.gov/DOT/NHTSA/Traffic%20Injury%20Control/Articles/Associated%20Files/811237.pdf>***

- **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*

NHTSA had concerns with the way the data were presented in the report for this project and worked with the contractor on revisions, but as the project had expired, the last set of revisions were never made.

***NHTSA will review what they have to date and determine whether it is worth pursuing this project any further.***

- **Examine the Feasibility of Drug Per Se Laws:** Draft final report submitted and is under NHTSA review. *Status: Pending*

***This is the same project as Drug Per Se Laws: A Review of their Use in States. See above description.***

- **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*

In this study, NHTSA is collecting information on BAC and drug presence of selected drugs from crash-involved and non-crash-involved drivers in Virginia Beach. NHTSA is trying to determine if there is increased risk of crash-involvement for drivers who test positive for selected drugs. To do so, NHTSA needs a sample of non-crash-involved drivers on the same road, in the same direction at the same time of day and day of week as the crash-involved driver. The goal is 2,500 eligible crashes and 5,000 comparisons (non-crash involved). NHTSA started data collection in February 2010, and will continue through spring 2011. ***To date, they have collected approximately 1,000 oral fluid/blood samples of crash-involved drivers. The study is progressing smoothly.***

## V. DRE Curriculum Issues:

- **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.

*The document was completed and inserted in the front of the DRE manuals updates. It will be included in the front of both the SFST and ARIDE manuals.*

- **Removing Drug Names from Curriculum:** A number of drugs are no longer relevant and it was agreed to have Chuck Hayes and the Curriculum Committee remove them from the curriculum. **Action Item:** Remove old drug names

*Removal of old drug names from the curriculum has been completed.*

- **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 five 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.

*Modified Romberg Test – A research brief was submitted by Dr. Richman examining the validity of the + or – 5 seconds rule and its role in relationship with the subject's internal clock.*

*Action Item: The Curriculum Committee will include them in instructor's notes.: An instructor note will be added to the 2011 curriculum that will explain the plus or minus issue when conducting the Romberg Balance test.*

## VI. 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.
- **On-Site Testing Devices:** This will be review by the Standards Committee with recommendations made to the TAP.

## VII. New Business

- **Recertification Standards for Instructors** – Don Decker has purposed some changes to the current standards for instructor certification and recertification. He will submit them to the standards committee for review.
- **Michigan:** The state of Michigan had submitted a proposal to become a Drug Evaluation & Classification (DEC) state. The proposal had been previously sent to the TAP and after a brief discussion a motion was made and passed that Michigan would become the 47th DEC State.
- **Ohio:** The state of Ohio had likewise submitted a proposal to become a Drug Evaluation & Classification (DEC) state. The proposal had been previously sent to the TAP and after a brief discussion a motion was made and passed that Ohio would become the 48th DEC State.
- **Standards:** Discussion followed on Standard 1.1, sub 2 as to who can be a DRE. Both Michigan and Ohio have increased their standards to read that the individual must be a full time police officer. States do have the prerogative to make more stringent standards.
- **PDR vs. Drug Bible** – Discussion on this concluded that there is more than one good reference book on drugs and that the PDR section in the curriculum needs to be edited to express this. Dr. Alves supported this and the prosecution did not see and negative reasons.
- **ARIDE Videos:** They will be updated as part of the SFST updates.
- **DREs at Fataals:** A resolution (HSC.010.a08) had been adopted at the IACP115th Annual Conference, November 11, 2008, to include DREs at fataals.
- **ARIDE Training by Non-Approved Instructors:** The administrator guide of the ARIDE training instructors manual clearly and specifically states the instructor qualifications for teaching ARIDE including that the instructor must be a certified DRE. After discussion it was concluded that when anyone hears that non-DREs or DRE instructors are teaching ARIDE that the proper authorities be notified, including but not limited to the NHTSA regional officer, the state highway safety office, the department or organization conducting the training and the state POST. NHTSA asked what then happens after the notification is made? Further discussion is necessary.
- **Medical Rule-outs / Recertification Training:** State coordinators are looking for medical rule-out training material to include in their DRE in-service trainings. Don Marose will head a committee, which includes Rob Martin and Ernie Floegel, to

explore some training options. The state coordinators will be queried to see what, if any, material is currently be used on medical-rule outs.

