

NORTH DAKOTA IMPAIRED DRIVING

Newsletter

Welcome to the Impaired Driving Newsletter for North Dakota 2024, Volume 3; Issue 2:

In this issue of the North Dakota Impaired Driving Newsletter we say hello to the state's new Traffic Safety Resource Prosecutor (TSRP) Peter Halbach. Effective June 1, Peter takes over the vacant position left when Kristi Pettit Venhuizen became Judge Venhuizen of the NECJD. If you are from the northeast part of the state (really any part of the state), trained at Lake Region Law Enforcement Academy, or were involved in an administrative licensing hearing you are sure to recognize Peter Halbach's name. Read about his many talents in the Partner Spotlight piece by Sandy Wilson of the HSD. He is also a darn good human. We are very excited about what he brings to the table.

Also, in this issue is a preview of the upcoming summer ND Impaired Driving Conference (**June 19-21, 2024. Registration is open: <https://visionzero.nd.gov/events/IDConference>**). Don't be left out of this excellent local opportunity to learn and network with others. The conference is being held in Bismarck at the Radisson Hotel. There is no registration fee and travel expenses will be reimbursed for licensed North Dakota law enforcement. You will also find a recap of the Lifesavers Conference held April 7-9 in the mile-high city of Denver CO, along with an update on NHTSA Region 8 partnerships and an article on plea agreements from the judicial perspective. The Vision Zero Crash Board is updated and included.

Finally, included is a list of upcoming training and events along with a training resource listing. As always, feel free to share the information in this newsletter with your colleagues and we want to thank you for continuing the good fight. We wish you peace on your hearts and please be safe out there.

Volume 3, Issue 2

Welcome to the Quarterly North Dakota Impaired Driving Newsletter.

This resource will provide training information, drug and alcohol trends, legal updates, toxicology, and more to keep you informed.

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Peter Halbach

by Sandy Wilson

Program Manager III Highway Safety Division, NDDOT

The NDDOT Highway Safety Division is pleased to announce that Peter Halbach has accepted the position to become North Dakota's next Traffic Safety Resource Prosecutor, effective June 1, when he begins with the North Dakota Association of Counties.

Peter served as a hearing officer for the North Dakota Department of Transportation from 2003 until his recent retirement. Primarily, he held hearings on the suspension or revocation of driving privileges arising from impaired driving arrests. After being designated Chief Hearing Officer in 2015, his duties also included reviewing and assigning new cases, reviewing decisions and recommendations of other hearing officers, offering guidance and oversight to these officers to enhance their performance, and addressing inquiries from various stakeholders regarding the NDDOT hearing process. Additionally, he has conferred with legal professionals such as Assistant Attorney Generals and General Counsel on appeals and court opinions, aiming to comply with relevant statutes and case law.

Peter has been the municipal judge for the City of Devils Lake since 2002. Before that he was in private practice and also served as an assistant state's attorney for Ramsey County. While in law school, he worked for two years as a law clerk in the Minnesota Attorney General's Office in its Office of Public Protection, primarily supporting the Criminal and Public Safety Divisions. He also staffed the Minnesota Governor's and Attorney General's Crime Victims Task Force. After graduating from law school in 1985, he was retained as a Special Assistant Attorney General in the Tort Claims Division until his move to North Dakota in 1988.

Peter became the president of the National Association of Hearing Officials (NAHO) in 2024 after serving four years as NAHO's vice president. As vice president, he was involved in curriculum development and teaching for NAHO conferences and webinars. He was a regional representative before returning to the board as vice president. He joined NAHO in 2006 and, in 2011, earned certification from NAHO as a Certified Hearing Official (CHO). He has instructed hearing officials on evidence, administrative law, and administrative adjudication, including impaired driving cases, in webinars and at conferences across the United States.

Previously, Peter served periodically as an adjunct instructor at Lake Region State College, teaching sections on constitutional law, civil liability, evidence, criminal law, and search and seizure to law enforcement students at the Peace Officer Academy. In 2008, he attended a faculty development workshop at the National Judicial College on commercial driving privileges. He returned over the years to the NJC to study legal issues relating to traffic and impaired driving cases. In May 2024, he attended the NJC's "Drugged Driving Case Essentials" course.

