

from the desk of the **SJOL**

JUDGE JOHN W. GRINSTEINER (RETIRED)




Welcome to the third issue of *From the Desk of the SJOL*! In this issue of the quarterly newsletter, we take a closer look at treatment courts. In North Dakota, that means drug and hybrid dui/dwi courts, as well as tribal wellness courts, a domestic violence court, and now a veterans' treatment court. The state's newest treatment court will be launched in the Northeast Central Judicial District (NECJD) later this fall. Judge Donald Hager, a Navy veteran, will lead the state's first veterans treatment court. The State of North Dakota has a significant U.S military veteran population within its borders (46,507 persons or 12.4% of the population) and specifically, within the NECJD there are 5,750 identified veteran residents. A newsletter feature from Kim Higgs, the NECJD Veterans Treatment Court Coordinator, explains how the court came into being and how it will operate. The initial geographic area to be served will be Grand Forks and Nelson Counties, however it is possible that the court could be expanded through the use of online meeting technology.

Also, in this issue, you will find an update from Judge Cherie Clark of Jamestown and John Gourde, Drug Court Program Manager on the recent RISE22 Conference that was held at the end of July in Nashville TN. This national conference on treatment courts is put on by the National Association of Drug Court Professionals (NADCP) and is an amazing gathering of treatment court team members from all over the country and world.

Other highlights include a short history on treatment courts and a special feature on some of the current issues our state's treatment court judges are facing. Hopefully this edition of the newsletter becomes a discussion point for ideas and maybe solutions to these issues.

In the partner feature, I have included an article from James Eberspacher, the director of the National Center for DWI Courts, to give national perspective and call to action on impaired driving and treatment courts. I think you will appreciate that James did his homework on our state and that he doesn't just list the problems but also lists how we can address those problems. The national treatment court folks cheer for our success because they know where the proverbial rubber meets the road. They know that it is in our courts, where people have often hit their rock bottom, where positive change can begin to happen. This newsletter issue is dedicated to the judges of our state's treatment courts. Thank you for taking on the extra duty and for seeing something in the people that come before you. I have learned so much from each of you and from my own time spent in the treatment courts of the South Central Judicial District.

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ND 2022 Fatal Crash Statistics as of 9/29/2022

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What is a Treatment Court?

"Treatment courts are the single most successful intervention in our nation's history for leading people living with substance use and mental health disorders out of the justice system and into lives of recovery and stability. Instead of viewing addiction as a moral failing, they view it as a disease. Instead of punishment, they offer treatment. Instead of indifference, they show compassion.

"The war on drugs intensified during the 1980s, placing the justice system on the front lines of the cocaine epidemic. Both justice and treatment professionals alike began to recognize that not treating substance use and mental health disorders simply perpetuated a vicious cycle of relapse and recidivism.

"In 1989, the first drug court launched in Miami-Dade County, Florida, laying the foundation for what is now more than three decades of justice system reform.

Treatment courts prove that providing supervision, structure and evidence-based treatment was a far more successful approach to substance use and mental health disorders than incarceration alone." <https://www.nadcp.org/> There is a powerful short documentary available on the NADCP website.

The North Dakota version(s) can be found on the ND Supreme Court's Website (see below):

<https://www.ndcourts.gov/other-courts/adult-hybrid-dwi-drug-court>

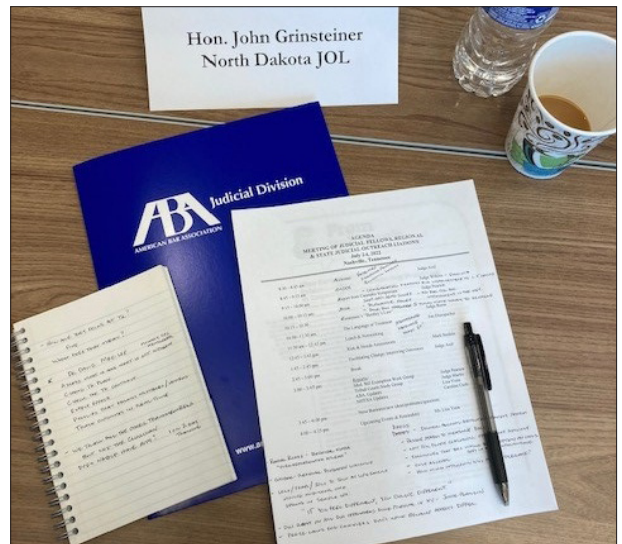
<https://www.ndcourts.gov/other-courts/juvenile-drug-court>

