

Crime Commission Update on DUI/DUID



DUI/DUID Process Phases of an Arrest

- ◆ Vehicle in Motion (5 Min)
 - ◆ Instances where there isn't vehicle in motion would be:
 - ◆ Checking Detail
 - ◆ Crash Investigation
- ◆ Personal Contact (5 Min)
 - ◆ Decision point is to determine if driver needs to exit vehicle and conduct Standard Field Sobriety Testing (SFST)
- ◆ Pre-Arrest Screening (30 Min)
 - ◆ SFST's are given and an arrest decision is made.
 - ◆ Consist of 3 NHTSA validated tests (HGN, WAT, OLS) (PBT would also be offered in this phase)



DUI/DUID Process Phases of an Arrest

- ◆ Subject is Arrested and Searched (5 Min)
- ◆ Subject's vehicle is towed for "storage" meaning at impound lot. (45-60 min)
 - ◆ This could take up to 60 minutes if another officer can't wait with vehicle.
- ◆ Subject is transported to Jail where there is an EC/IR 2 Intox machine to measure the subjects BAC. (30 Min)
- ◆ A 20 minute observation period must take place before test. (20 Min)



DUI/DUID Process Phases of an Arrest

- ◆ Subject provides 2 breath samples on Intox EC/IR 2 (20 Min). A 3rd sample may be necessary if errors take place.
- ◆ Officer completes criminal complaint and administrative license suspension. (20 Min)
- ◆ Subject is brought before a Magistrate and charged with applicable charges (30 Min)
- ◆ Subject is then booked on all charges and fingerprinted (30 Min)
- ◆ Subject is then brought back before the Magistrate for a bond hearing. (20 Min)
- ◆ Trooper/Officer Clears from Jail and contacts their dispatcher to send an administrative message to DMV if a license suspension is mandated. (10 Min)



DUI/DUID Process Phases of an Arrest

- ◆ If an officer has to get a blood sample due to DUID investigation or crash, two additional steps are taken that would replace getting a breath sample.
- ◆ Officer would need to get a Search Warrant if implied consent wasn't established. (60 Min)
- ◆ Officer would transport subject to hospital for blood draw to be taken by registered nurse or those allowed by law. (60 Min)
 - ◆ Note:Some hospitals may be reluctant to draw blood which would cause additional time for the officer to find a location for the blood draw.
- ◆ Officer then completes a report (45 minutes)



DUI/DUID Process Total Time

	DUI-Breath	DUID-Blood Draw
Total Time	5 Hours 30 Minutes	7 Hours 30 Minutes

This is worst case scenario.
Having an assisting trooper to help with wrecker will reduce time 1 hour



The Need

Polydrug use can confuse an untrained officer and lower their confidence level to make an arrest

What an officer may see psychoactive in a persons system could change throughout an incident depending on multiple factors and drugs used.



Session 1 - Introduction: Preliminary Training for Drug Evaluation and Classification Program

Frequency of Polydrug Use

- Ingesting two or more different drugs
- Approximately 1/3 of all toxicology results indicate two or more drug categories

Preliminary Training for Drug Evaluation and Classification Program 1-22

DRE Training

- ◇ The DEC Program trains law enforcement officers and other approved public safety officials as DREs through a three-phase training process:
- ◇ DRE Pre-School (16 hours) **with Final Exam (must get 80 or higher)**
- ◇ DRE School (56 hours) **(5 quizzes and Final Exam)**
- ◇ DRE Field Certification (Approximately 40-60 hrs.) **(Must successfully call 12 evaluations and match toxicology) (6 as primary and 6 as a scribe). Must hand write the DRE Matrix and get a 100 % on final exam. (Essay Questions)**
- ◇ Once trained and certified, DREs become highly effective officers skilled in the detection and identification of persons impaired by alcohol and/or drugs. DREs are trained to conduct a systematic and standardized 12-step evaluation consisting of physical, mental and medical components.

