



### Mark Your Calendar

**19th Annual DRE Section Training Conference on Drugs, Alcohol and Impaired Driving**  
August 5—7, 2013  
Oklahoma City, OK

**Drunk Driving National Enforcement Crackdown**  
August 16 - September 2, 2013

**GHSA Annual Conference**  
San Diego, CA  
August 25 - 28, 2013

**International Association of Chiefs of Police**  
October 19 - 23, 2013  
Philadelphia, PA

### Upcoming NDAA Courses

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# *Between the Lines*

## **A Different Approach: Drug Recognition Expert (DRE) Mock Court Trial**

**By Kenneth Stecker\***

In 2009 the Michigan Office of Highway Safety Planning (OHSP) requested through the National Highway Traffic Safety Administration (NHTSA) an assessment of Michigan's Standardized Field Sobriety Testing Program. One of the priority recommendations as a result of that assessment was Michigan should establish itself as a Drug Evaluation and Classification Program (DECP) state. Michigan OHSP began in earnest to establish itself as a DECP State.

The Office of Highway Safety Planning assigned a state Drug Recognition Expert (DRE) Program Coordinator to determine the feasibility of Michigan becoming a DECP state. The DRE Program Coordinator created a DRE Steering Committee to include the 4 current DREs in the state, Michigan's Traffic Safety Resource Prosecutor, and a retired Los Angeles Police Department Sergeant and DRE Emeritus currently living in the state as a consultant.

Michigan DRE Policy and Procedures were developed as outlined in the International Association of Chiefs of Police (IACP) Standards and Procedures for a DECP state and submitted to the IACP for approval. In October of 2010, the IACP granted Michigan approval as the 47<sup>th</sup> DECP state. As a DECP state, Michigan was allowed to conduct its own Drug Recognition Expert (DRE) School.

After Michigan's first DRE School was successfully completed, the thought turned to DRE continuing education. We believed that newly certified DREs would need additional training in transitioning from

police officer testimony to expert witness testimony. This training would encompass how to qualify as an expert, the types of questions experts witnesses may expect to receive and answer, court preparation, defense challenges, etc. We also learned that defense attorneys in Michigan were preparing for this new DRE Program. The DRE Steering Committee decided to bring the officers back within 6 months of graduation for expert witness testimony training.

The agenda for the first continuing education class would include classroom instruction on expert courtroom testimony in the morning session, then after lunch, move to a mock trial scenario. The classroom tables were arranged to look like a courtroom, prosecutors that attended DRE School were acting as defense and prosecutor, and each DRE would get a set amount of time in the witness chair. A DRE instructor would serve as the judge. Although mock trials often put stress on the officers in the witness chair, from the evaluations received the overwhelming majority of students indicated they enjoyed the mock trial portion of the training best.

In 2012, we conducted our second continuing education class after DRE School graduation similar to the previous class with a little more focus on the questioning and discussion after testimony. After each DRE testified, we would go around the room and have each DRE instructor, the Michigan

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TSRP, and the prosecutors give a critique of the testimony. The other DRE students in the room were able to comment as well. Again from the evaluations submitted, the mock trial session was the best.

In 2013, we decided to kick the mock trial up a notch in an attempt to recreate as close as possible, an actual courtroom experience. We located a facility that had a courtroom setting with judge's bench, witness chair, defense and prosecutor tables, podium, microphones, etc. The prosecutors attending the training were notified in advance of their role as either a prosecutor or defense, and to prepare accordingly. We also were privileged to have Michigan's Judicial Liaison Officer (JLO), a retired judge, attend the training. Our goal was not only to provide training for the DREs, but also provide training for our prosecutors as they too will be may be required to defend the program. Having a real judge preside over the mock trial allowed us to get a perspective from the bench that we never had before. To add realism to the trial, the JLO wore his black robe while on the bench.

We began this third continuing education class with general discussion of what the DREs have experienced since graduating from DRE School. Michigan's TSRP then presented a session on expert witness testimony. The next session was titled Pre-Trial Conference Review where DREs would discuss with their prosecutor what information was important to know during the Pre-Trial conference. The prosecutors and acting defense attorneys developed short opening statements from the information gained during the Pre-Trial Conference.

The mock trial began with short opening statements by both the prosecutor and the defense. The first witness was called and sworn in by the judge. Each DRE taking the stand would get a separate topic from which to testify. The prosecutors and defense had a prepared list of DRE questions to use however they were encouraged to utilize their own skills and experience when the opportunity presented itself. Each DRE was on the stand approximately 10 minutes; afterwards a critique of the testimony was given by DRE Instructors, prosecutors, and the judge.

We believe we were able to recreate the courtroom experience as close as possible without actually being in court. Our prosecutors and judge took their roles seriously which created a somewhat spirited competition between the prosecution and defense which in turn produced better questioning of the DREs. We knew we were hitting the mark when one of the DREs after taking his turn on the stand commented that while he was under cross examination, he was thinking to himself, "Boy am I glad this is happening here and not in an actual trial".

A lot of learning took place during this third DRE Continuing Education Class not only for the DREs on the stand, but also for the prosecutors and DRE students that were watching their fellow DREs testify. By the end of the day you could see the improvement in DRE testimony as they were beginning to understand what is expected of an expert witness on the stand.

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