



2026 • Issue 3

from the desk of the **SJOL**

JUDGE JOHN W. GRINSTEINER (RETIRED)

Welcome to the JOL Newsletter for North Dakota 2026, Issue 3:

When I retired from the bench almost five years ago, I knew I wanted to continue serving the state court system through judicial education. The Judicial Outreach Liaison (JOL) position allows me to do just that. With a current network of 38 JOLs (State, Regional, and Fellows) across the country, and program partnerships with the ABA Judicial Division, All Rise, the National Center for State Courts, and the National Judicial College, to name a few, I strive to bring you highly relevant and useful information for your courtrooms.

While this information often centers around traffic safety and impaired driving, the reach is far greater and the breadth of topics can spread into virtually your entire criminal docket. I don't have to tell you that topics such as substance use, mental health, screening/assessment/treatment, risk and need, proper monitoring and recidivism are things you see every day in almost every criminal case that comes before each of you in every municipal, county and tribal court of our state.

I'm thankful our State Court Administration Office has a very active judicial education division, despite its small size. For context, some states have their own judicial colleges! Lee Ann Barnhardt, the Director of Education and Communication at the ND Supreme Court, is one of the best in the country, routinely recognized on the national level. She is passionate and truly cares about the judges in our state. I will continue to partner with her and the Judicial Education Division on bringing in topics, speakers, and presentations that matter to your dockets. The JOL Newsletter continues to be one way for me to do that while staying connected to my judges across the state and region. You have likely heard me say if you have an issue that is somehow connected to impaired driving (think seven degrees of Kevin Bacon), please reach out. As I explained above, the connection and reach are extensive.

This quarter's newsletter starts broad and then narrows. It begins with some statistics from the North Dakota Impaired Driving Task Force's Impaired Driving Strategic Plan FFY2026–2028¹, identifying strategies and goals, and then it narrows into approaches and action steps. Our approach to criminal justice and in particular, impaired driving, should not be a one-size-fits-all tactic. To quote Douglas B. Marlowe, J.D., Ph.D. who is the Chief of Science, Policy & Law for All Rise, "*matching the right response to the right person at the right time can and will make all the difference.*" Dr. Marlowe later added, "*by the right professional,*" but the message remains the same. Our approach to the people who come before us, and in our court orders that impact them, should not be a one-size-fits-all strategy.

Finally, this issue of the newsletter has the most recent 2026 North Dakota crash statistics along with the usual case law and resource/training sections. The wellness corner has also been updated! ■

¹ A link to the fully executed and submitted document can be found in the Resources Section of the newsletter.

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One Size Does Not Fit All

Judge John Grinsteiner (retired), SJOL for North Dakota

North Dakota's Impaired Driving Strategic Plan:

Strategies and Goals:

In 2025, North Dakota recorded more than 9,800 motor vehicle crashes resulting in fatalities, injuries, and property damage. During the 10-year period from 2015 to 2025, the state experienced its highest number of traffic deaths in 2015, when 131 people lost their lives. Since that peak, fatalities have generally declined each year through 2025, reflecting meaningful progress in statewide traffic safety efforts.

Nationally, more than 39,000 people have died in traffic crashes each year since 2024. In contrast, North Dakota typically experiences approximately 100 roadway fatalities annually. Small in total numbers, but high in per-capita impact.

In 2025, 85 people were killed on North Dakota roadways, marking the lowest annual fatality total in nearly three decades. Those who lost their lives ranged from young children to older adults, and most were North Dakota residents. Alcohol-related crashes accounted for 26 of these deaths. The continued decline in both overall traffic deaths and impaired-driving fatalities highlights the positive impact of ongoing safety initiatives. At the same time, it reinforces the importance of continued investment in education, enforcement, engineering improvements, and community partnerships to further reduce preventable roadway deaths across the state.

North Dakota's Impaired Driving Strategic Plan FFY2026-2028 (IDSP) is directly aligned with Guideline No. 8 of the National Highway Traffic Safety Administration's (NHTSA) Uniform Guidelines for State Highway Safety Programs. The Impaired Driving Task Force (IDTF) utilized *Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices*, 11th Edition, 2023, as an additional resource in developing and updating this strategic plan. The IDSP considered and applied the four basic strategic categories recommended to reduce impaired driving crashes, which include the following:

1. Deterrence (laws, enforcement, prosecution and adjudication, treatment, and monitoring);
2. Prevention;
3. Communications and outreach; and
4. Alcohol and drug treatment.

