IN THE_COURT OF PUBLIC OPINION

MAY IT PLEASE THE COURT: Comes Now Dr. Kurt M. Dubowski and Respectfully Presents Randall E. Beaty of Austin, TX for the 2008 International Association for Chemical Testing Kurt M. Dubowski Award.

PRESENTATION OF RANDALL E. BEATY

FOR THE 2008 KURT M. DUBOWSKI AWARD

OF THE INTERNATIONAL ASSOCIATION FOR

CHEMICAL TESTING

by

Kurt M. Dubowski, Ph.D., LL.D., DABCC, DABFT

Tempe, AZ, 21 May 2008

Introduction

We have gathered on this festive occasion to celebrate the conferral, by the International Association for Chemical Testing, of its 2008 Kurt M. Dubowski Award upon our colleague Randall E. Beaty of Austin, Texas. The Association could not have selected a more worthy recipient as the Fourth Laureate of its premier recognition. It is now my great pleasure and privilege to introduce my friend and colleague for this Award.

The IACT Kurt M. Dubowski Award recognizes individuals who have made outstanding career long contributions consistent with the ideals and achievements of George Lynn Cross Distinguished Professor of Medicine Dr. Kurt M. Dubowski of The University of Oklahoma. Those contributions will be in the area of chemical testing in relation to transportation or workplace safety. They will have contributed to that field to a degree that their achievements have been recognized nationally or internationally. Randall Beaty has done that – and much, much more; and he is overdue for this honor and recognition.

As the two-term president of the International Association for Chemical Testing, Randall was instrumental in establishing the Kurt M. Dubowski Award; and he presided with inimitable style and great dignity over the award ceremonies for the first three Award Laureates – Natalie A. Essary, Shirley Ezelle, and Patrick M. Harding. Tonight, it is his turn to be thus honored, and he deserves it richly. It is fortuitous and most appropriate (but not entirely accidental) that he and his long-time professional associate and friend J. Mack Cowan have each been recognized in the same year with one of the two most prestigious professional awards in our field: Mack with the 2008 Robert F. Borkenstein Award of the National Safety Council, and Randall with the 2008 Kurt M. Dubowski Award of the International Association for Chemical Testing. It is unlikely that this particular duality will occur again. In conferring the Award, we are honoring both the man and his bountiful accomplishments and contributions.

Randall, like his friend Mack Cowan, is the archetype of the tall, slim, soft-spoken Texan - - - exactly the sort of person every man in the country aspires to be. But he is the real article: A lifelong Fifth Generation Texan, born, raised, and educated in Texas, always serving his state and the Nation. He has by his own massive efforts reached the top of his profession and firmly continues in the giant footsteps of such legendary forensic science predecessors in the Texas Department of Public Safety as J. D. Chastain and George E. Browne. But he is also a complete team player and has maintained highly successful partnerships throughout his career with many colleagues. Those include the immediate past manager of the Texas Breath-Alcohol Testing Program, Richard W. Baxter, and especially his long-time partner at Texas DPS headquarters, Mack Cowan, another Texas superstar who is the current Manager of that Program.

We will look shortly at Randall Beaty the man, but first let us scan his splendid professional career, now encompassing some 22 years.

Randall Beaty's Career

He received his higher education at Southwest Texas State University, San Marcos, TX (now Texas State University), being graduated from its School of Science with a B.S. degree with a major in chemistry and a minor in physics. In retrospect, that was the perfect science education for his subsequent career. He has also completed during the past 22 years a dozen or so in-service training and continuing education technical programs, mostly related to breath-alcohol testing and instrumentation. Those educational activities and his professional experience over the past decades, and his innate abilities, have made Randall one of the country's best informed, best qualified and most experienced forensic scientists and managers in the alcohol-and-traffic safety field.

After graduation from the Southwest Texas State University, he began his career with the Texas Department of Public Safety as a Technical Supervisor in Houston 1986-94. He has served ever since in the Texas Department of Public Safety, one of the country's largest, most comprehensive, most effective, and most highly regarded state-level law enforcement and public safety agencies. From 1994 until the present time, Randall has been Assistant Manager – one of three – of the Texas DPS Breath-Alcohol Testing Program at DPS Headquarters in Austin. As with his colleague Mack Cowan, we again have a perfect fit between the person and the position.

