**AGENDA**

**DRE Committee Meeting**

**September 12, 2022**

**Marriott Uptown Las Cruces Ballroom**

**Albuquerque, New Mexico**

Call to Order

The meeting was called to order at 8:41am.

1. Welcoming Remarks and Introduction

Tim McCarson called the meeting to order, handed out the agenda and introduced the meeting attendees. Tim said he was appreciative of everyone taking the time to be at the meeting. All attendees introduced themselves. Attendees: Micah Doering, Fabian Fernandez, Michael Wells, EdenS Flores, Brett Barnes, Candance Coulson, Roy Martinez, Amber Montoya, Judge Kevin Fitzwater, Tim McCarson, Harvey Johnson, Jacquelynn Reedy, Charlie Files.

2. Approval of Minutes of March 7th, 2022, Meeting

Micah motion to approve, Michael second. All approved.

3. Committee Seats

a. Vacated Judges Seat

Retired Judge Tina Garica has vacated her seat and the Committee needs to make suggestions for a Judge replacement on the Committee. Tim asked attendees if anyone had any suggestions for a replacement. Candance said she would ask Judge Dominguez or Judge Walton. Candance will report back to Tim, and he will follow-up with them.

b. Central Region DRE Instructor Alternate for Captain Holt Recommendation Lt. Jacquelynn Reedy, Rio Rancho Police Department.

Micah motion, Fabian second. All approved.

c. Central Region DRE Alternate for Josh Montano. (Zak Herbst vacated) Recommendation Harvey Johnson Albuquerque Police Department. Zak is not a DWI Officer any longer and has moved to a SWAT position, so he cannot be on the Committee. Josh will return once back on duty full time. For now, recommendation for Harvey Johnson to step in as an alternate. Harvey is new to DRE but has extensive law enforcement background.

Motion Michael, Fabian second. All approved.

d. Southern Region DRE Alternate

We are still looking for a recommendation from Fabian. Fabian is unable to find anyone to fill this spot. He may have someone in mind but has to follow-up. Will table this item until the next meeting. There may be a reasonable candidate from Carlsbad, but Carlsbad PD has locked down any travel.

e. Amber needs to be voted in as Committee member since Carmalita no longer oversees the program. Committee OK with the swap. Since this is not on the agenda, it will be tabled until the next meeting as an action item.

4. Lasworth Reminder

a. Reminder to DRE/DRE Instructors

Tim has this on the agenda as a reminder to look for case law.

b. Discussion from Brett Barnes

He had a quick meeting with a few Committee members on Zoom to discuss the case. Not using email threads to discuss. Brett's personal preference is to have it be a DRE. Candance said it has to be someone who administered HGN correctly. She also agreed it didn’t have to be a DRE, but the HGN is the biggest concern. Dr. Citek has to be able to talk about the studies; he is still eager to participate. Tim also talked to Dick Studdard, and he wants to sit in and see the progress. Candance said she could also look at cases where someone is fleeing but not a felony DWI. If no one got hurt, then she can look at those cases. Judge Fitzwater agreed on the discussion. There is a case in New Jersey that is 384 pages, he will dig through and see if it talks about HGN. At the DRE Conference, there was a brief discussion on the case in New Jersey. The case is huge, but it needs to be reviewed to see if it can help NM.

Brett also talked about the NMDOT update on case law. Brett talked about the New Jersey case. Lawyers are not all challenging case law beforeeveryone was ok with it. The New Jersey case is being used as a nationwide test. Brett is trying to tell everyone to take it seriously when DRE is being challenged. Not going to have the blood now, due to a wrinkle with Aleman. Lasworth questions….Judge Fitzwater lobbying to get misdemeanor blood draws, wants to make sure it doesn’t contradict anything. Candance said no, it doesn’t conflict, but they need the legislature to approve it. Tim said that Lasworth is still a refusal. Candance said it should all be fine. Candance said they want the refusal. When we get the misdemeanor warrant rule, it will be harder to push but is doable.

Lasworth will get HGN back into court. Looking for a “perfect” case to go to the legislature. If someone finds one, then the Committee can do a quick Zoom meeting to discuss. Michael asked if the case was filed in Municipal court if it needs to be pulled and re-filed into District Court. Emphasis made that the HGN needs to be done correctly.

5. 2022 DRE School - Albuquerque, Traffic Office. RTMC

a. Pre-School April 4-5, 2022

24 people approved to attend, Day 1 someone left for a family emergency. Ended up with 19 in the school, 1 failed.

b. DRE School April 6-15, 2022

18 started and completed. All passed. Wet lab all went well. 1 on Delta 8 and one on Delta 9, took very little alcohol, great test subjects.

c. Certification Trip 1; April 27-May-1, 2022

Mesa, Arizona. 1st time using the facility. Tim had taken 1 student previously. George ran an amazing trip. George runs a tight ship and Tim thought they should definitely use the site again. Tim’s boss suggested using a Houston site. Tim wasn’t sure if it was a site that charges or not. His boss also suggested using a site in San Antonio. Tim will find out more information on these 2 sites. Accuracy rate is pretty high. Final knowledge failed 2 on this trip. 2 failed horribly badly. Charlie also reviewed their tests and agreed that the 2 were very bad.

d. Certification Trip 2; May 4-8, 2022.

Trip went well. Micah in charge of the trip. Everyone got all the certs and passed final knowledge. Micah wasn’t sure if some could pass, but they studied and ended up passing.

There are now 16 new DREs for the state. One Isleta PD DRE doing a ton of evals. He has already done 22-24 since becoming certified. Micah and Tim said that his evals are great and his reports are very well written. Tim said he has had 4 who have let their Certification expire this year. Tim said his boss will be attending the entire 2023 school.

