



IACP DRE Technical Advisory Panel Meeting **Friday, November 7, 2008** **San Diego, CA**

The annual meeting of the IACP Technical Advisory Panel to the DEC Program was held on Friday, November 7, 2008, at the Omni Hotel in San Diego, CA.

PRESENT: Earl Sweeney, TAP Chair (Present during afternoon part of meeting); Lt. Colonel Darrell Fisher (serving as TAP Chair), Nebraska State Patrol; Major Jim Maisano, Norman (OK) Police Department; T/Sergeant Doug Paquette, New York State Police; Sergeant Danny Lamm, California Highway Patrol; Dan Mulleneaux, Arizona Governor's Office of Highway Safety; Dr. Jack Richman, O.D., New England College of Optometry; Ken Lebrato, Deputy Prosecutor, New Jersey; Cynthia Burbach, Toxicologist, Colorado Bureau of Investigations; Bob Jacob, Director, Institute of Police Technology and Management; Joe Turner, Indiana Law Enforcement Academy; Frank Kowaleski, Virginia Association of Chiefs of Police; Troy Costales, Oregon Traffic Safety Division and Officer Robert Jenkins, Miami Beach, FL, Police Department.

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

GUESTS: Garrett Morford, Earl Hardy and Bill Tower, NHTSA; Deputy Chief Gary Fief, California Highway Patrol; 1st Sergeant Tom Woodward, Maryland State Police; Sergeant Don Marose, Minnesota State Patrol; Officer Bill Morrison, Montgomery County PD; Joanne Michaels, National District Attorneys Association/National Traffic Law Center; Corporal Evan Graham, RCMP National DEC Program Coordinator; Constable Rob Martin, York, Canada Police Department; Alan Haywood, Arizona GOHS; Tim Gaffney, Arizona GOHS; Kyle Clark, IPTM.

Chairman Earl Sweeney was attending another IACP meeting and had delegated the chair responsibilities to Darrell Fisher who called the meeting to order at 9:00 AM. After the usual greetings, he had the members and guests introduce themselves. He also welcomed the newest members of TAP, Cynthia Burbach and Ken Lebrato.

Joanne Michaels of the National Traffic Law Center was introduced and gave an update the NTLC and their impaired driving training and monographs that are available on their Web site.

I. IACP Updates:

- **2007 DRE Training Conference on Drugs, Alcohol and Impaired Driving:** Approximately 600 persons attended the conference in Indianapolis, IN. The critiques and input from the attendees were very favorable and the conference was very successful. Carolyn Cockroft recognized Joe Turner and the Indiana committee members that helped make the conference a success.
- **2009 Conference:** Carolyn reported that the 15th annual training conference will be held in Little Rock, Arkansas, August 8-10, 2009. The conference agenda will be discussed at the DRE Section meeting to be held November 8, 2008.
- **IACP DRE Records:** Approximately 6,000 DREs are certified internationally, 1,500 of whom are also DRE instructors.
- **2007 DRE Training:** 52 DRE Schools were held nationally, training 1,047 students.
- **IACP In-Kind Services Form:** Carolyn reported that the IACP must track time devoted by non-IACP staff when involved in IACP activities, such as TAP and the DRE Section meetings. Carolyn requested the In-kind Services completed forms be submitted directly to her.

