



IACP DRE Technical Advisory Panel Meeting

**Friday, October 18, 2013
Philadelphia, PA**

The annual IACP Technical Advisory Panel meeting was held on Friday, October 18, 2013, at the Loews Hotel in Philadelphia, PA.

MEMBERS PRESENT: Chief Dan Bower, California Highway Patrol; Dr. Donald Alves, Maryland State Police; Lt. Jonlee Anderle, Laramie, WY, Police Department; Dr. Karl Citek, Pacific University College of Optometry, Forest Grove, OR; Jeff Collier, Kansas Highway Patrol; Don Decker, Nahant, MA, Police Department; Sgt. Evan Graham, Royal Canadian Mounted Police; Kyle Clark, Institute of Police Technology and Management, Jacksonville, FL; Sgt. Mike Iwai, Oregon State Police; Amy Miles, Wisconsin State Laboratory of Hygiene, Madison, WI; Assistant Prosecutor Ken Lebrato, Middlesex County, NJ; Deputy Chief Jim Maisano, Norman, OK, Police Department; T/Sgt. Doug Paquette, New York State Police; Sgt. Jarod Primicerio, California Highway Patrol; Joe Turner, Indiana Law Enforcement Academy, Plainfield, IN; Director Garry Thomas, Oklahoma Highway Safety Office; Joe Abrusci, DRE Section Chair, Andover Township, NJ; and Executive Director Dan Zivkovich, Massachusetts Municipal Training Committee.

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

GUESTS: Christopher Andreacola, Tucson, AZ, Police Department; Beth Barnes, Arizona Traffic Safety Resource Prosecutor, Phoenix, AZ; Daven Byrd, Arizona DPS; Marc Desavlniers, Canada; Joseph Koher, Huntington, WV, Police Department; Officer Kemp Layden, Phoenix, AZ, Police Department; Sgt. Mireille Moore, Royal Canadian Mounted Police; Lt. Don Marose, Minnesota State Patrol; Lt. Matt Myers, Peachtree, GA Police Department; Major Bill Peters, Mesa, AZ, Police Department; Bridget Reutter, Arizona Governor's Office of Highway Safety/DRE State Coordinator; Jamie Taplin, Royal Canadian Mounted Police; Bill Tower, NHTSA Region III Law Enforcement Liaison; Joanne Thomka, National District Attorney's Association; and Elizabeth Earleywine, Illinois Department of Transportation.

Dan Bower had been designated as the acting chair by Chairman Joe Farrow who was unable to attend the meeting due to other meetings and assignments. Acting Chair Bower called the meeting to order at 9:05 am and asked the members and guests to introduce themselves.

IACP Updates:

- Oklahoma City Conference: Carolyn reported that the DRE Section's 19th Annual Training Conference on Drugs, Alcohol and Impaired Driving was held in Oklahoma City, August 5 – 7. In addition to drug recognition expert officers, participants included other law enforcement officers, toxicologists, prosecutors, medical professionals and other highway safety advocates. Close to 720 people attended, making it the third largest DRE conference ever held. IACP President Craig Steckler was among the welcoming speakers. Topics addressed during the three days were Prosecuting DRE Cases with Better Reports; Prescription Drug Abuse; One Pot Meth Labs; Interdiction – Transportation Methods and Hidden Compartments; Understanding Interlock Devices and How They Can Benefit DUII Investigations; Excited Delirium; Southwest Border Operations, and What to Do with a Negative Toxicology Results.