We will summarize Randall's duties, responsibilities and accomplishments as an Assistant Manager shortly; but first let us look at the unique Texas breath-alcohol testing program.

The Texas Breath Alcohol Testing Program

It is sometimes said that Texas is the land where everything is bigger and better than anywhere else. That really is true for the Texas Forensic Breath Alcohol Laboratory, established in 1969 under the legendary J. D. Chastain, now retired to Waco, and headed since 2004 by Mack Cowan as the Scientific Director and Manager. The Forensic Breath Alcohol Laboratory is one of 7 major units within the Texas Highway Patrol (THP), a division of the Texas Department of Public Safety. The THP is one of the country's largest and most efficient state law enforcement agencies, with about 3,500 personnel. As the head of one of the THP major operational units, the Manager is also a member of the Chief's Management Staff. The program is very large, very extensive and comprehensive, and is staffed by the largest collection of breath-alcohol testing operators and scientist supervisors anywhere. It is widely regarded as *the* model state program for the entire field. The Scientific Director's Office directly manages the Department of Public Safety's own Technical Supervisors – all degreed scientists – and administratively controls Technical Supervisors employed by other agencies for a total of 53 certified Technical Supervisors. Breath-alcohol testing in support of traffic law enforcement is carried out at 340 breath testing instrument locations, by more than 5,000 certified breath test operators from 900 law enforcement agencies, trained at one of seven certified breath test operator schools located throughout the state. The Scientific Director's Office and the Technical Supervisors also provide expert testimony, as needed, in contested prosecutions, and in criminal, civil,

and administrative law cases involving alcohol test evidence. The Scientific Director's Office also regulates the automobile ignition interlock device industry within the state. Texas case law requires forensic scientists, i.e., the Technical Supervisors, to supervise all aspects of the forensic breath-alcohol test, including the law enforcement officers operating evidential breath-alcohol analyzers. Most importantly, as a condition for admissibility of breath-alcohol test results into evidence, a Technical Supervisor must interpret the analysis results in courts of law.

The entire system is managed and administered from a new purpose-built single-discipline forensic laboratory building on the Texas DPS headquarters grounds in Austin and under the direction and control of the Scientific Director. The Scientific Director's Office staff is comprised of the Scientific Director, three Breath Alcohol Testing Program Assistant Managers, an electronics engineer, and a computer analyst, often with additional Technical Supervisors also in residence. The 57 forensic scientists in the Texas Breath Alcohol Testing Program are arguably the largest collection of breath-alcohol test experts in any one program in the world. Their Austin DPS laboratory building is a marvel of modern fit-for-purpose spaces, equipment, and facilities for carrying out the administration, management, training, equipment support and repair, research and development, and data and records management for the system. Randall was very much involved in the design, construction, and occupancy of that splendid new facility. Information and records management is completely digitized and computerized for current and ongoing data flow, analysis, and evaluation – including regularly downloaded information from all instruments in the field – and is in the process of digitizing all prior paper records and data.

Apart from its complexity and broad scope of activities, the Texas Forensic Breath Alcohol Laboratory is remarkable for its performance statistics. In 2005, 1,569 persons died in Texas as the result of alcohol-related traffic crashes, about 45% of total deaths in traffic accidents. The Texas Highway Patrol arrested 35,297 drivers for driving under the influence of alcohol in 2005. State-wide, Texas is second only to California in total DUI arrests, about 100,000 yearly. Approximately 87% of the breath-alcohol tests administered showed concentrations of at least 0.08 g/210 L; the mean test result was 0.145 g/210 L.

Randall Beaty's Career, Continued

Randall's accomplishments and contributions in the Texas department of Public Safety have been in at least four categories: (1) Alcohol education; (2) human factors; (3) technology and toxicology of alcohol; and (4) action programs. He has made important contributions in each area as a forensic scientist, scholar, and manager.

His activities as a manager for the past 14 years have arguably been the most important and productive. In addition to other functions within DPS, Randall summarized his current management responsibilities as follows in 2007:

> "Served as chairman of at least twelve personnel hiring boards over the last thirteen years. Ten of our 31 current employees were hired by these

boards. Provided direct management support to field staff. As management staff changes have dictated, served as manager in each of the four supervisory districts of the State. Currently manage two of the most populated districts, which includes over 15 million Texans, 30 of the 53 certified Technical Supervisors, two thirds of all breath tests conducted and of course all of the legal litigation."

