NEW DRUG RECOGNITION EXPERT (DRE) AGENCY

TOOLKIT

Drug-impaired driving continues to plague roadways and communities throughout the world. In the US, over 10,000 people die every year at the hands of impaired drivers costing society over $100 billion each year. While most police officers are trained to detect alcohol-impaired drivers while in the academy setting, drugged drivers often exhibit different behaviors and may elude detection from an untrained investigator. The Advanced Roadside Impaired Driving Enforcement class helps officers to identify signs of drug impairment, and when detected, to summon a drug recognition expert (DRE) to assist with the investigation and gather important evidence for prosecution.

A DRE is a police officer trained to recognize impairment in drivers under the influence of drugs other than, or in addition to, alcohol. The International Association of Chiefs of Police (IACP) coordinates the International Drug Evaluation and Classification (DEC) Program with support from the National Highway Traffic Safety Administration (NHTSA) of the U.S. Department of Transportation. The DRE's role is similar to that of a crime scene investigator in that he/she collects evidence that will support or disprove the crime of driving while impaired by drugs.

While drug testing can establish the presence of a drug in a person, the toxicology alone cannot define impairment. More is needed. As cannabis legalization spreads, and access to impairing drugs becomes more prevalent, drugged driving will continue to increase. Communities across the US and Canada are turning to the services provided by DREs, who can evaluate the driver at the time of the arrest and identify the class of drugs responsible for the observed impairment. These evaluations are critical to ensuring proper adjudication for drivers suspected of drug impairment and to linking any toxicology findings to the driving impairment.

This toolkit provides resources for new DREs and agencies establishing a DRE program.

NEW DRUG RECOGNITION EXPERT (DRE) AGENCY

TOOLKIT

DEC PROGRAM

- Smart, Comprehensive Impaired Driving Enforcement
- 5 Reasons to Send an Officer to DRE School
- How DREs Can Help Prevent In-Custody Deaths
- DRE Court Decisions
- DRE School Memo Sample
- Funding Options for DEC Programs
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- Model DRE Policy

NEW DRE AGENCY SET UP

- DRE Leading Practices for Setting Up New Agency
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- Partnering to Reduce Impaired Driving Recidivism
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DRUG EVALUATION AND CLASSIFICATION PROGRAM

- Smart, Comprehensive Impaired Driving Enforcement
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BY
Kyle Clark, Project Manager, IACP, and Joanne Thomka, Director, National Traffic Law Center, National District Attorneys Association, Arlington, Virginia

Smart, Comprehensive Impaired Driving Enforcement

Why Your Agency Needs Both ARIDE and DREs

STATE INITIATIVES TO DECRIMINALIZE DRUGS OF ABUSE HAVE RESULTED IN AN INCREASE IN DRUGGED DRIVING OFFENSES.

To protect motorists in their communities, police agencies are equipping officers with the skills to investigate these crimes through two interrelated programs. The Drug Evaluation and Classification Program forms the backbone of drugged driving enforcement through training and certifying drug recognition experts (DREs), and the Advanced Roadside Impaired Driving Enforcement (ARIDE) training allows non-DRE officers to fulfill important support roles.

WHY ARIDE?

The Advanced Roadside Impaired Driving Enforcement (ARIDE) training was developed in 2007 for the purposes of helping officers "become more proficient at detecting, apprehending, testing, and prosecuting impaired drivers" and soliciting the investigative assistance of DREs in drug-impaired driving investigations. While there are similarities between alcohol and many impairing drugs, there are a greater number of behaviors exhibited as the result of drug impairment that often go undetected by officers. Officers who stop drug-impaired motorists may be unable to properly identify the different signs of impairment and collect evidence of the crime. ARIDE training addresses this gap in knowledge.

ARIDE assists in roadside investigations as it builds upon the training in Standardized Field Sobriety Testing (SFST) and augments it to help officers screen for drug impairment. However, ARIDE training, like most training, is not without its limitations, and roadside tests are only screening tools. They are designed to efficiently identify impaired drivers while facilitating the swift release of sober motorists. Roadside tests, though, do not provide any corroborating chemical evidence relative to a DWI charge. That evidence is available post-arrest. In most states, the chemical corroboration for alcohol is in the form of breath or blood testing. With drugged drivers, corroborating chemical evidence is more complex. While a proven correlation between the alcohol level and the degree of impairment exists, there is no such toxicological nexus for drug impairment. The prosecution must establish any drug levels detected were affecting the defendant at the time of the arrest. This is where a specialized evidence technician becomes involved—the DRE.

WHY DRE?

A DRE is a sophisticated crime scene investigator, specializing in the effects of categories of impairing drugs in the human body. While ARIDE officers receive general education pertaining to signs and symptoms of drug impairment, only certified DREs can provide specific, expert testimony that a drug category caused the driver's impairment. That testimony is dependent upon the collection of evidence from the defendant based on the DRE protocol. The ARIDE officer's role is akin to a first responding officer who does an initial assessment and then secures the crime scene. The DRE responds to identify and collect vital evidence, store it through a written record, and interpret it to identify the drug class or classes responsible for the impaired driving.

Courts have closely examined the DRE program and have found its methodology to be founded upon a reasonable degree of scientific certainty. Going to a drugged driving trial without the testimony of a DRE is similar to prosecuting an alcohol impairment case without an SFST—it can be done, but securing a conviction is much more difficult. In order to meet their burden of proof, prosecutors must have thorough documentation of evidence, including drug impairment, before they will bring the case to court. The evidence gathered by

the ARIDE officer, the expertise of a standardized and systematically trained DRE, and the toxicology results together will provide the complete case file needed to proceed to court.

Without this complete investigation and evidence collected by a DRE, a prosecutor may dismiss the drug-impaired driving case for lack of evidence. As a result, agencies not utilizing DREs in these cases may see an uptick in civil litigation filed by those suspects for false arrest. The evidence a DRE can provide is critical to demonstrate that an agency acted appropriately; thus, the agency may avoid this form of litigation even if a case is dismissed on other grounds.

It is also important to remember that sometimes it is not alcohol or drugs that create the appearance of impairment. There are medical conditions that can cause or mimic, impaired driving behavior. DREs are trained to recognize these medical conditions, and numerous lives have been saved as the result of a DRE referring the arrestee for care. In 2019, DREs discovered 484 subjects arrested for DWI were actually impaired due to a medical condition, rather than alcohol or drugs. DREs can help avoid a potentially unlawful detention by recognizing a medical condition rather than alcohol or drug influence.

STOPPING THE RECIDIVISM CYCLE

Once arrested, drug-impaired drivers become part of the criminal justice system. This system is designed to hold defendants accountable and to modify illegal behavior. Inclusive in that is the opportunity for treatment to address those behaviors. Weak or incomplete drug-impaired driving cases, such as those arrests lacking the involvement of a DRE, if dismissed, will fail to get offenders into the substance abuse or mental health treatment they may need. Treatment for drug-impaired offenders may take many forms: individual or group therapy, inpatient treatment, or participation in DWI courts. According to a Duke University (North Carolina) research team,

> *Persons convicted of a DWI who completed a specialty court program were associated with a greater reduction in DWI rearrests and re-convictions than did matched individuals who were never referred to a specialty court program.*

If an impairment case is dismissed, the offender is released, and the odds of re-offending remain high. By increasing the quality of drugged driving investigations by involving a DRE, the state is able to facilitate the treatment that may halt the recidivism cycle.

THE RIGHT BALANCE

SFST training is the first step for every agency to help reduce DWI offenses. SFST is the foundation for ARIDE and DRE. Every officer who could potentially encounter an impaired driver should be trained in SFST and receive refresher training at least once every three years.

Additionally, each officer should have access to a DRE for those DWI offenses where drugs may be involved. Most

agencies lack the resources to have an on-duty DRE 24 hours per day, so having a DRE available to call out when necessary is critical. Many states offer overtime reimbursement programs to alleviate agency burdens with DRE overtime callouts.

Sharing DREs is a solid practice among policing agencies as well. Most often, the DRE is called in on an arrest by another officer. The DRE is there to collect evidence on behalf of the arresting officer, not to take over the arrest. Jurisdictional boundaries and venues fade in significance when it comes to preparing a proper case for court. Since impaired motorists can quickly traverse from one town to another, sharing DREs among policing agencies is prudent when agencies may be faced with fiscal shortfalls or budget cuts. It is smart, collaborative policing.

Officers need ARIDE training, and ARIDE-trained officers need DREs. ARIDE training enhances the SFST-trained officer's ability to recognize signs of drug influence in a motorist. However, an ARIDE-trained officer can gather only a limited amount of roadside evidence from the drug-impaired suspect. ARIDE-trained officers need access to a DRE to help process the crime scene and secure needed evidence for prosecution. As ARIDE training increases within agencies, the demand for DREs will rise. Law enforcement executives must facilitate access to DREs to secure needed evidence. When it comes to ARIDE training and DREs, policing agencies need both.

A total of $1,775,000 is available for U.S. law enforcement agencies and qualified training institutions who are able to deliver drug recognition expert (DRE) schools and Advanced Roadside Impaired Driving Enforcement (ARIDE) classes. The awards are in the form of a contract for the delivery of training services and allowable expenses. For more information about this Drug-Impaired Driving Enforcement Training funding opportunity, please visit **theIACP.org/DIDET**.

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BY
Ron Hoague, Chief of Police, Essex Police Department, Vermont

5 Reasons to Send an Officer to DRE School

ACCORDING TO THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA), 31,785 PEOPLE WERE KILLED IN TRAFFIC CRASHES DURING THE FIRST NINE MONTHS OF 2022. WHILE THIS IS DOWN FROM THE SAME PERIOD IN 2021, THE DECREASE IS ONLY 0.2 PERCENT.

