

2023 • Issue 1

## from the desk of the **SJOL**

JUDGE JOHN W. GRINSTEINER (RETIRED)

This is the fourth issue of *From the Desk of the SJOL* and the first in the new year. When I left you last, I indicated that I would be using this issue to feature opioids and community treatment. When I began to dig into the two subjects, I realized that they each could be featured in a newsletter edition. Hence, this issue will be centered around opioids, polysubstance use and their effect in impaired driving. The current plan is to bring you an edition on community treatment later in the year.

I sent out an email in late October of last year highlighting some of the opioid issues in our state. I have included that update as an article in this newsletter because of its continued relevance. I've also included links to the individual presentations that were made in both Grand Forks and Fargo, should you wish more detail.

The National Judicial Opioid Task Force (NJOTF) was created by Resolutions of the Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) during their annual meeting in 2017. The Conferences recognized the need to respond to the mounting stress on criminal and family court dockets impacting state court systems across the country. I have included the introduction and a link to the full report, which contains a comprehensive set of policy and best-practice recommendations. A comprehensive set of court-specific tools, bench cards, webcasts, and educational materials were produced; and the Opioid Resource Center for Courts, found at [www.ncsc.org/opioids](http://www.ncsc.org/opioids) was developed.

For those who watch Netflix, there is an interesting documentary on Xanax that has some relevancy to this topic as well. Watch "[Take Your Pills: Xanax](#)".

Also, in this issue is a partner feature from Vision Zero Safety Public Information Program Manager Lauren Wahlman, who will tell us how the state's primary traffic safety initiative has progressed over the five years since Vision Zero was announced. While the number of North Dakota traffic deaths did not increase and has held steady over the last three years, many of those deaths are preventable. Crash causes such as speed, lane departure, non-use of seatbelts, and impaired driving are areas where we can improve.

Finally, you will find updated 2022 North Dakota fatal traffic crash data referred to by Ms. Wahlman in her submission, some useful resources and links, and some upcoming trainings, events, and webinars. Until next time, 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.*

## Issue highlights ....

### **Opioid Roundtable Discussions in ND**

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### **ND 2022 Fatal Crash Statistics as of 12/26/2022**

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# Opioid Roundtable Discussions in ND

by: John Grinsteiner, SJOL for North Dakota

At the invitation of Colonel Solberg of the NDHP, I attended the opioid roundtable discussions in Grand Forks and Fargo. Previous and similar roundtables were held in Bismarck and Minot. They were an eye-opening experience. The events were well-attended by legislators and they asked good questions and seemed interested in the fallout from the increased trafficking in our state. In particular, Senator Lee was present in Fargo and she is on the Health and Human Services Committee dealing with the treatment side of opioids. I made sure to spend some extra time with her after the meeting to answer her questions and try to articulate what we see in the courts and what happens to defendants once they come out the back side. Other groups in attendance were representatives from the Governor's Office; County States Attorney's Office; DOCR; and Health and Human Services. I challenged the group and Colonel Solberg to keep the conversation going. I believe plans for follow on meetings for deeper conversation about solutions are in the works.

The meetings started off with a general overview by Colonel Solberg. He indicated the purpose was to draw attention to the issue(s), find out what others are doing, and to collaborate. I thought that the meetings were a little law enforcement heavy, but this seemed natural considering the stage we are at and who was hosting. We heard drug trafficking trends (this was the eye-opening part) with presentations by:

Lindsay Wold, Director State and Local Intelligence Center;

Special Agent Mike Ness (GF) and Special Agent Dan Heidbreder (Fargo) of BCI;

Chief Mark Nelson (GFPD) and Chief Zibolski (FPD);

Cass County Sheriff Jesse Jahner; and

Sgt. Matt Denault, Coordinator of the NDHP Criminal Interdiction Team.