<https://www.ndcourts.gov/other-courts/veterans-treatment-court>

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Finally, you will find updated North Dakota fatal traffic crash data, some useful resources and links, and some upcoming trainings, events, and webinars. As fall starts in the northern plains, with shorter days and longer nights, remember how crowded our roads can become with the harvest workers, hunters, and even deer hurrying to the next field. Be safe out there!

As the State's JOL, John brings 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), John works to provide education, training, and technical assistance to judges and court staff throughout ND.



FEATURE SPOTLIGHT:

Kim Higgs

Veteran's Treatment Court (VTC)
Coordinator NECJD

Veterans Treatment Court (VTC) is not a new initiative nationwide. Since 2008, more than 400 such courts have been created leaving North Dakota as one of the few remaining states without a court to address the significant concerns that many veterans struggle with that can be attributed to military service.

Over the past two years, the VTC Committee met as a working group and committee to consider research, analysis, and background information relating to the need for, and creation of, a Veterans Treatment Court docket. This endeavor is the culmination of interested parties listening to various stakeholder groups in the justice community, veterans, and those representing the views of the community. The culmination of this

North Dakota's First Veterans Treatment Court

effort was realized on April 19, 2022, when the Grand Forks/Nelson County VTC was formally approved by the ND State Supreme Court – AR 60 Committee.

The VTC is comprised of the following members: judge, defense attorney, probation officer, assistant state's attorney, VTC coordinator, mentor coordinator, mentors who are veterans, veterans service officer, veterans justice officer, and community treatment and services providers.

The VTC is designed to allow participants to improve the quality of their life. When they choose to participate in this program, they have shown that they are ready to do the work to make positive changes toward recovery and a law-abiding life. Change is difficult, and they are sure to face many challenges throughout the 12-month length of the program. We (VTC) will provide support and assist them on their path.

The VTC emphasizes courage, commitment, integrity, devotion, and honor, and we anticipate participants will find these values meaningful as well. Equal treatment and services will be delivered without regard to race, color, sex, sexual orientation, religion, national origin, ancestry, or physical disability. The objective is for the participant to graduate with the following characteristics: sober and maintaining recovery, employed, in stable housing, able to manage financial responsibilities, restitution and fines paid, and developing a non-criminal pattern of living.

The eligibility criteria to participate in the VTC are determined by several factors such as the participant must be either a current or former member of any of the armed forces branches including the Guard and Reserves; the participant must be eligible for benefits through the VA (one requirement is to have been honorably discharged); must currently reside in Grand Forks or Nelson county; and must agree to participate for the entire length of time required. Additionally, participants must be amenable to treatment and be motivated to participate in the program and the other criteria that are established for admission to the VTC.

In addition to the court being a pre-sentence program, there is also a way for the veteran to utilize probation "intermediate measures" which would allow participation in the court if already on probation and in treatment.

The court adds a military-style structure, procedures, and rules and is assisted through the creation of a mentorship model that is based on military peer-to-peer support which is found to be effective. And, VTC builds upon military camaraderie by allowing participants to go through the treatment court process with people who are similarly situated and have common past experiences and through the use of volunteer veteran mentors. ■

MY TAKE *for what it's worth*

"Veterans fought for our freedom. We fight for theirs." <https://justiceforvets.org/> My father Gene served in Korea and learned his trade (telephone repair) while serving in the Air Force. He would tell some stories about his service, but there was plenty he would not talk about, even when asked. He taught me a healthy level of respect for those that served. He frequently reminded me and my siblings that "freedom is not free." That quote is true in many ways, but never so much in the cost some veterans have paid. The civilian side, including the courts, does not always understand a soldier's unique military service and any related problems. A veterans treatment court can connect these men and women who served to the benefits and treatment they have earned.