Further, in a three-month period in 2020, 56 percent of drivers involved in serious injury and fatal crashes tested positive for at least one drug. The legal and social acceptance of cannabis by many states is further contributing to the increase of drug-impaired driving cases. The Drug Evaluation and Classification (DEC) Program, coordinated by the IACP with support from NHTSA, is designated to reduce the number of impaired drivers on roadways. The DEC trains officers as drug recognition experts (DREs) to recognize drug impairment, use standardized testing, and present evidence of drug impairment while testifying.

Unfortunately, since 2020, the number of DREs has been declining, making it more difficult for the program to meet the increase in impaired drivers. This has also been the case for the numbers of law enforcement officers overall, and law enforcement executives throughout the United States have struggled to meet their personnel needs. For various reasons, including staffing, some executives have been hesitant to send their officers to DRE training. Granted, three weeks away from their agency is a significant time investment, but there are many benefits that offset this time investment. The following are five reasons a chief or sheriff should consider sending an officer to the next DRE school:

1. Civil liability for an agency can be reduced by employing a DRE. One of the foremost concerns for any agency head is liability to the agency. Having DRE-trained personnel can lower this when it comes to unjustly incarcerating a citizen for driving under the influence. DREs using their advanced training can be useful to positively identify impairment or those who are not impaired. Law enforcement strives to make solid arrests justified by probable cause, and when officers arrest a citizen who is not impaired, they undermine this goal. DREs utilize their training to identify drug and alcohol impairment more effectively than the officer who has received basic training in impaired driving enforcement. Historically, there have been instances of officers making mistakes in determining chemical impairment versus medical impairment and incarcerating those experiencing a medical emergency. In the DRE process, trained officers determine medical impairment and have been successful in diverting individuals to where they can obtain medical care instead. Imagine commending an officer for saving a life versus receiving a civil lawsuit for negligence when a person dies in custody.
2. An argument commonly heard is that DREs are not needed since a blood test can be obtained and prove impairment. There are some flaws to this thinking, such as refusal to provide a sample, limitations and delays of lab testing, and limitations on testimony by a toxicologist. Relying on

lab testing alone can be problematic because labs normally have limits on the level of drugs necessary to report a positive finding. If a sample contains less than the minimum amount, the lab will report that no drug was detected in order to prevent false positives. Also, to introduce a sample at trial, the prosecution will normally need a toxicologist to testify about testing procedures, characteristics of various drugs, and expected effects. For some jurisdictions, a toxicologist may not be readily available or simply too expensive to bring in if they are from a private lab. Finally, some states require an expert to connect testing results to the impairment signs and symptoms observed to introduce lab results. Toxicologists may not be prepared to testify to this, making the testimony of a trained DRE critical to proving impairment at trial.

3. Cases involving DREs generally require less court time. In a time where budgets are being scrutinized and shifts are difficult to fill, any steps an agency can take to reduce the amount of time an officer spends in court is a positive. Any police executive would agree that it's better to keep an officer on duty rather than sitting in a courthouse. Trained DREs generally spend less time in court on a DUI case than officers who are not trained to this level. Since DREs have advanced training in identifying impairment from all substances, including alcohol, many defense attorneys are less likely to take a case to trial if they believe the officer will be qualified as an expert witness. They know that the testimony of an expert is likely to carry more weight than a normal officer and put the odds in favor of a successful prosecution.
4. Engagement with the community is often a priority for many agency heads. Police agencies must concentrate on this to connect with their community, inform citizens, and build trust. DREs are often called upon to educate citizens on the dangers of drugs, drug impairment, and other related topics. Public events involving DREs have included illustrating the dangers of driving impaired by using lectures and driving simulations. DRE personnel are also called upon to teach Drug Information Training for Educational Personnel (DITEP). This two-day course is a training for teachers and school staff that entails knowledge of the various drug categories, recognizing impairment in young persons, techniques for testing individuals for indicators of impairment, and speaking with parents about testing results. This program has been around for many years and has been very well received anywhere it's been offered. Positive citizen encounters are something that every agency is seeking these days, and DREs can effectively represent their agencies by sharing their knowledge with communities.
5. The total value of a training investment is an important consideration when deciding whether to send an officer to a course. Time away from the agency, the cost of backfilling an officer's position while they're gone, along with travel and course costs need to be considered. For many agencies, sending an officer for a two- or three-week SWAT school, or a similar class in crime scene investigation is not questioned. While those courses are certainly needed, they are also costly, and the utilization of those skills comes much less frequently than those of trained DREs using their knowledge daily on patrol and in the various ways described above. Most DRE training is completely free for the sponsoring agency. Other than the time of the officer to attend, the costs of sending an officer are often covered by grant funding. This normally includes course fees, materials, equipment, lodging, travel, and per diem costs. Looking at DRE training through a cost-benefit lens, there is no question that an agency will be receiving more value for the investment than just about any other discipline.

Finally, the benefit to the officer is also great. Training as a DRE brings opportunities to become an instructor and share knowledge with officers, community members, and educators. Most importantly, the trained officers can make a difference by more accurately identifying and arresting drivers impaired by alcohol or drugs. Public safety is what law enforcement strives for, and agencies can better achieve this by employing personnel with additional training in impaired driving enforcement. The next time a request to attend DRE training is received from an officer, encourage and support that officer's attendance.

To learn more about DREs and the DEC Program and access related resources, please visit **theIACP.org/drug-recognition-experts-dres**.

The IACP's Drug Recognition Expert Section provides a unique opportunity for IACP members associated with drug recognition to share common management, training, administrative, and practice concerns. Learn more or join the section at **theIACP.org/working-group/section/drug-recognition-expert-section-dre**.

Photo by Spencer Platt/Getty Images

In-Custody Death

How DREs Can Help with Prevention

TRAFFIC ENFORCEMENT AND THE INVESTIGATION OF MOTOR VEHICLE COLLISIONS ARE ESSENTIAL PARTS OF THE DAILY ACTIVITIES PERFORMED BY MOST STATE, COUNTY, AND LOCAL LAW ENFORCEMENT AGENCIES.

In 2020, there were 11,654 fatal motor vehicle crashes in which at least one driver was alcohol impaired. But when initially thinking about alcohol-impaired drivers, it is common to automatically think of those offenses as being nighttime incidents. It is true that the rate of alcohol impairment among drivers involved in fatal crashes was 3.1 times higher at night than during the day; however, that does not mean there are no alcohol-impaired drivers during the daytime. Data from the Fatal Analysis and Reporting System 2020 annual report show that 10 percent of the drivers involved in fatal crashes during the period between 6 a.m. and 5:59 p.m. were alcohol impaired. This is an increase of 2 percent from 2019 (8 percent).

According to the FBI Uniform Crime Report data for 2019, there were 1,024,508 arrests for the offense of driving under the influence (DUI). That is more arrests than murder, rape, aggravated assault, and burglary combined. There is no doubt that driving under the influence is more common than it should be. As a result, there is a high probability of a law enforcement agency arresting a person who is driving under the influence.

THE ROLE OF A DRE

Every police executive dreads the 4:00 a.m. phone call from the night shift commander saying that an inmate in the agency's custody was found unresponsive in the cell and declared deceased after being transported to the area hospital. After taking a moment to clear the sleep fog from his or her

BY
Jim Maisano, Deputy Chief (Ret.), Norman Police Department, Oklahoma, Project Manager, IACP

mind and organize thoughts, the executive starts asking for relevant facts about the incident. "Why was the person in custody?" The commander explains the person had been arrested on a charge of driving under the influence. The executive responds by asking if the subject had taken a breath test and, if so, how high the person's breath alcohol concentration (BAC) results were. The results of the state's breath test showed only a 0.03 BAC, which is well below the state's DUI "per se" limit. A major thought immediately comes to mind: "Then how did this happen?"

Law enforcement executives trust that the officers made valid arrests based on the indicators of impairment they observed in the field since the person's BAC was so low. With a BAC well below the state's alcohol per se limit, this is a good indication that drugs may have been involved also. A common question asked is if there were any drugs found; in this event, the answer is that no drugs were found on the person or in the vehicle during the arrest. A state's blood test was drawn for the DUI charge, but the result of that testing is not readily available to the arresting officer or the jail staff.

However, one must consider another factor when a person is arrested for the offense of DUI and exhibits an impairment level that is inconsistent with the breath alcohol test results—medical conditions the person may have. Many documented medical conditions may mimic intoxication from alcohol or drugs. In these incidents, a drug recognition expert (DRE) program in an agency can play a vital role during the arrest and booking process. Certified DREs are extremely valuable tools for combating the adverse impact of drugs on the communities served. Although the focus of a DRE is to identify drug-impaired drivers, DREs are frequently called upon to use their training to differentiate between drug influence, medical concerns, or mental disorders.

> *Many documented medical conditions may mimic intoxication from alcohol or drugs.*

A documented drug influence evaluation performed on an arrested individual in Pennsylvania reflects a positive interaction with a suspected impaired driver and the prevention of a medical crisis. Around 8:00 a.m., the arresting officer had responded to a single-vehicle collision. The arresting officer noticed the driver was drowsy and had a hard time responding to questions. The driver's speech was metered and slow as he indicated he must have fallen asleep while driving. There were several prescription bottles in a duffle bag in the front seat of the car. The officer had the driver perform the standardized field sobriety tests and multiple indicators of impairment were observed. The officer arrested the driver for driving under the influence, and, at the jail, the driver submitted to a breath alcohol test with a result of 0.00 BAC.

Because of the negative BAC results, a DRE was requested to perform a drug influence evaluation on the subject. Upon his initial contact with the suspect, the individual was agitated and uncooperative. As the DRE began his evaluation of the suspect, he noticed a small clear tube extruding from the left side of the suspect's shirt. He questioned the suspect about the tube and verified it was for an insulin pump. The DRE asked the suspect to take a blood sugar test, but he initially refused. After gently coaxing, he finally agreed to allow the paramedics to check his blood sugar level. It was found that his blood sugar level was at 53 mg/dL, which is a dangerously low level. The jail's registered nurse was on site and acknowledged that they should start administering medications when an inmate's blood sugar level drops below 60 mg/dL.

