

North Dakota
Attorney General's Office

24/7



Attorney General Wayne Stenehjem

DUI Laws

- Misdemeanor Offenses
 - First DUI/APC = class B misdemeanor
 - Second DUI/APC = class B misdemeanor
 - Third DUI/APC = class A misdemeanor
 - Third offense w/in five years
 - Fourth DUI/APC = class A misdemeanor
 - Fourth offense w/in seven years
- Felony Offenses
 - Fifth and subsequent (w/in 7 yrs) = class C felony

DUI ARRESTS by County for 2008

Ranked Greatest to Least

| County | DUI Arrests | County | DUI Arrests |
|-------------|-------------|---------------|-------------|
| Cass | 1080 | Cavalier | 10 |
| Burleigh | 537 | Dickey | 8 |
| Ward | 436 | Oliver | 8 |
| Grand Forks | 353 | McIntosh | 7 |
| Morton | 327 | Kidder | 7 |
| Stark | 209 | Emmons | 5 |
| Stutsman | 158 | Wells | 5 |
| Ramsey | 148 | Logan | 5 |
| Williams | 89 | Towner | 5 |
| Barnes | 80 | Pierce | 4 |
| Richland | 78 | Griggs | 4 |
| Walsh | 72 | Renville | 2 |
| Pembina | 69 | Sheridan | 1 |
| Mountrail | 59 | Bowman | 1 |
| Mercer | 56 | Burke | 0 |
| McLean | 43 | Hettinger | 0 |
| Traill | 36 | Bottineau | 0 |
| Ransom | 24 | LaMoure | 0 |
| McKenzie | 20 | Grant | 0 |
| Dunn | 17 | Slope | *DNR |
| Rolette | 13 | Benson | *DNR |
| Sargent | 13 | Billings | *DNR |
| Nelson | 13 | Divide | *DNR |
| Eddy | 11 | Golden Valley | *DNR |
| McHenry | 11 | Sioux | *DNR |
| Adams | 11 | Steele | *DNR |
| Foster | 10 | | |

*DNR – Did Not Report

2008 Total DUI/Arrest: 4045 (This total does not include Highway Patrol arrests)

DUI ARRESTS AND CONVICTIONS 2002-2008

| | Arrests | Convictions |
|-------------|----------------|--------------------|
| 2002 | 4114 | 3993 |
| 2003 | 4982 | 4673 |
| 2004 | 5985 | 5132 |
| 2005 | 6101 | 5118 |
| 2006 | 5463 | 4601 |
| 2007 | 5175 | 4268 |
| 2008 | 6052 | 5114 |

AGE GROUPS AND BAC OF DUI'S IN NORTH DAKOTA FOR 2008

| <u>Age</u> | <u>Number</u> | <u>Percent</u> |
|-------------------------|---------------|----------------|
| 14-17 | 48 | .7% |
| 18-20 | 468 | 7.6% |
| 21-25 | 1621 | 26.8% |
| 26-34 | 1601 | 26.5% |
| 35+ | 2314 | 38.2% |
| <hr/> | | |
| Total | 6052 | 100.0% |
| | | |
| <u>BAC</u> | <u>Number</u> | <u>Percent</u> |
| 0-.17 | 2518 | 41.6% |
| .17+ | 1685 | 27.8% |
| Refused | 874 | 14.4% |
| Not on File (NOF) | 975 | 16.1% |
| (Admin Hearing Skipped) | | |

PERCENT OF TRAFFIC FATALITIES THAT WERE ALCOHOL RELATED

| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 YTD 10/18/09 |
|---|--------|--------|--------|--------|--------|--------|--------|--------|--------|-------------------------|
| Alcohol Related Fatality/ Total Fatality | 42/119 | 52/105 | 48/97 | 53/105 | 38/100 | 56/123 | 47/111 | 63/111 | 54/104 | 47/117 |
| Totals | 35.29% | 49.52% | 49.48% | 50.48% | 38% | 45.33% | 42.34% | 56.76% | 52% | 40% |