What Kim did not mention in the article is that almost the entire NECJD's veterans treatment court team is made up of veterans themselves! This will only add to the credibility of the court when the participants come before it. When I spoke with Judge Hager, it was clear that this was not by chance. It speaks volumes of the commitment made in Grand Forks and Nelson Counties to their veteran population. It also seems that the call of duty never really leaves, you can take the person out of the military, but you can't take the military out of the person.

Do they work? The first major study of these courts, published in the Community Mental Health Journal, concluded that veterans participating in veterans treatment courts experience significant improvement with depression, PTSD, and substance use, as well as with critical social issues such as housing, emotional health, relationships and social connection, and overall functioning and well-being.

The same study found that 89.5% of veterans with PTSD who participated in veterans treatment court remained arrest-free during their time in the program. It further concluded that mentoring from fellow veterans was particularly effective: veterans who received mentoring experienced better clinical outcomes and felt more socially connected.

I am excited for the Northeast Central Judicial District. I am even more excited to attend the first court session at the invite of Judge Hager and Scott Johnson, Unit 1 Administrator. People helping people has always been what has inspired me about treatment courts. There is nothing in the criminal justice system more effective at changing lives and reducing recidivism. If you have never seen a treatment court in action, I encourage you to attend one of our colleague's court sessions. With a little notice, they would be happy to host you. Fair warning, you too may become excited about THIS type of justice reform!

STAY TUNED!

I stand as a resource for each of you, so don't hesitate to reach out. If you have an issue that is somehow connected to impaired driving, I'll do my best to help. If it's not, I'm still happy to listen and help if I can. I know how isolating your positions can be at times, so you have a friend in me. In the new year, I will continue my efforts regarding treatment issues, specifically assessments, proper evaluations, and access. I hope to bring you some informative articles in my fourth issue of the newsletter featuring opioids and community treatment. Until next time, peace on your heart!

2022 NADCP Conference Envelops, Enhances, and Encourages Drug Court Professionals

by SEJD Judge Cherie Clark and John Gourde, Adult Treatment Court State Coordinator

For the past 27 years, the National Association of Drug Court Professionals (NADCP) has held an annual national conference for treatment court leaders. This year, the conference participants gathered in Nashville, TN. Attendees were not disappointed; the reach and impact of "Rise22" was extraordinary.

More than 7,500 professionals attended the training. Fields represented included law enforcement, probation, peer support, addiction counseling, mental health therapy, social work, prosecution, criminal defense, and the judiciary. Each drug court in North Dakota sent up to three team members. The selection of sessions to attend afforded opportunities for each professional to receive specialized training in the appropriate field. Periodic large group sessions complemented that training, bringing the diverse group of professionals together.

Sessions focused on enhancing drug courts, i.e., maximizing their effectiveness. Great emphasis was placed on best practices for all program aspects, e.g., entry requirements, imposition of rewards and sanctions, drug testing, handling of participants in active addiction and relapse, and courtroom demeanor and procedures. Presenters were oftentimes nationally or internationally recognized experts in their fields. In addition to gaining

knowledge, participants enjoyed opportunities to collaborate with professionals possessing diverse and vast experiences. I met judges from rural districts in other states who have tackled issues involving limited funds, unavailability of public defenders, and courts spanning multiple counties. In fact, those judges have become mentors, and I routinely consult with them.

The optimism permeating the conference was inspiring. It's difficult not to experience awe from the situation — thousands of dedicated public health and safety leaders congregating together to improve treatment for people who have substance use disorders and become involved in the legal system. Attendees see obstacles as challenges that will be overcome. They see drug court participants and their families becoming healthier. They see communities becoming stronger.