At this time, the suspect indicated he was going to leave and became combative. A brief struggle ensued, including the use of a drive stun with a taser. Instead of taking the aggressive suspect straight to a jail cell, however, based on the facts the DRE had discovered, the officers were able to control the suspect and get him to take a glucose gel. After gaining compliance, in the following 10 minutes, the suspect's behavior changed noticeably. His speech returned to a normal tone and speed, and he became fully cooperative. He, then, began answering questions quickly and fully. He began to speak to the personnel in a respectful manner. His blood sugar level was rechecked, and the test showed 82 mg/dL—within the normal range.

The drug evaluation process was explained to the suspect, and he agreed to participate in the evaluation to rule out the use of any other drugs. The DRE was able to complete the evaluation with no indications of the use of any other drugs. His opinion as a credentialed DRE was that the suspect was not under the influence of drugs or medication but was impaired due to a medical event. Had this suspected DUI driver simply been placed into a jail cell after the initial testing, his dropping blood sugar level could have caused a life-threatening emergency. The arresting officer had not noticed the catheter for the insulin pump, and without a DRE program within the agency, this incident could have had a much different (and tragic) outcome.

In another notable event in Kansas, a DRE was called to perform a drug evaluation. He quickly realized that something was not right, and this was not just an intoxicated person. He sought medical assistance, and it was discovered that the subject had a brain aneurism. Had the subject's condition been untreated, the person could have died if he had not been evaluated and simply been placed in jail for suspected intoxication. (Visit https://vimeo.com/774333407 to hear the DRE describe the event.)

The presence of a DRE to have more in-depth interactions with the subjects in these two examples and to recognize signs of medical impairment was a major factor in the positive outcome of these events. Many times, the difference in the signs between intoxication and a medical event is very slight. In these two events and others like them, lives can be saved due to a DRE's intervention and observations.

CONCLUSION

A DRE can be a tremendous asset to an agency of any size or jurisdiction. For more information about the program, visit the International Drug Evaluation & Classification Program website (www.decp.org). This website also lists contact information for the DRE state coordinator in each state.

Information about the annual IACP Impaired Driving and Traffic Safety Conference can be found at **theIACP.org/IDTSconference**.

DRE Court Decisions

Contemporary Rulings Regarding Impaired Driving and the Need for DREs

Nebraska – Nebraska v. Daly
Supreme Court of Nebraska – November 20, 2009

Jacob J. Daly was convicted at a jury trial of, among other things, operating a motor vehicle while under the influence of marijuana. Daly was charged with one count of driving under the influence (DUI), one count of possession of 1 ounce or less of marijuana, and one count of possession of drug paraphernalia. Daly filed a pretrial Daubert/Schafersman motion to determine the admissibility of the State's DRE opinion that Daly had been under the influence of a drug.

After an extensive hearing, the county court overruled Daly's motion, and the matter proceeded to a jury trial. The DRE officer testified at trial to his opinion, based upon Daly's poor coordination and matrix of physical symptoms, that Daly's marijuana usage had impaired him to the point that he was unable to operate a motor vehicle safely. Daly was convicted on all charges and appealed his DUI conviction to the district court, which affirmed the county court's judgment.

Massachusetts – Commonwealth v. Gerhardt
Supreme Judicial Court – September 19, 2017

While marijuana can cause impairment of an individual's driving skills and is within common knowledge and experience of jurors, a non-DRE police officer may only testify as a lay witness to a defendant's performance. A police officer must be qualified as an expert, such as a DRE, to be able to testify to the correlation between marijuana impairment and performance. Officers must refer to the field sobriety tests as "roadside assessments".

Evidence provided by a DRE (whom the Court noted was "qualified as a drug recognition expert able to evaluate the presence and classification of particular drugs, including narcotics and central nervous system (CNS) depressants or stimulants, and their effects on a driver") was sufficient to show that the defendant was impaired and under the influence of central nervous system depressant.

Washington - Seattle v. Levesque
Supreme Court of Washington – August 5, 2020

This case arises from Jeffrey Levesque's conviction for driving under the influence (DUI). During trial in Seattle Municipal Court, Officer Calvin Hinson, who was not a DRE but had been trained in ARIDE, testified that when he arrested Levesque, Levesque showed signs and symptoms consistent with having

consumed a central nervous system (CNS) stimulant and was "definitely impaired." The superior court disallowed this testimony.

A Washington State appellate court ruled, because the officer was not a DRE or DRE equivalent and lacked other sufficient training, he was to be considered a lay witness and was therefore not qualified to testify to the opinion that Levesque exhibited signs and symptoms consistent with a CNS stimulant.

MEMORANDUM

Date:

To:

From:

Re:

This memorandum is to request approval to attend the following Drug Recognition Expert (DRE) School:

Date: **Location:**

This impaired driving enforcement training program is managed by the International Association of Chiefs of Police (IACP) on behalf of the National Highway Traffic Safety Administration (NHTSA). DREs are specialists in identifying drivers who are impaired by drugs and alcohol. Importantly, DREs are also trained to identify drivers who are impaired because of a serious medical condition requiring immediate attention. These skills will help ensure equitable treatment for all drivers arrested for driving while impaired.
I have attached an article from Police Chief Magazine, written by a Chief of Police, describing the many benefits of attending DRE training and how it can benefit our agency and the community.

DRE School is a two-week classroom training course followed by several days of field certification training. Funding for the training is available through highway safety grants.

The only financial obligation on our agency will be:

Upon my return after completion of the training, I will share my knowledge and drug impairment skills with others, not only within the agency, but throughout the community to help increase public safety and drug awareness.

I have attached documents for your review, including a breakdown of approximate costs to attend the training and a goals worksheet that specifically focuses on our agency's current needs and how attending this training will enhance our operations.

I hope you agree that my training as a DRE is a valuable skillset needed and will benefit the agency and our community. Thank you for your consideration.

Funding Options for DEC Programs

Funding for DEC Programs can come from many potential sources. All states received most of their DEC Program funding through grant funds made available through their respective Highway Safety Offices. Some states are looking at non-traditional sources for additional funding opportunities to supplement the DEC Program in their state. Those funds are commonly used to host in-state DRE Training sessions, DRE conferences, replace outdated equipment issued to DREs from past classes, and update initial equipment distributed in the DRE classroom training. For a new DRE, funding may be available to help them attend the required training that is part of their two-year recertification process. For some states, funding covers the cost of lodging and/or meal per diem which reduces the costs to the DRE's agency.

Additional sources of funding a new DRE may discover which is available to assist the new DRE or their agency may come from independent institutions, such as AAA Insurance and Impaired Driving Prevention Foundations. Also, in some states, the agencies are allocated tax revenues from medical and/or recreational marijuana businesses to cover training, DRE callouts, or overtime.

Created by Congress in 1988, the High Intensity Drug Trafficking Areas (HIDTA) Program coordinates and assists federal, state, local, and tribal law enforcement agencies in addressing regional drug issues. DEC Program agencies and programs should establish communications with their local HIDTA offices and monitor the HIDTA distributions about program funding opportunities. HIDTA could be a funding resource for assistance for DRE and/or ARIDE training programs within an agency or geographic area of agencies.

For an officer desiring to attend DRE training, frequently agencies are showing their dedication to preventing impaired driving by covering the staffing overtime costs to back-fill within an agency while the DRE candidates are attending training. But with the availability of funding sources, in many cases, there is funding assistance for the DRE candidate or their agency to offset the costs.

Incentive Pay Examples

Many agencies offer financial incentives that may benefit the new DRE or the agency. For the new DRE, one of the most commonly found incentives includes enhanced pay or stipend payments for maintaining DRE certification. This pay allocation may already be available in an agency. This enhanced compensation is similar to common ongoing stipends such as extra duty pay for field training officers, canine officer pay, and SWAT and Hazardous Devices units. Depending on an agency's collective bargaining agreement and/or policy, there may be established guidelines for DRE callouts to conduct enforcement evaluations and standby time for court subpoenas.

For a DRE agency, financial resources may also be available. Some states have reimbursement programs in place that will provide for the salaries and benefits of the DRE when they are called out to perform enforcement evaluations. Data shows these programs generally reimburse the agency a set number of overtime hours for the DRE to conduct the evaluation and complete the narrative portion of the evaluation. Participation in the state's program may be as easy as signing up with the state's DEC Program manager and submitting a reimbursement form when the DRE is utilized. Other states may have agencies apply for grant funding for this purpose, and the contract is set between the highway safety office and the agency. Smaller agencies can join with other local agencies to seek funding to form a DUI task force that provides coverage in a geographic area.

LAW ENFORCEMENT POLICY CENTER

Drug Recognition Experts

November 2022

IACP®
International Association of Chiefs of Police

The IACP Law Enforcement Policy Center creates four types of documents: Model Policies, Considerations Documents, Concepts & Issues Papers, and Need to Know one-page summaries. Typically, for each topic, either a Model Policy or a Considerations Document is created, supplemented with a Concepts & Issues Paper. This file contains the following documents:

- ***Considerations Document****:* Offered as an alternative to the bright-line directives found in a Model Policy. Instead of providing exact policy language, the Considerations Document outlines items that agencies should address and provides options that agencies should examine when developing their own policies on the topic.
- ***Concepts & Issues Paper****:* Designed to provide context and background information to support a Model Policy or Considerations Document for a deeper understanding of the topic.