**There individual presentations can be found in the following links:**

<https://www.nd.gov/ndhp/safety-and-education/grand-forks-roundtable>

<https://www.nd.gov/ndhp/safety-and-education/fargo-roundtable>

The most-trafficked drugs are marijuana; methamphetamine; and fentanyl. "Blues" or fentanyl stamped into pill form made to look like prescription oxycodone pills, can be purchased in Arizona for as little as 50 cents per pill and then sold for \$30-45 dollars a pill on the street in Fargo. In other communities like the tribal reservations, a single pill can sell for \$80-90. Even a lawyer can do that math. The result is lots of cash and a lot of weapons. The drugs are coming from Minneapolis, Chicago, Detroit, and from Arizona. The precursors are manufactured in China and shipped to Mexico where the pills are made. There is no quality control, so some pills will have 2ng and some will have 20ng. This is resulting in a significant spike in overdoses/poisonings. It is estimated that 4 out of 10 pills contain a lethal dose. It is believed that in addition to the incredible profit margin, the portability and ease of use (no needles, foil, smoking device needed) is what is driving this trend. You can pack thousands of pills into a spare tire compartment. There is also concern that the reservations are being used as staging/storage areas because state law enforcement can't get on the reservations and tribal law enforcement is stretched so thin. To give you an idea of the scale, the DEA alone in Arizona is seizing over one million pills per month. I can't imagine the number that is slipping past. A representative from the DEA was present and called this a geo-political event in which they believe China is intentionally trying to destabilize the United States by flooding the market with cheap, but potent, if not deadly drugs. His words were, "We are playing checkers and they are playing chess."

Next up were Kodi Pinks, epidemiologist from the ND Dept of HHS and James Knopik, the state's opioid treatment authority from the ND Dept of HHS. They talked about overdoses and how fatalities have recently surpassed traffic fatalities. They talked about Naloxone (Narcan) and the benefits of saving lives. It is very effective in stopping opioid overdoses. The estimate is that for every overdose reported, there are probably ten times that many happening because of the Naloxone available in the community and being used outside normal medical facility use where it can be counted. In fact, most deaths are people who used alone. Many users have a "wing man" present so that if they do overdose, they can be given Naloxone. While making Naloxone available may sound expensive, it pales in comparison to an ambulance ride, ER visit, etc. Those costs don't even consider the time and manpower of law enforcement, fire and rescue, or hospital staff. I realize and totally agree with the lifesaving aspect, but it seems the wide availability of Naloxone could possibly be encouraging even more dangerous use – the proverbial rock and a hard place.

The final part of the half-day meeting in both cities was a health and human services presentation on prevention strategies; treatment and recovery services; and the regional crisis response teams of the human service centers. They have a long list of great services, but staffing the programs/services is another issue. Staffing is a major problem, especially on the public side of things. Private providers are trying to pick up the slack but it can feel like bailing the ocean with a drinking glass. The participants did seem to talk about this logically as a supply and demand problem with everyone having a part in attacking both the supply and demand. It was good to hear folks not wanting to simply give up and instead seemingly encouraged that others were hearing the issues and working on solutions as well. I am sure you are thinking of things that weren't mentioned here and not thought of by the participants. That's the very reason these conversations need to continue.



# The National Judicial Opioid Task Force (NJOTF) Leadership, Collaboration, Treatment, Prevention, and Data-Driven Decision-Making

by: NJOTF Co-Chairs Honorable Loretta H. Rush Chief Justice, Indiana Supreme Court  
Deborah Taylor Tate Director, Tennessee Administrative Office of the Courts

In 2018, more Americans died of opioid overdoses than cancer, gunshot wounds, or even car crashes. In fact, by at least one metric, the epidemic is direr for Americans than was the Vietnam War: while an average of 11 Americans died per day during the 14 years the United States was involved in Vietnam, nearly 120 Americans died per day of opioid overdoses in 2018 alone. The numbers are staggering, and the toll on communities across the country is devastating. Still, an important part of the story has gone largely untold. At some point, if the opioid abusers survive, most end up in court. Perhaps they have been arrested for stealing to feed their addiction or perhaps an agency has deemed them unfit parents. Whatever the reason, one fact remains: the state court justice system is now the top referral source for addiction treatment in the country.

This reality has put an enormous strain on our nation's state courts and their millions of customers. In a recent survey, the majority of chief justices and state court administrators ranked the opioid epidemic's impact on the courts as severe. Given the complexity of opioid and addiction cases, these results are unsurprising: it takes an enormous amount of time to figure out what is best for people with substance use disorder (SUD), how to care for their children, and what resources are available for them. And those who are placed in a treatment program with court oversight may remain involved

with the court for many years. Court leaders quickly realized that the epidemic's stress on the courts was a "crisis within a crisis." With 96 percent of all cases in the country filed in state courts, it is imperative that judges educate themselves on addiction and have a comprehensive understanding of how the opioid crisis affects state courts. Judges must be equipped with crucial resources and tools in order to be a successful component of the national policy response to this epidemic and future epidemics.

