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from the desk of the **SJOL**

JUDGE JOHN W. GRINSTEINER (RETIRED)



North Dakota Impaired Driving Strategic Plan (IDSP)

The IDSP has been developed by the North Dakota Department of Transportation (NDDOT) Highway Safety Division in partnership with an identified Impaired Driving Task Force (IDTF). Members include DOT; Law Enforcement; DHS Behavioral Health; Public Health; Association of Counties; Attorney General's Office; DOCR; Tribal Reps; NDSU -UGPTI; and our very own Judges Donovan Foughty and Kirsten Sjue. As an aside, Judge Foughty's involvement with Upper Great Plains Transportation Institute goes back to its beginning and before his time on the bench. He worked with the Transportation Institute as a planner with the ND Highway Department now DOT, specifically on the State Intermodal Transportation Team. Judge Foughty continues to be a great leader, judge, and public servant!

The North Dakota IDSP reflects the priorities, goals, and objectives established through the North Dakota Vision Zero Strategic Plan (VZSP) and recommendations determined by the IDTF.

North Dakota's VZSP is the result of a collaborative effort of stakeholders from a broad spectrum of public and private entities. The North Dakota VZSP identifies six priority emphasis areas – including impaired driving – and includes identified evidence-based strategies for implementation in each area to reduce motor vehicle fatalities statewide. Implementation teams were identified for each priority emphasis area, and the IDTF concurrently serves as the implementation team to mitigate impaired driving under the VZSP.

The IDTF reviews state impaired driving data annually, identifies statewide priorities, monitors project implementation, and reviews progress in conjunction with VZSP stakeholders and other partners across the state. The IDTF represents a wide array of disciplines including education, enforcement, prosecution, and adjudication to ensure their work is rooted in evidence-based strategies and is reflective of key impaired driving stakeholders.

[https://visionzero.nd.gov/strategies/ImpairedDriving/Highway Safety Plan Federal Fiscal Year 2022](https://visionzero.nd.gov/strategies/ImpairedDriving/Highway%20Safety%20Plan%20Federal%20Fiscal%20Year%202022)

Welcome to the first edition of the State Judicial Outreach Liaison Newsletter! It is my hope that this quarterly newsletter will bring you some value. As the State's JOL, I am here to help you cut through the noise and clutter, bringing you access to current and evidence-based practices that will assist you in your work and help promote more effective outcomes in impaired driving and other traffic-related cases. With the help of the ABA's Judicial Division and its partnerships with various organizations (NHTSA, National Judicial College, NCSC, NADCP), I will provide education, training, and technical assistance to judges and court staff throughout ND. This first issue will provide some context and history, along with a feature and hopefully something you can use.

Issue highlights

PARTNER SPOTLIGHT:

North Dakota Highway Safety Division

National and North Dakota Driving Statistics

Stay Tuned!

FEATURE:

Pretrial Supervision in North Dakota

My Take (for what it's worth)

PARTNER SPOTLIGHT:

Sandy Wilson
NDDOT Safety Program Manager

In 1966, Congress passed legislation that created the National Highway Traffic Safety Administration (NHTSA) as part of the US Department of Transportation. The legislation also established traffic safety

The Traffic Safety Office has been in several locations within NDDOT. In late 2009, the NDDOT created a new Highway Safety Division, including the Traffic Safety Office, the Safe Routes to Schools Program, and a data analysis section. The Safe Routes to Schools program relocated to the Local Government position. The Highway Safety Division currently has four program staff, two research analysts, and an office manager.

North Dakota Highway Safety Office (now Highway Safety Division) History

funding for states and territories. The North Dakota Highway Department (later NDDOT) was designated as the recipient of those funds through the Traffic Safety Division. The Highway Commissioner was appointed as the Governor's Representative for Highway Safety; this same appointment is the Director of NDDOT today. The Traffic Safety Office has always been located within the transportation agency, the most common location. In some states having a public safety agency, the highway safety office is located there. Other locations include the state's health agency or a separate highway safety agency directly under the Governor.

The Highway Safety Division:

- Coordinates the development, implementation, and evaluation of the **Strategic Highway Safety Plan – North Dakota's Vision Zero Plan** with local, state, federal, tribal, and private sector safety stakeholders. The SHSP is a data-driven, multi-year comprehensive plan that establishes statewide goals, objectives, and key emphasis areas and integrates the four Es of highway safety – engineering, education, enforcement, and emergency medical services (EMS). The SHSP allows highway safety programs and partners to work together to align goals, leverage resources, and collectively address the state's safety challenges.