Considerations Document

Updated: November 2022

Drug Recognition Experts

I. Purpose

The purpose of this directive is to establish operational rules and procedures for the agency's Drug Evaluation and Classification (DEC) Program and the efficient use of Drug Recognition Experts (DREs). This directive is intended to provide police agencies with guidelines and procedures for establishing and maintaining a DEC Program. It addresses the training and efficient use of DREs so that these specially trained officers can provide a highly effective means of identifying and apprehending drug-impaired individuals to identify and assist with the prosecution of drug-impaired drivers or other criminal incidents involving drug-impaired individuals.

II. Policy

The agency will use certified credentialed DREs as part of the IACP's comprehensive 12-step enforcement process to remove impaired drivers from the roadways and to help minimize the loss of life, personal injury, and property damage, as well as improve public health.

III. Definitions

Drug: Within the DEC Program, a *drug* is defined as "any substance, which when taken into the human body, can impair the ability of a person to operate a vehicle safely." The seven drug categories specified include central nervous system depressants, central nervous system stimulants, hallucinogens, dissociative anesthetics, narcotic analgesics, inhalants, and cannabis. Under these categories, alcohol is acknowledged as a central nervous system depressant but is viewed differently by DRE policy.[1]

Drug Recognition Expert (DRE): An individual who has successfully completed all phases of the DRE training requirements for certification established by the IACP *International Standards for Impaired Driving Programs (DRE, SFST, ARIDE)*.[2]

Agency Coordinator: A person designated within the department or agency responsible for maintaining DRE records, ensuring maintenance of program standards, and conducting training and recertification within the agency. If an agency

[1] See IACP, "7 Drug Categories," https://www.theiacp.org/7-drug-categories.

[2] The *International Standards for Impaired Driving Programs (DRE, SFST, ARIDE)* is available at https://www.theiacp.org/sites/default/files/DECP_Website_Docs/International_Standards_for_Impaired_Driving_Programs_DRE_SFST_ARIDE.pdf.

These documents are the result of work performed by the IACP Law Enforcement Policy Center. The views and opinions expressed in these documents are sanctioned by the center's advisory group and do not necessarily represent the official position or policies of the International Association of Chiefs of Police.

coordinator is not designated, the jurisdiction's DEC Program coordinator or a designated regional coordinator shall serve as the agency's DEC Program coordinator.

Drug Influence Evaluation: A DRE process of systematically examining a person suspected of being under the influence of a drug for the purpose of ascertaining what category of drug (or combination of drug categories) is likely causing the person's impairment.

IV. CONSIDERATIONS

1. The primary objectives of a DRE evaluation are to:
    a. Articulate impairment in suspected drug-impaired drivers.
    b. Assess the possibility of drug category(s) and/or medical conditions causing the person's impairment.
    c. If drug use is deemed most likely, determine the category of drug(s) most likely causing the impairment through use of the DRE 12-step systematic and standardized drug influence evaluation process.
    d. Ensure the proper collection, or attempted collection, of an appropriate chemical sample to corroborate the opinion of the DRE regarding the subject's drug use.
2. A DRE program is part of the agency's efforts to reduce impaired driving. The DRE program provides agency members with experts capable of gathering evidence to substantiate charges of being under the influence of drugs in impaired driving cases. As a continuing practice, and as deemed necessary, the agency will support the efforts to have members trained to become certified DREs.
3. Only officers who have successfully completed the training and certification requirements outlined in the IACP *International Standards for Impaired Driving Programs (DRE, SFST, ARIDE)* will be considered as an agency DRE. The IACP DEC Program bestows credentials to DREs after they have been certified by the individual jurisdiction's DEC Program jurisdiction coordinator. DREs trained under the guidelines established by National Highway Traffic Safety Administration (NHTSA) and the IACP systematically evaluate drivers who are suspected of impairment due to drugs.[3]
4. Whenever possible, and unless circumstances dictate otherwise, a drug influence evaluation will be conducted by a DRE using the approved 12-step systematic and standardized process, which only a certified DRE shall conduct.[4] The DRE drug influence evaluation shall be conducted in accordance with procedures set forth by the IACP and NHTSA approved DRE curriculum.[5]

V. DRE SELECTION GUIDELINES

A strict DRE selection process shall be uniformly applied and maintained within the agency to ensure the most qualified personnel are selected for the training. The following criteria shall be considered in the selection of a DRE candidate:

1. Knowledge and proficiency of the Standardized Field Sobriety Tests (SFSTs)
2. Experience in conducting impaired driving enforcement investigations

[3] For more information, see NHTSA, "Drug Evaluation and Classification Program, Advanced Roadside Impaired Driving Enforcement Resources" at https://www.nhtsa.gov/enforcement-justice-services/drug-evaluation-and-classification-program-advanced-roadside-impaired.

[4] For more information, see the 12-Step DRE Protocol at https://www.theiacp.org/12-step-process.

[5] DEC Program Technical Advisory Panel, IACP Highway Safety Committee, *The International Standards for Impaired Driving Programs (DRE, SFST, ARIDE)*, 2022, https://www.theiacp.org/sites/default/files/DECP_Website_Docs/International_Standards_for_Impaired_Driving_Programs_DRE_SFST_ARIDE.pdf.

3. Commitment to keeping current on applicable laws, court rulings, and procedures, specifically (though not limited to) impaired driving and search and seizure
4. Full understanding of the expectations of being a DRE
5. Ability to effectively interact with other agencies and other criminal justice personnel
6. Proficiency in preparing impaired driving investigation reports
7. Experience in testifying in court on impaired driving cases
8. Commitment to working various shifts to provide effective DRE staffing
9. Commitment to entering all DRE evaluations conducted into a jurisdictional DRE database and/or a national DRE database
10. Commitment to maintaining DRE certification and IACP credentialing
11. Commitment to serving as a DRE for a minimum of two years after the initial DRE certification[6]

VI. Roles and Responsibilities

A. Duties of the Agency Coordinator

Duties of the agency coordinator include the following responsibilities:

1. The agency coordinator will maintain records of certification as directed by the IACP *International Standards for Impaired Driving Programs (DRE, SFST, ARIDE)* or, if applicable, follow the approved jurisdiction enhanced certification and/or recertification standards.
2. The agency coordinator will establish protocol and manage the process for requesting off-duty DREs when needed, including funding for such callout expenditures.
    a. If a DRE is requested by another agency for a drug influence evaluation, a supervisor shall be advised and determine whether or not a DRE can respond.
    b. If the DRE is contacted directly, he/she shall notify the appropriate supervisor for approval prior to responding to the other agency's request.
    c. The agency coordinator or designated supervisor will establish protocol as to how to respond if the DRE is requested but is not on duty.[7] If the DRE is not on duty, the agency coordinator or designated supervisor should approve all requests.

B. Duties of the Drug Recognition Expert (DRE)

DRE responsibilities include the following:

1. DREs shall conduct drug influence evaluations using a systematic and standardized procedure as prescribed by the NHTSA/IACP DRE curriculum to ensure that the 12-step process is adhered to for determining possible drug impairment.
2. DREs shall maintain a current log of DRE evaluations following the guidelines established by the IACP, documenting all their drug influence evaluations conducted or participated in.

[6] DEC Program certification is generally valid for two years before recertification is required, according to the IACP *International Standards for Impaired Driving Programs (DRE, SFST, ARIDE)*.

[7] Where possible, this should be previously established through a memorandum of understanding (MOU), agreement of mutual aid, or other formally documented agreement. If such an agreement does not exist, the decision to dispatch a DRE to another jurisdiction is at the discretion of the DRE's agency.

3. DREs shall promptly enter all drug influence evaluation information into the designated jurisdiction and/or national DRE database. This might be done using a jurisdiction approved DRE electronic tablet that will create the entry.
4. DREs shall maintain certification as directed by the IACP *International Standards for Impaired Driving Programs (DRE, SFST, ARIDE)* or, if applicable, follow the approved jurisdiction enhanced certification and/or recertification standards.
5. DREs shall submit clear and concise drug influence evaluation reports following the guidelines established by the NHTSA/IACP DRE training curriculum.
6. DREs shall adhere to the IACP DRE recertification guidelines or requirements established in the IACP *International Standards for Impaired Driving Programs (DRE, SFST, ARIDE),* or any jurisdiction enhanced standards approved by the IACP.

VII. PROCEDURES

If available resources allow, DREs shall be used to conduct a drug influence evaluation when a driver is suspected of driving or operating a vehicle under the influence of drugs and the impairment is not consistent with the breath test results.[8] Procedures are as follows:

1. DREs shall be used in the investigations of traffic crashes that resulted in a fatality or serious physical injury and, based upon the opinion of the investigator or supervisor, a DRE is needed to assist in determining drug and/or medical impairment.
2. DREs shall be used in an investigation when the driver of a vehicle involved in a traffic crash has been placed under arrest for impaired driving or criminally related charges and physical evidence collected during the investigation substantiates drug use as a possible cause of impairment.
3. Requests for a DRE should be made as soon as possible because the physical indicators of drug impairment diminish as time passes. The requesting officer should be available to the DRE to answer specific questions about the subject suspected of drug impairment.
4. If a DRE is not on duty, a supervisor shall be contacted and can approve the need to request a DRE. If approved, either the supervisor or dispatch, under the direction of the supervisor, will notify the on-call DRE.
5. Whenever possible, a second officer should accompany the DRE during the evaluation for officer safety reasons and to assist the DRE.
6. For safety reasons, drug influence evaluations should only be conducted in a location where no weapons are immediately available.
7. DREs shall only use the IACP and/or jurisdiction-approved drug influence evaluation equipment for conducting their evaluations.
8. Whenever a DRE is called upon to perform a drug influence evaluation and the DRE determines that the subject is not impaired, they must complete the evaluation and include the opinion that the subject is not impaired. If, for some reason, the DRE is unable to complete the full evaluation, justification for why the full evaluation was not completed should be documented.
9. In cases where a DRE conducts an investigation for another agency, clearly define the duties and chain of custody. For example, clearly delineate whether the investigating agency or the DRE's agency shall be

[8] Officers should be familiar with what is required in their jurisdiction regarding court admissibility and conviction. Specific requirements may vary.

responsible for all chemical samples collected and the delivery of the sample to the appropriate laboratory for analysis.