**"The misuse of opioids such as heroin, morphine, and prescription pain medications are not only a devastating public health crisis, it is critically affecting the administration of justice in courthouses throughout the United States."**

*– Chief Justice Loretta H. Rush,  
Indiana Supreme Court Co-Chair  
National Judicial Opioid Task Force*

For years, the justice system knew how to be "tough on drugs"; now is the time for us to become "smart" on drugs. This led CCJ and COSCA, who represent thousands of state court judges, to establish the NJOTF in 2017. Since its inception, the task force has developed practical information, educational resources, tools, and best practice recommendations for state court judges, court administrators, and numerous partners and stakeholders. This report is not a detailed or comprehensive review of the opioid epidemic,

as that information is now well known. Rather, we provide state and federal policymakers and our state court colleagues the lessons learned from almost three years of effort. This report thus shares the recommendations, tools, best practices, and examples of successful programs so that state courts can serve as effective partners in the management and eventual end to the addiction crisis. [Convening, Collaborating, Connecting: Courts as Leaders in the Crisis of Addiction \(ncsc.org\)](https://www.ncsc.org/publications/Convening-Collaborating-Connecting-Courts-as-Leaders-in-the-Crisis-of-Addiction) ■

# What You Need to Know About Today's Impaired Driver

## from Highway to Justice, Fall 2021

by: Honorable Neil Edward Axel Senior Judge, District Court of Maryland ABA Judicial Fellow Columbia, Maryland

A hypothetical: Tom is operating a motor vehicle at 8:30 p.m. on a 2-lane road. He is driving erratically, loses control of his vehicle and hits another vehicle causing significant property damage, but fortunately no serious injuries. Tom has an odor of alcohol on him. There is a burnt marijuana blunt in his ashtray and he has a baggie of marijuana in his pocket, along with a prescription slip for benzodiazepine. Assuming that Tom is under the influence, what substance is he under the influence of? The answer probably is that we don't know.

What we do know is that in 2020, vehicle miles driven were down 13.2%, yet projected fatalities for the year were up by 7.2% to 38,680, reaching the highest level of fatalities in the past 15 years.<sup>(7)</sup> Impaired driving is a cause of almost one of every three of those fatalities. The question in recent years has become what substances are impairing those who operate vehicles on our roadways while under the influence?

In the above hypothetical, if Tom had a blood alcohol level of 0.08 or higher, many DUI investigations would end there without further investigation regarding his substance use. Whether this is due to a lack of resources or other priorities, the implications are numerous. For one, many DUI arrests are inaccurately attributed to alcohol alone. For another, prosecutors, and then ultimately judges, are getting only limited information about the defendant in an impaired driving case. Lastly, this practice hinders state and federal officials in measuring the true magnitude of the drug-impaired driving problem.

We know from various sources that drug-impaired driving and multi-substance (a.k.a. "poly-drug" or "multi-substance") impaired driving is on the rise. Over the last 40 years, NHTSA has been conducting roadside surveys to determine the prevalence of alcohol, and now drug use, in night-time drivers. The

5th survey to come out was done in 2013-2014 and surveyed over 10,000 drivers in approximately 300 locations around the country.<sup>(2)</sup> The surveys were initiated by a sobriety checkpoint where drivers are promised immunity from arrest and prosecution and are asked if they are willing to submit to voluntary alcohol and drug testing. In the first roadside survey in 1973, 35.9% of those drivers surveyed had alcohol in their blood system. By 2007, that number declined to 12.4% and to 8.3% by 2014. While the incidence of alcohol was declining, in the period from 2007 to 2014 the presence of marijuana (THC) increased from 12.6% to 22.5%, and in 2014, 22.5% of those drivers surveyed had some drug other than alcohol in their blood system.

Further evidence of the changing face of the impaired driver can be found in the most recent data from NHTSA's Fatality Analysis Reporting System (FARS) that demonstrates that of all deceased drivers with known toxicology test results, 38% tested positive for alcohol (any BAC), while 44% tested positive for drugs. Of note is the fact that of those who tested positive for drugs, 51% were positive for two or more drugs, and 40.7% were also positive for alcohol.<sup>(3)</sup>

Essentially, what we are experiencing in this new millennium is not only a shift from alcohol- to drug-impaired driving, but also a shift to multi-substance impairment which studies have shown to exponentially increase the risk of impaired driving crashes.