- **DRE Resolution:** Carolyn also reported that the DRE Resolution (page 24 of the TAP handout) approved by TAP in New Orleans was submitted to the Resolutions Committee of the Highway Safety Committee earlier this year. The HSC made some subtle changes and it will be voted for adoption by IACP members on November 11 at the IACP annual conference. [NOTE: The resolution was adopted by the IACP membership.]
 - **Mississippi:** Mississippi passed the initial site inspection to become a DECP state. They had funding to pay for out-of-state instructors but, since the funding would have expired on September 30, 2008, it was imperative to have a vote concerning the acceptance of Mississippi into the DEC Program. The chair authorized a vote by e-mail, and a unanimous vote was cast to accept Mississippi as the 46th DECP state (45 states plus D.C.).
- II. **TAP Meeting Minutes:** The TAP minutes from the New Orleans meeting, October 12, 2007, were approved.
- III. **Old Business**
1. **Training Updates:**
- **ARIDE:** Numerous states have conducted ARIDE training since the materials were released to the states earlier this year. Thus far, reports are encouraging from the officers attending the training. IACP is posting the training on the yearly training schedule along with DRE schools and SFST instructor schools. NHTSA has no plans to make ARIDE a prerequisite for DRE training. NHTSA is pleased with the effort to bring the ARIDE training to the forefront in the DRE states.
 - **SFST Refresher:** Chuck Hayes reported that a committee appointed by NHTSA had met in Oklahoma City earlier this year to review the current SFST curriculum and make recommendations for the development of an SFST refresher training course. The committee, consisting of Dean Kuznieski from NHTSA, Jeff Collier from Kansas, Dan Mulleneaux from Arizona, Mark Phillippy from New York, Kyle Clark from Florida and Chuck, developed a four-hour training curriculum that can also be expanded to eight hours if needed. The final draft is now being prepared by the Transportation Safety Institute and should be available to the states early next year.
 - **DEC Program Training Manuals:** Chuck Hayes reported on the revision process now underway to update the DRE training manuals. TAP-approved revisions have already been submitted to the Texas Transportation Institute (TTI), who is converting the manuals into the MS Word curriculum format and doing the revisions. Other ministerial changes were discussed and approved by the TAP DRE Curriculum Committee and have also been submitted to TTI. It is anticipated that the revised 2009 manuals will be ready for release in early 2009.
 - **New DRE Drug Category Videos:** Chuck Hayes reported on the process of revising and updating the drug category videos used in the DRE training. With the assistance of the California Highway Patrol, the videos are near completion. The first drafts were tested at the recent Arizona and Mississippi DRE schools. The videos received favorable comments from both students and instructors. Input and suggestions were forwarded to the CHP and will be incorporated into the new videos. Chuck will continue to work with the CHP on the videos. After the completion of the latest input and suggestions, the videos will be sent to the Curriculum Committee for review one more time. Unless the committee is not satisfied, the videos will have been considered approved for use by the TAP. It is anticipated they will be completed in January 2009 for release with the 2009 curriculum.
 - **Lack of Convergence:** A question was submitted to the TAP regarding the procedure used in DRE for conducting the Lack of Convergence (LOC) examination. The issue was referred to the TAP Scientific Committee, which includes Dr. Jack Richman. It was the opinion of the Scientific

Committee that the current DRE LOC testing procedure does not conflict with the clinical procedure and is defensible in court. One thing that the DREs do that is not routinely done in the clinical setting is moving the stimulus in a circular motion in front of the subject's face prior to moving the stimulus toward the subject's nose. Dr. Richman recommends that, if the subject routinely wears eye glasses, the LOC should be done with the glasses on or at least the subject should be allowed to wear the glasses for the test. Based upon this input, a motion was made to add an instructor note to the DRE instructor manuals to allow the subject to wear eye glasses when conducting the test to be more representative of the clinical lack of convergence procedure. The motion was passed by the committee. Chuck will write a draft instructor note and send to the Curriculum Committee for review and approval. The note will then be added to the next manual revisions. **Action Item:** Submit proposed wording to the Curriculum Committee for approval and then add to the DRE curriculum.