- **Research Volumes:** Chuck will send information on these to the National Traffic Law Center for their review.
- **Spice / K-2 / Categories:** Because there may be different clues that could indicate one or the other of multiple drug categories, the TAP concluded that the DRE should call what **“THEY SEE.”** Symptoms and profile should be viewed independently. Chuck will write a draft and send it out to the state coordinators. For now it was decided to add some information on Synthetic Cannabinoids to the Cannabis session (Session 21) of the DRE manuals.
- **Colorado from Region II to Region I:** This came as a request from the Colorado state coordinator. After discussion a motion was made and passed to make the change. This change would also have to be made with the DRE Section representation.
- **SFST Revisions:** Suggested revisions submitted to NHTSA 8/15/10.
- **SFST Videos:** NHTSA to update.
- **Change in Format of SFST Manuals:** See “DEC Program Training Manuals, SFST / DRE / WORD” under old business.
- **Cocaine / Duration of Effects:** Cynthia Burback (toxicology) reported on the effects of Cocaine. Cynthia had consulted with Dr. Adam Negrusz, toxicologist at the University of Illinois at Chicago, College of Pharmacy:

*1. Initial 3.1 minutes (measurement of heart rate and other symptoms) 2. Parent cocaine will stay in your blood for 1 hour and you will still have effects that will not be visible. This information is from Dr. Isenschmid's paper on Effects on Human Performance and Behavior.*

*Dr. Barry Logan has also established this time frame in a paper he wrote, which was peer reviewed.*

*This information will be used to clarify a question about the time effects of Cocaine in the DRE manuals.*

- **National Resolution on DRE:** A resolution in support of DRE was passed by the American Optometric Association (AOA) on June 18, 2010. A copy of this had been sent out to all of the state coordinators and the TAP.

- **Resting Nystagmus – Continuing Exam:** Discussion followed on what to do when you see resting nystagmus. Stop to consider immediate medical care or continue to look for further effects of possible drug usage. Chuck Hayes will draft an instructor’s note to submit to the Scientific and Curriculum committees.
- **NHTSA Assignment in D.C.:** Garrett Morford said that NHTSA is seeking to bring a currently credentialed DRE to Washington, D.C. for 6 – 12 months as part of the NHTSA’s Law Enforcement Fellowship program. Living expenses, moving costs, assignment related travel and other associated expenses will be paid by NHTSA. The law enforcement agency will only be responsible for normal salary cost.
- **Digital Sphygmomanometer:** A request concerning the use of these was discussed. This had been discussed in past meetings as well and it was the consensus of the TAP that they not be used. That consensus was still held. Motion was made and passed not to use them.
- **Accreditation Documents:** TAP discussed about laws in Canada that required accreditation (credentialing) documents to be in the possession of the DRE before conducting evaluations. Part of the issue is the timeliness of receiving these documents from the IACP. The timeliness is a concern also in the U.S., but many states have overcome that by issuing a document that states that the DRE has been certified by the state coordinator and that the IACP credentials will be following. Unfortunately, Canada cannot do this because the way the legislation is written. This subject will be further discussed between Evan Graham and the IACP and the Standards Committee will work with them also. This may still have to be run by the IACP legal authority.
- **Appeals Process:** This issue concerned a state’s ability to make more stringent standards. States can do that, and a DRE in that state is held to those more stringent standards rather than to the lesser stringent national standards. Also discussed was Section IX of the International Standards entitled “Standards for Conflict Resolution.”
- **Data Collection:** This item was discussed under old business. The drop-down boxes with the multiple drugs listing will be changed and will have only the actual drug category.
- **Rebound Dilation –** Joe Turner received the new definition of rebound dilation that uses the term “constricted” when describing the response of the pupil returning to its original state when, in fact, the pupil is not constricted at all. This becomes problematic with a DRE’s interpretation and understanding of this sign or symptom.
- **Requiring DREs to Do Actual Enforcement Evaluations:** Joe Turner received the following comment from his region: “to voice opposition to any mandate

requiring DREs to have actual enforcement evaluations as part of the required minimum number of certification evaluations needed within each certification period. This would be very difficult to accomplish in our state and would ultimately result in many DREs becoming de-certified, as they would not be able to maintain this requirement for various reasons. I believes this requirement recommendation was brought forward by the Arizona state coordinator and, although I understand and respect her reasons for making this request, I do not feel that this would work for all DEC states as they do not all have all the resources that Arizona has available to them.” This is moot because the states have the right to make the standards more stringent.

- **ARIDE:** It was asked if the state coordinators are utilizing ARIDE as a pre-screening for DRE. About 12 – 14 states are doing that now and are making it a prerequisite to DRE training.
- **Marketing DRE:** Comments were offered on marketing DRE to other highway safety professionals and advocates such as engineers, transportation specialists and school officials.
- **California Starting Dates for DRE:** Discussion followed on when California was involved with the NHTSA / IACP National DECP Program and when the program was started in Los Angeles. In 1986 personnel from NHTSA went to the LAPD to view the training and then a curriculum was developed at TSI to standardize the curriculum. The curriculum was piloted in four states in 1987. A suggestion by the chair was to put an asterisk next to the date and spell out that the program was first started in Los Angeles in whatever date that was. Danny Lamm and Chuck Hayes will send the date of the LAPD involvement along with comments to be inserted.
- **Online training:** Danny Lamm discussed doing online training for recertification, manual updates and evaluations. The requirement for training is under section 3.4(2) of the international standards. The CHP is willing to pilot this. Consensus is that the TAP supports the pilot.
- **Use of SobrietyTesting.org Program Management Tools:** Discussion followed on how to use this. Danny Lamm had some specific ideas and is to contact Wil Price for specifics to see if and how reports could be generated.
- **Use of Tracking System to Apply for Credential and Recertification:** See “Use of Sobrietytesting.org” above.
- **Backlog of Certification Credentialing) Documents:** See above “Accreditation Documents”. The availability of IACP staff to process the credentials is limited. One staff person has been on sick leave for several years and is just starting to get back to work regularly. The other staff member is pulled from her responsibilities in the