- Works with law enforcement statewide to collect and maintain **traffic records data (primarily crash data)** and analyze the data to identify traffic safety problems in ND to be addressed through the safety planning processes administered by the NDDOT and partners. This includes coordinating with other data sources, including driver, vehicle, roadway, injury, court, etc.
- Applies for and receives annual funding through the National Highway Traffic Safety Administration (NHTSA) to develop and implement the **Highway Safety Plan**, which includes behavioral strategies to address identified traffic safety issues, including; lack of seat belt use, drug and alcohol-impaired driving, distracted driving, young drivers, speed, motorcycle safety, pedestrian and bicycle safety, and other concerns.
- The Highway Safety Division also: assures broad stakeholder involvement in the Vision Zero initiative; conducts public information and outreach; coordinates and builds program capacity through partnerships; provides technical assistance and training to partners; plans and conducts traffic safety conferences and events; assures compliance with state and federal rules and regulations; and many other activities.



Some National and North Dakota Driving Statistics

- Here in North Dakota, we have more up-to-date information. A total of 101 people were killed in motor vehicle crashes in North Dakota in 2021.
- The 2021 total compares with 100 traffic fatalities in the state in both 2020 and 2019, according to final data released by the NDDOT's Highway Safety Division.
- "While traffic fatalities have been on a downward trend since 2012, one death is too many on North Dakota roads," Transportation Director Bill Panos said.
- Alcohol-related fatalities last year (31) declined by nearly 21% from the previous year (39), but the number of victims not wearing a seat belt (43) increased by about 5%, and speed-related crash fatalities (27) rose by nearly 13%.
- Eight fatalities were motorcyclists, a decrease from 17 in 2020. Nine fatalities were pedestrians, an increase from eight the previous year.
- There have been 13 fatalities so far this year, compared with 14 in the same period last year.
- North Dakota has a Vision Zero strategy to eliminate motor vehicle crash fatalities and serious injuries on North Dakota roads. For more information, go to: <https://visionzero.nd.gov/>

- In March, the National Highway Traffic Safety Administration released its 2020 annual traffic crash data, showing that 38,824 lives were lost in traffic crashes nationwide. That number marks the highest number of fatalities since 2007.
- While the number of crashes and traffic injuries declined overall, fatal crashes increased by 6.8%. The fatality rate per 100 million vehicle miles traveled increased to 1.34, a 21% increase from 2019 and the highest since 2007.
- In 45% of fatal crashes, the drivers of passenger vehicles were engaged in at least one of the following risky behaviors: speeding, alcohol impairment, or not wearing a seat belt.



STAY TUNED!

I will be trying to make more frequent contact with each of you to touch on various topics and to learn about the issues you're facing in your offices and courtrooms. If those issues are somehow connected to impaired driving, I'll do my best to help. If they're not, I'm still happy to listen and help if I can. I know how isolating your positions can be at times, so don't hesitate to reach out. Thanks to the folks who took the time to fill out the DUS survey. I hope to provide an update on results and any resulting recommendations for law changes from the DUS committee in the next quarterly newsletter.



FEATURE:
Corey Schlinger
Pretrial Program Manager

During the 66th Legislative Assembly, the North Dakota Department of Corrections and Rehabilitation (NDDOCR) received seven full-time employees (FTEs) to start a pilot pretrial supervision program in North Dakota. Pretrial supervision programs are being implemented

the validity of pretrial supervision in ND. Following is the executive summary from the study:

- One of the main goals of pretrial supervision is community safety and to reduce the likelihood of arrests for new crimes during the pretrial phase. Results show that those under pretrial supervision did have fewer arrests. A small sample size prevented this from being significant, but pretrial supervision should be commended for the preliminary finding of fewer new arrests.
- There was no significant impact of pretrial supervision on failures-to-appear (FTA). However, the results show that those under supervision were no more likely to have FTAs. All pretrial supervision detainees had the same number of FTAs as control group members.

- Preliminary analyses revealed that pretrial supervision did have a significant impact on reducing jail time. Across the state, those under pretrial supervision averaged eight days in jail, while those not receiving pretrial supervision average nearly 19 days in jail. This finding suggests the Pretrial Supervision Pilot Project is meeting its goal of lessening incarceration. This likely also produces cost savings for the state, although economic data were not readily available for analysis.

- The COVID pandemic likely impacted the findings of the Pretrial Pilot Project. Police departments, jails, and courthouses had to adapt to the changing social conditions. This created a situation that resulted in fewer arrests and jail bookings. Because recruiting for the pilot project (both the treatment and control groups) occurred in jails, treatment and control members likely engaged in more serious behaviors (i.e., their crime or criminal history merited an arrest and booking during COVID). This may have created samples that were more likely to have FTAs and new arrests.