- **DREs and DRE Instructors:** Carolyn Cockroft reported that as of October 1, 2013, IACP has credentialed a total of approximately 7,150 DREs and 1,400 DRE instructors. She also advised that the DRE Section's 2012 Annual Report has been completed and is now available at www.decp.org and www.theiacp.org
- **IACP Office Move:** Carolyn also reported that the IACP has moved from their headquarters on Washington St. in Alexandria, VA, to their new office on 44 Canal Center Plaza Suite 200. The move required that they purge most of the association hard copies of documents since they were now "going green." This required Carolyn and Shirley Mackey to scan more than 30,000 DRE documents that the IACP had housed since 1990. All future documents sent to the IACP for processing must be in electronic format. Before the end of the year, the IACP will no longer mail certificates for newly credentialed DREs. Instead the certificates (not cards) will be emailed in PDF files to the state coordinators for printing.
- **DRE Training:** In 2012, 59 DRE schools were conducted in a total of 35 states resulting in the training of 1,231 officers. Additionally 496 ARIDE courses were held in 44 states with approximately 10,200 officers trained.
- **DRE Evaluations:** Carolyn reported that, according to the DRE Section's 2012 Annual Report, 26,647 DRE enforcement evaluations were conducted nationally; according to NHTSA's National Tracking System, 24,378 were entered into the system. Approximately 60 percent of the DREs nationally are entering data into the system—a seven percent drop from 2011.
- **2014 Conference:** Carolyn reported that next year's DRE Section's conference will be held in Phoenix, Arizona, July 28-30. The conference agenda is being developed and more information can be found at www.decp.org in January once on-line registration opens.

TAP Meeting Minutes: The TAP minutes from the 2012 San Diego meeting were approved.

Old Business:

- **NHTSA Synchronization Project, SFST/ARIDE/DRE.** Because Bill O'Leary and other NHTSA representatives were unable to attend the meeting due to government travel restrictions, Chuck Hayes provided a brief update on the training manuals synchronization project. The process has been completed and NHTSA has started copying and mailing the materials. NHTSA also intends to post the 2013 SFST materials on the sobrietytesting.org Web site and IACP will post the DRE materials on the www.decp.org state coordinator Web site. Chuck also reported that the 2013 DRE curriculum was used in Washington State and Rhode Island during their recent DRE schools with favorable results. Both Chuck and Don Decker reported that a few minor issues will need correcting, such as misspelled words and some items that were not completed. These issues will be addressed during the next curriculum review and update. Chuck reported the curriculum is very close to the point where, instead of replacing an entire manual, only a session or page can be replaced when a correction is needed.
- **SFST Revisions and Video Updates.** Chuck also reported that the SFST curricula was part of the synchronization project and the 2013 curricula includes some new driving and personal contact videos. The old dry lab videos were not part of the updates.

- **ARIDE Updates, Videos, On-Line Training.** This agenda item was moved to the On-Line ARIDE discussion conducted later in the meeting.
- **Sobrietytesting.org / DRE Tracking.** Chuck reported that the number of DRE enforcement evaluations entered into the system for 2012 and thus far for 2013 are below the expected levels. NHTSA has completed some upgrades to the Tracking System including some dropdown boxes to help capture commercial vehicle information and medical marijuana users. There is also some discussion about the toxicology confirmation rates for the states and how to address the drugs that cannot be detected or tested for. Chuck reported that, when looking at the four major drug categories (Depressants, Stimulants, Narcotics and Cannabis), confirmation rates are very respectable; however, when incorporating Dissociative Anesthetics, Hallucinogens, and Inhalants into the rates, the confirmation rates decrease dramatically. It was the general consensus that many of the laboratories throughout the country are having a difficult time in keeping up with the new drugs and in testing for them. It was agreed that the confirmation rates need to be looked at for each category and that the Scientific Committee should make some recommendations on how the confirmation rates should be determined especially with the increasing number of drugs that cannot be detected by the laboratories. **(Action Item)**
- **Training Bulletin on Marijuana.** Ken Lebrato provided a pocket sized card that officers in New Jersey are being provided with to assist them in identifying drivers under the influence of marijuana. The card was developed with the assistance of the New Jersey DRE Association.
- **Spice / K2 / Bath Salts – Drug Category.** Chuck advised that the Curriculum Committee put Spice, K2 and other synthetic cannabinoids into the Cannabis drug category and Bath Salts and other synthetic stimulants into the CNS Stimulant DRE drug category. Amy Miles provided input on this and indicated that the toxicology groups are supporting that at this time but that this may need to be reviewed in the future because of the synthetic drugs.
- **Resting Nystagmus and Continuing the Exam.** Chuck reported that TAP was requested to provide direction on whether or not an officer should continue with the HGN examination when resting nystagmus is observed. The SFST and DRE training curriculum do not specifically address this so Dr. Citek was consulted for his opinion. Dr. Citek explained that the test should be continued to confirm or eliminate neurological issues or drugs such as Dissociative Anesthetics (PCP, etc). Chuck advised the Curriculum Committee added an instructor note to the 2013 curricula that recommends the officer to continue with the HGN and the reasons for doing so.
- **Modified Romberg Balance Test.** Chuck reported that the DRE version of the original Romberg Balance Test is a modified version for DRE purposes. So to avoid any confusion or court-related issues, the SFST, ARIDE and DRE materials have been revised to indicate “Modified Romberg Balance.” The change was made as part of the Synchronization Project. Chuck also indicated that as states update their DRE face sheets they should also consider making the revision to indicate “Modified Romberg Balance.”
- **Canada Field Certification.** Evan Graham presented information regarding the request from Canada to use actors simulating certain drug categories for field certifications. The actor simulated evaluations were used along with six hands-on DRE evaluations with suspected drug impaired people. At the previous (September 2012) TAP meeting, Canada was given approval