The ND Department of Transportation focused on the following overarching strategies when developing the IDSP:

- Identify opportunities to prevent or counteract impaired driving through training of law enforcement, prosecutors, and courts.
- Reduce recidivism through recognition of emerging trends and best practices, including substance abuse and mental health assessments, access to treatment, and increased use of and funding for Treatment Courts.
- Educate the public about the dangers and costs, both financial and social, of impaired driving, using data to identify high-risk populations and communities.
- Support expanded use of technology, including ignition interlock devices (IID) to prevent operation by impaired drivers and forensic ID scanners to reduce underage drinking.

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/defense, and adjudication to ensure



its work is rooted in evidence-based strategies and is reflective of key impaired-driving stakeholders. Current judicial members include Judge Kristi Pettit Venhuizen – Northeast Central Judicial District; Judge Robin Schmidt – Northwest Judicial District; Judge Donovan Foughty, retired – Northeast Judicial District; and myself Judge John Grinsteiner, retired – formerly South Central Judicial District and now SJOL for North Dakota.

Approaches and Action Steps:

North Dakota is a drinking state. In fact, some statistics show North Dakota has the highest number of bars per capita in the United States, with 49.73 bars for every 100,000 residents (Legal Knowledge Base, 2025). It is part of our culture. There is alcohol at most gatherings and public/private events. Even at a high school graduation open house, where we celebrate our 17- and 18-year-olds, you can get a cold beer with your taco-in-a-bag. Perfectly legal (not for the minors), until a person drives impaired or commits another alcohol-fueled crime, often involving violence. And you know that it is not just alcohol. North Dakota is also no stranger to illicit drug use and prescription abuse or misuse.

Drug-Impaired driving continues to emerge as a nationwide and statewide concern. National studies show a 15% increase in fatal crash risk following cannabis legalization (Windle *et al.*, 2021). Clinical studies indicate that drivers often underestimate cannabis impairment and overestimate their driving ability (Marcotte *et al.*, 2022). National roadside surveys show 22–23% of drivers test positive for drugs, representing an increase over previous surveys (NHTSA, 2017). Cannabis remains the second most commonly detected substance after alcohol.

With more than 4,600 DUI citations issued statewide in 2024 and 2025 ([Beyond 20/20 Perspective – view report](#)), how can we implement the strategies listed in the IDSP and VZSP, to bring those occurrences down? How can judges identify opportunities to prevent or counteract impaired driving? How can judges reduce recidivism? **How can judges support expanded use of technology? What is the role of judges in educating the public and other stakeholders?**

Impaired driving offenders occupy a unique position within the criminal justice system. Most are employed, maintain stable housing, and score as low risk on standard criminogenic screening tools. Yet a substantial number are likely to reoffend. Current data suggests one-third of those arrested will reoffend. However, researchers note the true rate is likely undercounted because most impaired driving never results in arrest. Deep down, we know this to be true. We have seen it with our own eyes. Those likely to re-offend, the high-risk offenders, pose an ongoing threat to public safety.

Under current practices, screening and assessing for treatment are typically not imposed until sentencing, which is often months after the arrest. This process misses the window of opportunity when behavioral intervention is most likely to be effective. The research supports what I think we intuitively already knew, that there is an opportunity to be seized with every interaction.

"An encounter with the criminal justice system 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." (Responding to Substance Abuse: The Role We All Play, 1999.)

1. Screenings and Assessments (preventing or counteracting and recidivism):

Drug and alcohol use are at the root of many criminal cases. How can we identify opportunities to prevent or counteract these criminal acts, especially impaired driving? By getting defendants screened and assessed well before sentencing. Research shows that assessing offenders for risks and needs and matching them with appropriate interventions leads to more effective sentences and increased public safety.

This is why doctors order tests before treating a patient. A diagnosis comes before a prognosis. How do you know what to treat unless you first diagnose? In fact, it could be considered malpractice if a doctor were to treat without diagnosing first. Some states require screening and assessment prior to imposing a sentence. Whether required or not, you, as the judge, have the ability and authority to order appropriate screening and assessment in your cases.