6. DRE Instructor School in New Mexico

a. Discussion (put on hold until 2024). Because Tim is new to being the DRE Coordinator, he wants to push off the DRE Instructor School until 2024. The Committee agreed.

7. DRE Instructor Applications

a. Discussion (one application received)

In August, Tim put out an email to all DREs in good standing asking if anyone wants to be a DRE Instructor. Got 2 responses and neither of those people would qualify. Eden said she would love to, but her department won’t approve it. Tim asking for ideas/candidates on sending people to Instructor School. Roy said on the SFST side, people are being forced to become instructors; it's just the feel out there; no one gets extra pay and doesn’t want the extra duties. Charlie said that Michael would qualify, and he can attend the next Instructor School. Eden said she would try but wasn’t hopeful of her department approving the request. Committee thought Michael would be a great candidate. The State still has 14 instructors, until Charlie moves, then the State is down to 13. Tim is hopeful we will get lots of applicants for 2023 DRE school. In late fall/early December, Tim will put out requests for applications for the 2023 DRE School. He will look to the Committee for a site. He thinks the southern region may have a large number of applicants and he said that the person in Las Cruces said he can use their facility. Fabian said they might have 2 or 3. Micah wasn’t sure about the northern region. Tim wasn’t sure about the central region, maybe 1 if there will be any in the DWI unit. The 2023 School will be after kids’ spring break, early April. Tim thinks he should stick with Mesa AZ again for the Certification trips. It is a site he is familiar with for now. Maybe 2024 moving to a new site. Will discuss with his boss.

8. NMDRE Program Status Update

a. DRE’s and DRE Instructors

b. Review 2020/2021 evaluations

c. Recertification Training conducted

Everyone that could be recertified was recertified. 1 person in Carlsbad went through the process. June 3 was the instructor recertifications. There were great speakers at the recertification.

d. 2023 Recertification Training

Pretty big roster for recertifications in 2023. Tim is looking at the database and 44 will expire. Will do 1st group in January. 2nd one last day DRE school, then 3rd in late July. Tim said he will get with Brett for training and lady at SLD for presentations, specifically fentanyl. Cannabis information also since it is legal now.

e. ARIDE FY22 discussion for 2023 locations

16 ARIDEs completed, 216 officers and prosecutors signed up. 206 passed ARIDE training. Not ARIDE certified, but ARIDE trained. Sign-ups are dwindling. Raton had 3 canceled, Gallup had class recently; had 9 show up. Canceled Taos, moved to Gallup again for Pueblo, shrunk to 9 people. October Eagle Nest - 0 sign up. Deming PD requested a class. Clovis 2 people, Farmington 2.

For 2023, Tim wants the Committee to brainstorm some ideas; the usual locations are drying up. Micah said he was frustrated also because Departments say they will send officers, but then they don’t. Brett suggested Hobbs as a maybe. He said there are other areas, but it's tough. Roy said he’s had to cancel lots of SFST classes as well due to manning levels or budgets. Tim asked Amber if she thought maybe Carlsbad, because they can’t pay for travel. Eddy County sheriffs maybe. Las Cruces definitely a sure bet for a few ARIDEs a year. Lt. Reedy wasn’t sure about Rio Rancho, she said officers use it to get out of patrol, but they aren’t ready mentally to take an ARIDE class. Tim said he will work with Amber to find agencies. Trainingportal.org ARIDE refresher.

f. National updates

Still waiting for the new curriculum. Charlie provided updates: Arrest tab, only 1 box. Moving general information to a different tab. Need check box for instructor observed. Database contractor awarded next 5 years. Can do a demographic search now on the database. New manuals for 2023? Charlie said by the time of the next DRE school, there will be new manuals. A lot of the wording was removed, instead of reading the slide, it might just be a picture, so the instructors will have to get reacquainted with teaching the new materials.

9. Updates/Concerns/Suggestions for Improvement

a. DRE/DRE Instructors in the Field

Tim asked instructors for input. Micah said nothing new in the north: weed, pills, fentanyl. Michael agreed. Nothing new or unusual in Rio Rancho. APD Harvey nothing new/unusual; hit or miss if people are willing to do evals; always refusals. Fabian said lots of weed, narcotics. Eden said fentanyl; people are just too high to get anything out of. Fentanyl is definitely big in the state now.

b. NMDOT - nothing new

c. TSRP - Brett reestablishing Hobbs connections. 14/15 Joint DWI conference with DA’s, law enforcement, prosecutors. Lots of great presenters. People committed to DWI. Brett is willing to go anyway and train people. Brett wants to come talk to prosecutors all over the state.

d. ADA: Candance: People in Abq , Metro regular docket. Judge Safier. Candance is always willing to provide help, even if out of jurisdiction.

e. US Attorney - no one here

f. Judicial - $ from NHTSA, cannot rule on cases but he can help. NHTSA is his boss.

g. Defense - no one here. Tim did speak with John DaMato. He never responded. Candance said she will give him a call. He would be a great addition to the Committee. Judge Fitzwater also said he would give him a call.

h. SLD - 0

i. SFST/SWTC: Roy said they got their money again for another instructor school in December in Albuquerque. Roy said to send people his way if you know of anyone interested. Tim said to sign Linda up.

10. Date/Time/Location next meeting

The next meeting will be on Monday, March 6, 2023, at 8:30am.

11. ADJOURN

Micah Motion, Lt. Reedy second, all approved. Meeting adjourned at 11:02.

After the meeting, Brett had a brief discussion to say that has been working on switching the Birchfield fix, it is a misdemeanor warrant fix. Pitching the idea 66-8-111 blood draw statute. Section A, language to be eliminated out of section. Strike the qualifying language on who can do it and the word felony. Brett cannot actually change the wording as a member of the AGs office. Candance and Judge Fitzwater suggested Representative Maestas.