While these changes have been underway, there has also been a move toward decriminalization of drugs and an emphasis on using public health-informed responses to substance use. This approach would replace incarceration with greater efforts at reducing recidivism through evidence-based rehabilitation efforts as the primary goal of sentencing, particularly

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for non-violent offenses. To be successful, however, courts need the tools to address the causes of recidivism, and judges need the information necessary in order to make informed sentencing decisions. As was noted several years ago:

“Every judge understands that with more information about an offender’s circumstances, a sentence can be better tailored to the person to ensure he or she doesn’t repeat the offense.”(4)

One method to obtain more information is the use of a risk and needs assessment. This evidence-based tool is used to identify an appropriate level of supervision, and the type and extent of treatment services that may be needed in any particular case. Risk and needs assessment tools that have been validated for impaired driving cases provide a great deal of information to help guide the sentencing and supervision decisions that are made in impaired driving cases. When it comes to treatment or the need for treatment, one size does not fit all. Just because one doesn’t have any prior DUI convictions does not mean that he or she is not in need of treatment; by the same token a repeat offender may or may not need treatment. Courts must be able to distinguish between those who are high risk versus low risk to re-offend, and those who have high needs versus low needs for treatment and related services. By doing so, courts can allocate resources as needed, and can do a more effective job in reducing recidivism. Many DUI Treatment Courts follow this model, and more recently multi-track screening and sentencing models have been implemented around the country.

Sentencing in impaired driving cases “provides a valuable opportunity to intervene in an individual’s life by identifying the clinical needs of substance abusers and then confronting them with the consequences of their own drug and alcohol use.”(5) One of the often-missed opportunities comes in the area of co-occurring mental disorders. Research has shown that 45% of repeat impaired driving offenders have at least one major mental health disorder in addition to a substance-use disorder.(6) Another study found that 50% of female drunk drivers and 33% of male drunk drivers have at least one psychiatric disorder. (7) Substance-use treatment has traditionally consisted of alcohol education/interventions that focus solely on substance use. By not assessing and addressing mental health disorders, Courts miss a vital intervention opportunity.

Today’s impaired driver is not yesterday’s drunk driver. Today, the impaired driver is operating their motor vehicle with multiple impairing substances in their system, and many may be suffering from some underlying mental health disorder. We cannot, and should not, lump all impaired drivers into the same category and should not treat all impaired drivers the same. Instead, we should identify their individual risks to re-offend along with their individual treatment needs, and address them by using evidence-based sentencing practices that may include risk and needs assessments, validated individualized treatment plans, DUI Treatment Courts, increased and on-going judicial supervision, and better coordination between the courts, probation supervision, and treatment. ■

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1. Early Estimate of Motor Vehicle Traffic Fatalities in 2020, NHTSA Traffic Safety Facts (DOT HS 813 115)(May 2021).
  2. The survey is known as the National Roadside Survey of Alcohol and Drug Use by Drivers. The most recent report is summarized in NHTSA Research Note (DOT HS 812 118)(February 2015).
  3. GHSA Drug Impaired Driving: A Guide for States (April 2017).
  4. David Wallace, Highway to Justice, at p. 5-6 (a publication of the American Bar Association, Summer 2015).
  5. “Responding to Substance Abuse: The Role We All Play,” (1999).
  6. Shaffer, H. J., Nelson, S. E., LaPlante, D. A., LaBrie, R. A., Albanese, M., & Caro, G. (2007). The epidemiology of psychiatric disorders among repeat DUI offenders accepting a treatment-sentencing option. *Journal of Consulting and Clinical Psychology*, 75(5), 795-804.
  7. Id.
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## PARTNER FEATURE:

Lauren Wahlman

Safety Public Information Program Manager

# Vision Zero at Five Years

It's been five years since North Dakota announced Vision Zero as the state's primary traffic safety initiative. Partners in this comprehensive effort continues to work toward zero motor vehicle fatalities and serious injuries on North Dakota roads through several strategies.

"The past five years have reinforced that personal responsibility is a key element in the success of Vision Zero. When we are all moving toward the same goal of zero fatalities by wearing a seat belt, driving distraction-free and following all traffic safety laws, lives are saved," said Governor Doug Burgum. "We're deeply grateful to our state agencies and all stakeholders who have partnered with us to make our roads safer in North Dakota."

"Widespread public education and outreach, high visibility enforcement, infrastructure and road safety improvements have been a cornerstone to the success of Vision Zero," said North Dakota Department of Transportation Director Ron Henke. "These efforts have been effective thanks to the dedication of our many state and community partners who are committed to reaching the ultimate goal of zero."


Successes since 2018 include:

- Vehicle fatalities have been on a steady decline across the state. North Dakota ended 2020 and 2021 with a total of 100 and 101 motor vehicle crash fatalities respectively. These are the lowest fatality numbers in about 15 years.
- Fatalities from alcohol-involved motor vehicle crashes have decreased over the last five years.
- Four Vision Zero Regional Outreach Coordinators have been added to implement Vision Zero strategies at the community level.