Our Pretrial Services Program is doing just that with their Ohio Risk Assessment System (ORAS) tool, which is a comprehensive, evidence-based tool used to evaluate the risk of recidivism among adult offenders and guide supervision and intervention decisions. While effective for the general population, it does not work well with impaired drivers because they score as low risk on standard criminogenic screening tools. Remember, most impaired drivers are employed, own a car, and maintain stable housing. More specific tools are needed such as the Computerized Assessment and Referral System (CARS), the Impaired Driver Assessment (IDA), the DUI Risk and Needs Triage (DUI-RANT), and the Alcohol Use Disorders Identification Test (AUDIT). These tools are very useful in identifying risk and need in our impaired driving populations.

In broader application, Screening, Brief Intervention, and Referral to Treatment (SBIRT) is another example of an early intervention designed to screen individuals for problematic substance use. This approach identifies people at risk for developing substance use disorders (SUDs), providing brief intervention to those at-risk people. SBIRT is designed to raise awareness of the risks and consequences associated with substance use, providing motivation for change, and to help set healthier goals. Finally, the process aides in access and coordination to treatment services.

Why worry about risk and need? Evidence shows putting defendants in the wrong programming (sentence) can actually make them worse! One size does not fit all. To be as effective as possible, implementing comprehensive screening and assessment, preferably before sentencing, is necessary to identify offenders who have behaviors or disorders that require further specific intervention. Without the accurate identification of these behaviors and/or disorders, we likely miss an opportunity to address an underlying cause of offending and reduce future recidivism.

It is easy to see how screenings and assessments can help prevent or counteract impaired driving and lead to more effective sentencing, but with ever-increasing dockets (not to mention time standards) and often-shrinking resources, do we have the time or ability? A very wise treatment court judge once told me, "Take time now, or take time later." Getting it right on the front end will almost certainly lead to time saved on the back end and handing down more effective sentences will almost certainly lead to less recidivism.

2. Plea Agreements (preventing or counteracting and recidivism):

Since the establishment of treatment courts there is an ever-increasing view of the judge as a problem solver. While most judicial officers embrace this role, many challenges remain, including obtaining enough information to make an informed decision (especially in plea agreements), identifying who is at high risk, determining what intervention/treatment is appropriate, and finally, imposing a sentence that will most likely lead to success.

According to the Bureau of Justice statistics, 90-95% of all state and federal criminal cases are resolved by plea agreement. That number may seem high, especially given the attention given to high-profile trials, but it is accurate. It should follow then, that extra care would be taken to make sure these plea agreement resolutions are effective. Too often, impaired driving cases are resolved through the plea-bargaining process which results in reduced charges or lenient sentences. We should be mindful of the importance of crafting sentences that comply with state statute, provide accountability to offenders, and provide an opportunity for offenders to receive the necessary and proper treatment, thereby reducing recidivism.

Plea agreements are frequently signed off on with little to no information regarding the defendant, because they save time. I know, I signed many myself. Sometimes the incomplete information is by design and sometimes it is not. There is a lack of system coordination with many of the people and data systems used by the criminal justice system being unwilling or unable to speak to each other. There might be inadequate pretrial and/or post-sentence supervision – what happens when they walk out the door? There might be inadequate treatment services – what happens when they walk in the door? These are just some of the challenges we face and I am sure you can think of more. All can affect efficient and effective outcomes.

What can you do? Remember, you don't have to blindly accept the plea agreement and you don't have to blindly follow the sentencing recommendation. Because one size does not fit all, ask questions. It's your courtroom, it's your case, and ultimately, it's your sentence that will be put in the court documents (order) for the defendant to complete. Having the right information to form a good plea agreement/sentence can change the trajectory, from just efficient, to both efficient and effective. Asking questions, seeking screening and assessments before signing off can ensure that there is a solid basis for a plea agreement based on a complete case assessment, including all of the information available.

If you do this consistently you will train the lawyers to have the information put together before presenting the plea. Getting it right on the front end will almost certainly lead to time saved on the back end and handing down more effective sentences will almost certainly lead to less recidivism and greater public safety.