OTHER OFFENSES

| | ND CC 12.1-17-02 Aggravated Assault | ND CC 12.1-22-02 Burglary | ND CC 39-08-01 Driving Under the Influence (DUI) | ND CC 12.1-24-01 Forgery/ Counterfeiting | ND CC 19-03.1-23 (6) Possn. Of Controlled Substance |
|----------------------------|--|--|---|---|--|
| 2000-2009 (YTD) | 1,734 | 3,060 | 31,564 | 2,749 | 11,355 |
| Percentages | 3% | 6% | 63% | 5% | 23% |

- Alcohol and/or Drug violations make up 86%

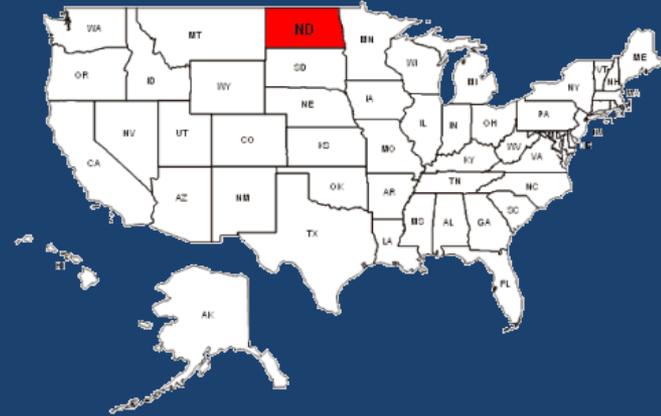
MISDEMEANOR/FELONY PRISON ADMISSIONS

| | 2006 | 2007 | 2008 | 2009 <small>1/01/09-09/30/09</small> |
|--|-----------|-----------|-----------|---|
| Aggravated Assault | 47 | 49 | 71 | 31 |
| Actual Physical Control Misdemeanor | 2 | 1 | 4 | 2 |
| Actual Physical Control Felony | 1 | 0 | 0 | 0 |
| DUI Misdemeanor | 26 | 16 | 24 | 10 |
| DUI Felony | 14 | 20 | 22 | 7 |

THE BIG PICTURE: ALCOHOL AND CRIME

THE NATIONAL PROBLEM

- 1.5 million DUI arrests each year
 - 66% first time
 - 33% repeat offenders
- 700,000 DUI convictions
- 16,885 alcohol-related fatalities ('05)
- 39% of all traffic deaths involved alcohol
- 75% of all domestic violence offenses
- \$32.5 billion a year lost/spent on alcohol-related crime



| DUI in North Dakota | | | |
|---------------------|---------------------|---------------------|---|
| | 1 st DUI | 2 nd DUI | 5 th DUI (felony offense) |
| 2003 | 3,428 | 1,101 | 45 1% overall |
| 2004 | 4,314 | 1,225 | 50 1% overall |
| 2005 | 2,605 | 2,478 | 75 1% overall |
| 2006 | 3,547 | 1,390 | 35 1% overall |
| 2007 | 3,286 | 1,398 | 41 1% overall |
| 2008 | 4,564 | 1,400 | 36 1% overall |
| 2009 | 3,353 | 1,162 | 35 1% overall |

HISTORY: 60th Session

The 60th Legislative Assembly, in Section 11 of Senate Bill 2003, authorized the Attorney General to establish a sobriety program pilot project in one or more judicial districts of the state. The sobriety program involved coordination among state, county, and municipal agencies. The Attorney General, in cooperation with Law Enforcement, the Judiciary, the Department of Corrections and Rehabilitation, and the Department of Transportation Traffic Safety Division, was authorized to develop guidelines, policies and procedures, and to establish user fees for a sobriety program pilot project.

Guidelines for Pilot Program

3 conditions of bond:

1. If a defendant is charged with a second or subsequent offense in violation of NDCC 39-08-01 or equivalent ordinance, a Court may condition any bond or pre-trial release that the defendant not consume any alcoholic beverages and may also order the defendant to participate in a sobriety program in which the defendant will submit to twice-per-day breath testing seven days per week through an on-site breath test, or if the defendant is eligible for electronic alcohol monitoring.