to do a trial to determine its effectiveness. TAP members were provided with a version of the overview of Canada's preliminary findings. Conversation and questions focused on how the actors were able to simulate the physiological indicators of the drug categories and the accuracy of the DRE students. Some TAP members, as well as some of the guests, had concerns that doing simulated actor evaluations could weaken the program and the ability of the DRE students to identify accurately the drug categories in the certification process. The members also voiced that Canada needed additional time to determine if the process had any effects on the accuracy of the students after certification; therefore, a motion was passed to allow Canada to continue this trial for an additional two years. They will also consult with the scientific committee and provide an update on this at the next TAP meeting. **(Action Item)**

- **Washington State DRE Validation Study.** Chuck reported that Washington State University continues to work in cooperation with the Washington State Patrol reviewing Washington DRE reports with the goal of validating the Washington State DRE Program. This study is more than two years old and is on-going. The Washington State Patrol hopes to be able to review the draft research document when it is completed. **(Action Item)**

NHTSA Research and Updates: Since NHTSA was not able to attend the TAP meeting, some of the following information is from the DRE State Coordinators meeting and the NHTSA/IACP Update session held at the Oklahoma Conference in August.

- **Predictive Validity Study:** This study is on-going and the contractors continue to work with a number of DEC states to collect DRE reports with blood toxicology results. The aim of the research is to determine which of the DRE steps and examinations have the highest reliability in identifying impairment associated to a specific drug category.
- **Virginia Beach Crash Risk Driving Study:** This study has been completed and the researchers are analyzing the data. The study included approximately 2,500 crashes for comparison purposes. It is not known when the results will be published.
- **National Roadside Survey 2013.** This study is underway and is similar to the 2007 Roadside Survey. The study will attempt to identify drug usage among drivers much like the 2007 National Roadside Survey did.
- **Evaluation of ARIDE Training.** NHTSA has contracted with a research firm that will attempt to identify the effectiveness of the 16-hour ARIDE classroom training and the on-line ARIDE training in relationship to identifying drug impaired drivers. The researchers will be attending various ARIDE training classes nationally and also working with some of the ARIDE states to collect data from officers after they have completed the training.
- **Marijuana and Driving Study.** This study has begun in Iowa using a driving simulator and also using people who have inhaled various levels of marijuana to try to determine the impact THC levels have on driving using a driving simulator.
- **Alcohol and Drug Risk – A Case Control Study.** The status of this study is not known.

