



DRE Technical Advisory Panel Mid-Year Meeting Minutes March 27, 2018 Denver, Colorado

TAP Members in Attendance: Beth Barnes, Arizona TSRP/Arizona GHSO; Sergeant Daven Byrd, Arizona DPS; Darrell Edmonds, Institute of Police Technology and Management (FL)/FL DRE State Coordinator; Director Darrin Grondel, Washington Traffic Safety Commission; Deputy Chief Jim Maisano, Norman (OK) Police Department; Lieutenant Don Marose, Minnesota State Police/MN DRE State Coordinator; Director John Marshall, NHTSA Office of Safety Programs; Director Cecelia Marquart, Sam Houston State University/TX DRE State Coordinator; Chuck Matson, DRE Section Chair; Lieutenant Matt Myers, Peachtree City (GA) Police Department; D'Arcy Smith, Royal Canadian Mounted Police, National Traffic Services; Chief of Police Robert Ticer, Loveland (CO) Police Department; Captain Helena Williams, California Highway Patrol; and Executive Director Dan Zivkovich, Massachusetts Municipal Police Training Committee.

TAP members unable to attend: Joseph Abrusci, Donald Alves, Karl Citek, Don Decker, Michael Iwai and Amy Miles.

IACP Staff in Attendance: Jennifer Rolfe, IACP DECP Program Manager; Kyle Clark, (By telephone) IACP DEC Program Eastern Region Project Manager; Christine Frank, IACP DEC Program Project Manager; Chuck Hayes, IACP DEC Program Western Region Project Manager.

Guests: Assistant Deputy Minister Stephen Beckett, Ontario Provincial Police, Canada; Deputy Commissioner Brad Blair, Ontario Provincial Police; David Botham, Royal Canadian Mounted Police DEC Program; Jamie Burns, NHTSA Region 9 HQ; Regional Administrator Gina Espinosa-Salcedo, NHTSA Region 8 HQ; Glenn Davis, Colorado DOT; Carol Gould, Colorado DRE State Coordinator; Albert Graham, NHTSA Region 8 HQ; Chief of Police Brian Kozak, Cheyenne (WY) Police Department; Sergeant Ray Moos, Royal Canadian Mounted Police/Canada DECP Coordinator; and Bill O'Leary, NHTSA Enforcement and Justice Services.

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Welcome and Introductions: Chair Ticer called the meeting to order at 9:05 am and welcomed everyone to the meeting. All attendees were asked to introduce themselves and after the introductions, an attendance roster was completed.

Chair Ticer reminded the attendees that despite the excellent efforts being made, the problem of drugged driving continues to escalate and is an issue throughout the country and in many other areas in the world. He commended the efforts of the TAP members, NHTSA, the IACP, and the DEC Program in addressing the problem.

TAP Appointments and Working Group Updates: Chair Ticer announced one new appointment to TAP; Sergeant Daven Byrd from the Arizona Department of Public Safety, who replaced Jonlee Anderle as the TAP Region I representative. Chair Ticer also announced the following TAP re-appointments; Captain Helena Williams from the California Highway Patrol representing Police Administration; D'Arcy Smith, RCMP representing International Law Enforcement; Don Decker from the Nahant (MA) Police Department representing TAP Region III; Deputy Chief of Police Jim Maisano from the Norman (OK) Police Department representing TAP Region IV; Cecelia Marquart, Sam Houston University (TX) representing the DRE State Coordinators; Executive Director Dan Zivkovich, Massachusetts Municipal Police Training Committee representing POST, and Chuck Hayes of the IACP.

Chair Ticer also announced several new assignments to the three TAP Working Groups, which now consist of:

- Curriculum: Joseph Abrusci, Don Decker (Chair), Darrell Edmonds, Michael Iwai, Don Marose, and Chuck Matson.
- Standards: Beth Barnes, Daven Byrd, Darrin Grondel, Jim Maisano (Chair), Cecelia Marquart, John Marshall, and Dan Zivkovich.
- Scientific: Don Alves, Karl Citek, Amy Miles (Chair), Matt Myers, D'Arcy Smith, and Helena Williams

2017 Annual Meeting and Approval of Minutes: Chair Ticer asked for a motion to approve the TAP annual meeting minutes from the Philadelphia, PA meeting held in October 2017. A motion was made and carried to approve the October 20, 2017 TAP Annual Meeting minutes.