- **International Standards 1.1:** A question arose regarding who can be certified as a DRE under the current IACP *Standards*. Discussion ensued about reserves and people attending police academies who are actually not hired yet as police officers. After some discussion, the standards will remain as is: a person in the employ and under the direct control of (1) a public criminal justice agency involved in the enforcement of criminal or traffic safety laws or (2) an institution involved in providing training services to officers of law enforcement agencies. It was discussed that the state coordinator has the final say on who can attend a DRE class and may develop more stringent requirements for a DRE candidate. Standards are to be reviewed to determine where this is specifically stated.
2. **NHTSA Research/Studies:** Garrett Morford reported on the following NHTSA studies:
- **SFST/DRE Curriculum Transfer to Word:** Garrett Morford reported on the process now in place transferring the current DRE and SFST manuals from WordPerfect format to MS Word training formats. The job was contracted out to the Texas Transportation Institute.
 - **Palm Pilot Study:** Due to software and other issues, NHTSA has discontinued efforts to develop a DRE reporting system for Palm Pilots.
 - **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 to 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.
 - **National Roadside Detection Study of Alcohol and Drug Positive Drivers:** Data collection for the survey is complete and was collected from approximately 60 locations nationally. Data will be compiled for a written report by NHTSA. The ONDCP is taking a strong interest in the data and the NHTSA research staff is providing regular updates to the ONDCP. Three reports will come from this project:
 - **Methodology Report** – completed and under agency review
 - Alcohol Report – being written
 - Drug Report – must await analysis of blood samples

Status: Pending
 - **Rosita Study:** Field Test of Saliva-Drug Detection Devices (jointly funded with the European Union, ONDCP and NIDA) Project is completed; report available on { HYPERLINK "<http://www.rosita.org/>" \o "<http://www.rosita.org/>" } *Status: Completed*
 - **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*
 - **Dr. Burns Study:** The study has been completed. The report has been published and is available at { HYPERLINK "<http://www.nhtsa.dot.gov/>" }

- **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*

3. DRE Curriculum Issues:

- **Change in Matrix/Muscle Tone.** TAP discussed updating the DRE matrix to include a muscle tone category was discussed. At one time a “Muscle Tone” column was included in the matrix. Through the years it was removed, and the information was put into the general indicators. Some states have developed their own matrices and have added the muscle tone column. To standardize the matrix, it was recommended that muscle tone be added to the matrix example used in the DRE School (Session XXIV) curriculum. A motion was made and seconded and approved by the members. **Action Item:** Add the muscle tone column to the 2009 DRE curriculum revisions.
- **Wet Workshops in DRE Schools:** TAP revisited issue of eliminating the wet workshop. One of the state coordinators had requested that the wet workshop in the Seven-Day School be removed because it had already been conducted in the Pre-School and that some states do SFST training prior to DRE training; thus, they have already conducted several wet workshops. After some discussion it was agreed to leave as is and require the wet workshop for both Pre-School and the 7-Day School.
- **Hippus, Rebound Dilation and Pupillary Unrest:** A proposal to revise the definitions of “hippus” and “rebound dilation” and to add a new definition of “pupillary unrest” was discussed. The proposals had been submitted in April 2008 and had progressed through the proper curriculum revision process approved by TAP. Due to the sensitivity of the proposal, the information had also been discussed at the August 2008 DEC Program State Coordinators’ meeting in Indianapolis. Chuck Hayes reported that only a few of the state coordinators provided comments to IACP regarding the proposed revisions. The input received was mixed and there was little opposition of the revisions.

Dr. Jack Richman was asked to provide input and share any research that supported the revisions. Other members of the committee also provided input and the consensus was that if the revisions were approved, they should be correct and supported by research. The following revisions were proposed to the members:

HIPPUS:

Current definition: “A rhythmic pulsating of the pupils of the eyes, as they dilate and constrict within fixed limits.”

Proposed revision: “A rhythmic change in the pupil size of the eyes, as they dilate and constrict observed only in darkness independent of changes in light intensity, accommodation (focusing), or other forms of sensory stimulation.”

Comments and discussion:

The definition of the term “hippus” has been a source of confusion in scientific literature. “Hippus” meant different kinds of pupillary oscillations for different authors. New words were also invented to distinguish between the different kinds, furthering the confusion, and some were used synonymously. In the literature reviewed, approximately 10 separate pupillary phenomena were described under the name of “hippus” over the past decades; yet “hippus” meant different kinds of pupillary oscillations for different authors. The words “hippus” and “pupillary unrest” are often used to describe similar signs of pupillary size fluctuations giving

further evidence of the difference between the two. The most common description of hippus used today stresses the continual restless character of the pupillary oscillations and emphasizes that they are not related to the usual causes of pupillary movements, such as changes in light sensitivity, accommodation, or sensory stimulation. It appears that real hippus vs. normal pupillary unrest would need to be evaluated when there is no light or fluctuations in light (such as under near total darkness conditions).