Guidelines for Pilot Program

3 conditions of bond cont.:

1. cont.

The Court may also condition any bond or pre-trial release on payment of the associated costs and expenses of the sobriety program.

Guidelines for Pilot Program

3 conditions of bond cont.:

2. The Court may also order as a condition of bond for a defendant charged with a first offense of NDCC 39-08-01 or equivalent ordinance that the defendant participate in the sobriety program if in the Court's discretion, participation is appropriate.

Guidelines for Pilot Program

3 conditions of bond cont.:

3. The Court may also order participation in the sobriety program as a condition of probation under a sentence for conviction of a violation of NDCC 39-08-01 or equivalent ordinance.

HISTORY: 61st Session

The 61st Legislative Assembly, in House Bill 1306, authorized the Attorney General to expand the sobriety program pilot project to all judicial districts across the state. The sobriety program was expanded to implement procedures as alternatives to incarceration for offenders charged with, or convicted of, driving under the influence of alcohol or controlled substances, domestic violence, abuse or neglect of a child, or for other offenses in which alcohol or controlled substances are involved. The sobriety program was expanded to include twice-per-day breath alcohol testing, electronic monitoring, and random drug testing by law enforcement

HISTORY: 61st Session cont.

The sobriety program with cooperation of the Department of Transportation was approved to grant a temporary restricted driver's permit to sobriety program participants to drive to and from the testing site.

Guidelines for State Wide Program

Conditions of bond, pre-trial, and post conviction

1. The sobriety program is established to implement procedures as alternatives to incarceration for offenders charged with, or convicted of:
 1. Driving under the influence of alcohol or controlled substances;
 2. Domestic violence;
 3. Abuse or neglect of a child;
 4. Or for other offenses in which alcohol or controlled substances are involved.

Guidelines for State Wide Program

Conditions of bond, pre-trial, and post conviction

1. The sobriety program is to enforce compliance with the sobriety guidelines by the following means:
 1. Sobriety testing twice per day seven days per week;
 2. Electronic monitoring , including home surveillance and remote electronic alcohol monitoring;
 3. Urine testing and drug patch testing
 4. And establish fees, all of which are not subject to 28-32.

Guidelines for State Wide Program

Conditions of bond, pre-trial, and post conviction

1. The sobriety program created the Twenty-Four Seven Sobriety Program Fund. This fund is administered by the Attorney General and can consist of appropriated funds; moneys received from grants; agencies of this state; private grants, gifts, or donations; and program fees.
2. Funds are to used toward the operation of the sobriety program.

Guidelines for State Wide Program

Conditions of bond, pre-trial, and post conviction

1. The sobriety program granted a criminal justice agency the permission to collect program fees from offenders participating in the sobriety program, including fees for:
 1. Twice per day breath alcohol testing
 2. Urine Testing
 3. Drug patch testing
 4. Installation and deactivation fees for remote electronic monitoring devices
 5. Remote electronic monitoring daily fees

Guidelines for State Wide Program

Conditions of bond, pre-trial, and post conviction

1. Criminal justice agencies shall pay all program fees into the general fund of the governing body. The fees may only be applied to:

1. Twenty-four seven sobriety program support services;
2. Equipment maintenance and replacement;
3. Compliance with the program.

**The governing body shall pay any daily fees collected for remote electronic monitoring to the state twenty-four seven sobriety program fund.

Guidelines for State Wide Program

Temporary Restricted Driver's Permit

1. If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance and the offender's driver's license is not subject to an unrelated suspension or revocation, the director (NDDOT) shall issue a temporary restricted driver's permit to the offender only for the purpose of participation in the twenty-four seven sobriety program.

Guidelines for State Wide Program

Temporary Restricted Driver's Permit

2. The participant must provide proof of financial responsibility and proof of participation in the program by the offender.
3. If the court or the parole board finds that an offender has violated a condition of the sobriety program, the court or parole board may order the temporary restricted driver's permit be revoked and take possession of the permit.

