



**New Mexico D.R.E Committee  
Meeting Minutes  
March 8<sup>th</sup>, 2021  
Albuquerque, New Mexico/Online**

**Call to order**

Charles Files called to order the meeting of the New Mexico D.R.E Committee Meeting at 0902 on March 8<sup>th</sup>, 2021 inside the Sandia Ballroom at the Marriott Uptown in Albuquerque, New Mexico. In accordance with COVID-19 social distance standards, the meeting was conducted both in-person as well as via video conference (Zoom).

**I. Roll call**

**Conducted a roll call. The following D.R.E. Committee members were present:**

Micah Doering	Josh Montano
Joel Holt	Charles Files

**The following D.R.E. Committee members were present via Zoom (online meeting platform):**

Ryan Postenrieder	Andrew Walker (for Fabian Fernandez)
Brian Hobbs	Aaron Baca
Judge (Ret.) Tina Garcia	Brett Barnes
Carmelita Chavez	Robert Shilling

**The following D.R.E. Committee members were not present:**

Kevin Bruno  
Gregory Gaudette

**The following guests were present:**

Judge Kevin Fitzwater	Tim McCarson
Michael Hetes	Kimberly Wildharber
Janell Files	

**II. Approval of minutes of September 14<sup>th</sup>, 2020 Meeting:**

***Motion Made to Approve:*** Micah Doering    ***Seconded:*** Joel Holt

### **III. Committee Seats:**

Brian Hobbs, Ryan Postenrieder and Jemuel Montoya all completed the classroom of DRE Instructor training in 2020. If field certifications carry through as planned in May 2021, all three will be certified as DRE Instructors. Brian Hobbs and Ryan Postenrieder's seats will be filled by Cierra Manus (Farmington P.D.) and Eden Flores (Dona Ana County S.O.) respectively. Cierra and Eden will present alternates for their seats.

Per by-laws, every DRE Committee seat is up for reappointment (every 2 years). Charles solicited the committee for any objections for holding their seat. None heard. Each committee members' seat reinstated for two years.

### **IV. Recognition:**

Officer Michael Hetes (Rio Rancho P.D.) was voted by the D.R.E. Committee as the 2020 D.R.E. of the Year. He was presented with a plaque and a recognition was read by Charles Files. Lieutenant Holt also spoke to Officer Hetes' work ethic and contributions to the NMDRE Program.

New Mexico State Police Captain Micah Doering was presented with a plaque in appreciation and recognition for his dedication and commitment to the New Mexico D.R.E. Program. Captain Doering was recognized for his continuous contributions to the program as a Region Coordinator, Instructor and certified D.R.E., while balancing his duties as District Commander for New Mexico State Police District 10, Farmington.

### **V. State v. Aleman/NMDRE Aleman Sub-Committee Report:**

Charles Files explained that the Committee identified an issue of interpretation of the NMCOA case State v. Aleman which concerns D.R.E. protocol and testimony in New Mexico. A Sub-Committee was comprised of subject matter experts from the Committee. The Sub-Committee met on January 29<sup>th</sup>, 2021 in Albuquerque. The Sub-Committee discussed the testimony of D.R.E.s, HGN and Toxicology concerns. The Sub-Committee was able to make interpretations in each of these vulnerable topics and established positions on each. These positions were reported out to the D.R.E. Committee and are available to the public through the New Mexico D.R.E. website. These positions will be communicated to prosecutors and officers at upcoming trainings.

### **VI. Drug Impaired Driving Training for Prosecutors through A.O.D.A.:**

Debbie Sanchez from the Administrative Office of the District Attorneys was invited but unable to attend. Charles explained the goal is to continue attempts to corroborate with the AODA as a resource to promote and explain the program to prosecutors. A D.R.E. script is available to prosecutors. This 13-page document will be given to D.R.E.s in D.R.E. School. D.R.E. Instructors may want to collect email addresses for that D.R.E. candidate's local DWI prosecutor to share the scrip with him/her. This may be a point of distribution, in addition to handing this document out during trainings. The NMDRE Committee recognizes that the document will likely be considered discoverable but takes no objection to maintaining transparency with it. Judge Fitzwater working on training for judges, by judges in D.R.E.