3. Treatment Court and Other Inventive Sentencing (counteracting and recidivism):

The first treatment court in the United States went into operation in Miami, Florida, in the summer of 1989, under the supervision of Judge Stanley Goldstein, the nation's first drug court judge. Judge Goldstein understood that one size does not fit all. By all accounts, treatment courts are an effective sentencing strategy. These courts seek to improve public safety by combining judicial supervision, treatment, accountability, and evidence-based interventions to reduce recidivism and support long-term recovery.

Treatment courts are very effective for high-risk high-need individuals.

What can we do in areas that don't have access to treatment courts, either because of a lack of resources or otherwise? Judges can still apply the best practices principles to their docket. Treatment courts use close supervision and accountability through frequent court review hearings with ongoing judicial interaction and encouragement through sanctions and incentives. While you implement those best practice principles into your docket, which naturally counteract impaired driving and other substance-use crime, you can advocate for a treatment court in your area. Maybe it's adding a second court because the one in your district is full. Maybe it's seeking a virtual treatment court to reach the defendants in your rural jurisdiction. The Grand Forks Veterans Treatment Court has been very successful with its virtual track.

Courts lacking the resources to develop a treatment court might consider another proven, judge-driven program, created in the early 2000s by Judge James E. Dehn, an Isanti County District Judge who sat in multiple rural Minnesota counties. His idea of staggered sentencing was codified and lives on in Minnesota statute, providing an innovative alternative to longer jail time for repeat DUI defendants. While the example is specific to impaired driving, staggered sentencing has broader application with other chemically involved defendants who are arrested for other types of crimes, such as low-level drug offenses or even domestic violence. I will include a link in the resources section for additional information.

While you may not have the docket space for weekly or bi-weekly review hearings, could you bring your higher-risk, higher-needs individuals in more frequently than just when the revocation petition is filed? Sure you can. Once you have properly identified those individuals, maybe you could have them come back once per month and reassess their situations. Tighten that timeline up to bi-weekly if they are not doing well (encourage with sanctions) and extend the time period between hearings if things are going well (encourage with incentives). Incorporating random drug/alcohol testing into the reporting requirements with swift and fair corrective action can significantly increase the accountability effect and is a best practice.

The Minnesota Legislature House Research Department has evaluated the effectiveness of staggered sentencing in reducing recidivism and counteracting impaired driving and found positive results. In addition to the direct and indirect cost savings associated with the reduced recidivism, the research report showed a substantial direct cost savings associated with reduced incarceration terms. Defendants got healthier and the system got healthier.

Many criminal acts are complex, with each case and each defendant having unique characteristics. All too often, the courts use standard sentences, regardless of the circumstances of each particular case. This is especially true in impaired driving. Judges who are willing to see that one size does not fit all, can make better decisions so that the sentences imposed are directed to the needs of each individual, ultimately making them more effective and in turn efficient. Being more effective with sentencing reduces recidivism.

4. Technology (preventing or counteracting and educating):

Embracing technology in our work is vital. By way of past example, case management software has made the bench more efficient (at least after the complaining, training, and competency of usage). By way of new example, Artificial intelligence (AI) is no longer experimental in courts.

AI is already shaping how evidence is gathered, disclosed, and presented. The question is no longer whether these tools will be used, but how they will be governed. AI generates risk scores that follow defendants from bail through sentencing. It monitors individuals on probation in real time. It influences what judges see and how issues are framed before judicial review begins. The question of whether AI will be used in the courtroom has already been answered in practice (*Five Guardrails Every Court Needs for AI*, May 3, 2026).

How can you use it to make your docket, courtroom and response to each case and individual better? Some judges in our state are already doing this!

Other technology has been around for a while but is not in use in our state, at least by our courts. We do have ignition interlock primarily because residents travel out of state and offenders may get a DUI in a

jurisdiction that uses that technology. It is the only technology that actually separates driving from drinking. When the interlock detects alcohol, the vehicle does not start. While useful, if there is no therapeutic response to the alcohol detection, the behavior is only prevented and not modified and recidivism is likely.

North Dakota is transitioning from exploring ignition interlock options to advancing legislation that would make ignition interlock installation a requirement for second-offense impaired-driving cases. A dedicated working group is currently developing recommended statutory changes and program adjustments. The NDDOT, NDSAA, and IDTF will continue collaborating to ensure that a revised ignition interlock framework integrates effectively with existing tools—such as the 24/7 Sobriety Program—to improve accountability for repeat offenders and enhance public safety.