Guidelines for State Wide Program

Temporary Restricted Driver's Permit

4. The court or parole board shall send a copy of the order to the director (NDDOT) who shall record the revocation of the temporary restricted driver's permit.
5. Revocation of a temporary restricted driver's permit for violation of a condition of the sobriety program does not preclude the offender's eligibility for a temporary restricted driver's license under any other provisions of state law.

Guidelines for State Wide Program

Parole and Probation

1. The parole board may authorize participation in the twenty-four seven sobriety program as an intermediate sanction or condition of parole.

Guidelines for State Wide Program

Parole and Probation

2. Unless waived on the record by the court, the court shall also provide as a condition of probation that the defendant undergo various agreed-to community constraints and conditions as *intermediate measures* of the department of corrections and rehabilitation to avoid revocation, which may include the following:

Guidelines for State Wide Program

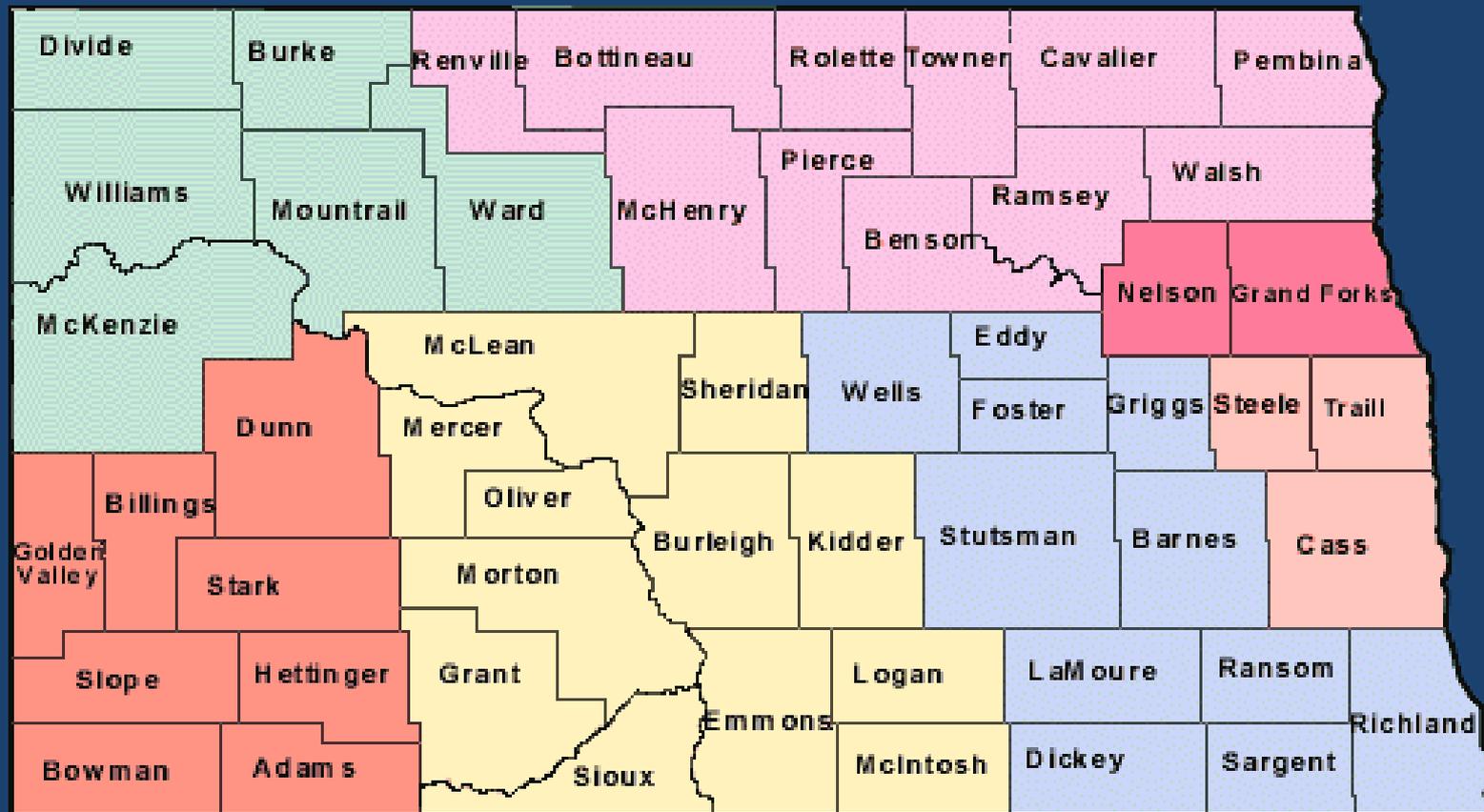
Parole and Probation

1. Intermediate Measures:
 - a. Community Service;
 - b. Day reporting;
 - c. Curfew;
 - d. Home confinement;
 - e. House arrest;
 - f. Electronic Monitoring;
 - g. Residential halfway house;
 - h. Intensive supervision program;
 - i. or Participation in the twenty-four seven sobriety program.

ABOUT THE PROGRAM

Pilot Program

12 Counties in the South Central Judicial District



ABOUT THE PILOT PROGRAM:

12 Counties in the South Central Judicial District

Burleigh

Emmons

Grant

Kidder

Logan

McIntosh

McLean

Mercer

Morton

Oliver

Sheridan

Sioux

2 counties in the Northeast Central Judicial District

Grand Forks

Nelson

1/1/08 - Present

COUNTY/LOCATION OF TESTING

*includes both current *and* discharged participants