His work in Information Technology management and innovation at DPS is too extensive to be fully recited at this time, but has included the following examples in his de facto capacity as the DPS Breath Alcohol Test Program's chief information technology officer. He brought the entire program into the 21st century by linking all of the existing personal computers into a network environment – a huge undertaking involving 22 offices in 22 different cities using a problem-prone operating system, Widows 95. He converted all programs activity reporting to electronic formats and implemented it to use e-mail and File Transfer Protocol for delivery of Intoxilyzer data and reports, replacing USPS mail delivery. Thus, the Bureau's typewriters and fax machines became antique technology artifacts. And remember, this work took place in a state with 254 counties, a resident population of about 23 million persons, the only state with three cities exceeding one-million in population, the second largest land area of the fifty-two states, and about 1,900 separate law enforcement agencies. He consolidated all of the Program's electronic media from numerous stand-alone PCs into one central server and organized them into a usable format. He managed all aspects of two software database projects. The second of these, under his oversight, included concept, design and development, Beta testing, rollout and training. That project uses FTP transfers over the Internet to integrate three separate databases and connects 17 different agencies with information updated daily. The application harvests breath-alcohol test data, tracks operator and instrument activity, operator status, training and proficiency; and disseminates case law and scientific journal contributions. Other aspects of this part of Randall's achievements are his agency going entirely to PowerPoint presentations with LCD projectors in breath test operator training schools statewide, tracking the famous Texas Operator Manual, and thus creating a uniform training program across the State, including the six non-DPS training schools. Lastly, Randall has initiated and made great strides in implementation of a data imaging project to digitally archive all pertinent documents within the Breath Test Program. It will eventually be available on the World Wide Web in the public domain to provide information to the public and foster a transparent program, in addition to its enhanced program management information capabilities.

I have given some details of this aspect of Randall's current and recent achievements to illustrate the innovativeness, complexity, scope and importance of his day-to-day professional responsibilities. Those characteristics also apply to his other major functions.

Teaching and Outreach

His teaching and training activities encompass direct teaching in at least 25 breath-alcohol operator schools, and oversight of at least 350 operator schools for about

10,000 operators in his 22 years with the Texas DPS. He has taught about 50 sessions of operator recertification courses during 8 years, 1986-94, comprising about 1,000 operators. He has been a much sought-after guest lecturer and consultant at various times for the Florida Institute of Police Technology and Management; for the Texas District and County Attorneys Association; the South Texas Nuclear Operating Company fitness-for-duty program over the last 10 years; and Union Carbide Corporation in Texas City, TX and Sea Drift, TX. He was one of a handful of invited presenters at the October 2004 Symposium on Breath Test Program Supervision at the Indiana University Center for Studies of Law in Action. Note that his work in industry with alcohol-in-the-workplace and fitness-for-duty NRC programs makes him one of only a small number of forensic scientists who are qualified and experienced in both the transportation-alcohol and workplace-alcohol areas.

Randall's consultation activities have not been limited to Texas. Over the years, he has consulted with about every alcohol test program director in the nation concerning program administration, testing methodologies, and litigation. He is uniformly highly regarded by all of these – in his individual capacity as well as one of the principals in the nation's leading alcohol testing program in traffic law enforcement.

As one would expect, given Randall's years of service in the Texas DPS as a Technical Supervisor and more recently as Assistant Manger, he has made more than 200 appearances as an expert witness in criminal proceedings in the Texas Courts. Six or seven of these were in intoxication-manslaughter cases; one of those being one of the first boating-while-intoxicated fatality cases litigated in Texas. Again, he is one of only a handful of us who have given evidence in such marine transportation cases, which tend to be very complex – think about *EXXON VALDEZ*. He has also provided expert testimony for the government of the U. S. Virgin Islands in *Daubert*-style hearings, and has routinely testified before the Texas Legislature on matters related to traffic safety programs and statutory law. In administrative law matters, he completely re-wrote the Texas Breath Alcohol Testing Regulations in 2005, (adopted in March 2006). Those Rules are now part of the Texas Administrative Code, and they provide the legal authority for breath-alcohol testing "South of the Red River," as they say in Texas. Come to think of it, I did the same thing for the Rules in the Oklahoma Administrative Code governing such matters "immediately North of the Red River," some years ago.