While substance abuse disorders will undoubtedly remain issues for years to come, NADCP's conferences effectively strive to take them on – through sharing evidence-based knowledge, fostering invaluable networking, and bolstering passion. This team approach will continue to improve the drug courts of the United States and North Dakota. As the conference slogan indicates, "Together we rise!" ■



Current Issues Being Faced by our ND Treatment Court Judges

On my travels home from Nashville, TN, after attending the RISE22 Conference, I was thinking about more than what I had learned and what I was

bringing back to share. I was thinking about my own experience as a treatment court judge and how sometimes the issues my court was facing were different than what the trainings had talked about. I wanted to hear from my state's judges and provide a forum where we could possibly help each other. So below you will find the top issues (in no particular order and mostly in their own words) currently being faced by our ND Treatment Court Judges.

1. Marijuana abstinence – Marijuana is much more culturally acceptable than alcohol among this age cohort, in my opinion. It also is perceived as medicinal by both parents and participants. It is also everywhere and will likely soon be legal. We have great difficulty getting kids to abstain.
2. Drug testing issues/disputes/uncertainty – With respect to testing, we do both oral and urine tests and it is at times difficult to reconcile inconsistent results. For instance, a participant may have an oral positive but negative urine screens. We also have treatment run urine tests and that leads to more discrepancies/inconsistent results. The training that I've had on the issue is inconsistent. It would be nice to look at those results with more certainty.
3. No adequate drug treatment for juveniles, particularly inpatient treatment.
4. Poverty and all the related issues including family addiction seem to be impediments to success. In drug court we celebrate the positive and the short-term successes of participants and encourage them to think about their future and what they want to be. Poverty and survival—are the reality of the participants. Given that reality, we have started trying to have the participants identify barriers or issues for them and think about some things that could help. We absolutely celebrate the short-term successes and besides addressing the "in the future hopes," we have started to talk about the future in short blocks

with the challenges the kids have started to talk about.

5. I'd list the top issue (besides our temporary issue relating to transition to a new treatment provider) as affording participants' rights (hearing/attorney) in the contexts of:
(1) contested violation with potential jail sanction, and (2) termination from the drug court program.
6. Money for public defender availability and appointment for termination hearings.
7. Adequate reliable tests for drugs new and old.
8. Lack of local services, lack of local services, and lack of local services – I say that with heartfelt sincerity and not levity. With the overhaul of social services/human services, locally, we lost tremendously. Already the number of licensed addition counselors was low but due to the transition, many have retired or simply, left the profession. The consequences have been huge—anywhere from providing in and out-patient services to transitional housing options. Additionally, our local hospital is in the process of building a new facility, which will have FEWER beds and services available for those suffering addictions, MH or a combination of both. For years we have had to send people out of the community to Centre Inc., Prairie St. John etc., where fantastic services have been provided. The problem arises when those clients transition back home. Because there are very few skilled, professional services available locally, what we often see is people who did fantastic while away, but slip quickly back into old habits.
9. The limited amount of time our probation officer has to commit to our program (she is not a dedicated FTE to our program so it is an additional duty over and above her regular caseload).
10. The amount of time it takes to get a participant into our program.

If you have a response; solution; or further concern to a particular issue above or even a new one that has arisen since we corresponded, please send it to me and I will keep the conversation going, hopefully to the benefit of all. I also plan to check back in with each of you over the coming months to see how I can assist. Thank you for participating. It makes us all better. ■

PARTNER SPOTLIGHT:

James Eberspacher

Director of the National Center for DWI Courts

A [report](#) from the National Highway Traffic Safety Administration (NHTSA) shows that 2020 was among the most dangerous years on the road in over a decade. An estimated 38,824 lives were lost in traffic fatalities, the highest number since 2007. Most shockingly, this dramatic increase occurred in a year when vehicle miles decreased by more than 430 billion due to the pandemic. Furthermore,

More People are Dying on the Road; Here's What to do About It

the estimated number of people injured in crashes in 2020 decreased by 17%, indicating that while there were fewer crashes, they tended to be more serious due to behavioral factors such as excessive speed, not wearing a seatbelt, and alcohol and drug impairment. Nationwide, 30% of motor vehicle fatalities were the result of alcohol-impaired driving crashes, an increase of 14% over the previous year. Though not released yet, the data from 2021 looks to be as deadly (if not worse) than 2020.