### **VII. 2021 D.R.E. School:**

Plan to continue with D.R.E. School as planned. Roster proposed to the Committee of 24 qualified candidates. Classroom to be held in Albuquerque, based on locations of the majority of students and instructors. Field Certifications scheduled for two trips in Sacramento, California. Trip #1 scheduled for May 14<sup>th</sup>-18<sup>th</sup>; Trip #2 scheduled for May 18<sup>th</sup>-21<sup>st</sup>, 2021. Tim is working on securing the Regional Metro Traffic Center (old National Guard Building on Wyoming) for the classroom. If unavailable, Rio Rancho P.D. will host. Hotel TBD based on classroom. Confirmations will go out to the students this (March 8<sup>th</sup>) afternoon. Covid safe practices will be communicated to students and instructors. Vaccines will be ‘encouraged’ for officers, as well as ensuring selected candidates refrain from any unnecessary contact/exposures.

Roster proposed to Committee, Charles asked if there was a motion to approve.

***Motion Made to Approve:*** Joel Holt                      ***Seconded:*** Micah Doering

### **VIII. Additional Traffic Safety Resource Prosecutor:**

Larissa Breen introduced herself as the States Traffic Safety Resource Prosecutor whose focus is on implied consent hearings. Larissa provided her background which has a heavy emphasis on DWI prosecution. Larissa offered her assistance with training and correlation with the AODA to assist newer prosecutors in learning about the DRE program and Drug-Impaired Driving. Charles explained the Committee was originally comprised with two seats for the TSRPs and offered the second TSRP seat to Larissa. Larissa accepted the invitation for the seat and a motion was solicited.

***Motion Made to Approve:*** Micah Doering    ***Seconded:*** Josh Montano

### **\*Motion to add agenda item:**

Motion made to add agenda item to discuss and vote on adding a Judicial Outreach Liaison (JOL) seat to the Committee.

***Motion Made to Approve:*** Joel Holt                      ***Seconded:*** Micah Doering

### **Added Agenda Item:**

Charles explained that when the Committee was inaugurated and the by-laws written, New Mexico did not have a Judicial Outreach Liaison. New Mexico received the resource of a Judicial Outreach Liaison in fall 2020. Since Judge Fitzwater began as JOL, he has attended all Committee meetings. His expertise and input have already proven invaluable to the Committee and its’ goals. Discussion regarding adding a non-voting, Judicial Outreach Liaison seat to the New Mexico D.R.E. Committee.

***Motion Made to Approve:*** Micah Doering    ***Seconded:*** Joel Holt

Discussion to fill vacant Judicial Outreach Liaison seat with New Mexico Judicial Outreach Liaison Judge Kevin Fitzwater.

***Motion Made to Approve:*** Micah Doering    ***Seconded:*** Josh Montano

### **IX. Judicial Representation:**

Both Judge C. Perea (District Court Judge Dona Ana County) and Judge David Finger were

contacted based on recommendations from the Committee. Judge Perea expressed interest in the Committee to the Southern Region DRE Instructor Representation Fabian Fernandez (not present), who passed his contact information to Charles. Charles send Judge Perea a email and followed up with a phone call but has not been successful in reaching Judge Perea. Fabian and Andrew said they would attempt follow ups.

Judge Finger was contacted and had many questions about the committee and its' purpose. Those questions were answered, but Judge Finger ultimately declined the invitation to attend the meeting.

Judge Garcia explained she was willing to fill the judicial seat until it can be filled by another Municipal, Magistrate, District or Metropolitan Court Judge. The by-laws support this, as it does not specify that the judicial seat can not be filled by a retired judge. Furthermore, Judge Garcia still practices pro-tem.

**\*Motion to add agenda item:**

Motion made to add agenda item to discuss and vote on adding a Judge Tina Garcia back to the Judicial seat on the Committee.