On the newer technology side, North Dakota is working to maintain and expand the statewide roadside oral fluid screening program to support consistent, science-based identification of Drug-Impaired drivers. This ongoing work includes strengthening proficiency in use, improving deployment and data collection, and addressing operational barriers identified through the Oral Fluid Pilot Project. In parallel, our state will continue evaluating the steps necessary to develop an evidentiary oral fluid testing program, including required legislative changes, laboratory capacity needs, and potential benefits. Collaboration among the Highway Safety Division, Prosecution and Defense, the SJOL, the State Crime Lab, the DRE/SFST State Coordinator and law enforcement partners will guide both continued implementation of the screening program and exploration of an expanded evidentiary framework.

Judicial support of these new technologies and tools is important to advancing public safety. Understanding them and how they fit into our criminal justice system is key. Being more efficient and more effective will increase trust in the system. It also allows judges to see past the one-size-fits-all mentality, allowing time to individualize cases, getting better results for defendants, victims, families and the communities we serve.

5. Educating Others (preventing or counteracting and educating):

Do judges have a role in educating the public and other stakeholders? I would argue that they do. Judges are not legally obligated to educate the public, but the judicial ethical code and judicial practice strongly encourage it as part of their public service role. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects (*RULE 3.1 Extrajudicial Activities in General*).

When we know better, we should do better. We should expect this from ourselves as well as from others. Educating others can be something as simple as explaining a person's rights to them, helping a new attorney with procedure issues, or as complex as educating others on the need for screening and assessments, addiction understanding and the need for treatment.

We know from our own education that one size does not fit all. Many of us learn in different ways. Human behavior and any modification of it is often individualized and is most effective when it is. Because this might mean one defendant might receive what appears to be a different sentence than another, judges must be prepared to explain why it appears that way. Educating defendants, attorneys, and other criminal justice partners regarding differences in sentences and other judicial actions are the keys to maintain respect and trust in the system.

We should promote the collection and use of data to better inform our processes and decision making. We should seek better analysis by including people actually doing the work instead of just policy wonks from out of state. Too often data is simply collected and nothing is done with it. In addition, different areas of the criminal justice system use different data collection systems. These siloed systems make meaningful analysis and positive change difficult. Integrating data systems to better evaluate information is a reasonable goal.

In Conclusion:

Whether right or wrong, the blame for many societal issues falls on the criminal justice system. Just like Judge Stanley Goldstein in Florida or Judge James E. Dehn in Minnesota, you too can lead our courts to better results for the individuals who come before you and the communities you serve.

Judges are leaders. Judges have the ability to change perception and even process. Judges can and should be identifying opportunities to prevent or counteract impaired driving and other crimes involving substance abuse. Judges should be working to reduce recidivism through recognition of emerging trends and best practices, including substance abuse and mental health screenings and assessments, access to treatment, and increased use of and funding for Treatment Courts. Judges should support the expanded use of technology and be educating the public about the dangers and costs, both financial and social, of impaired driving and other substance abuse crime, using data to identify high-risk populations and communities.

Our approach to criminal justice and, in particular, impaired driving, should not be a one-size-fits-all situation. To once again quote Douglas B. Marlowe, J.D., Ph.D., Chief of Science, Policy & Law for All Rise, "matching the right response to the right person at the right time can and will make all the difference." Dr. Marlowe later added, "by the right professional," but the message remains the same. Our approach to the people who come before us, and in our court orders that impact them, should not be a one-size-fits-all situation. ■

Wellness Corner



In a previous issue of the newsletter we addressed the area of judicial wellness and I included some thoughts and resources in the articles and listed additional resources at the end of that issue that could help if you were experiencing secondary trauma or feeling isolated. A link can be found here: [SJOL Newsletter | 2025 Issue No 2](#). One of the articles was picked up for publication by the Judicial Division of the ABA, it can be found here: [How Judges Can Respond to Secondary Traumatization](#).

After asking for things that work well for you, I continue to receive responses. I am sharing one or two each quarter here in the "Wellness Corner" of the newsletter. Maybe one of these coping mechanisms can help you maintain and/or enhance your well-being. I appreciate the trust you have placed in the JOL and your willingness to help each other through your individual judicial careers!