North Dakota saw a decrease in alcohol-impaired fatalities in 2020 – seven fewer lives were lost than in 2019. However, they were still above the national average in the percentage of overall fatalities attributed to alcohol impairment at 35%. Even with the decrease, 35 people lost to this deadly behavior is 35 people too many. And, this is just the tip of the iceberg because we can no longer consider impaired driving an alcohol-only issue; it is a polysubstance issue.

While the twin public health crises of COVID-19 and opioids receive the most attention, impaired driving fatalities have been steadily rising. The pandemic and opioid epidemic are factors in this increase. A [NHTSA study](#) evaluating the prevalence of alcohol

and other drugs such as marijuana and opioids in serious and fatal crashes found significantly higher drug prevalence during the pandemic: 64.7% of drivers tested positive for at least one active drug (compared with 50.8% pre-pandemic), and 25.3% tested positive for two or more categories of drugs (compared with 17.6% pre-pandemic).

For years, traffic safety experts have known that repeat impaired drivers pose the greatest risk on our roadways. Most drivers who get one driving while impaired (DWI/DUI) conviction will never get a second, but repeat impaired drivers are less likely to change their behavior and are responsible for the vast majority of fatal crashes. In fact, a fatal crash involving impaired driving is four times more likely to involve someone with prior DWI/DUI convictions. There are more than two million drivers with three or more DWIs/DUIs on American roadways. If we want to save lives, this is where we must focus our efforts.

Impaired driving is a complex problem that requires a multipronged solution. Strict laws are necessary, and cutting-edge technology can help, but they're simply not enough. Research clearly shows that for repeat impaired drivers, putting them behind bars simply [doesn't work](#) because it doesn't address the root problem of their behavior: addiction. What this population needs, what will change their behavior, is assessment, treatment, and access to DWI/DUI courts.

Each person arrested for impaired driving, especially if more than once, should be [accurately assessed](#) for the risk they present to public safety and the clinical needs underlying their dangerous behavior. In addition to substance use disorder, [research](#) shows that 45% of repeat impaired drivers also suffer from a significant mental health disorder. Left unidentified and untreated, a person with these conditions will reoffend more often and more quickly than other drivers, putting themselves and others in danger.

Once a person has been diagnosed with a substance use and/or mental health disorder, they must be referred to treatment. The right therapeutic interventions—which could include counseling, medication, support groups, and other lifestyle changes—hold individuals accountable and make

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recovery not only possible, but probable. As 22 million Americans will attest, recovery is real and happening every day.

DWI/DUI courts have been [proven to reduce impaired driving recidivism](#) by as much as 60%. These programs provide screening and assessment, connect individuals to treatment, and hold them accountable for their progress, and they do it for a fraction of the cost of incarceration. In fact, studies show they return as much as \$3.19 for every \$1 invested. And research in both Arizona and New Mexico found that DWI/DUI courts even [cost less](#) than traditional probation.

DWI/DUI courts are the proven and essential intervention for high-risk/high-need individuals to save lives, protect communities, and lead people into recovery. While an expansion of DWI/DUI courts, whether that's implementing DWI/DUI courts

or expanding existing treatment courts to include impaired drivers, is necessary, it is only one part of the equation. I urge everyone reading this article to review your jurisdiction's response to impaired driving. We must have a systemic, balanced approach that includes prevention, enforcement, prosecution, accountability, and treatment. A "one size fits all" approach doesn't cut it and the data proves it.

If we're serious about reducing the number of deaths on our roadways, we must implement measures that will work for the long term. We must implement assessment protocols, bolster treatment services in their communities, and invest in DWI/DUI courts to ensure access for everyone who needs it.

For more information and resources, please check out the [National Center for DWI Courts](#). ■

North Dakota 2022 Fatal Crash Statistics as of 9/29/2022



Fatalities jumped from 32 to 78 since my last newsletter! This compares to 86 in the same time period last year 2021, and higher than the same time period for 2020, which was 73. For a full look at the Fatal Crash Stat Board, visit: [2022 Fatality Spreadsheet.xlsx \(nd.gov\)](#). Sadly there were an additional two fatalities as of October 6, 2022.