- Four Highway Safety Corridors have been implemented across the state. Corridors include enhanced safety features and increased law enforcement presence.
- Vision Zero Priority Emphasis Area (PEA) teams comprised of expert stakeholders continued to convene to advance the strategies within the Vision Zero Plan.
- The ND Sober Ride program was introduced in 2021. Thanks to funds primarily from AAA – The Auto Club Group, 1,524 sober rides have been taken since the program launched.
- Vision Zero Schools, a peer-to-peer program that allows students the opportunity to become traffic safety advocates, now includes six schools across the state with plans in place for a seventh.

However, there is still work to be done. Preventable human behavior, including not wearing a seat belt, alcohol, and speed and/or aggressive driving continues to significantly contribute to motor vehicle fatalities. Preliminary reports indicate that North Dakota had 100 motor vehicle fatalities in 2022. Of those fatalities, nearly 65% were unbelted where seat belts were present in the vehicle.

"Zero is the only acceptable number of fatalities when it comes to our family and friends," said Colonel Brandon Solberg of the North Dakota Highway Patrol. "The highway patrol and other public safety partners continue to provide high quality law enforcement services to make sure North Dakotans make it home to their loved ones. When everyone takes personal responsibility by buckling up and driving sober and distraction-free, avoidable fatality crashes will be eliminated."

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Of the motor vehicle fatalities in 2022, preliminary crash data shows 65% were in a passenger vehicle, 21% were motorcyclists, 6% were pedestrians and 6% were individuals on all-terrain vehicles (ATVs) or recreational vehicles. Motor vehicle fatalities in North Dakota occur each month of the calendar year. However, over the past five years more people have died in motor vehicle crashes in the warm weather months (May through October) than the cold weather months. From 2017-2021, drivers in fatal crashes in North Dakota were primarily between the ages of 25 and 64. Crash data for 2022 is preliminary and subject to change as additional information is received. ■

Learn more about traffic safety initiatives at [www.VisionZero.ND.gov](http://www.VisionZero.ND.gov) or join the conversation on [Facebook](#) or [Twitter](#)

# North Dakota 2022 Fatal Crash Statistics

as of 12/26/2022

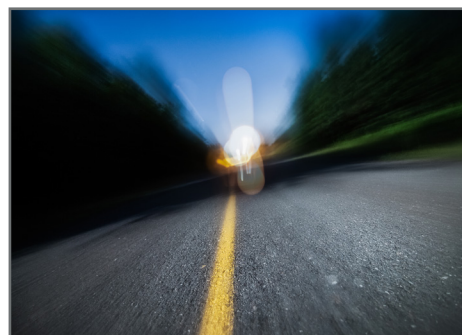
## Fatalities: 97

Crashes: 95  
Operators Tested Positive BAC: 27  
Operators Tested Negative BAC: 19  
Operators Not Tested: 23  
Crashes with impending investigation: 26

## Fatalities from Alcohol Crashes: 27

No Seat belt (for seat belt eligible vehicles) 46  
Speed related fatalities: 25  
Fatal Crash Involved Lane Departure: 50  
Fatal Crash Involved a Younger Driver(s) 14-20 years old: 16  
Fatal Crash Involved an Older Driver(s) 65+ years old: 24  
Fatal Crash Involved a Train: 1  
Fatal Crash Involved a Commercial Motor Vehicle(s): 21  
Holiday Fatalities: 9

See the Fatal Crash Stat Board on page 9 and how the numbers compare to 2021 and 2020.