New Business

- **West Virginia Application for DEC Program.** Both Ernie Floegel and Bill Tower reported on the proposal from West Virginia for DEC Program status. Both were involved in the site visit and have been involved in the ongoing discussions and planning process. The only issue is that West Virginia does not have an implied consent statute that makes it a penalty for refusing to provide a blood or urine sample after the initial breath test; however, the state is working on legislation to address that. Officer Joseph Koher, a DRE from Huntington, West Virginia, who attended DRE School in Tennessee, provided input on how he and other officers are successfully using search warrants to obtain blood and that practice will be utilized until necessary legislation is passed in West Virginia. TAP members were provided prior to the meeting with an in-depth report from the West Virginia Highway Safety Office, which included positive support from all branches of law enforcement, prosecution and the state forensic laboratory. A motion followed the discussion to approve West Virginia as the 50th state to be part of the DECP and the motion passed unanimously. Chuck reported TAP's decision to approve West Virginia as a DEC state to the IACP Highway Safety Committee Annual Meeting on October 20, and the committee voted to approve TAP's recommendation.
- **Ultra Violet (UV) Light Testing for Near Total Darkness Exam.** Chuck reported that work has been ongoing to determine the feasibility of using an approved Ultra Violet (UV) light to assist DREs in estimating a suspected drug-impaired individual's pupil size in the Near Total Darkness (NTD) portion of the eye examination. This issue was first addressed by TAP a number of years ago but at that time there were no UV lights that made looking at the pupils practical. There are times when DREs have difficulty estimating the size of a dark colored iris in near total darkness using a standard penlight. With the assistance of experts in the optometry field, a recommended procedure and newer models of UV lights were identified to assist in accurately estimating the pupil size of a dark-eyed individual during the NTD step. The discussion included a video demonstration of DREs conducting exams of dark-eyed individuals using a normal penlight and doing the same exam with the use of a UV light. The light and its use were tested by the California Highway Patrol and the Oregon State Police on a significant number of drug-impaired subjects. In the test subjects, when the UV light was used as recommended by Dr. Citek, who was also involved in the study, the UV light was found to be accurate and helpful in estimating the subject's pupil size in the NTD portion of the eye examination. Dr. Citek provided information on how to use the light properly and had also provided the TAP members with a draft protocol prior to the meeting. After some discussion, TAP voted to approve the use of the UV light for the NTD exam during the dark room testing but only after the DRE has received training on how to use the light properly. Chuck Hayes advised that he will work with Dr. Citek on a training bulletin with photographs showing the proper positioning of the light and will forward the information to the DRE state coordinators for their use in training DREs in their state. The motion also included that the UV light not take the place of the regular penlight measurement but could be used as an optional tool when the color of the person's iris makes it difficult to obtain an accurate estimation. Amy Miles recommended that Dr. Citek and the other contributors to the UV light and testing, publish a research paper that can be used to support the use of the light by DREs. TAP members and Dr. Citek agreed with this. **(Action Item)**
- **RAID Training in California.** Jarod Primicerio from California presented information on a new training proposal that the California Highway Patrol would like to implement called RAID which stands for *Recognition and Apprehension of Impaired Drivers*. The training combines SFST, ARIDE and the DRE Pre-School into a five-day training course. It utilizes two alcohol workshops in addition to the covering the training objectives for SFST, ARIDE and the DRE Pre-School. Under the proposal, the training would be used in California and would include

allied agency officers as well as CHP officers. It would not replace regular SFST or 16-hour ARIDE courses taught by other agencies. The RAID training would incorporate an 80 percent final examination passing grade requirement. California would also use the course as a prerequisite to DRE School. A motion passed to allow California to proceed with the implementation of the RAID training and to monitor the results of the training for effectiveness and report their findings at the next TAP meeting. **(Action Item)**

- **On-Line ARIDE.** The On-Line version of ARIDE (Advanced Roadside Impaired Driving Enforcement) was released by NHTSA in early September. The On-Line training version provides drugged driving training to those officers and law enforcement agencies that do not have the means of participating in the 16-hour classroom ARIDE training. The On-Line version can now be accessed via the Web and covers the SFST refresher training and an overview of the seven DRE drug categories as well as information about drug combinations using a different delivery and training format. The On-Line course is not meant to replace or be a substitute for the in-class (16-hour) version. Instead, it is meant to support those agencies that otherwise could not afford to send their personnel to the in-class (16 hour) training due to budget or personnel constraints.

Some TAP members and guests voiced a number of concerns, including the security of who can go on-line and take the training; the SFST proficiency requirement of the training; and the absence of DRE instructor involvement to address any training issues or questions from the student taking the training. A number of TAP members agreed that the on-line version is a useful tool addressing basic drugged driving detection and apprehension; however, some likened it to the old Drugs That Impair Driving (DID) curricula. A number of TAP members felt that the on-line version might be better served using a different title other than “On-Line ARIDE” because the two curricula differed in how it is taught, the time involved in the training, and the interaction of the students with the DRE instructors, which many TAP members felt was an important part of the ARIDE training. They were also concerned that the on-line version might be construed as meeting a state’s pre-requisite of the 16-hour ARIDE course needed for DRE School—a requirement that has been adopted by a number of DEC states. After further discussion, a motion was made and passed to recommend to NHTSA to consider re-titling the course. This information was also presented to Highway Safety Committee (HSC), which concurred with TAP. During the discussion at the Highway Safety Committee meeting, a number of members voiced similar concerns and agreed that the on-line version should be renamed. This issue was also addressed the next day at the DRE Section meeting where TAP’s decision was supported. **(Action Item)**