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/> Consider joining the Vision Zero Partner Network.

Fatalities: 78
Crashes: 77
Operators Tested Positive BAC: 18
Operators Tested Negative BAC: 12
Operators Not Tested: 18
Crashes with impending investigation: 29

Fatalities from Alcohol Crashes: 18

No Seat belt (for seat belt eligible vehicles) 33
Speed related fatalities: 22
Fatal Crash Involved Lane Departure: 44
Fatal Crash Involved a Younger Driver(s) 14-20 years old: 15
Fatal Crash Involved an Older Driver(s) 65+ years old: 20
Fatal Crash Involved a Train: 1
Fatal Crash Involved a Commercial Motor Vehicle(s): 19
Holiday Fatalities: 10

Upcoming Trainings/Events/Webinars

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

DWI/DUI Court Enhancement Training: A Web-Based Self-Study Course

This online self-study web course takes the new or seasoned DWI Court professional through basic DWI Court information. You will become acquainted with the guiding principles for DWI Courts, DWI Court target population, case management techniques such as clinical assessment, treatment, community supervision and many more elements directly related to their day-to-day court activities.

Issues addressed include the evaluation and sustainability of the Court's community partnerships. This online course offers not only basic information, but a wealth of resources. The course is sponsored by the National Drug Court Institute and The National Judicial College with funding through the National Highway Traffic and Safety Administration.

You will have 60 days to complete the online study modules, which take approximately 16 hours to complete. A Certificate of Completion issued by NJC/NDCI is available when you successfully complete a final online assessment. <https://judges.docebosaas.com/learn/course/external/view/elearning/39/dwi-court-enhancement-training-a-web-based-self-study-course>

July 26-29, 2023 NADCP Rise23 Houston, TX (save the date and plan ahead)

Since 1994, NADCP has convened the only national conference for treatment court professionals.

Over the past 25 years, our numbers have grown to include public health and public safety leaders working to expand treatment for people with substance use and mental health disorders.

What remains constant is the unparalleled education, networking, and fellowship enjoyed by every attendee.

Whether you're a regular or first-time attendee, new to treatment courts or a seasoned pro, we invite you to attend this landmark event and join us as we march toward our mission of ensuring that every individual in the justice system has access to evidence-based treatment and restoration.

UNSUBSCRIBE

Useful Resources and Links

1. NDCRC Painting the Current Picture

Painting the Current Picture: A National Report on Treatment Courts in the United States is an in-depth analysis of treatment court programs across the United States. This monograph provides stakeholders with the ability to monitor trends and to highlight similarities and differences in the findings obtained over time. Additionally, the monograph also provides a synopsis of the most recent scholarly literature on treatment courts. Summaries of the extant literature for each treatment court type include a brief overview of the history and structure, best practice standards, guiding principles, effectiveness and cost-benefit findings, and directions for future research.

Click here for the full reports <https://ndcrc.org/pcp/>

2. NADCP News

Visit the National Association of Drug Court Professionals website often for up-to-date news on all things related to treatment courts, addiction, and recovery. There is even a RISE22 Recap!

Click here <https://www.nadcp.org/news/>

3. NADCP E-Learning Center

The National Association of Drug Court Professionals E-Learning Center allows you to engage, empower, and thrive. From the best practice standards to trauma awareness, there is something for treatment court and non-treatment court judges alike.

Click here <https://www.nadcp.org/e-learning-center/>

4. NCDC Website

The National Center for DWI Courts website provides news, events and resources. DUI/DWI Courts are the most successful strategy for holding repeat impaired drivers accountable while ensuring they receive life-saving treatment.

Click here <https://www.dwicourts.org/>

5. SBAND Gavel Magazine (Winter 2022 Issue, pages 10-11)

The Top Seven Things I Learned as a Drug Court Judge article authored by John Grinsteiner regarding his time spent serving in the drug courts of North Dakota.

Full article <https://viewer.joomag.com/winter-2022-gavel/0781640001644326281?short&>