- Overall, preliminary report findings suggest that the recent pretrial supervision project has been successful for the State of North Dakota. ■

When the 67th Legislative Assembly met, the NDDOCR received an additional five FTEs. The goal with these FTEs was to make one of the existing pretrial sites a full-time pretrial operation and establish an additional pretrial site. The Bismarck/Mandan area was selected as the full-time location, and as of March 2022, Ramsey County and the surrounding area was selected as the new location.

Pretrial supervision goals:

- Ensure court appearances
- Decrease reoffending



Pretrial Supervision in North Dakota

Letters were sent out to the judicial districts eliciting interest for the project. The Pretrial Detention Reform Subcommittee met and selected Minot, Bismarck/Mandan, and Fargo as the three pilot sites for pretrial services.

In July of 2020, the Pretrial Supervision Program began providing services one day per week in each of the three locations. To qualify for pretrial supervision, the defendants could not be on supervision already, the offense must have been a new crime that was a class A misdemeanor or greater, and he or she must reside in the region providing pretrial services. Pretrial services staff also kept track of an additional day each week of those arrested that qualified for pretrial – this became the control group. Staff kept track of the control group’s progress while out on bond and provided this data to North Dakota State University (NDSU), along with data of those placed on pretrial supervision. Through this process, NDSU was able to conduct a study on

MY TAKE *for what it's worth*

I have been working with Officer Schlinger over the last few months and find him to be a good partner for the courts. He brings extensive experience to this new program, and I am excited about the judges gaining a new tool, even if it is not state-wide yet. While the program goals are things judges can get behind, there are other benefits as well. Because there is supervision, lower bonds or preferably unsecured bonds and PTAs can be ordered more frequently. While bonds can help cover fines, fees, and/or restitution, the funds collected often come from someone other than the defendant (think grandma). Supervised release gives defendants a chance to start working on their mistake much sooner, including getting in for an evaluation and/or treatment. This is often the period of time when defendants want to make changes. Allowing them the chance now, can help resolve the case sooner. It allows them to maintain their employment getting back to work, likely saving housing and other collateral issues. Families benefit when a parent is home instead of jail. Finally, releasing defendants on no bond or low bond, because of the program supervision, stops repeated bond review hearings. I have yet to meet a judge who likes bond review hearings. If you are out there, we need to have some coffee.

Upcoming Trainings/Events/ Webinars

*This is not an exhaustive list and is geared toward impaired driving



National Cannabis Symposium on Legalization's Impact on Legal and Related Disciplines – Judges, drug court staff, human resource specialists, attorneys, academics, and law enforcement professionals are invited to attend the National Interdisciplinary Cannabis Symposium, May 20-22, at the California Western School of Law in San Diego. (virtual option)

[Register for the Symposium >>](#)

April 28, 2022: Judge Neil Axel, Judge Kevin Fitzwater, and Colleen Scarneo (toxicologist) will be speaking on the topic of "What Constitutes 'Impairment' in the Trial of Impaired Driving Cases: It takes more than a test." Register Here

[What Constitutes "Impairment" in the Trial of Impaired Driving Cases: It Takes More Than a Test \(NHTSA\)\[CC\] \(americanbar.org\)](#)

Useful Resources and Links

1. Gavel Talks Podcast: The ABA's Judicial Outreach Liaison Program: A Valuable Resource

With the growing complexity in traffic court cases, and the advent of new evidence-based sentencing practices designed to decrease recidivism, trial court judges resort to a number of resources to stay abreast of these new developments including the ABA Judicial Outreach Liaison (JOL) program. ABA Judicial Fellow Judge Neil Axel discusses the JOL program and the work of its network of Regional and State Judicial Outreach Liaisons.

Listen here https://www.americanbar.org/groups/judicial/publications/gavel_talks/season-2/the-aba-jol-program-a-valuable-resource/

2. Gavel Talks Podcast: What can spending three minutes with a defendant do to reduce recidivism?

ABA Region 6 Judicial Outreach Liaison, Judge Robert Anchondo, and ABA Region 10 Judicial Outreach Liaison, Judge Mary Jane Knisely, discuss how some simple techniques used in treatment courts can also be used by judges who do not preside over a treatment court.

Listen here https://www.americanbar.org/groups/judicial/publications/gavel_talks/season-3/what-can-spending-three-minutes-with-a-defendant-do-to-reduce-recidivism/

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