REBOUND DILATION:

Current definition: “A period of constriction followed by dilation with a change equal to or greater than two millimeters.”

Proposed revision: “A period of pupillary constriction followed by a period of pupillary dilation, where the pupil steadily increases in size.”

Comments and discussion:

A review of the research reveals little regarding the phenomena of “rebound dilation”. It is a pupillary reaction observed in the DEC Program eye examination protocol primarily when examining persons under the influence of Cannabis, CNS Stimulants and/or Hallucinogens. However, data does not support an increase of two millimeters or more when rebound dilation is normally observed.

PUPILLARY UNREST:

Current definition: None

Proposed definition: “The continuous, irregular change in the size of the pupils that may be observed under room or steady light conditions.”

Comments and discussion:

The earmarks of normal pupillary unrest are unevenness in the rate and size of pupil sizes under lighted conditions and their disappearance in darkness. The pupils of normal, alert subjects are steady in darkness but may exhibit irregular fluctuations in steady light.

Each of the above listed recommended revisions were reviewed by the TAP Scientific Committee and approved. It was recommended that they also be forwarded to the DECP state coordinators for comment. If there are no objections, the revisions will be added to the 2009 curriculum updates. It was also recommended that the “Hippus” box be removed from the DRE drug influence evaluation form in the DRE curriculum.

Action Item: Send definitions for “hippus”, “rebound dilation” and “pupillary dilation” to the Scientific Committee for approval. If approved, then send to the state coordinators for comment. If no major objections, add the definitions to the 2009 curriculum updates.

Note: The TAP Scientific Committee met during the TAP lunch break and approved the above listed definitions and revisions. A motion was made to approve the definition revisions and the definition of “pupillary unrest”. The motion carried and was approved by the members. The information will be forwarded to the state coordinators with comments requested no later than December 15, 2008. This would allow incorporation of the revised definitions into the 2009 curriculum if approved.

IV. Prosecution Update: Ken Lebrato discussed issues of concern regarding drug evaluations on juveniles. It was determined that there are no major issues and that the states are following their own state guidelines

or state laws when dealing with juveniles. Other discussion centered on tracking DRE-related case law and trying to identify specific cases that might have an effect on SFST, HGN and DRE.

V. New Business:

- **IACP Legislative Business:** Carolyn Cockroft discussed the IACP Strategic Plan draft that includes areas dealing with transportation safety and the DEC program. She asked that if anyone had any input to forward the information to her.
- **Webinar “Go To Meeting”:** Dan Mulleneaux explained the “Webinar Go-To-Meeting” conferencing system Arizona is now using with success. It was used by the Curriculum Committee and it allows 25 participants to view documents via the internet and participate in the conference call. The system will be used for future committee activities and meetings.
- **Pre-School Final Examination:** Chuck Hayes noted that the current DRE Pre-School curriculum does not include a numerical pass/fail score for the written exam given at the end of the school. It currently calls for the instructors and course manager to determine if the student has met the primary learning objectives and does not require a final passing score. After some discussion among members it was agreed to leave the process as is and not require a pass/fail score.
- **Selling of SFST Manuals:** Chuck Hayes reported that a former DRE from Oregon who is now out of law enforcement has started a defense expert business in Boise, Idaho, and is offering SFST manuals for sale on his Web site. NHTSA was asked to determine if this was permissible. NHTSA legal council checked into the issue and determined the manuals are public domain and therefore nothing can prohibit someone from selling such manuals. There were additional discussions about purchasing manuals from the National Technical Information Service (NTIS) and that they have only outdated manuals. NHTSA will provide them with updated manuals and CDs. (Completed)
- **Medical Conditions/Vital Signs:** Joe Turner inquired if there were any standards or guidelines suggesting when medical intervention should be taken during a DRE evaluation. He pointed out that most DREs are not trained about taking medical intervention if needed. He suggested that TAP should consider developing some guidelines for either in-service training or for the DRE School curriculum. Members agreed that guidelines might be appropriate if they could be developed and approved by medical experts. The chair appointed Joe to work with the Scientific Committee to draft some criteria for future review and consideration by TAP.