Fatal Crash Stat Board To Date As of 12/26/2022												
Fatality Vehicle Type	2022						Yearly Totals					
	2022	%	2021	%	2020	%	2021	%	2020	%	2019	%
Pedestrian	6	6.2%	10	9.9%	7	7.1%	10	9.9%	8	8.0%	5	5.0%
Bicycle	1	1.0%	1	1.0%	1	1.0%	1	1.0%	1	1.0%	2	2.0%
Motorcycle	21	21.6%	8	7.9%	17	17.2%	8	7.9%	17	17.0%	11	11.0%
ATV/Recreational Vehicles	6	6.2%	5	5.0%	7	7.1%	5	5.0%	7	7.0%	4	4.0%
Farm/Heavy Equipment	0	0.0%	1	1.0%	3	3.0%	1	1.0%	3	3.0%	2	2.0%
Other	1	1.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Car/Pickup/SUV/Van/GMV	62	63.9%	76	75.2%	64	64.6%	76	75.2%	64	64.0%	76	76.0%
Fatalities	97	100.0%	101	100.0%	99	100.0%	101	100.0%	100	100.0%	100	100.0%
Crashes	95		85		95		85		96		91	
Operator(s) Positive BAC and/or LE Reported <sup>2</sup>	27	28.4%	27	31.8%	36	37.9%	27	31.8%	37	38.5%	40	44.0%
Operator(s) Negative BAC and Not LE Reported <sup>3</sup>	19	20.0%	36	42.4%	47	49.5%	36	42.4%	47	49.0%	31	34.1%
Operator(s) Not Tested <sup>4</sup>	23	24.2%	22	25.9%	12	12.6%	22	25.9%	12	12.5%	20	22.0%
Crashes w/ Investigation Pending <sup>5</sup>	26	27.4%										
<b>Fatalities from Alcohol Crashes</b>	<b>27</b>	<b>27.8%</b>	<b>35</b>	<b>34.7%</b>	<b>38</b>	<b>38.4%</b>	<b>35</b>	<b>34.7%</b>	<b>39</b>	<b>39.0%</b>	<b>45</b>	<b>45.0%</b>
Worn	14	20.6%	31	38.8%	19	27.9%	31	38.8%	19	27.9%	27	36.5%
Not Worn	46	67.6%	37	46.3%	41	60.3%	37	46.3%	41	60.3%	34	45.9%
Unknown	8	11.8%	12	15.0%	8	11.8%	12	15.0%	8	11.8%	13	17.6%
Not Applicable <sup>6</sup>	29		21		31		21		32		26	
Seat Belt Eligible	68		80		68		80		68		74	
Fatalities	25	25.8%	29	28.7%	24	24.2%	29	28.7%	24	24.0%	24	24.0%
Crashes	24	25.3%	23	27.1%	22	23.2%	23	27.1%	22	22.9%	23	25.3%
Fatal Crash Involved Lane Departure <sup>8</sup>	50	52.6%	46	54.1%	60	63.2%	46	54.1%	60	62.5%	54	59.3%
Fatal Crash Involved a Younger Driver(s) 14-20 years old	16	16.8%	21	24.7%	12	12.6%	21	24.7%	12	12.5%	12	13.2%
Fatal Crash Involved an Older Driver(s) 65+ years old	24	25.3%	19	22.4%	19	20.0%	19	22.4%	19	19.8%	19	20.9%
Fatal Crash Involved a Train	1	1.1%	0	0.0%	1	1.1%	0	0.0%	1	1.0%	1	1.1%
Fatal Crash Involved a Commercial Motor Vehicle(s) <sup>9</sup>	21	22.1%	8	9.4%	11	11.6%	8	9.4%	11	11.5%	14	15.4%
Holiday Fatalities <sup>10</sup>	9		11		4		11		5		6	

Operator: A motor vehicle driver, bicyclist, or pedestrian directly involved in a crash

<sup>1</sup> Alcohol involvement may be higher than currently reported due to pending investigations.

<sup>2</sup> Indicates at least one operator had a positive Blood Alcohol Content (BAC) AND/OR law enforcement reported alcohol involvement at scene; passenger BACs are excluded.

<sup>3</sup> Indicates operators who had samples taken had a negative Blood Alcohol Content (BAC) AND no alcohol involvement reported by law enforcement; passenger BACs are excluded.

<sup>4</sup> Indicates no operators had samples taken for alcohol testing, therefore, alcohol involvement is unknown. Passenger BACs are excluded.

<sup>5</sup> Indicates crash record is not fully complete; unknown if samples were taken, or results are pending

<sup>6</sup> Indicates situations where no restraint was available in the seat position of the occupant. Examples would be Motorcycle, Pedestrian, Snowmobile, etc.

<sup>7</sup> Speed-Related includes law enforcement-reported contributing factors of "exceeded speed limit" AND/OR "driving too fast for conditions".

<sup>8</sup> Indicates documented loss of control resulting in a vehicle leaving the original lane of travel.

<sup>9</sup> Commercial Motor Vehicles include vehicles that meet the following criteria: Any truck with a gross vehicle weight rating (GVWR) of 10,000 lbs or more; any motor vehicle with seating to transport nine or more people including driver; any motor vehicle displaying hazardous material placards regardless of weight.

<sup>10</sup> Reflects a multiple day period that varies per holiday and the day of the week on which the holiday falls.

**Disclaimer: 2022 data is preliminary and subject to change as additional information is received.**

## FATAL CRASH STAT BOARD

## Upcoming Trainings/Events/Webinars

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

### March 1, 2023

[Current Issues in Drugged Driving- the Cannabis Effect - The National Judicial College \(judges.org\)](#)

This webinar presents an overview of impaired driving laws with a focus on cannabis and other drugs. With the increasing legalization of medical and recreational cannabis, it is important to understand how this and other drugs uniquely impact law enforcement, the trial court, and probation. There will be a discussion of case law and current trends in jurisprudence.