National Highway Traffic Safety Administration (NHTSA) Impaired Driving Initiatives: John Marshall reported on the Drugged Driving "Call for Action" Summit held in Washington DC on March 15, 2018. Director Marshall thanked those in attendance and others that attended the event and provided valuable input to Deputy Administrator Heidi King and other NHTSA staff. Director Marshall advised that Chair Ticer was one of the subject matter experts who participated in the event. The event resulted in an agreement to address some drugged driving key areas which include; 1) Research (Roadside testing devices, FARS research, data collection and drugged driving crash information); 2) Public Awareness (To include possible on-line DUID and ODID courses); 3) Policies (Training of DREs, allocation models, field tests for cannabis, etc.). Director Marshall also reported that NHTSA is seeking input from

various stakeholders, which includes TAP. Information will be forthcoming on how to do that on-line.

Bill O’Leary, NHTSA Impaired Driving Program Coordinator, reported on the following:

- DUID Funding - Approximately 5 million dollars may soon be approved and available for ARIDE and DRE training. If approved, NHTSA will make the announcements. **(Action Item)**
- Buy America Act – The act is strict in that states cannot purchase equipment manufactured or produced outside the United States, such as laboratory toxicology testing instruments. It was recommended states research this with their Highway Safety Offices. NHTSA Region 8 Regional Administrator Gina Espino-Salcedo commented that a survey is being prepared to help in determining the toxicology testing needs in the NHTSA regions. The survey will include questions regarding testing models being used, testing sensitivity, whether the instruments are used to support DUID, and whether the instruments are part of a forensic toxicology package used to support DUID work. The results of the survey will be shared when completed **(Action Item)**
- New DRE Data System – NHTSA is still in the process of switching to a new DRE Tracking System. Due to some unexpected modifications, the projected start-up date has been delayed. NHTSA will continue to communicate with the DRE state coordinators on the progress of the new system.
- Research – NHTSA is examining the seated FST battery used in marine enforcement for possible use in impaired driving investigations to provide some additional field sobriety tests when needed. NHTSA’s researchers have agreed to review the tests and determine their accuracy as alternative field sobriety tests. **(Action Item)**

Canadian DRE Program Update: Chair Ticer introduced Deputy Commissioner Brad Blair and Assistant Deputy Minister Stephen Beckett, from the Ontario Provincial Police (OPP) in Canada. Both provided an overview of how the OPP would like to develop a DRE program in their Province. The discussion included a PowerPoint presentation. (A PDF copy of the PowerPoint accompanies the meeting minutes). After the presentation, Chair Ticer requested that the OPP proposal be reviewed by the Scientific Working Group for a recommendation at the October 2018 meeting in Orlando, FL. **(Action Item)**

TAP Meeting Action Items: Chair Ticer requested that Chuck Hayes provide an update on the 2017 TAP Annual Meeting action items, which included:

- Forensic Testing definition be added to the International Standards for the DEC Program. This was completed with the assistance of the Scientific Working Group. The new definition was added to the Glossary of Terms and will be included in the next release of the International Standards for DEC Program.
- Mid-Year TAP meeting. Under the current NHTSA/IACP Cooperative Agreement, two TAP meetings must be held each year. The annual meeting will continue to be held in conjunction with the Annual IACP Conference. The Colorado meeting fulfills the mid-

year meeting requirement. IACP will work with the Chair to determine possible times and locations for the 2019 mid-year meeting.

- New DRE Face Sheet. The DRE Face Sheet has been revised to capture more information regarding those times when an evaluation must be stopped or when the suspect refuses to complete the evaluation. The new Face Sheet is included in the 2018 DRE curriculum release.
- DITEP Updates on DECP Website. The Drug Impairment Training for Educational Professionals (DITEP) training has been updated with the assistance of several states that frequently use the training. The update curriculum is now available and can be accessed by the DRE state coordinators on the DECP website.
- HSC Resolution: *Support of National Safety Council Position on Cannabis and Driving*. This Resolution, which was recommended at the 2017 TAP annual meeting, has been written and is currently pending approval at the Highway Safety Committee level. If passed at the committee level, it will go before the IACP Resolutions Committee for final approval at their annual meeting in October. Matt Myers provided an update on the resolution and how it will be used to support the issues of Cannabis/THC per se issues. He also reported that the resolution was shared with the National Sheriff's Association and it has already been adopted as a resolution by that organization.
- DRE Scientific Endorsements. There was a proposal that the TAP Scientific Working Group conduct scientific peer review of various impaired driving-related publications. However, due to some strong opposition on this and the need for more discussion, this is being tabled to the annual meeting in October. **(Action Item)**