Action Item: Develop criteria or guidelines for the DRE curriculum for possible medical intervention when conducting a DRE evaluation.

- **Poly Drugs:** TAP discussed the definition of poly drugs and decided to leave it as is.
- **4-Hour/ 8-Hour Drug Block:** Garrett Morford reiterated that ARIDE was not replacing the 4 / 8-hour Drugs that Impair Driving (D.I.D.) curriculum. NHTSA is fine with states using the D.I.D. training and is also encouraging the states to use ARIDE training. NHTSA will no longer update the D.I.D. curriculum.
- **FARS Reporting:** Troy Costales provided the members with a handout listing the 2007 Fatal Accident Reporting System (FARS) data for the states. He indicated the reporting of alcohol and drug involvement in fatal crashes is now mandatory for all states as one of their performance measures. He further indicated that some states are doing an admirable job of collecting and reporting such information; however, many states are not. He recommended that TAP members promote the collection and reporting of this information in their respective states through the DECP state coordinators. It was suggested that this information be included at next

year's DECP state coordinators' annual meeting in Little Rock. Joanne Michaels indicated that she would be willing to post some information about the FARS reporting requirements on the TSRP website promote this with prosecutors. **Action Item:** Include a FARS reporting data overview at the 2009 state coordinators' annual meeting in Little Rock, AR. Also provide information through the TSRP website.

- **GHSA Report:** Troy Costales reported that a Drugged Driving/DEC Program overview was presented at the 2008 GHSA annual conference held in Arizona. The three-part panel presentation included a national perspective of the drugged-driving problem by Richard Compton of NHTSA, a DECP national overview by Chuck Hayes, and a perspective from a DECP state coordinator by Dan Mulleneaux. The presentation was well received and also assisted in future expansion efforts for the program.
- **Alcohol as a Depressant:** Ernie Floegel asked the question of the members about whether alcohol should be considered as a depressant for DRE data reporting. After some discussion, members decided to leave the DRE reporting as is and leave alcohol as separate reporting criteria and not included in the CNS Depressant category.

VI. Other Items from the Floor:

- **Medical Doctor on TAP:** The members were reminded that the passing of Dr. Phillip Phillips created a vacancy in the medical doctor position on TAP. Due to funding reductions for TAP, which also resulted in going back to one meeting a year, the medical position will have to remain vacant until additional funding can possibly be obtained or there is a change in the representation within TAP.
- **On-Site Urine Testing Devices:** Dan Mulleneaux inquired about the use of the on-site urine testing devices being used for evidence if the evaluated subject refused the normal toxicological test request. This is apparently happening in Arizona from time to time. Arizona prosecutors would like to use the on-site screening device results in such cases; however, there is nothing in the standards that allow such use. At the request of IACP and the chair, Dan was requested to provide draft language to Ernie Floegel and Standards Committee to review.

Action Item: Dan Mulleneaux will provide draft language regarding the use of on-site urine testing devices as possible evidentiary devices in the absence of other toxicology samples.

- **Curriculum Revision Process:** Since only one TAP meeting is held per year instead of two, the DRE Curriculum Revision Process approved by TAP in 2006 needs to be revised. Chuck Hayes was directed to revise the process chart and distribute to the state coordinators and TAP members.

Action Item: Revise DRE Curriculum Revision Process chart and distribute to DECP state coordinators and members of TAP.

- **SFST Coordination:** Troy Costales inquired about SFST coordinators in the states. He is trying to determine if the DECP state coordinators are also the SFST program coordinators. A discussion followed and it was determined that some are and some are not and that the exact number of states with SFST coordinators is not known.