- **2013 DRE Face Sheet.** Chuck reported that Curriculum Committee made the needed changes to the DRE face sheet to incorporate “Modified Romberg Balance Test” and have also recommended that a check box be added for ARIDE referred arrests that result in a DRE evaluation. The box would assist in the data entry and would also assist with that information being added to the National Tracking System DRE evaluation entries.
- **Toxicology Collection.** Chuck reported that several states that do blood testing as part of their DRE evaluation are getting directions from their toxicologists to collect the blood specimen as soon as possible and not wait until the last step of the evaluation. The concerns are that by collecting the blood sooner there is a better chance of detecting the impairing drug(s) by the lab. Amy Miles provided input on this and agreed with the recommendation. It was pointed out that that the DRE 12-step process does not have to be revised to accommodate this since the 12th Step is “Toxicology Examination.” Plus, wording has already been added to the 12-Step

process section of the DRE training advising that there may be times when the order has to be modified for various circumstances. Chuck reported that during the next curriculum revision for DRE, the Curriculum Committee would determine if additional wording is needed to address this. **(Action Item)**

- **Physiology Session of DRE Curriculum.** Chuck reported that some DRE School course managers have recommended that the current Physiology Session in the DRE 7-Day School curriculum should be updated. Dr. Alves has been asked to review that session for possible recommendations and revisions. Dr. Alves will conduct a review of the session and will also consult with members of the Scientific Committee for their recommendations. **(Action Item)**
- **Use of Electronic Tablets for DRE Evaluations.** Doug Paquette reported that the pilot New York is doing using an electronic tablet for conducting drug evaluations is going well. An electronic tablet is being used by about 25 DREs who document their evaluations on the DRE face sheet. They are able to store the information and also use it to enter the evaluation into the New York data collection system. It is working out well enough that they will be expanding the use of the tablets and getting them to more DREs in the near future. The tablet they are using is the Samsung version, which they found worked the best for their needs. They are also working with NHTSA to determine if the tablet information can be downloaded into the National Tracking System. New York offered to share the information with other states that may be interested in using the tablets.
- **Qualifications to be a DRE.** A few members expressed concern that some people are being certified as DREs who may not be qualified under the current *International Standards* and that possibly the standards should be reviewed to ensure that only qualified people be certified as DREs. Several specific standards address the qualifications (1.1 and 1.2). Standard 1.1 specifically states that the person shall be 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 pointed out, however, that Standard 1.2 also requires that the DRE candidate must have experience in preparing comprehensive investigative reports and in providing detailed court testimony. Standard 1.2, if followed, would eliminate some non-sworn persons from being a DRE. A motion approved that the Standards Committee review the current Standards and determine if any clarification or additions are needed to address this issue. **(Action Item)**
- **Passing Score for DRE Pre-School.** Ernie Floegel indicated some confusion may exist on whether a passing score is required or recommended for the DRE Pre-School final exam. The issue has arisen in several states that asked if there is one. Historically there has not been a passing score requirement for the DRE final exam; however, Standard 1.5 indicates that the candidate shall have met the learning objectives for Phase I (Pre-School) and shall be able to do a number of things, most of which are demonstrating key portions of the psychophysical testing; Furthermore there is no mention of passing the written exam given at the end of the Pre-School. A number of states have enacted a passing score of 80 percent per their individual POST requirements. Members agreed that a state can enact a minimum passing score if it so chooses. No TAP action needed.
- **DRE Program Status in Illinois.** Elizabeth Earleywine provided an update on the status of the DRE state coordinator and TSRP position in Illinois. The funding for her position is in question

and the Illinois Highway Safety Office is looking into various options to continue both the DRE state coordinator and the TSRP program.