VII. DRE Removal and Decertification

Involuntary removal from the program can occur when a DRE:

1. Demonstrates substandard performance
2. Demonstrates improper and inaccurate documentation of DRE evaluations
3. Fails to successfully complete the required recertification procedures outlined in the IACP *International Standards for Impaired Driving Programs (DRE, SFST, ARIDE)* and/or the jurisdiction enhanced DEC Program standards
4. Commits inappropriate acts bringing discredit upon the agency, jurisdiction, or international DEC Program.

Every effort has been made by the IACP Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no model policy can meet all the needs of any given law enforcement agency. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives, and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors. Readers outside of the United States should note that, while this document promotes procedures reflective of a democratic society, its legal basis follows United States Supreme Court rulings and other federal laws and statutes. Law enforcement administrators should be cautioned that each law enforcement agency operates in a unique environment of court rulings, state laws, local ordinances, regulations, judicial and administrative decisions, and collective bargaining agreements that must be considered and should therefore consult their agency's legal advisor before implementing any policy.

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IACP International Association of Chiefs of Police

IACP Law Enforcement Policy Center

Concepts & Issues Paper

Updated: November 2022

Drug Recognition Experts

I. Introduction

A. Purpose of Document

This paper was designed to accompany the Considerations Document on use of Drug Recognition Experts (DREs) established by the IACP Law Enforcement Policy Center. This paper provides essential background material and supporting documentation for greater understanding of the developmental philosophy and implementation requirements for the use of the policy considerations. This material will be of value to law enforcement executives in their efforts to tailor their own policy to the requirements and circumstances of their communities and their law enforcement agencies.

B. Background

The Drug Evaluation and Classification (DEC) Program forms the basis of drug-impaired driving enforcement through training and certifying Drug Recognition Experts (DREs). A DRE is an individual who has successfully completed all phases of the DEC Program training requirements or has maintained recertification requirements for certification established by the IACP and the National Highway Traffic Safety Administration (NHTSA) and who has been approved for certification by the DEC Program jurisdiction coordinator for the jurisdiction wherein they have law enforcement jurisdiction or within their primary jurisdiction of employment.[1] The word "evaluator," "technician," or similar words may be used as a substitute for "expert," depending upon locale or jurisdiction. A DRE is skilled in detecting and identifying persons under the influence of drugs and in identifying the category or categories of drugs causing the impairment.

A DRE conducts a detailed evaluation of persons suspected of drug-impaired driving or similar offenses. Based on the results of the evaluation, the DRE forms an expert opinion based on the following considerations:

1. *Is the person impaired? If so, is the person able to operate a vehicle safely?*
2. *Is the impairment due to an injury, illness, or other medical complication, or is it drug-related?*
3. *Which category or combination of categories of drugs is the most likely source of the impairment?*

In many ways, the DRE is a crime scene investigator, specializing in the effects of categories of impairing drugs on the human body. The DRE responds to identify and collect vital evidence, which is often times short lived, store it through a written record, and interpret it to identify the drug category or categories responsible for the impaired driving.

[1] IACP, *International Standards for Impaired Driving Programs (DRE, SFST, ARIDE),* 2022, https://www.theiacp.org/sites/default/files/DECP_Website_Docs/International_Standards_for_Impaired_Driving_Programs_DRE_SFST_ARIDE.pdf.

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Sometimes, it is not alcohol or drugs that create the appearance of impairment. There are also medical conditions that can cause, or mimic, impaired driving behavior, and DREs are also trained to recognize such medical conditions. Numerous lives have been saved as the result of a DRE referring the arrestee for medical care. For example, in 2019, DREs discovered 484 subjects arrested for Driving While Intoxicated (DWI) were actually impaired because they were suffering from a medical condition, rather than alcohol or drugs.[2] In such cases, DREs can help avoid a potentially unlawful detention by recognizing a medical condition rather than alcohol or drug influence.

The use of DREs is not limited solely to investigations involving traffic incidents. Any incident or criminal investigation that includes the suspected use of drugs can call upon the expertise of a DRE. Examples of investigations that are not traffic related but can utilize DREs include those related to internal affairs, homicide, and sexual assault.

II. PROCEDURES

A. International Standards for Impaired Driving Programs (DRE, SFST, ARIDE)

The DEC Program is managed and coordinated by the IACP with support from the NHTSA of the U.S. Department of Transportation. The IACP's Technical Advisory Panel publishes the International Standards for Impaired Driving Programs, which includes the DEC Program, and establishes professional standards under which DREs are trained and execute their duties.[3] In addition to adhering to departmental policies, DREs must also conduct their actions in accordance with the *International Standards for Impaired Driving Programs (DRE, SFST, ARIDE)*, as well as any applicable jurisdiction enhanced standards.

B. Drug Influence Evaluations

The DEC Program protocol is a compilation of tests that healthcare providers have used for decades to identify and assess alcohol- and/or drug-induced impairment. DREs conduct their evaluations in a controlled environment, typically at police precincts, intake centers, or other locations where alleged impaired drivers are transported after arrest. The drug evaluation is usually not conducted at roadside and is typically a post-arrest procedure conducted in a secure location.[4] In some cases, the person evaluated will be a driver the DRE personally arrested. In many cases, however, the DRE will be called upon to conduct the evaluation after another officer has arrested the driver, and the DRE is requested to assist in the investigation because of their special expertise and skills in identifying and documenting drug impairment.

The DEC Program drug evaluation takes approximately one hour to complete. During this process, the DRE evaluates and assesses the person's appearance and behavior. The DRE also carefully measures and records vital signs and makes precise observations of the person's automatic responses and reactions. The DRE also administers carefully designed psychophysical tests to evaluate the person's judgment, information processing ability, coordination, and other characteristics. These psychophysical tests can provide strong evidence to demonstrate that the suspect could not operate a motor vehicle safely. The DRE will systematically consider everything about the person that could indicate the influence of drugs.

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[2] IACP, *2019 Annual Report: IACP Drug Evaluation and Classification Program,* 2020, https://www.theiacp.org/sites/default/files/2020-04/2019%20DECP%20Annual%20Report.pdf.

[3] IACP, *International Standards for Impaired Driving Programs (DRE, SFST, ARIDE),* 2022, https://www.theiacp.org/sites/default/files/DECP_Website_Docs/International_Standards_for_Impaired_Driving_Programs_DRE_SFST_ARIDE.pdf.

[4] Usually, the evaluation is conducted at the jail, police station, or hospital. While drug evaluations are not intended to be conducted roadside, sometimes a specially designated DUI van might be used for such cases.

The DREs use a 12-step process to assess those suspected of Driving Under the Influence of Drugs (DUID) suspects:[5]

1. *Breath alcohol test* – The arresting officer reviews the subject's breath alcohol concentration (BrAC) test results and determines if the subject's apparent impairment is consistent with the subject's BrAC. If the impairment is *not* explained by the BrAC, the officer requests a DEC Program evaluation from a DRE.
2. *Interview of the arresting officer* – The DRE begins the investigation by reviewing the BrAC test results and discussing the circumstances of the arrest with the arresting officer. The DRE asks about the subject's behavior, appearance, and driving.
3. *Preliminary examination and first pulse* – The DRE conducts a preliminary examination, in large part to ascertain whether the subject may be suffering from an injury or other condition unrelated to drugs. Accordingly, the DRE asks the subject a series of standard questions relating to the subject's health and recent ingestion of food, alcohol, and drugs, including prescribed medications. The DRE observes the subject's attitude, coordination, speech, breath, and facial characteristics (such as flushed complexion or dilated pupils). The DRE determines if the subject's pupils are of equal size and if the subject's eyes can follow a moving stimulus and track equally. The DRE also looks for horizontal gaze nystagmus (HGN) and takes the subject's pulse for the first of three times. If the DRE believes that the subject *may* be suffering from a significant medical condition, the DRE will seek medical assistance immediately. If the DRE believes that the subject's condition is drug-related (rather than related to a medical condition), the evaluation continues.
4. *Eye examination* – The DRE examines the subject for HGN, vertical gaze nystagmus (VGN), and a lack of convergence.
5. *Divided attention psychophysical tests* – The DRE administers four psychophysical tests: the Modified Romberg Balance, the Walk and Turn, the One Leg Stand, and the Finger to Nose test.
6. *Vital signs and second pulse* – The DRE measures the subject's blood pressure, temperature, and pulse.
7. *Dark room examinations* – The DRE estimates the subject's pupil sizes under three different lighting conditions with a measuring device called a pupilometer. The device assists the DRE in determining whether the subject's pupils are dilated, constricted, or normal.
8. *Examination for muscle tone* – The DRE examines the subject's skeletal muscle tone. Certain categories of drugs may cause the muscles to become rigid. Other categories may cause the muscles to become very loose and flaccid.
9. *Check for injection sites and third pulse* – The DRE examines the subject for injection sites, which may indicate recent use of certain types of drugs. The DRE also takes the subject's pulse for the third and final time.
10. *Subject's statements and other observations* – The DRE typically reads the subject's *Miranda/Charter* rights, if not done so previously, and asks the subject a series of questions regarding the subject's drug use.
11. *Opinions of the evaluator* – Based on the totality of the evaluation, the DRE forms an opinion as to whether or not the subject is impaired. If the DRE determines that the subject is impaired, the DRE will indicate what category or categories of drugs may have contributed to the subject's impairment (see Section C, below).
12. *Toxicological examination* – The toxicological examination is a chemical test or tests that provide additional scientific evidence to support the DRE's opinion.