| Testing County | Participants | Percent |
|-------------------|--------------|---------|
| Benson | 0 | 0.0% |
| Bottineau | 0 | 0.0% |
| Burleigh | 255 | 55.6% |
| Cass County Jail | 0 | 0.0% |
| Cavalier | 2 | 0.1% |
| Emmons | 0 | 0.0% |
| Grand Forks Co CC | 47 | 10.4% |
| Grant | 0 | 0.0% |
| Kidder | 5 | 1.3% |
| Lake Region | 0 | 0.0% |
| McIntosh | 5 | 1.3% |
| McLean | 13 | 2.8% |
| Mercer | 9 | 2.0% |
| Morton | 102 | 23.6% |

| Testing County | Participants | Percent |
|----------------|--------------|-------------|
| Nelson | 0 | 0.0% |
| Oliver | 2 | 0.5% |
| Pembina | 0 | 0.0% |
| Pierce | 0 | 0.0% |
| Renville | 0 | 0.0% |
| Rolette | 0 | 0.0% |
| Sheridan | 3 | 0.5% |
| Sioux | 0 | 0.0% |
| Steele | 0 | 0.0% |
| Towner | 0 | 0.0% |
| Traill | 0 | 0.0% |
| Walsh | 0 | 0.0% |
| Total | 482 | 100% |

ABOUT THE PROGRAM

- *DUI-alcohol and controlled substances; Domestic violence; Abuse or neglect of a child; other offenses involving alcohol or controlled substances
- *Bond Condition; Pretrial Condition; Post conviction requirement
- *Court Mandated
- *Monitored: Intoxilyzer Twice per Day
 - Remote Electronic Alcohol Monitoring Bracelet
 - Urine/Drug testing

GOAL:

- Defendant sobriety - 24/7
- Target group
 - = anyone arrested for DUI (alcohol or drugs) with prior conviction in the last 10 years
 - = anyone arrested for controlled substance abuse.
 - = anyone arrested for abuse or neglect of a child
 - = anyone arrested for a crime involving alcohol/controlled substance
 - = anyone on parole or probation involved in a crime listed above (intermediate measure)

PROGRAM CONDITIONS

- No alcohol
- No bars
- Breath test - 7 a.m. and 7 p.m. or,
- Electronic Monitoring;
- Random U/A or Drug Patch test;
- Defendant pays for the program;
- If you skip or fail, **you go to jail**;
- Does NOT replace any treatment component.