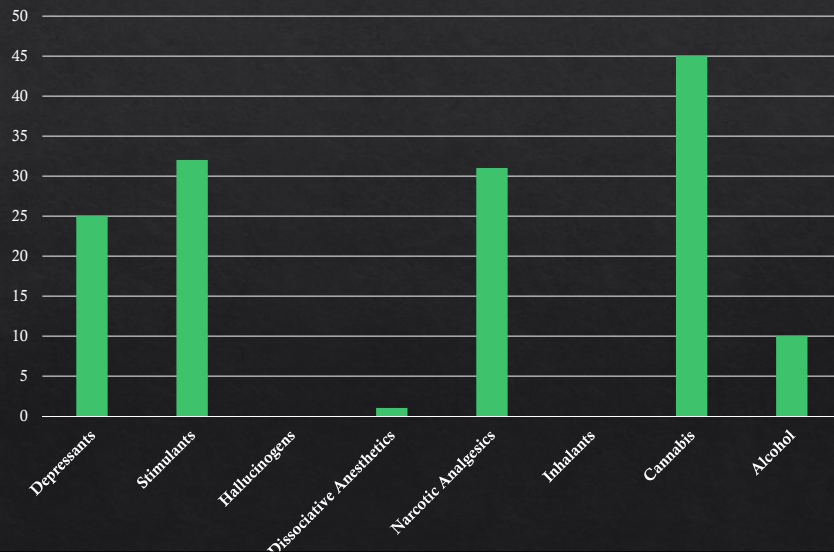
DRE Program

- ◆ In 2021, the program comprised of 22 DRE's.
- ◆ Through the VSP Training Division and The Department of Motor Vehicles, Virginia now has 58 DRE's.
- ◆ Of those 58, 6 are DRE instructors with 3 currently in training to bring the total to 9 DRE Instructors.
 - ◆ Even with 9 instructors Virginia is still in need of more.
 - ◆ In order for the program to continue to grow, VSP believes 12 instructors are needed to hold future DRE courses.
 - ◆ Caveat is they must be experienced and because VA just held its first DRE course in 2021, instructor pool is small but growing.



Virginia DRE evaluations

- 90% State Wide Accuracy- Meaning toxicology confirmed at least one drug present in the blood in which a DRE also called the drug category.



Advanced Roadside Impaired Driving Enforcement (ARIDE)

- ◆ VSP Training Academy, in partnership with DMV, began training both local and state officers beginning September/2021.
 - ◆ During those 4 months in 2021-VA DRE Instructors trained 127 officers
 - ◆ Approximately 50 % were local and 50% were Troopers
- ◆ In 2022- an additional 155 officers were trained in ARIDE.
- ◆ That brings the total to 277 total in just over a year.
- ◆ A major hardship in 2022, both for VSP and the DRE program, was the tragic death of Sgt. Nicholas Koslicki. Sgt. Koslicki was one of the first DRE's in Virginia and also was a DRE instructor. He was also the DUI coordinator at the VSP Training Academy.



ARIDE



Session 1 - Introduction and Overview "Drugs and Highway Safety"

Overall Course Goal

This course will train law enforcement officers to observe, identify and articulate signs of impairment related to drugs, alcohol or a combination of both in order to reduce number of impaired driving incidents, serious injury, and fatal crashes.

Advanced Roadside Impaired Driving Enforcement

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What ARIDE Offers

- ◆ ARIDE provides officers with 3 additional tests to help them identify impairment.
- ◆ Lack of Convergence-inability of a persons eyes to cross as a stimulus is pushed towards the bridge of the nose.



Session 5 - Observation of the Eyes and Additional Tests for Drug Impairment

LOC

A close-up photograph of a person's eyes. The eyes are wide open and looking slightly to the right, demonstrating a lack of convergence. The person has light-colored hair and is looking towards the camera.