There may be times a DRE is unable to conduct the full 12-step process. This may include instances such as when the subject has a medical condition that prevents full evaluation, when the subject is combative, or when the subject

[5] IACP, "12 Step Process," https://www.theiacp.org/12-step-process.

otherwise refuses to cooperate. In such cases, the DRE should document the reason the full evaluation was not completed.

C. Drug Categories[6]

Using the 12-step protocol, if drug-impairment is deemed likely, DREs classify a subject's impairment as resulting from one or more of seven categories of drugs. Drugs from each of these categories can affect a person's Central Nervous System (CNS) and impair a person's normal faculties, including a person's ability to safely operate a motor vehicle. Each category has a unique set of indicators. Indicators in some categories may be similar, while others may be opposite. The seven categories are listed below along with some examples of each:

1. *CNS depressants* – CNS depressants slow down the operations of the brain and the body. Examples of CNS depressants include barbiturates, anti-anxiety tranquilizers (e.g., Valium, Librium, Xanax, Prozac, and Thorazine), GHB (gamma hydroxybutyrate), Rohypnol, and many other anti-depressants (e.g., Zoloft, Paxil).[7]
2. *CNS stimulants* – CNS stimulants accelerate the heart rate and elevate the blood pressure and "speed up," or over-stimulate, the body. Examples of CNS stimulants include cocaine, "crack" cocaine, amphetamines, and methamphetamine ("crank").
3. *Hallucinogens* – Hallucinogens cause the user to perceive things differently than they are in reality. Examples include lysergic acid diethylamide (LSD), peyote, psilocybin, and methylenedioxymethamphetamine (MDMA/Ecstasy).
4. *Dissociative anesthetics* – Dissociative anesthetics include drugs that inhibit pain by cutting off or dissociating the brain's perception of the pain. Phencyclidine (PCP), its analogs, and dextromethorphan are examples of dissociative anesthetics.
5. *Narcotic analgesics* – Narcotic analgesics relieve pain, induce euphoria, and create mood changes in the user. Examples of narcotic analgesics include opium, codeine, heroin, meperidine, dextropropoxyphene, morphine, methadone, hydrocodone, and oxycodone.
6. *Inhalants* – Inhalants include a wide variety of breathable substances that produce mind-altering results and effects. Examples of inhalants include toluene, plastic cement, paint, gasoline, paint thinners, hair sprays, and various anesthetic gases.
7. *Cannabis* – Cannabis is the scientific name for marijuana. The active ingredient in cannabis is delta-9 tetrahydrocannabinol (THC). This category includes cannabinoids and synthetics like dronabinol.

D. Admissibility

While evidence collected by DREs is valuable to the investigative process of a potentially impaired driver, agencies should refer to jurisdiction and local legislation regarding the admissibility of DRE-obtained evidence as expert witness testimony, as admissibility varies by jurisdiction. Going to court for a drug-impaired driving offense without the testimony of a DRE is similar to prosecuting an alcohol-impaired driving case without Standardized Field Sobriety Tests (SFSTs)—it can be done, but it is much more difficult. In order to meet their burden of proof, prosecutors must have thorough documentation of evidence, including drug impairment, before they will bring the case to court.

Without a complete investigation and evidence collected by a DRE, a prosecutor may dismiss the drug-impaired driving case for lack of evidence. As a result, agencies not using DREs in these cases may experience an increase in

[6] IACP, "7 Drug Categories," https://www.theiacp.org/7-drug-categories.

[7] Alcohol is acknowledged as a central nervous system depressant but is viewed differently than other types of CNS depressants by DEC Program policy.

civil litigation filed by those suspects for false arrest. The evidence a DRE can provide is critical to demonstrating an agency acted appropriately and legally and, thus, may avoid this form of civil litigation even if a case is dismissed on other grounds.

E. DRE Availability

Ideally, every police officer should have access to a DRE for those impaired driving offenses where drugs may be involved. Most agencies lack the resources to have an on-duty DRE 24 hours per day, so having a DRE available to request when necessary is critical. Many jurisdictions offer overtime reimbursement programs to alleviate agency burdens with DRE overtime callouts.

Sharing DREs is a common practice among policing agencies as well. Since impaired motorists can quickly traverse from one town to another, sharing DREs as a resource among policing agencies is prudent when agencies may be faced with fiscal shortfalls or budget cuts.[8] Jurisdictional boundaries and venues fade in significance over preparing a proper case for court by using cooperative agency assistance programs. Agencies may leverage DREs from other departments and should document such arrangements through a Memorandum of Understanding (MOU) between agencies. Most often, the DRE is called to another officer's arrest. The DRE is called to collect evidence on behalf of the arresting officer–not take over the arrest.

[8] Kyle Clark and Joanne Thomka, "Smart, Comprehensive Impaired Driving Enforcement," Traffic Safety Initiatives, *Police Chief* 88, no. 1 (January 2021): 24–26, https://www.policechiefmagazine.org/traffic-stafety-smart-comprehensive-impaired-driving-enforcement/?ref=4e036aa1ce23bf2c8d43ba9784a5d2a2.

ADDITIONAL RESOURCES:

- The Drug Evaluation and Classification (DEC) Program. 2018. https://ndaa.org/wp-content/uploads/1033558_DREMonograph_FinalWEB.pdf.
- IACP. The International Drug Evaluation & Classification Program. https://www.theIACP.org/projects/the-international-drug-evaluation-classification-program.
- NHTSA. Drug Evaluation and Classification Program, Advanced Roadside Impaired Driving Enforcement Resources. https://www.nhtsa.gov/enforcement-justice-services/drug-evaluation-and-classification-program-advanced-roadside-impaired.

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NEW DRUG RECOGNITION EXPERT (DRE) AGENCY SET UP

- DRE Leading Practices for Setting Up New Agency
- Press Release Template Example
- Building a DRE Area Partnership

MEET

Meet with TSRP:

It is beneficial for a new DRE and essential when a new DRE agency becomes involved with the DEC Program to consult with any traffic safety resource prosecutor (TSRP) for the jurisdiction. The TSRP will be able to assist in the future prosecution efforts of DUID drivers, especially those evaluated by DREs. The TSRP can assist new DREs by helping them recommend language to establish a DRE policy within their agency. The TSRP can also advise the new DRE and the new agency of current case law and legal trends of which DREs should be mindful in the performance of their duties. TSRPs can also facilitate introductions for the new DRE with local prosecutors and help both the new DRE and the local prosecutors as they prepare for potential evidentiary hearings and prosecution of DRE-involved cases.

Meet with Local Prosecutors:

Soon after becoming certified, the new DRE should meet with local prosecutors handling DUI cases. This meeting ideally should occur before the DRE begins conducting enforcement evaluations. Prosecutors who are familiar with the DEC Program and know that a particular officer has been certified as a DRE are more likely to pursue prosecutions involving that officer's impaired driving investigations. A DRE's cases benefit when prosecutors better understand the resources the DRE brings to the case.

In addition, a meeting by a new DRE with their local prosecutors facilitates future interactions and opens lines of communication. Difficulties identified in a case can be discussed and pre-trial meetings are more likely to be scheduled for these important cases.

Opening communication with the local prosecutor is not a difficult task. This single task can greatly enhance the new DRE's standing with the prosecutor. Some prosecutors still believe that having a positive toxicology result on a blood test is enough to prosecute their DUI cases, but with the newly established partnership, the prosecute can see the extra benefits the new DRE can bring forward in the case presentation in the courtroom.

Some DEC Program state coordinators take an active role and greatly assist the new DREs. They often reach out to their prosecutors and build positive relationships which benefit the entire program. An excellent example is from Minneapolis. The Minneapolis City Attorney's Office has a seven (7) attorney DUI team who has audited the entire DRE class. Another state reported

that approximately twelve (12) prosecutors had audited their DRE classes over the past eight (8) years. This type of partnership building allows those prosecutors to spread the word about the benefit of the DEC Program to their co-workers. It also helps get the new DRE identified to the prosecution team and gain their support with DUI cases the new DRE may present.

By building these solid relationships, the new DRE should become a more important asset to the prosecutors they work with. This team building can only help expand and support your state's DEC Program.

Identify mentor for new DRE:

Mentoring programs can have an exceptionally positive impact on officers in new positions, especially for in-depth training such as DRE training. As an example of mentorship program effectiveness, there are several notable programs for new Chiefs of Police to have mentors to help them understand the multiple tasks necessary to be a chief and to realize those tasks that must be undertaken to guide them with daily functions. The same concept can be utilized for new DRE, especially those with a single DRE within an agency. In one state, all new DREs are assigned an experienced DRE in their agency and/or regional area as a mentor. The goal is to provide the new DRE with a resource to answer operational questions and review their enforcement evaluations before submission. One state expressed that a mentorship program is a fluid training model that changes slightly for the needs of each new individual DRE.

Becoming a new DRE can be exciting, but there is always more to learn. If there is no formalized mentorship program in your state, a new DRE is encouraged to seek out an area DRE to work with.

A new and successful DRE mentorship program was started in Colorado where new DREs are teamed with an experienced DRE in their work area. The two DREs work together to build on the new DRE's knowledge base with the experienced DRE mentor providing insight and needed direction. More information on this program is available by contacting the Colorado DEC Program state coordinator.

Observe another experienced DRE testify in a DUID case:

effectively is observing an experienced DRE's live testimony in court. Several state coordinators highly support this concept, but they do not have control over the staffing and scheduling of individual DREs within the DRE's home agency. A new DRE can work with their supervisor to coordinate their schedule to allow them to be present in the courtroom.

This concept can be an effective learning technique that will aid the DRE in all their future courtroom testimony and improve their representation of their agency in court. Observing the various steps in the courtroom can only improve a new DRE's knowledge and preparation to testify effectively. There will be essential steps in the courtroom process that a new DRE will be exposed to including steps necessary for qualifying as an Expert, what information is needed during the direct examination phase and how to successfully respond to those questions, and exposure to common defense tactics and how to professionally respond to the defense's questioning tactics and techniques. The more exposure the DRE has to actual courtroom testimony and procedure, the better they will understand the courtroom processes and enhance their ability to professionally present themself when it is time for them to testify.