In 2021, Peter was nominated for the Governor's Awards for Excellence in Public Service in two categories: The Harvest Award (Excellence in Quality) and the Landmark Award (Excellence in People Management). He was nominated again in 2023 for the Landmark Award. In 2001, the ND State Bar Association awarded him a Community Service Award.

Peter's unique blend of experience and expertise makes him an exceptional choice for the role of Traffic Safety Resource Prosecutor. His extensive background in law, particularly as a hearing officer, a municipal judge, and a former prosecutor, equips him with a deep understanding of the issues related to traffic safety. This, coupled with his commitment to public service, positions him to make significant contributions to traffic safety initiatives in North Dakota.

With his base in Devils Lake and his commitment to providing training throughout the state, Peter's appointment is a significant step toward enhancing traffic safety and reducing traffic crashes on North Dakota's roads. His dedicated presence will undoubtedly strengthen these efforts to make our roads safer for everyone.

Lifesavers Conference Recap and NHTSA R8 Partnership Update

Judge John Grinsteiner, (retired) SJOL for North Dakota

The Lifesavers Conference on Roadway Safety was April 7-9 in Denver, CO. This largest gathering of roadway professionals in the United States included local, tribal, state and federal officials; law enforcement, prosecutors, and first responders; child safety advocates, technicians, and instructors; private and non-profit program providers; victim advocates, auto, and insurance industry leaders; public health professionals and safety and injury prevention specialists; students, researchers and academics; along with transportation planners and engineers. Each year, the Lifesavers Conference allows participants to explore innovative technology and strategies to combat risky driving behaviors and save lives. [Lifesavers Conference on Roadway Safety](https://lifesaversconference.org/)

The 2024 conference was no different! There was a myriad of opportunities to learn about the latest research, best practices, and cutting-edge initiatives. This year's conference provided a national platform with 80 workshops in ten tracks, plenary sessions, dedicated networking opportunities, and an extensive exhibit hall with over 75 exhibitors. Impaired driving had its own track, allowing the topic to be covered in depth with workshops on emerging research and policies regarding ignition interlocks and other law enforcement tools and a session titled: "The Mile-High Perspective: Lessons Learned from Colorado's DUID Prosecution Data." A full list of topics covered in the Impaired Driving Track can be found here: [LS24-ID-titles-](#)

[descriptions-FINAL4-19-24.pdf](#) (lifesaversconference.org). If you have never attended a Lifesavers Conference I would strongly encourage you to do so. It's inspiring to see all the people who are working alongside you in traffic safety.

One of the highlights came during the NHTSA Public Service Awards Luncheon where members of North Dakota's Priority Emphasis Area Team was recognized for their dedication and success in passing a primary seat belt law for the state of North Dakota! Led by Ryan Gellner and Carma Hanson of Safe Kids Grand Forks, the Vision Zero Coordinators took the stage to receive the award.

Another highlight was the combined Law Enforcement Liaison (LEL); Traffic Safety Resource Prosecutor (TSRP); Judicial Outreach Liaison (JOL) meeting held the day prior to the conference and hosted by NHTSA. Judge Grinsteiner attended the meeting along with Kelly Aberle as our LEL representative. The meeting was designed to reintroduce the disciplines, re-engage former stakeholders, invigorate new stakeholders in regional and state partnerships, and foster the sharing of resources, evidenced-based best practices, and initiatives for preventing impaired driving and reducing recidivism. Presentations included clarification of roles, equity considerations, and toxicology. We hope to continue building on the momentum that was created. If you have questions or contributions, reach out to your liaison. ▀



Pictured left to right: Kelly Aberle; Beth Oestreich; Theresa Liebsch; Molly Schoen; Ryan Gellner; Carma Hanson; and Leah Kelm.