Advanced Roadside Impaired Driving Enforcement 5-10

What ARIDE Offers

- ◆ The Modified Romberg Balance Test is a divided attention test as well as a possible measurement of the person's internal timing estimates.



Session 5 - Observation of the Eyes and Additional Tests for Drug Impairment

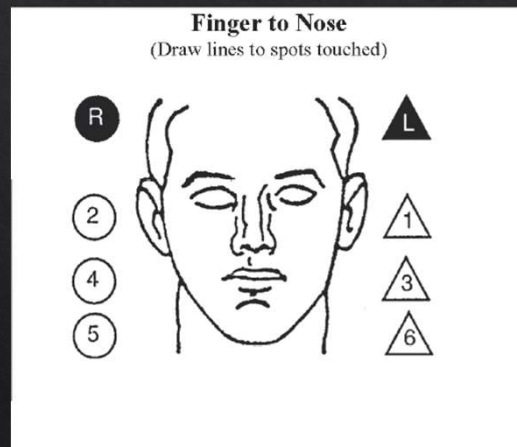
MRB Test Practice

A photograph showing two men. One man, wearing a dark shirt, is standing with his back to the camera, holding the arm of another man. The second man, wearing a green polo shirt, is standing with his feet together and his head tilted back, looking upwards. This is a practice for the Modified Romberg Balance test.

Advanced Roadside Impaired Driving Enforcement 5-23

What ARIDE Offers

- ◆ Finger to Nose- The FTN is another divided attention test used to detect drug impairment



Challenges/Recommendations/Needs

The **biggest challenge** that Virginia faces in the DRE program is agency **support** across the state. Some agencies are **hesitant** to send officers due to the **large amount of resources/time** it requires.

- Funding issues for overtime
 - DRE's will be called to work multiple counties and jurisdictions.
 - Are agencies ok with absorbing the cost for a call out if its not in their county/city?
 - Grants are available federally through NHTSA for traffic enforcement

Selection of Pool of Applicants:

- Staffing shortages within VSP are limiting the applicant pool
- LEOs are experiencing burnout and agencies are unable to permit some of their best officers to participate in advanced training
- Troopers/Officers are also **apprehensive** to apply due to the severity of the training.
 - To combat this, ARIDE must be frequent to build interest and help them understand the requirements.

DRE Policy:

- There are only a **couple** of agencies in VA that have DRE policies in are place.
- Now that the VA DRE program has more than doubled in size, it should be treated like accident reconstruction.
- IACP has developed a model policy that can be adopted.



Challenges/Recommendations/Needs

DRE Instructors:

- ARIDE and DRE courses can only be taught by a certified DRE instructor
 - Currently, VA has 6 with 3 more instructors in training.
 - 12 instructors are recommended for future growth.
- Because of this, VSP will have had to outsource training to/from other states (MD, NC, NJ) and current instructors are facing burnout.

Who is a DRE and how do I request one?

- There needs to be an avenue for local and state agencies to request a DRE. Some other states are using a notification system.

Per Se Limits:

- DUID laws can be effectively enforced without per se limits. Setting per se limits makes it impossible for a DUID conviction when the level is under the per se...regardless of observations and evidence presented by the officer and a DRE.



Challenges/Recommendations/Needs

◇ Officer confidence level/Proficiency:

- ◇ Conducting field sobriety tests is a **perishable skill**. We do refreshers for firearms, driving, CPR...but how often do we do refreshers for DUI SFST's.
- ◇ In 2018, VSP conducted statewide refresher training for all troopers.
- ◇ VSP is now working hard to train all troopers in ARIDE who have 2+ years of experience.

◇ Hospital Blood Draws:

- ◇ More and more hospitals are beginning to refuse to draw blood and there is nothing legally for officer to compel them to do so, even if a search warrant is issued.
- ◇ This is due to hospitals interpretations of risk/civil liability even though **VA code protects them**.
- ◇ It is also due to nurses time to testify in court.
- ◇ VSP **does not** recommend officers being trained as phlebotomist.