### April 2–4, 2023

#### Lifesavers 2023 • Seattle, WA

Register here: <https://lifesaversconference.org/registration/> (Early bird registration ends on January 27, 2023).

In 2021, an estimated 36,096 people died in motor vehicle crashes in the U.S. Lifesavers is recognized as the premiere conference to learn about the latest highway safety research, best practices, and cutting-edge initiatives; and to explore innovative technology and strategies used to combat risky driving behaviors and save lives. The Lifesavers Conference is also historically the world's largest gathering of leaders and advocates in traffic safety. Now in its 41st year, the Lifesavers Conference will take place April 2-4, 2023 in Seattle, WA

The 2023 Lifesavers Conference will provide a national platform with over 80 workshops in ten tracks, plenary sessions, and an extensive exhibit hall. The Lifesavers Conference program is designed to engage federal, state and local government, law enforcement, public health, injury prevention, advocacy, and non-profit organization professionals in an exchange of ideas, strategies, and programs to reduce preventable injuries and deaths.

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## Useful Resources and Links

### 1. Opioid Response Network

The Substance Abuse and Mental Health Services Administration (SAMHSA) funded the State Opioid Response – Technical Assistance grant to the American Academy of Addiction Psychiatry in collaboration with the Addiction Technology Transfer Center (ATTC), Columbia University Division on Substance Use Disorders and a large national coalition. In response, this coalition, representing over two million stakeholders, created the Opioid Response Network (ORN) to provide training and address the crisis.

The Opioid Response Network has local consultants in all 50 states and nine territories to respond to local needs by providing free educational resources and training to states, communities and individuals in the prevention, treatment and recovery of opioid use disorders and stimulant use.


Click here for access: [Opioid Response Network](#)

### 2. NADCP NEW MOUD Guides

The National Association of Drug Court Professionals (NADCP) is pleased to release newly updated and completely redesigned online guides on medication for opioid use disorder (MOUD) in treatment courts. We encourage treatment courts to incorporate these new guides into your everyday operations, now accessible via convenient HTML webpages and also downloadable as PDFs.

The MOUD guides were created through a partnership between experts at NADCP and addiction medicine specialists with criminal justice expertise from the American Society of Addiction Medicine (ASAM). They reflect up-to-date, evidence-based information to support optimal outcomes for justice-involved individuals living with opioid use disorder.

Click here for guidelines: [NEW MOUD Guides - NADCP.org](#)

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## Upcoming Trainings/Events/Webinars

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

### May 3, 2023

[Search and Seizure in Drug Impaired Driving Adjudication - The National Judicial College \(judges.org\)](#) Access to justice has increasingly become the focus in courts across the country. This webcast will focus on the delicate balancing act of imposing pre-trial conditions on impaired drivers in traffic courts and the obstacles they often face in complying. This course will explore innovative and creative approaches to these cases while in the pre-trial stage and ways to avoid often crippling legal financial obligations and cost prohibitive conditions before final adjudication. This course will also address some of the practical challenges presented in imposing some conditions.

### June 26–29, 2023

#### NADCP Rise 23 • Houston, TX

<https://nadcpconference.org/registration/>

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.

Look for a former ND Judge on the agenda in a session called: "Connection in the Court: Understanding the roles and interplay of the judge, supervision, and treatment."

**UNSUBSCRIBE**

## Useful Resources and Links continued

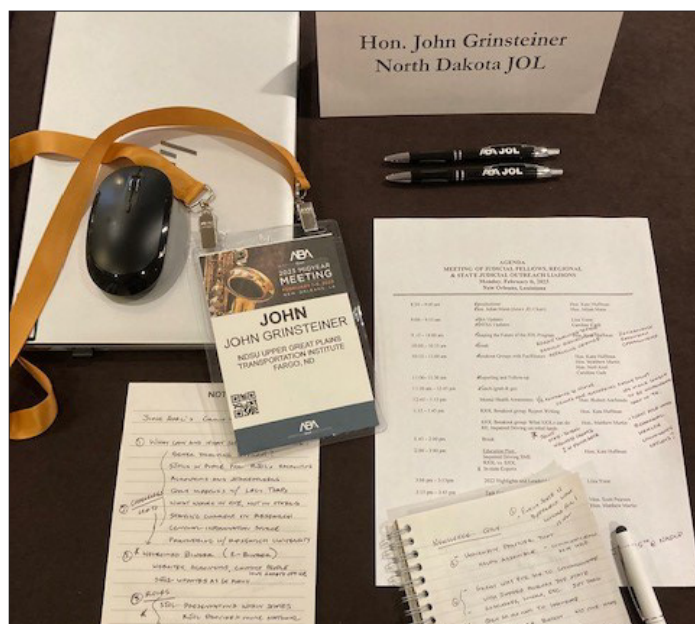
### 3. ABA Publication Highway to Justice

Highway to Justice is produced through a joint project with the American Bar Association Judicial Division and the National Highway Traffic Safety Administration. This complimentary publication is designed to be a source for updates on national traffic safety news.