North Dakota Impaired Driving Conference Preview

Judge John Grinsteiner, (retired) SJOL for North Dakota

The 2024 North Dakota Impaired Driving Conference will be held 19-21, 2024 in Bismarck to provide law enforcement and other stakeholders the opportunity to connect and network with others from across the state as well as provide updates and training in the following areas: case law; the State Toxicology Laboratory; the administrative hearing process, including testimony; new technology implementation; brainstorming breakouts; and leadership.

We will hear from State Toxicologist Janelle Portscheller and our new TSRP, the Honorable Peter Halbach. Also presenting will be Jason Wahl, Director of the Medical Marijuana Program, NDHHS, and Attorney General Drew Wrigley. Brie Nygard, Assistant Director of Driver Record Services will also be giving some license updates, highlighting a great new link for suspended drivers. National speakers include Chuck DeWeese from Connecting Clients Consulting LLC and Rob Duckworth, the Regional Program Manager for Intoximeter.

Keynote Speaker Ryan Hutton with Extract-ED Training will highlight officers' continued career challenges beyond the daily stressors of performing their duties. Though we cannot control what problems we face, we can control our reactions to them. If we want to change the direction of our career and agency, we need to first work on ourselves. Nothing will change until we change. Hutton will talk about how to build resilience, work-life balance, burnout, pessimism, and positive mindsets. This presentation will focus on the importance of understanding how to take ownership and become the architect of your career.

Schedule: Wednesday, June 19, 2024: 1- 5 p.m.
Thursday, June 20, 2024: 8:30 a.m.- 5 p.m.
Friday, June 21, 2024: 8:30 am- Noon
Cost: No registration fee and travel expenses for law enforcement will be reimbursed
Location: Radisson 605 E Broadway Ave. Bismarck, ND 58501

North Dakota 2024 Fatal Crash Statistics as of 5/9/2024



Fatalities: 18

Crashes: 18

Operators Tested Positive BAC: 5

Operators Tested Negative BAC: 4

Operators Not Tested: 1

Fatalities from Alcohol Crashes: 5

No Seat belt (for seat belt eligible vehicles) 5

Speed-related fatalities: 3

Pedestrian fatalities: 0

Motorcycle fatalities: 1

Fatal Crash Involved Lane Departure: 13

Fatal Crash Involved a Younger Driver(s) 14-20 years old: 2

Fatal Crash Involved an Older Driver(s) 65+ years old: 7

Fatal Crash Involved a Train: 0

Fatal Crash Involved a Commercial Motor Vehicle(s): 8

Holiday Fatalities: 0

For a full look at the Fatal Crash Stat Board and how the numbers compare to 2023 and 2022, visit: [2024 Fatality Spreadsheet.xlsx \(nd.gov\)](#). It should be noted that there are currently 8 crashes that are under investigation and not yet categorized. Click to view the [NDDOT 2022 Crash Summary](#).

Plea Agreements: Should the Judge Accept?

Judge John Grinsteiner, (retired) SJOL for North Dakota

Did you know that according to the Bureau of Justice statistics, 90-95% of all state and federal criminal cases are resolved by plea agreement?

It happens regularly and the story sounds hauntingly familiar. The prosecutor announces a plea agreement where the defendant will plead as charged to DUI. The defendant has two prior DUI arrests that resulted in reckless driving convictions. The prosecutor recommends a fine, court fees, and unsupervised probation, since technically this is defendant's first DUI conviction and he is already attending a 6-week alcohol education program recommended from an already completed evaluation. The judge either accepts the plea on the record or signs off on the plea agreement disposing of the case.

What does the judge typically know about the case-specific facts?

Not likely as much as you may think. The judge may have some information from a bond hearing (if they actually were the one who held the bond hearing) or pre-trial report (if there are pretrial services in that district). The complaint includes a police report that may or may not be well written (not if charged on a citation). But the judge likely does not know a complete traffic and criminal history, charges that did not result in a conviction nor the reasons why, or other relevant details. The judge certainly doesn't have the results of the drug and alcohol evaluation, which may actually be the most important piece of information in crafting an effective sentence. It is a little like trying to assess a patient upon their entry into the emergency department. The doctor doesn't have access yet to the patient's history nor the results of any scans or blood work – all things that would be helpful in getting the right diagnosis and treatment protocol.