Research & Scholarly Activities

Research and scholarly activities have been an important and continuing part of Randall's professional work throughout this career. Though limited in number, his publications are notable for their usefulness and quality. Examples are the article on "Breath Alcohol Sampling Profile for the Intoxilyzer 5000-66 and 68" in the *Journal of the Alcohol Testing Alliance* 2: 7-9 (June 1997); and particularly his co-authorship and contributing author contributions to the TEXAS BREATH ALCOHOL TESTING PROGRAM OPERATOR MANUAL revised in September 1999, August 2001, September 2003, and March 2006. The 9/2003 edition consists of 115 text pages and more than 35 full-color illustrations – making it probably the most extensive and most complete reference of its kind anywhere. Moreover, the entire manual is posted on the

Texas DPS Internet website and can be downloaded by any interested person. One of its most recent users is the Royal Bahamas Police Force, to whom I introdced the MANUAL as the best of its kind.

He has participated in important human subject and bench studies on alcohol pharmacokinetics, breath test parameters, blood-breath alcohol correlations, relationship of body and breath temperature to breath-alcohol measurements, optimal breath sampling techniques, simulator solutions in theory and practice, effects of alcohol on driving ability, etc. Several of these studies were in collaboration with Texas A & M University faculty. Many of the foregoing projects were also the subject of platform presentations by Randall at meetings of IACT, the Southwestern Association of Forensic Scientists, the Alcohol Testing Alliance, Texas DPS Technical Supervisor Workshops, and other events, 1989-2003. In summary, Randall's scholarly activities and research, published and unpublished, have advanced and enhanced the field of alcohol toxicology, and improved the practice of alcohol testing in traffic law enforcement for almost two decades.

Randall Beaty's Contributions to Professional Organizations

This important aspect of Randall's career has been of continuous, lasting and significant benefit to our profession as a whole and to several membership organizations. It is here, especially, that Randall's unrivaled leadership qualities and his importance as a role model have borne fruit. He has been a valued member of the National Safety Council's Committee on Alcohol and Other Drugs since his election to voting membership in 1999, with faithful attendance at the CAOD meetings. In recognition of his contributions - past, present, and future – to CAOD and his recognized standing in the field, he was elected to the CAOD Executive Board, 2006-2009. He is a charter member since 1995 of the Alcohol Testing Alliance, a unique Texas professional group, served on the Alliance Board of Directors 2006-2008, and has served as the Chairman of the Alliance's Journal Peer Review Committee since 1995. His exceptional expertise in breath-alcohol testing brought him to membership in the newly-organized Breath Alcohol Calibration Laboratory Committee, 2006-2007, where he made important contributions to that body's pioneering undertaking in quality assurance and peer-inspection and accreditation sponsored by ASCLD/LAB-International, founded by the American Society of Crime Laboratory Directors.

Most importantly, Randall has left an indelible imprint on the professional organization which sponsors and administers its highest award which he is receiving tonight - IACT, The International Association for Chemical Testing. He has done pretty much everything possible for and in that peer organization of those most active in his own chosen professional specialty; and in the process has greatly advanced and enhanced the stature and standing of IACT itself nationally and internationally. He has been a member since 1996, was Chairman of the Meeting Program and Site Committee for the 2002 Annual Meeting in Austin, has served an unprecedented two successive terms as IACT President, 2002-2004 and 2004-2006;, and has been a wise and productive member of IACT's Board of Directors, 2006-2008 as the Immediate Past President. But he was not a figurehead or purely ceremonial officer in the organization. He was