BENEFITS

- Parents, Spouses, and Children are safer
- Public is safer
- Defendant will spend less time in jail
- Treatment prospects improve
- Defendant's employer happy
- ALMOST NO COST TO TAXPAYER

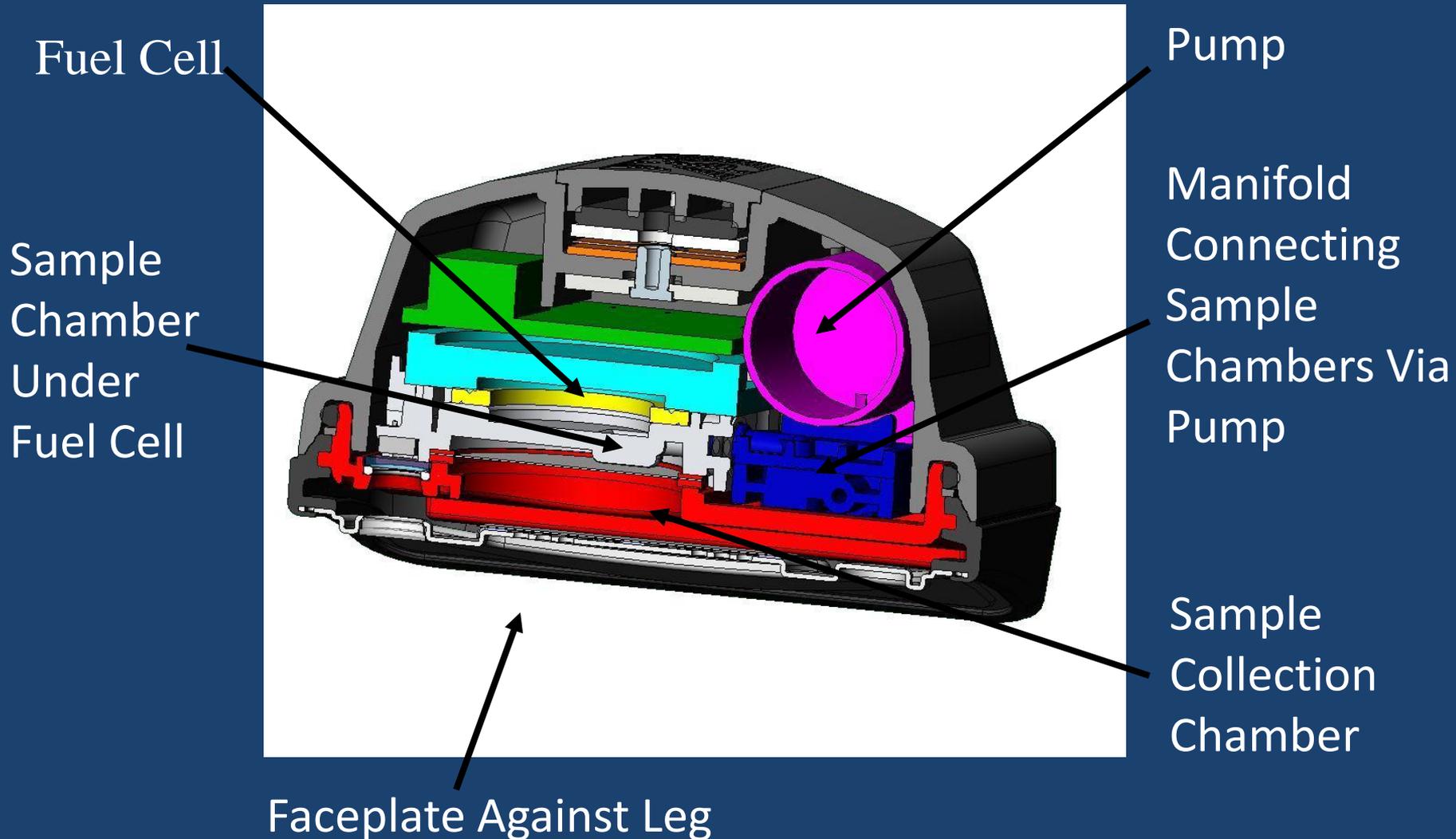
The Alco-Sensor FST and/or CMI SD-5 are the newest instruments in their companies product lines. Offering both direct and passive sampling, these instruments produce fast, reliable, accurate results in a package that is designed so that the operator has maximum control over the subject during sample collection.