2018 DAID Conference Update: Jennifer Rolfe and Christine Frank provided an update on the 2018 DAID Conference to be held August 13 – 15th in Nashville, TN. Registration costs will be increasing for the conference to help meet the increased costs associated with conducting the conference. Jennifer provided the costs for the conference which are: Early Bird Registration: IACP DRE Section member - \$250; IACP member - \$275; Non-Member - \$400. Regular Registration: IACP member - \$375; Non-member - \$500. Additional registration information and other conference information will be accessible at: DAIDConference@theiacp.org

The DRE State Coordinators meeting will be a half-day meeting held on August 12th, the day prior to the conference. The New DRE State Coordinator Orientation and the DRE Section meeting will follow the State Coordinators meeting in the afternoon.

Jennifer reported that the IACP is attempting to schedule the DAID conferences in advance, much like the IACP annual conferences. The 2019 DAID Conference is being planned for Anaheim, CA in August (Final dates to be determined). San Antonio, Texas is being considered for 2020, and Georgia, Florida and North Carolina are the states being considered for 2021. **(Action Item)**

Robustness of the HGN Test Research Study: Chuck Hayes reported on the TAP electronic vote conducted in January regarding the proposal to remove the references to HGN Robustness Study paper from the SFST, ARIDE and DRE curriculum. The proposal resulted from concern that part of the study was conducted in a manner that substantially deviated from the normal protocol for administering and interpreting HGN. This concern was reviewed and confirmed by Dr. Citek and Dr. Jack Richman. Due this issue, it was recommended that references to the study be removed from the three curricula, and that TAP issue a formal retraction of the study. After input from members of the TAP Scientific Working Group, the formal retraction was not recommended due to questions about TAP's standing to issue a retraction and if retracting the entire paper would limit use of other parts of the study that were properly conducted. Therefore, an electronic vote was taken of the TAP members pertaining only to removing the references from the 2018 SFST, ARIDE and DRE curricula. The vote was 18 in favor and one non-vote. As a result of the vote, the Curriculum Working Group removed all references to the study in the 2018 SFST, ARIDE and DRE curriculum.

In discussion at the TAP meeting, it was pointed out by several members that parts of the study can still be used in court to support HGN testing. Some members also expressed concern that referring to the Robustness study at all should be avoided when another study can be used to make the same point, e.g. effect of posture on HGN. It was recommended that a fact sheet be developed to help prosecutors and officers explain the sharp differences in false positive findings between relevant section of the Robustness study and other credible studies. Chair Ticer assigned the Scientific Working Group to formulate this document and also determine the need, if any, for a list of alternate references for the areas studied in Robustness. Matt Myers was assigned to coordinate this effort. **(Action Item)**

AAA Partnership Updates: Chuck Hayes reported on two AAA DRE partnership projects; 1) DRE Expert Courtroom Testimony training, and 2) AAA DEC Program Research Project. AAA, working in partnership with IACP and NHTSA, has developed a 8-hour DRE expert witness training course being taught by TSRP's Jennifer Tibbets Knutson from Colorado, Jared Olson from Idaho, and Ashley Schluck from Wyoming. The course was piloted in Baltimore, MD in December 2017 with excellent results. The second course was held March 12 – 13th in Denver, again with excellent results. AAA is working with the IACP, the DRE state coordinators, and the NHTSA regional offices to schedule and conduct the training. The training is free, other than the travel expenses for the DREs attending. The next course is scheduled for June 11 – 12th in Newport, California, and is being hosted by NHTSA Region 9 and the California Highway Patrol. AAA is seeking to expand the training and is hoping to conduct future courses in the other NHTSA regions.