instrumental in obtaining the prestigious IRS 501(c)(3) tax-exempt status for the organization. He established the Kurt M. Dubowski Award operating rules, decorum and protocols, and presided in inimitable style over the first three Award ceremonies. He developed operating rules for the important IACT Cal Rayburn Award. He edited and clarified the Association's Bylaws with revisions adopted in April 2005. He represented the interests of IACT and our forensic discipline as an official member of the United States Working Group at the OIML Session in Paris, France in May 2005. In concert with the IACT Webmaster, he established the IACT website Forum Page in January 2005. He created an Ad Hoc Committee on Accreditation and Professional Certification and initiated discussion with ASCLD/LAB to establish an accreditation program for breath-alcohol calibration laboratories, which began that activity in 2007. He patiently supported and facilitated the adoption of IACT's first-ever training recommendations for breath test operators and program supervisors – culminating a 10-12 year effort to achieve consensus within IACT on this fundamental issue. In concert with the IACT Treasurer, he implemented fiscal policies and procedures to manage prudently the Association's assets in accordance with established accounting principles, audited by a licensed CPA every year, and he established investment strategies for IACT's assets and a perpetual award endowment. He investigated, evaluated, and secured an officers and directors errors-and-omissions insurance policy to protect both the organization's assets and its board of directors members and officers. He initiated a digital imaging project to archive the Association's key documents. He initiated the annual conference site hotel selection service to leverage favorable meeting hotel contracts and reduce the burden on future conference hosts. Of equal importance to these mostly internal IACT developments and permanent management practices have been Randall's continuous and highly successful efforts to increase and enhance the professionalization of the organization, its national and international visibility and reputation, and its ongoing role in policy and practice development and implementation in its field of interest, giving it national stature and influence. Truly, Randall has brought IACT into the Twenty-first century and through unexcelled leadership has set a superlative example for future leaders of this organization.

Randall Beaty, the Person

As one can appreciate from the foregoing recital of Randall's career accomplishments and contributions, it would require a superbly well-organized person with an exceptional work ethic and strong family support to amass such an enormous record in a little more than two decades. He is such a special person, and he came by his enviable background and fortunate personal situation honorably and predictably. He was born in Houston in 1962, the fourth of five children. Most of his formative years were spent in a typical postwar suburb of Southeast Houston with his three brothers and lone sister, attending public schools. Upon his entering middle school, the family moved about twenty-five miles East of Houston to the North shore of Galveston Bay where he completed high school.

He played basketball from 6th grade through his senior year in high school; never a stellar athlete, but he was good enough to make the team and even managed to letter

on the varsity squad. He jokes that this was all despite his four inch vertical leap or as some would proclaim hop. Soccer was just beginning to take in the U.S. about this time and he played on a local club team for six years. Many of the friendships he established during those years are still thriving some thirty years latter. As previously mentioned, Randall is a role model in many ways. He also enjoys hunting and fishing, although in recent years, there have been fewer opportunities for that form of recreation.

After completing college, he was intent on living in Central Texas. While he was trying to retrieve his driving record from the Texas Department of Public Safety in Austin, in order to secure a part-time delivery job for DHL Airways, he came across the Personnel Office on the DPS campus. Given that he was looking for a job, he inquired within. By chance, the Department had an opening for a chemist in the breath-alcohol section of its Houston branch crime laboratory – for which he applied, successfully. Some things in life are clearly meant to be; and here he is, 22 years later with his entire career at the Texas DPS. Today, of course, Randall would have checked out DPS job openings on its elaborate Internet website. On the day I prepared this presentation, DPS had indeed posted several Austin area vacancies in its now extensive Crime Laboratory Service.

Randall has always had a strong mechanical aptitude, and he can often be found maintaining or even repairing the family automotive fleet, or working around the home, whether on a yard project, the plumbing, a kid's bicycle, painting a room or adding an electrical circuit. Many of his handyman skills were acquired while he was working his way through high school and college as an auto body repair shop porter, house framer, janitor, drywaller, welder, iron worker, fence builder, and finish carpenter. In college, he was also a cook, dishwasher, furniture mover, and a laboratory Teaching Assistant. Randall says his experience is like the Johnny Cash song, "I've been everywhere, man, I've been everywhere." His rephrased song is "I've labored at everything, man." Now there is a unique background and set of skills and experiences. Long ago, I used to recap my own life experience by reciting my sometime status as "Tinker, Tailor, Soldier, Spy," as in John Le Carré's novel by that title. But I know when I am outclassed.

The foregoing recitations are but a sampling of Randall Beaty's career-long contributions to traffic safety and personal character which have inscribed him in the all-time Roster of Greats in that field. His great modesty does not mask the fact that his career-long record of public service commitment is clearly consistent with that required for this Award. His work and achievements indeed have added further luster to the world-class status of his career venue, The Texas Department of Public Safety. They serve as a bright beacon of the accomplishments of a dedicated and productive forensic scientist. Thus, by every measure, our colleague Randall Beaty has fully earned his recognition today as the 2008 IACT Kurt M. Dubowski Award Laureate.

Congratulations, Randall, and every good wish for the future!

Kurt M. Dubowski, Ph.D., LL.D., DABCC, DABFT
21 May 2008