VII. Administrator's Report: Gary Fief reported that California is making progress in getting more of the statewide DRE evaluation data collected and reported. Meetings are being held to encourage DREs to enter their data. Since this action has started this year, 8,000 evaluations have been entered.

VIII. Police Training Update: Bob Jacob reported that law enforcement needs to be thinking about the possibility of increased gang activity as more military personnel return to the U.S. He indicated that more training will be needed in this area and this may be a future concern to law enforcement administrators.

IX. State Coordinator Report: Danny Lamm. No concerns reported.

National Crackdown DRE Enforcement Data: Chuck Hayes reminded members that NHTSA requires enforcement data from DREs for each of the national crackdown enforcement periods. Reporting from the states has been poor but did improve for the Labor Day period. Nine states reported data for the July Fourth period. Nineteen of the 44 states reported data for the Labor Day period which included 1,170 DUI arrests, 587 DUID arrests and 725 drug evaluations by DREs in the 19 states. The next crackdown reporting period will be for the entire month of December. Each of the state coordinators will receive notice of the December crackdown by e-mail prior to December 1.

X. Regional Updates:

Region I: Dan Mulleneaux reported many states in his region are starting ARIDE training. He discussed the use of the on-site urine testing devices and the need in Arizona to allow them if possible. A regional state coordinators' meeting is in the plans for the spring, probably in Wyoming.

Region II: Don Marose reported that a regional state coordinator's meeting was held in Des Moines, Iowa, in October. Less than half of the state coordinators attended the meeting due to conflicts and travel restrictions. One of the questions that emerged from the meeting was "What is required now for the DRE School Course Manager's Report?" Darrell Fisher will be revising and updating the Course Manager Manual and this information will be included in the new manual. According to Ernie Floegel and Chuck Hayes, what is needed is the Quality Assessment Report that lists the dates of the training, training location, number of students trained, a list and assessments of instructors, curriculum issues and other issues pertinent to IACP. Critiques and test scores are no longer needed and should be retained by the course manager or state coordinator. Another issue brought up at the Des Moines meeting was the removal of Standard 7.4 from the *International Standards* that gave the state coordinators authority to expand or set higher standards for their respective programs. After some discussion, it was agreed to include the standard in the upcoming revisions. **Action Items:** (1) Update reporting requirements for course managers in the course manager manual. (2) Add information in the standards about state coordinators being allowed to expand or set higher standards for their respective programs.

Region III: Doug Paquette report on the following states:

- Pennsylvania completed an ARIDE class in October. The instructors had mixed feelings and thought it was not enough time to present all the information. They also conducted two DITEP classes over the summer, and it was well received. There is one DITEP scheduled for 2009. A DRE School is scheduled for February 2009. They would like to host the 2010 DRE Conference.
- New York continues to provide DITEP training across the state as requested. ARIDE classes have been well received and more are scheduled for 2009. A DRE school is scheduled for early spring, with an instructor school just prior. Emphasis has been directed towards providing SFST overview training to prosecutors.
- Vermont's DRE program continues to do well, with an anticipation of training DRE instructors early in 2009. DITEP has been a big success and there is a strong demand.
- Massachusetts completed a DRE school and certifications. They will assist Vermont with DRE instructor training. They have also been assisting Rhode Island's DREs with re-certification opportunities.
- New Hampshire continues to work with Massachusetts and Vermont to share resources and instructors for training events. It is anticipated they will hold a DRE school during the spring. They are in the research stage for proposing to host the DRE conference in 2012.
- New Jersey just completed a landmark breath testing FRYE hearing with a positive finding.

Region IV: Jim Maisano asked about training or guidelines on what constitutes a “training evaluation” for the DRE Data Reporting Web site. He also suggested that there be guidelines established on what should be entered into the Web site. **Action Item:** Jim Maisano will work with Ernie Floegel to develop guidelines on entering DRE data and define each of the evaluation entry criteria.

The meeting adjourned at 5:00 p.m.

The next meeting is scheduled for October 2, 2009 in Denver, Colorado.

Respectfully submitted,

Ernie Floegel and Chuck Hayes
IACP Staff