Old Items from the Floor:

- **Instructors Signing Off on DRE Progress Logs.** Chuck reported that he had received inquiries on if a DRE instructor or state coordinator could sign off on a field certification conducted by a DRE student when that person had not actually observed the evaluation but had read the DRE student's report and concurred with the DRE student's opinion. Chuck advised that the standards do not clearly address this nor is it addressed in the Course Manager training or in the DRE 7-Day School in Session 30 (Transition to the Field Certification Phase). After discussion, it was the general consensus that the same instructor who observed the evaluation, reviewed the report, and concurred with the student's opinion should sign the progress log line for that evaluation unless some extenuating or unforeseen circumstance occurred. International Standard 1.10 addresses the field certification evaluations and states "*All evaluations, administered or observed, and documented for certification purposes, shall be observed and supervised by at least one certified DRE instructor, and shall be performed on subjects suspected of drug impairment.*" Ernie reported that this issue came up in 2006 and thought that the issue had been resolved. No action was taken or recommended by TAP at this time.
- **Prosecution Update.** Assistant Prosecutor Lebrato briefed the members on the United States Supreme Court case, Missouri v. McNeely which now requires a search warrant to draw blood in a DWI investigation. Natural dissipation of alcohol alone does not constitute an emergency exception to the warrant requirement.
- **Re-certification Evaluations – Toxicology Requirements.** Chuck advised that several states have inquired if toxicology confirmations are required for three of the four required evaluations when re-certifying a DRE who has been decertified for over one year and less than five years. The standard that addresses this does not indicate the requirement, but the actual IACP re-certification form does indicate that requirement. After some discussion and a review of the specific Standard (5.1) it appears that the wording needs to be added to the standard and this was referred to the Standards Committee. **(Action Item)**

TAP Member and Partner Reports

- **Administrator:** Dan Bower reported that through his involvement with TAP he has had a number of discussions with law enforcement administrators from various parts of the country regarding the value of the DEC Program. He continues to make himself a resource for administrators who have questions about the program and the benefits of having officers trained as DREs.
- **Police Training:** Kyle Clark representing the Institute of Police Technology and Management (IPTM) reported they are receiving continued interest in the Evidence Collection Recovery (ECR) training, which trains officers to use the GPS "little black box" device to assist in crash reconstruction.
- **State Coordinator:** Jarod Primicerio reported that oral swab testing for drugs is being tested in four California counties to determine its effectiveness in identifying drivers who have recently ingested drugs. The California Office of Highway Safety supports the study to determine its usefulness in drugged driving detection.

- **Region I:** Region I continues to hold regional DRE state coordinator meetings. The most recent was held in Oregon in conjunction with their annual DRE In-Service. A 2014 meeting is being planned for Tuesday, May 6th in Denver, CO.
- **Region II:** Nothing to report.
- **Region III:** Don Decker raised the question about whether a DRE instructor is required to observe a candidate DRE instructor certification evaluation on an actual suspected drug-impaired subject or can the evaluation be simulated that is observed and supervised by the candidate instructor. The general consensus was that there were more benefits to observing an evaluation of a suspected drug-impaired person and that no change in the process was needed or should be made.
- **Region IV:** Nothing to report.
- **National Traffic Law Center:** Joanne Thomka reported that the Traffic Safety Resource Prosecutors (TSRPs) are facing funding challenges because MAP 21 does not designate funding for those positions. She asked that TAP and the DRE state coordinators whenever possible promote the TSRP's as a critical partner along with DRE as some of the TSRP positions may be in jeopardy.

Sub-Committees and Members:

Acting Chair Bower reviewed the three TAP sub-committees and the members for clarification and for any follow-up assignments. The three TAP sub-committees are as follows:

Curriculum Committee: Jonlee Anderle, Kyle Clark, Don Decker, Evan Graham, Chuck Hayes, Mike Iwai and Doug Paquette.

Scientific Committee: Dr. Don Alves, Dr. Karl Citek, Jeff Collier, Amy Miles, Jarod Primicerio and Joe Turner.

Standards Committee: Dan Bower, Ernie Floegel, Ken Lebrato, Jim Maisano, Garry Thomas and Dan Zivkovich.

Meeting was adjourned at 4:30 p.m. **The next meeting is scheduled for October 24, 2014, in Orlando, Florida.**

Submitted by Chuck Hayes and Ernie Floegel, IACP Staff, 11/15/13