1. "I recently bought a sauna. It has been life changing."
2. "I make a point to watch at least one sunset a week. It forces me to slow down, observe more of what is around me and appreciate things. The colors are often spectacular!"



FATALITIES: 71

Crashes: **65**

Operators tested positive BAC: **14**

Operators tested negative BAC: **10**

Operators not tested: **0**

Fatalities from Alcohol Crashes: **16**

No Seat belt (for seat belt eligible vehicles) **30**

Speed-related fatalities: **17**

Pedestrian fatalities: **6**

Motorcycle fatalities: **6**

ATV/recreational vehicles: **5**

Fatal crash involved lane departure: **41**

Fatal crash involved a younger driver(s) 14-20 years old: **14**

Fatal crash involved an older driver(s) 65+ years old: **14**

Fatal crash involved a train: **2**

Fatal crash involved a commercial motor vehicle(s): **10**

Holiday fatalities: **7**

*Please note that there are crashes that are still under investigation and not yet categorized.

North Dakota has a new Vision Zero page, please visit here: [Home | Vision Zero](#). You can find a link to the 2024 North Dakota Crash Summary here: [2024 North Dakota Crash Summary](#).

Recent Court Opinions of Note

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

The court opinions are a special contribution of my friend and colleague Earl G. Penrod, Senior Judge, Indiana Judicial Outreach Liaison, and Judge in Residence, National Judicial College

Opportunity to Consult with Counsel

The North Dakota Supreme Court, in an opinion regarding the opportunity to consult with counsel before deciding whether to submit to alcohol testing, and refusal affirmed the criminal judgment, denying the motion to dismiss. The Court held that if a DUI arrestee, upon being asked to submit to a chemical test, affirmatively asks or expresses a need to consult an attorney, failure to allow a reasonable opportunity to contact an attorney is not an affirmative refusal. An arrestee's conversational reference to an attorney without expressing a need to consult counsel is not an affirmative request and does not require a custodial officer to provide the arrestee an opportunity to consult with counsel.

Mere mention of an attorney does not automatically trigger an officer's obligation to provide an opportunity to consult counsel. Under *Baillie*, when an "arrestee responds with any affirmative mention of a need for an attorney, law enforcement personnel must assume the arrestee is requesting an opportunity to consult with an attorney and must allow a reasonable opportunity to do so." 522 N.W.2d at 750. The standard requires an "affirmative mention of a need for an attorney." *Id.* (emphasis added). Hernandez did not articulate an affirmative need for an attorney. His statements were not ambiguous. He simply stated he had an attorney, and later that he would call his attorney when he left the jail. Hernandez's right to counsel was not violated because he neither affirmatively asked to consult with an attorney nor did he express a need to consult counsel regarding the request for a chemical test.

State v. Hernandez, 2026 ND 95 (May 7, 2026)

(Link to full case: [State v. Hernandez](#))

Refusal of Test

The North Dakota Supreme Court, in an opinion regarding the refusal to submit to alcohol testing, affirmed the judgment, finding the court did not err. The Court held that probable cause is not an element of a test refusal offense under N.D.C.C. § 39-08-01. The existence of probable cause to arrest is a question of law subject to challenge in a pre-trial motion to suppress, rather than an issue of fact for a jury to decide. In a case involving a test refusal offense, a defendant's refusal to submit to a preliminary breath test is admissible in evidence pursuant to N.D.C.C. § 39-20-14(3), when the defendant was arrested for a violation of N.D.C.C. § 39-08-01 or an equivalent municipal ordinance, and did not take any additional tests requested by a law enforcement officer.

City of Bismarck v. Herrera, 2026 ND 97 (May 7, 2026) (Link to full case: [City of Bismarck v. Herrera](#))

Useful Resources and Links

1. North Dakota Impaired Driving Task Force's Impaired Driving Strategic Plan FFY2026–2028

Click ►►



2. DUI Screening: A Reference Guide Based on All Rise Adult Treatment Court Best Practice Standards (January 2026) Prepared by Judge Pamela A. Nesvig for ND Courts — August 2026

Click ►►

Screening DUI/Impaired-Driving Offenders for Risk and Need

3. Responsibility.org Judicial Resources

Click here: [Alcohol Responsibility Judicial Resources | Responsibility.org](#)

Click here: [Screening and Assessment](#)