What does the judge want to know?

As much as you can tell me! It could include case-specific details, information on any testing limitations and traffic history. That traffic history should include any speeding, distracted driving, reckless driving, and criminal history with emphasis on impaired driving history, including any dismissals, reductions, and deferrals. I would like to know substance use/abuse history and any diagnosis and/or recommendations from a screening and any evaluations. Finally, I would want to see any past pre-trial and post-sentencing supervision compliance issues and whether

the defendant has been successful or not in previous treatment.

What is lurking beneath the surface of the plea agreement?

Again, let's assume the same limited facts from the beginning. The prosecutor announces a plea agreement where the defendant will plead as charged to DUI. The defendant has two prior DUI arrests that resulted in reckless driving convictions. The prosecutor recommends a fine, court fees, and unsupervised probation, because technically this is the defendant's first DUI conviction and he is already attending a 6-week alcohol education program recommended from an already completed evaluation.

After obtaining additional information from counsel, the Judge learns that the defendant was driving 90 mph in a 45-mph zone when first observed by the arresting officer, who also noticed the strong smell of burnt marijuana coming from the vehicle. In addition, in his two prior DUI arrests resulting in reckless driving convictions, also by plea agreements, and the defendant failed to complete a court-ordered evaluation for treatment. The seemingly benign plea agreement just became an entirely different story and case. I hope this is starting to help you understand what can be a disconnect between what happened on the road (front end) and what comes out of the courthouse (back end).

Where is Paul Harvey with the “rest of the story” when you need it? Why does this happen?

There are many barriers, challenges and obstacles in our courts and system. Heavy caseloads are the first thing that comes to mind. This is not limited to the courts, with prosecution and defense experiencing the same caseloads and lack of resources. Incomplete information is another reason (as evidenced by the example above). 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 the 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 the outcome.

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Where does that leave us?

I hope it leaves you wanting more and I really hope it leaves you wanting better. Does the judge have to accept the plea agreement? Is the judge required to follow the sentencing recommendation? Do you know a judge who has rejected a plea agreement? How is that judge perceived? I will bring you a follow-up article next quarter that I hope will further your understanding of the sometimes disconnect between what happened on the road and what comes out of the courthouse doors.

What can you do?

In the meantime, don't assume. Ask questions. Communicate with others, especially those up or down the system from you. The single biggest problem with communication is the illusion that it has taken place. Communication leads to relationships and relationships almost always lead to better results.

To leave you with a positive takeaway and an example of what can be done, look to what North Dakota Parole and Probation is doing with pretrial services. [PowerPoint Presentation \(nd.gov\)](#) They are providing screenings, assessments, and pretrial supervision, which is driving better information to the court and securing better results. They wanted better and are doing it!

Upcoming Training and Events

IACP Impaired Driving and Traffic Safety (IDTS) Conference

August 16–18, 2024
Washington, D.C.

<https://www.theiacp.org/IDTSconference>

Governors Highway Safety Association (GHSA)

September 7–11, 2024
Indianapolis, Indiana

<https://www.ghsa.org/events/Annual-Meetings/2024>

National Interdisciplinary Cannabis Symposium

September 27–29, 2024

New York Law School, New York, New York

[2024 National Interdisciplinary Cannabis Symposium](#)

National Alliance to Stop Impaired Driving (NASID)

November 18–20, 2024

Arlington, Virginia

[Summary–NASID Conference 2024 \(cvent.com\)](#)

DRE/SFST Instructors Inservice

December 10–11, 2024

Holiday Inn

Bismarck, North Dakota

*more info will be available in Fall 2024

Training Resources

TSRP Webpage • www.ndsaa.org

User Name: tsrp • Password: tsrp

This website was developed to provide those invested in traffic safety with a warehouse for current information, training opportunities, case law updates, related resources, interesting and relevant news articles, etc., so we can continue to focus on our goal of making North Dakota's roadways safe. Following is a list of items available.

- Impaired Driving Training Materials & Manuals
- Memo Library
- Impaired Driving Training Video Library
- SFST Training Videos
- The Two Beer Manual and latest case law updates
- Webinars



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