*Motion Made to Approve:* Joel Holt      *Seconded:* Micah Doering

**Added Agenda Item:**

Discussion regarding moving Judge Tina Garcia from her “at-large” seat, to the Judicial seat on the New Mexico D.R.E. Committee.

*Motion Made to Approve:* Josh Montano      *Seconded:* Micah Doering

**X. N.M.D.R.E. Program Status Update:**

The pandemic caused us to cancel the 2020 DRE School. This had a catastrophic effect on our program's certified D.R.E.s. A successful 2021 DRE School will be the first step in rebuilding. The program received two transfers into New Mexico. A certified DRE from Colorado now works at Los Alamos P.D. and a certified DRE Instructor from Wisconsin is now the chief of Milan P.D. The DRE Instructor will be observed teaching, when it is convenient for his schedule, and may subsequently become a member of the NMDRE instructor cadre.

An Albuquerque P.D. who had been expired for 3 years is working on meeting the standards for reinstatement. He will take his 100-question test during the 2021 DRE School.

Bernalillo County Sheriffs Office leadership (in the DWI Unit) has changed, and deputies have expressed interest in the DRE program. Tim McCarson and Charles Files will work with the new leadership at BCSO and attempt to gain buy-in.

A new list for DRE Instructor will go out in May 2021. It will be a voting item. The most qualified DREs will be sent to DRE instructor school when one becomes available in 2021 (or early 2022) and will complete certification at the 2022 field certifications.

Legislative update was provided regarding House Bill 63, House Bill 12, and House Bill 187. House Bill 63 ('Birchfield fix') was tabled. Judge Fitzwater provided the update for this bill which would allow judges to issue search warrants for blood in misdemeanor DWI cases. House Bill 187, which would provide specific statutory limits for drugs in someone's blood to deem that

individual 'per-se' DWI, was tabled. Charles reiterated the bill is problematic because drugs have much more complex effects on the human body, compared to alcohol. Any specific number in ones' blood is not necessarily indicative of impairment. House Bill 12 (recreational Marijuana) is in Senate, with no set date for the next hearing.

Two recertification classes are planned for 2021. Albuquerque will be April 16<sup>th</sup> (last day of the DRE School) and the other in Farmington June 2021. A final class will be made available for any stragglers. That location/date will be determined at a later date, based on the need.

#### **XI. A.R.I.D.E.:**

Five AIRDE classes have been completed so far in 2021. We continued training in June 2020 and have held 14 ARIDEs since then. The classes are obviously much smaller in size for social distancing, but we have still been able to train 131 officers/prosecutors. We will now hold 16 ARIDE classes a year. Six classes remain for FY21.

The annual calendar worked well for 2021. Charles will start identifying areas and reaching out to establish the 2022 calendar before the next meeting.

#### **XII. 2022 D.R.E. School:**

This will be discussed in depth at the next Committee Meeting. The timeline will likely remain similar to the 2021 School.

#### **XIII. Updates/Concerns/Suggestions for Improvement:**

- A. DRE/DRE Instructors: None
- B. NMDOT: Appreciates collaboration and working with TSRPs, including previous TSRPs.
- C. TSRPs: Discussing misdemeanor driving license training. Testimony and testifying online.
- D. ADA: Aaron excited to see what training becomes available for prosecutors.
- E. US Attorney: Eva discussed state special assistance for DWI. Brett mentioned he had not seen it yet. Attorney Generals' Office may explore the option.
- F. Judicial: None
- G. Defense: None (Not Present)
- H. SWTC: Backlogged with LEA65s but communicate with Robert if an application needs to be placed at the top of the stack.

**XXI. Date//Location of Next Meeting:** Tentative date September 13<sup>th</sup>, 2021 in Albuquerque (Zoom option will be available if necessary).

**XXII. \*\* Adjourned \*\***

Meeting end time 11:23

*Motion to Adjourn:* Joel Holt

*Seconded:* Josh Montano

Minutes submitted by: Janell Files, BRV Consulting

Minutes approved by: Micah Doering Seconded: Joel Holt \*September 13<sup>th</sup>, 2021 @ 0904 Albuquerque, New Mexico