PROMOTE

"Call a DRE" posters in DWI processing areas:

As a new DRE or an existing DRE, there are successful ways to encourage officers to use you as part of their impaired driving investigations. One idea that is very simple to produce and utilize is developing and utilizing a poster in the DUI processing or breath testing areas. Simply list your contact information and encourage the officers to call you when a low breath test is obtained and the degree of impairment in the DUI suspect is not consistent with the breath test result.

Some states have developed posters or pamphlets promoting their state's DRE callout programs. Information is included about when to call out a DRE and the dispatch contact information to request a DRE. New DREs are encouraged to contact their state coordinator to determine if a callout program is already established. If so, ensure that your contact information is included in the publications. You can then help by sharing the callout information with state, county, or local agencies near yours.

(Examples of posters are available)

Educate breath test operators about DRE:

As a new DRE, to help get used for drug influence evaluations, a good resource would be to develop a partnership with local jurisdictions that conduct breath testing training and certify officers in the operation of the breath testing devices. You can work with them to help ensure training or information on the DRE process is included in their training and how DREs can assist in DUI cases where breath test results are inconsistent with the degree of impairment.

Participate in checkpoints and saturation patrols:

Marketing yourself as a DRE is a benefit to you as a new DRE and to surrounding agencies. Some states and jurisdictions have developed policies or set guidelines for their sobriety checkpoints and/or DUI emphasis patrols. Many of those jurisdictions have established procedures where DRE participation is included and highly recommended. This includes but is not limited to having DREs involved as patrols or having DREs available at the checkpoints or at the DUI processing locations. Making yourself available to assist with the enforcement activities will help educate officers about the importance of using a DRE.

A new DRE can join efforts with other officers to produce a positive impact on impaired driving. In some jurisdictions, checkpoints are not utilized, but simple saturation patrols are an effective DUI enforcement tool. Saturation patrols do not impede the regular flow of traffic, which is often a point of criticism when checkpoints are utilized. Restrictions are not in play, which must be adhered to for the proper operation of a checkpoint. Simply pooling officers together and working within a designated area can generate an effective saturation patrol. This can be a cooperative agreement with officers in an agency or from multiple agencies. Officers can initiate traffic stops for observed traffic violations within the designated area of enforcement and in some traffic stops, impaired drivers may be identified.

Training Bulletins:

As a new DRE, you can showcase the vast knowledge you have recently gained about impaired driving enforcement and present ways you can share that knowledge with your fellow officers. All DREs, new, experienced, or DRE instructors are encouraged to develop agency training bulletins for other patrol members to see and read that address drugged driving issues. This can include new drug information or other pertinent and DUID related information.

For a new DRE, an excellent item supplied by the IACP for providing information about the DRE program within your agency is the "DRE Roll Call Training" video.

This short video is designed to be played during an agency's roll call period and provides a snapshot of the DRE program and the benefits of officers using the DRE as a tool to enhance their DUI/DUID arrests.

LEARN

Become very familiar with DRE database and contents for drug trends:

All DREs are encouraged to enter the data from their drug influence evaluations into the NHTSA DRE Data System. In fact, some states require the entries as part of their state's enhanced standards. As a new DRE, establishing a habit of entering your data is more than just a benefit to you.

The NHTSA DRE Data System can help you keep track of your statistics, and it also can help show drug trends in your city, county, state, and nationally. Reports you can generate from the system include a copy of your DRE Rolling Log, the number and percentage of training versus enforcement evaluations you have performed, the number of and categories of drugs being seen in your evaluations, and how many polydrug evaluations you are encountering.

Attend Prosecuting the Drugged Driver with local prosecutor(s):

DRE training is not an endpoint, it is just another step in your expanding career, your knowledge, and expertise in the discipline of impaired driving enforcement. As a new DRE, you should strive to continue to expand your knowledge by attending additional training, reading of impaired driving related articles, and doing personal research.

As an example, some states and jurisdictions are using the Prosecuting the Drugged Driver training course as a means of getting new prosecutors and DREs together for this type of training. Having the DREs and prosecutors go through this training together has proven to be very valuable in the efforts of using DREs and understanding each person's role in the prosecution efforts. Oregon is one example of a state that has been doing this for years with a high degree of success. Training such as this, and others that are readily available will aid you as a new DRE by building your knowledge base, improving your reporting writing skills, and enhancing your courtroom testimony abilities.

Attend Expert Insights: Testifying in Court as a Drug Recognition Expert Virtual Course:

This course explores the role of the DRE witness, fundamental courtroom rules and processes, case file preparation, and personal preparation, recognizing that the groundwork for successful testimony is multi-faceted. Learners interact with the content sequentially, beginning with the preparation required before appearance as a DRE witness at a trial, the expert witness testimony during the direct examination, cross-examination by the defense attorney, and considerations after the conclusion of the trial.

Read NTLC Monographs:

The National Traffic Law Center of the National District Attorney's Association is a very valuable partner in the efforts to reduce impaired driving as well as the ARIDE and DEC Programs. In this toolkit are additional free resources helpful for a new DRE as they prepare for courtroom case presentation. Each suggested resource is available on the NTLC website.

Webinars and other On-Line Training:

Obtaining updated training on impaired driving matters is critical and something required by all DREs to maintain their certification. Other than in-person training events, there are many credible webinars that officers, prosecutors, and toxicologists can attend and participate in. These include "Traffic Tuesday" webinars provided by the National Traffic Safety Resource Prosecutors and the IACP Section webinars for DRE Section members.

Press Release Sample

ANYTOWN ANNOUNCES OFFICER TRAINED AND CERTIFIED AS
DRUG RECOGNITION EXPERT

DRE Program Strengthens State's Efforts to Prevent Drugged Driving on Anytown Roadways.

The Anytown DRE program today recognized 20 law enforcement officers from across the state who recently completed extensive training and are now nationally certified Drug Recognin Experts (DREs). With this graduating class, Anytown now has 999 certified DREs across the state. Anytown is proud to have Officer John Doe among the recently certified DREs.

"Drug Recognition Experts are an irreplaceable asset in helping to get impaired drivers off Anytown's roads," said Officer John Doe, Anytown USA. "I congratulate the officer for the hard work put in to complete this extensive training and appreciate these efforts in making our roads safer."
DREs are utilized by law enforcement when a driver appears to be impaired, and police have ruled out alcohol as the cause or sole cause of impairment. A DRE receives extensive training that has been approved by the National Highway Traffic Safety Administration (NHTSA) and the International Association of Chiefs of Police (IACP).

The training allows officers to observe and document signs and indicators of impairment within each of seven drug categories including illicit and prescription drugs. DREs can make arrests and remove impaired drivers from our roadways regardless of the drug or drug combinations that are causing impairment. They also help to strengthen impaired driving arrest cases made by other officers and play a vital role in providing evidence of the impairment at the time of trial.

As part of their training, DRE graduates must successfully complete a three-part program prior to being certified. The first two phases include a two-day introductory course, followed by 56 hours of instruction and a final exam. In the third phase, participants are required to observe and identify drug categories and complete an additional final knowledge exam to successfully comply with national DRE regulations. After successfully completing the training, all DRE officers are certified for two years and are expected to meet certain requirements to be considered for re-certification at the end of this period.
Officers selected to participate in the DRE program must have a history of being proactive within their agency and be well-trained in DWI detection. Only a handful of the large number of DRE applicants are selected to attend the training. The DRE program is managed by IACP on behalf of NHTSA.

Download Microsoft Word Template Here

Building an area DRE partnership

Building and establishing area DRE partnerships with the community and other public safety entities is an important piece in enhancing a DRE program. There are some valuable partners that are not familiar with DRE and the evaluation process. Having the support of those partners can be extremely helpful in the combined efforts for public safety efforts. Such partnerships include Mental Health Courts, Probation and Parole offices, and Community Drug treatment centers.

Two successful examples of building DRE community partnerships are the Spokane, Washington DUI Court and Mental Health Program and the Medford, Oregon Livability Team. Each of these programs utilize area DREs as part of the "Team Approach" helping to identify possible drug-impaired clients that go through the Spokane Drug Court and assist in identifying people charged with DUI that also may be experiencing mental health issues that could be adding to their sobriety issues. More information is available on these two Eastern Washington programs by contacting Spokane DUI Court.

Another very successful Oregon partnership is the Medford, Oregon Livability Team. This came about through a collaboration among many city departments. The basic framework of the team is to couple the efforts of law enforcement and social service providers to connect with homeless individuals frequenting and living along the downtown Medford area. The Livability Team is staffed with three police officers, one non-sworn Community Service Officer and one Records Specialist. The mission of the Livability Team is to improve community livability by reducing criminal behavior and addressing chronic nuisance. This is accomplished through enforcement, linking resources to those experiencing homelessness, enhancing partnerships, and using a collaborative approach in identifying long-term solutions. One of the unexpected advantages of the Livability Team was a unique partnership with the Oregon DRE program and assisting in locating individuals for the DRE field certification training. The Livability Team provides people that are experiencing drug impairment symptoms and then evaluated by new DRE candidates. After each evaluation, the Livability Team provides clothing, food certificates, and many other basic health and wellness products for the individuals. In addition, local drug treatment counselors provide treatment options for the individuals found to be impaired by drugs and going through various addiction issues.

Many departments are currently conducting some type of Citizen's Police Academy in which the citizens get to see all the departments in which the agency. During the traffic presentations, they include a section on the DRE Officer role and explain what a DRE is and how the program helps in the reduction of impaired drivers in the community.