Click here: [Pre-Trial Services Guide](#)

Click here: [Oral Fluid Screening.pdf](#)

4. All Rise: Risk and Needs Screening Tools for DWI/DUI

Click here: [FAQ: Risk/Need Tools for DWI Courts–All Rise](#)
and [All Rise Fact Sheet Risk/Needs Tools](#)

5. All Rise (IDS): SBIRT Screening | Brief Intervention | Referral Treatment

Click here: [SBIRT \(one-pager\)](#)

Click here: [Impaired Driving Solutions–All Rise](#)

6. Welcome to the Alcohol Interlock Curriculum for Practitioners!

This website contains a variety of instructional materials that can assist agencies and organizations in educating their staff and members about alcohol ignition interlocks.

Click here: [Overview – Alcohol Ignition Interlock Curriculum](#)

7. Minnesota Staggered Sentencing (Subdivision 6, definitions)

Click here: [Sec. 169A.275 MN Statutes](#)

8. Justice Speakers Institute: Justice & AI Explore JSI's Justice and AI resources below

Click here: [JSI Justice Publications | Science Bench Book, Reports & more](#)

Upcoming Trainings/Events/Webinars

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

ABA JOL Free Military Webinar (Non-CLE)

[Judging in the Spotlight: Navigating High-Profile Impaired Driving Cases](#)

When: September 14, 2026, 01:00 PM Eastern Time (75 mins.)

After registering, you will receive a confirmation email about joining the webinar.

National Judicial College: Upcoming free webinars & events

[Early Intervention Courts, Webinar 3: Building the Model: Structure, Roles, and Workflow](#)

September 2, 11 a.m. PDT/ Noon MDT/1 p.m. CDT/2 p.m. EDT

[The Ethics of AI for Judges](#)

September 15, 11 a.m. PDT/ Noon MDT/1 p.m. CDT/2 p.m. EDT

[Managing Stress and Increasing Resilience for Judges](#)

September 16, 11 a.m. PDT/ Noon MDT/1 p.m. CDT/2 p.m. EDT

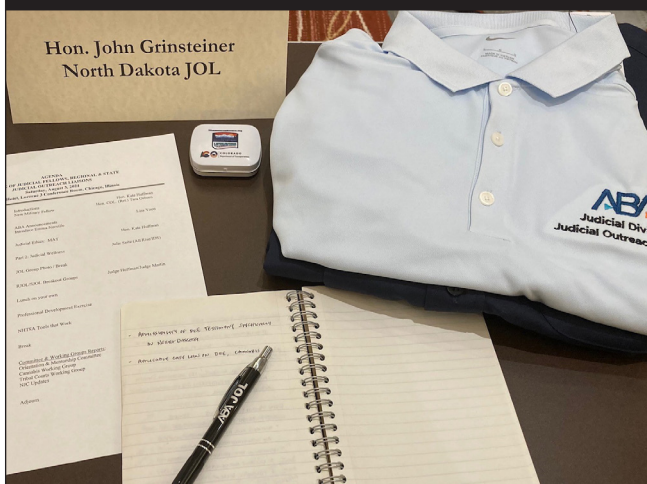
[SUDs in Tribal Courts, Webinar 4, Responding to Return to Use and Violations of Court Orders](#)

September 17, Noon PDT/1 p.m. MDT/2 p.m. CDT/3 p.m. EDT

[Old Rules, New Evidence: Evidence Rules in AI Disputes & AI-Assisted & AI Generated Evidence](#)

October 8, 11 a.m. PDT/ Noon MDT/1 p.m. CDT/2 p.m. EDT

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 (think seven degrees of Kevin Bacon), 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 the position can be, so you have a friend in me! Until next time, peace on your heart and strength for your fight no matter how big or small!

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, AllRise), John works to provide education, training, and technical assistance to judges and court staff throughout ND.

UNSUBSCRIBE

About the JOL Program ([Judicial Outreach Liaison and Fellows Program](#))

The Program provides peer-to-peer judicial education, court case interpretations, guidance, and liaisons between the judiciary and highway safety community. Our educational efforts focus on evidence-based sentencing practices, criminal justice reform, and reducing impaired driving recidivism, among others. The Program consists of three National Fellows, as well as Regional and State Judicial Outreach Liaisons (JOLs).

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