The second AAA project involves an in-depth research study of the DEC Program. The project was awarded to Dr. Doug Beirness from Canada. The draft report has been completed and is now going through a final review process. The key research task areas were: 1) Review of scientific studies to help identify where the gaps in the science may exist; 2) Review possible procedures that might be adapted internationally to strengthen the program; 3) Identifying and

understanding what the best predictors are for identifying specific types of impairing drugs; 4) Exploring what new technologies may be available to assist DREs in making their determinations; 5) Interviewing various stakeholders in the program to help identify weaknesses and strengths. The IACP will be working with AAA to make the report available once it is completed. **(Action Item)**

Enhanced DRE Standards and International Standards Recommendations: Jim Maisano reported on the latest DEC Program International Standards recommendations worked on by the Standards Working Group. The following recommended revisions to the current (October 2017) International Standards were discussed:

- 1) Revising the Executive Summary (Page 4) to include the words, “Unless otherwise indicated in the specific revision, these revisions are prospective only and shall not apply retroactively.” The motion carried, and the new language will be added to the next International Standards update. **(Action Item)**
- 2) Standard 1.1 related to who can be a DRE. The proposed language was discussed but there were concerns over what constitutes an “institution” and whether TAP should be approving the “institutions.” It was agreed this proposed revision will be reviewed further and re-addressed at the October 2018 TAP meeting. **(Action Item)**
- 3) Standard 5.2 regarding reinstatement as a DRE and which examination can be used. The new recommended language clarifies that a remedial 100-item exam will not be utilized in the reinstatement process. The recommended language motion carried, and the new language will be added to next update of the Standards. **(Action Item)**

Jim also reported that State Enhanced Standards requests were submitted from Minnesota, Ohio, Pennsylvania, and South Carolina. The enhanced standards were reviewed by the Standards Working Group and were found to be acceptable. The latest approved enhanced standards now bring the total of states with approved enhanced standards to twenty (20). Those states are: AZ, AR, CA, CO, FL, IA, MN, MO, NE, NY, NC, OH, OK, OR, PA, SC, TX, VT, WI, and WY. Enhanced Standards were also received from Canada, but due to the short timeframe to review them, they will be considered at the October 2018 TAP annual meeting. **(Action Item)**

Georgia ACLU Lawsuit Update: Chuck Hayes and Matt Myers provided a brief update on the ACLU lawsuit filed in Georgia involving a DRE that works for the Cobb County Police Department. Kyle Clark conducted a review of the issue and determined that it was not a DRE matter in that the DRE officer did not complete a DRE evaluation in the DUID cases being contested and reported by the media. Essentially, the ACLU has filed a lawsuit due to the toxicology results not supporting his arrests. Since the cases are still pending, there was no further discussion on the matter.

Arizona DRE Research Project Update: Daven Byrd provided an update on the Arizona DRE validation study in which he is assisting. The data and the final report are in the review process and will hopefully be approved for publishing soon. The preliminary data appears to be supportive of the DEC Program. **(Action Item)**

Colorado DRE Program Initiatives: Chair Ticer introduced Carol Gould, the Colorado DRE State Coordinator and Glenn Davis, the Colorado Impaired Driving Program Manager. They provided an overview of some of the new impaired driving initiatives being developed in Colorado. The initiatives include: 1) A DRE “State of State” review; 2) Formation of a DRE Advisory Committee to assist with the program, including reviewing DRE school applications; 3) Conducting in-service training updates with the Colorado State Patrol, which includes two days of training, a marijuana impairment “Green Lab” and 4) Development of a Colorado web-based system which will include training information and DRE certification information. Glen also described a new media campaign entitled, “Join the Cannabis Conversation.” The campaign is intended to get more public conversation and input regarding the issues and problems with driving under the influence of marijuana. Colorado has seen an increase in traffic fatalities involving marijuana (77 deaths with THC in 2017) and 51 of the involved drivers had THC levels above 5 ng/mL THC.

Additional information about the Colorado DRE initiatives and marijuana and campaigns can be obtained by contacting Carol Gould.

Member reports/Items from the floor: Due to time restraints, there were no member reports or other new items from the floor.

Adjournment: Chair Ticer adjourned the meeting at 12:01 pm and reminded the members that the next meeting will be held on October 5, 2018 and will be in conjunction with the IACP Annual Conference in Orlando, FL.

Last revision date: 5/7/18
Submitted by C. Hayes