credentialing process to assist in other priority duties such as the DRE conference. This matter will again be reviewed by the IACP staff.

- **Use of Out-of-State Instructors:** Discussion followed concerning the use of out-of-state instructors by individual states. A pool of instructors would be gathered by the IACP from those state coordinators who would wish to participate. There would be no NHTSA / IACP funding to pay for any expenses for this use. Any instructors to be used would have to be in the data tracking system.

**VII. SFST Marine Enforcement:** This discussion was led by Captain Richard Moore with Florida's Fish and Wildlife Conservation Commission. He serves as that state's boating law administrator. The boating law enforcement community has long been challenged with limited use of validated field sobriety tests to help establish probable cause on the water. The National Association of State Boating Law Administrators (NASBLA) has led a grant-funded project (through the US Coast Guard) to have the Southern California Research Institute (SCRI) conduct the research necessary to validate a battery of field sobriety tests that could be used in the seated position (on the water and not balance-related). This three-year project is completed, and NASBLA and the US Coast Guard are preparing to roll this out nationally. Since there are many implications relative to these findings within the DRE and DUI communities, NASBLA wants to engage these communities appropriately prior to roll-out.

After working with NHTSA on this project over the past few months, it has become obvious that there are many significant implications to and added value for the DRE and DUI communities. NASBLA wants to utilize effectively the expertise and experience of the IACP and NHTSA as the plan is finalized to roll this out to the marine law enforcement community nationwide in the spring of 2011. The hope is that the BUI/DUI/DRE/prosecutor communities will collaborate in that roll-out with IACP and NHTSA so all those who may be impacted or may benefit are fully on board.

Copies of the research for these batteries of test along with the curriculum will be sent to the IACP for review by the scientific and curriculum committee.

### **VIII. TAP Committees**

- **Prosecution.** Kenny Lebrato discussed the following cases:
  1. Nebraska Supreme Court  
State of Nebraska, Appellate v. Jacob J. Daly, Appellant  
Filed November 20, 2009, No. S-08-192  
Nebraska adopted the DRE protocol. The court determined that the DRE protocol is scientifically reliable and is admissible at trial.

2. State v. German Marquez (A-35-09)

Argued February 2, 2010 -- Decided July 12, 2010

Not a DRE case but a refusal to take a breath test case. (This can affect DRE cases down the road). The Supreme Court in New Jersey held that if a defendant does not speak the English language, the instructions regarding the consequences if he refuses to take the breath test must be read to him in his language. This is so, even though N.J. is an implied consent state.

3. City Of Mequon v. Haynor

City of Mequon, Plaintiff-Respondent, v. James E. Haynor, Defendant-Appellant.

No. 2010AP466-FT.

Court of Appeals of **Wisconsin**, District II.

Opinion Filed: September 8, 2010.

This case upheld the conviction in municipal court for driving under the influence of drugs. The Wisconsin Court relied on the Supreme Court case in Minnesota that upheld the DRE protocol. The Court ruled that because the training of DREs in Wisconsin is the same as Minnesota (“standardized and systematic”), the holding in Minnesota will be relied upon to validate the DRE protocol in Wisconsin.

4. Supreme Court of N.Y. Appellate Division KA 09-01072

State v. Lerow November 23, 2009

This case deals with the issue of drawing blood from a defendant after a motor vehicle accident. (This can apply to a DRE or alcohol case). The defendant was badly injured in an accident in N.Y and was moved to a hospital in Pennsylvania for treatment. The N.Y. Sheriff's officer went to Pennsylvania and got the nurse to draw blood for his investigation. The defense argued that the N.Y. officer had no jurisdiction in Pennsylvania. The court held that the defendant is not allowed a fortuitous benefit of being moved to another state for medical treatment. Police officers can collect evidence outside of their states to enforce the laws in their states.

- **Administrator –**
- **State Coordinators –**
- **Regional Updates**
  
- **Region I - None**

- **Region II - None**
- **Region III - None**
- **Region IV - None**

The meeting adjourned at 5:10 p.m.

The next annual meeting is tentatively scheduled for October 21, 2011, in Chicago, Illinois.

Respectfully submitted,

Ernie Floegel and Chuck Hayes, IACP Staff