Click here for all issues: [Highway to Justice \(americanbar.org\)](http://Highway to Justice (americanbar.org))

### 4. NHTSA: The Economic and Societal Impact of Motor Vehicle Crashes

Motor vehicle crashes cost American society \$340 billion in 2019, the National Highway Traffic Safety Administration announced today. The agency's new report, "The Economic and Societal Impact of Motor Vehicle Crashes, 2019," examines the costs of one year of crashes that killed an estimated 36,500 people, injured 4.5 million, and damaged 23 million vehicles. "This report drives home just how devastating traffic crashes are for families and the economic burden they place on society," said Ann Carlson, NHTSA's Acting Administrator. "We need to use the safe system approach embraced in DOT's National Roadway Safety Strategy to dramatically decrease the number and severity of crashes: safer roads, safer people, safer vehicles, safer speeds, and better post-crash care."



# Recent Court Opinions of Note

("A little late-night reading") – Alexander J. Bott, UND School of Law

## **Search of home leading to impaired driving arrest: Consent, exclusionary rule, attenuation doctrine.**

The Wyoming Supreme Court provides an excellent discussion of several Fourth Amendment concepts in this case that has the unusual twist of being an impaired driving case that addresses the Fourth Amendment protections of a home. Wyoming Highway Patrol Trooper Josh Undeberg received a report that a car had crashed into a ditch and that the driver appeared intoxicated. Upon running the plates, the trooper drove to the home of the owner, Nancy Hawken. The trooper encountered a man who was the owner's husband. Upon asking to speak to Ms. Hawken, the Trooper followed Mr. Hawken into the mudroom of the home without invitation and without seeking permission. Ms. Hawken came to the mudroom and then went outside to talk with Trooper Undeberg after which Ms. Hawken was arrested for driving under the influence. Ms. Hawken filed a Motion to Suppress claiming Trooper Undeberg's entry into the home violated the Fourth Amendment. In ultimately finding that Ms. Hawken's Fourth Amendment rights were violated by the Trooper in entering the home without invitation and without asking permission, the Wyoming Supreme Court rejected the State's argument that the trooper entered with implied consent, noting that mere acquiescence is not enough to infer consent. The Wyoming Supreme Court then addresses the Exclusionary Rule and the three factors of the attenuation doctrine exception to the Exclusionary Rule. The Wyoming Supreme Court ultimately remands the case to the trial court to determine whether the Trooper's unlawful intrusion required suppression. *Hawken v. State*, 2022 WY 77, 2022 Wyo. LEXIS 73 (June 16, 2022)

## **Wisconsin's OWI offenders graduated-penalty system found defective under North Dakota v. Birchfield.**

In 2017, when Scott Forrett was charged with seventh offense OWI, Forrett had five prior convictions and one revocation of driving privileges for refusing a warrantless blood test upon suspicion of impaired driving. The Wisconsin graduated-penalty statute included as prior offenses suspensions or revocations of driving privileges for refusing to submit to a chemical test, including a warrantless blood test, upon suspicion of impaired driving. *North Dakota v. Birchfield*, 579 U.S. 438 (2016) held that a non-consensual, warrantless blood test was unreasonable under the Fourth Amendment. Forrett argued that the revocation of privileges was based on his refusal to submit to an unreasonable search (warrantless blood draw) and if the revocation of privileges had not been included as an offense, he would have faced a sixth offense OWI which carried lesser penalties. The majority opinion held that using the revocation of privileges for refusing a blood test as a prior offense resulted in Forrett being criminally punished for refusing an unconstitutional search in violation of *Birchfield* because the sentence for a seventh OWI offense was greater than a sixth OWI offense. The dissent disagreed noting that using a revocation as an offense is merely increasing the sentence for the present offense based on defendant's prior criminal history, which has been repeatedly held not to be new jeopardy or improper punishment for the prior offense. *State v. Forrett*, 2022 WI 37, 2022 Wisc. LEXIS 51, (June 3, 2022)

**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. This year, I plan to continue my efforts regarding treatment issues, specifically assessments, proper evaluations, and access. I hope to bring you value and some informative articles in my upcoming issues of the newsletter. Until next time, peace on your heart!

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