DREs have been using the Drug Impairment Training for Educational Professionals (DITEP) in several states. State coordinators have reported the use of DITEP training as being one of their most significant ventures which has proven to be a way to enhance the visibility of their DREs in different capacities to better support their community.

A county in southwest Florida pooled DRE resources to distribute the callouts for drug influence evaluations. A monthly schedule was prepared depicting each DRE's on-duty schedule, and one DRE was

assigned as on-call for each week of the month. This schedule was provided to the communications center of the sheriff's office where most DUI arrests were processed. An officer in need of a DRE would

contact the communications center, who would summon the on-duty DRE by contacting the respective agency. If a DRE was not on duty, the on-call DRE would be contacted. This practice promoted the use of all county DREs and distributed the workload, while facilitating easy access to a DRE by the arresting officer.

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RESOURCES

- Partnering to Reduce Impaired Driving Recidivism
- NTLC Resources

BY
Chuck Hayes, Western Region Drug Evaluation and Classification Project Manager, IACP

Drug Recognition Experts and DUI Victim Impact Panels

Partnering to Reduce Impaired Driving Recidivism

DRUG RECOGNITION EXPERTS (DRES) ARE THE MOST HIGHLY TRAINED LAW ENFORCEMENT OFFICERS IN IDENTIFYING ALCOHOL AND DRUG IMPAIRMENT.

DREs' primary focus is using their advanced training and impaired driving detection skills in removing drug-impaired drivers from the roadways. Their expert-level training, investigative skills, and impaired driving detection experience are recognized in courtrooms around the globe, both nationally and internationally. The standardized and systematic 12-step drug influence evaluation process employed by DREs in complex impaired driving investigations has unquestionably secured criminal convictions that lesser trained officers may have been unable to accomplish. This has undoubtably saved many lives by removing impaired drivers from the roadways as well as resulting in drivers' receiving needed substance abuse treatment.

DREs are on the front lines of impaired driving investigations that often involve injury or loss of life. With their vast knowledge regarding the effects of various drugs, many DREs are considered subject matter experts in identifying impairment and drug abuse. DREs also make excellent trainers and resources for other police officers, emergency responders, community service groups, schools, and school administrators.

One excellent example of DREs working with their community partners is occurring in Lane County Oregon with the Lane DUII Victim Impact Panel (VIP). As part of a cooperative effort to reduce impaired driving recidivism, DREs from the local law enforcement agencies are regular speakers, screeners, and subject matter experts at the meetings. The Lane DUII VIP subscribes to a policy that requires attendees to be sober during the meetings. The heartfelt messages provided by the volunteer speakers, many of them direct victims of impaired driving crashes, often cannot be properly retained or evaluated by someone impaired or adversely affected by alcohol or other drugs. Since one of the primary goals of the VIP is to reduce impaired driving recidivism, it is imperative to deliver a message that impacts the attendees, with the hope of eliminating future dangerous behavior.

In addition to their speaking and training, DREs that attend the Lane VIP assist in screening the attendees for indicators of impairment. Since alcohol is only one of many impairing substances, portable breath testing equipment alone cannot always be relied upon to ensure sobriety of the attendees. Since DREs are trained to make reasonable and objective observations regarding a person's impairment and to properly document and articulate these observations, they make effective screeners for panel attendees. DREs also provide security and make friendly contact with attendees as they enter.

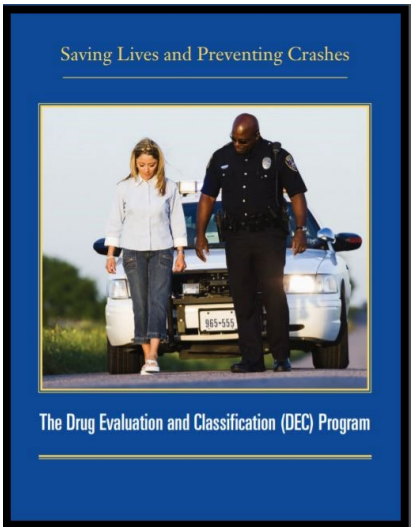
Many of the participating DREs described their involvement as an opportunity to help educate the offenders and humanize the interaction between them and law enforcement. If a DRE observes indicators of impairment, further evaluation for admittance is conducted utilizing their DRE training and skills. Part of this also includes the DRE's ability to differentiate between drug impairment and medical impairment. As one DRE who has been a regular partner with the Lane VIP put it, "Victim Impact Panels are a humanizing opportunity for healing to those affected by the poor choices of DUI offenders, an opportunity for offenders to gain perspective and understanding, and an opportunity to leave an indelible mark on their hearts and minds that may positively affect their lives and all those they come into contact with."

The use of DREs at the Lane DUII VIP, which began in 2008, continues to be a highly successful community public safety partnership.

Additional information regarding the Lane DUII VIP and the use of DREs can be obtained by contacting Lois Harvick, Program Director of the Lane DUII VIP at **lois.harvick@gmail.com** or Deputy Tom Speldrich of the Lane County Sheriff's Office at **thomas.speldrich@lanecountyor.gov**.

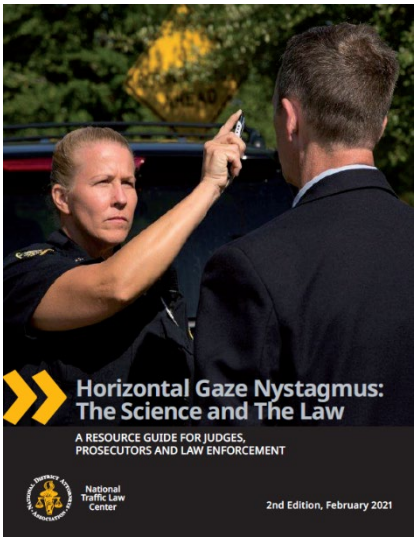
National Traffic Law Center (NTLC) Resources for the New DRE

The National Traffic Law Center (NTLC) has published numerous publications that will aid the new DRE in their role. The below resources are recommended reading to prepare for presenting DRE evidence in the courtroom and are available on the NTLC Website.

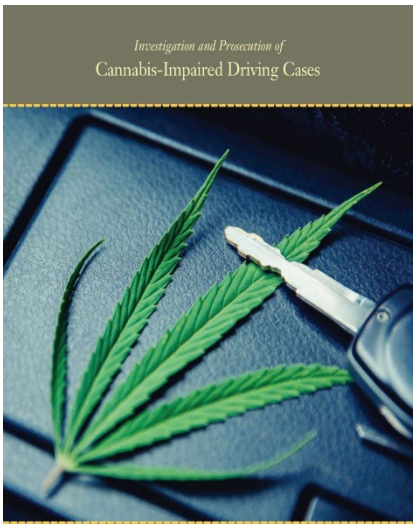


The Drug Evaluation and Classification Program - Traditionally, police officers and prosecutors have had difficulty identifying and prosecuting drug impaired drivers. Fortunately, law enforcement developed a solution: the Drug Evaluation and Classification (DEC) Program. By combining basic medical knowledge about drug pharmacodynamics with validated psychomotor tests, the Program enables a police officer certified as a Drug Recognition Expert (DRE)7 to determine whether a suspect is under the influence of alcohol and/or drugs and, if so, by what category of drugs.

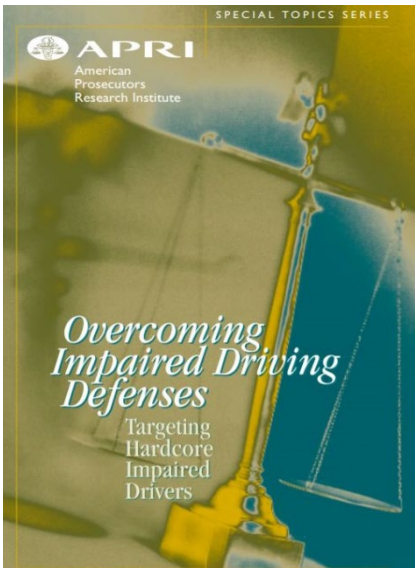
Drug Toxicology for Prosecutors (2023) - Impaired driving cases are among the most difficult criminal cases a prosecutor can handle and are further complicated when the impairment is due to drugs. These cases usually involve technical evidence and scientific testimony. A drug-impaired driving prosecutor must understand not only the law enforcement detection training and terminology related to drugs, but also the scientific principles supporting toxicological evidence.



Horizontal Gaze Nystagmus – The Science and the Law (2021) - Despite its history of use and the endorsement of the U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA), the horizontal gaze nystagmus (HGN) field sobriety test is not fully utilized and understood by all traffic safety professionals. What is nystagmus? How does the presence of horizontal gaze nystagmus reflect alcohol impairment? How does the police officer test for HGN? What conclusions can reasonably be drawn from the presence of HGN?



Investigation and Prosecution of Cannabis-Impaired Driving Cases - With the proliferation of legalized marijuana in this country, cannabis-impaired driving is becoming more prevalent. It is imperative for law enforcement officers and prosecutors to become more educated about the signs and symptoms of cannabis impairment so they may effectively prosecute these types of impaired driving cases. As described in this monograph, it is important for an officer to be properly educated by courses approved by IACP and NHTSA. Further, it is critical for law enforcement officers to accurately document all of the observations of the vehicle in motion as well as from the personal contact made with the driver and the pre-arrest screening of him. An arresting officer should also not hesitate to call upon a DRE for further testing of a suspect in an effort to help identify the cause of impairment. Whether or not a DRE is utilized during the arrest process, a prosecutor can always enlist the assistance of a DRE, as well as the assistance of a toxicologist, in properly preparing for a cannabis-impaired driving case.



Overcoming Impaired Driving Defenses - This publication serves as a guide to the most common defenses in impaired driving cases, drawing on the expertise and experience of Herb Tanner, the 2003 Prosecutor Fellow with the National Highway Traffic Safety Administration (NHTSA).