Alcohol Monitoring System (AMS) Secure Continuous Remote Alcohol Monitoring (SCRAM)



HOW SCRAM WORKS

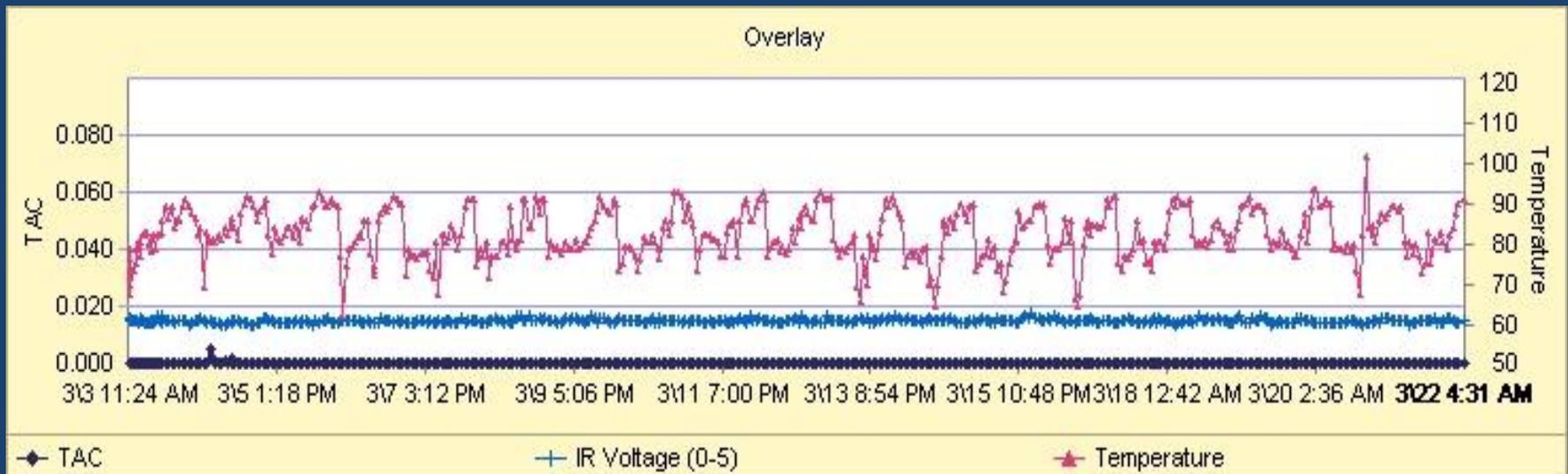


Three Tests With Every Sample:

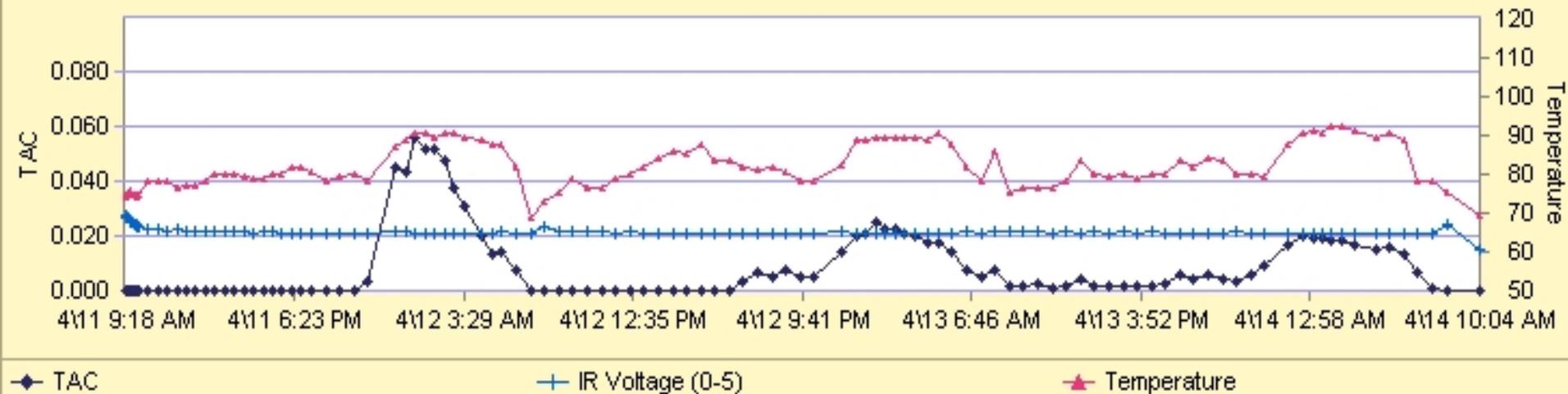
Ethanol

Temperature

IR



Overlay



Alerts

| Alert Description | Start Date/Time | Status | Resolution |
|-------------------|---------------------|---|-------------|
| Alcohol Detected | 04/11/2009 11:51 PM | Resolved | Confirmable |
| Action Log: | | | |
| Contact AMS | 04/14/2009 2:02 PM | | |
| Confirmable | | | |
| Contact AMS | 04/13/2009 7:38 AM | Confirmed | |
| Confirmable | | | |
| Contact AMS | 04/12/2009 9:50 AM | Appears to be low- level consumption. | |
| | | Awaiting return to zero to complete analysis. | |

SCRAM STATS

January 1, 2008 through March 22, 2010

- 71 participants
- 2926 total monitoring days for an average of 60 days per participant
- 81.2% were fully compliant during monitoring period
- 14.8% completed their monitoring period with one or two violations (drinking or tampering)

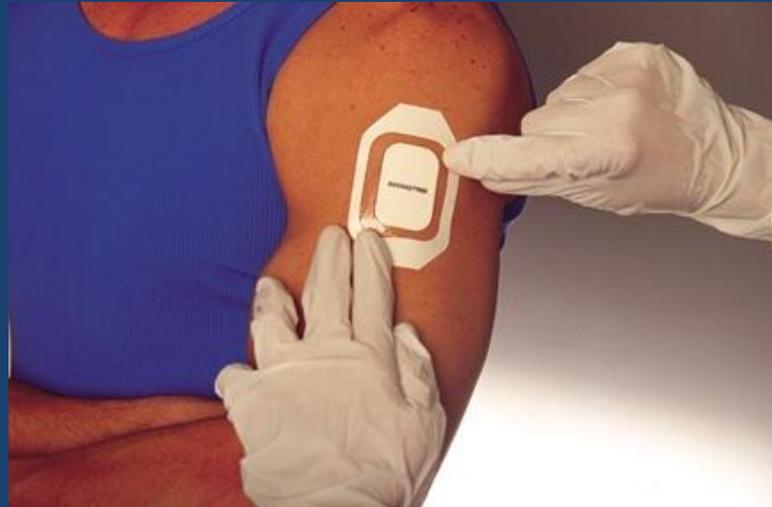
DRUG URINALYSIS (Redwood Toxicology)

- Detection of drugs through urine test
- Detectable drugs
 - Cocaine
 - Opiates
 - Amphetamines
 - Marijuana
 - OxyCodone
 - PCP
 - Antidepressants
 - Ecstasy



DRUG PATCH (Pharmacheck)

- Detection of drugs
- through sweat test
- Detectable drugs
 - Cocaine
 - Opiates
 - Amphetamines
 - Marijuana
 - OxyCodone
 - PCP
 - Antidepressants
 - Ecstasy



24/7: AVAILABLE SERVICES

\$1.00

per test

\$2.00

p/day



– PBT

- Small counties
- Ease and Test

\$5.00 per day



– SCRAM

(\$25.00

activation &

\$25.00

deactivation)

- Small counties
- No jail
- Defendant has odd situation

\$40.00

per patch



– Drug Patch

- Small counties
- Counties without female staff

\$5.00 per test

\$12.50 for

Laboratory

Confirmation



– Drug Urinalysis

- Counties with high volume
- Need both male and female staff

APPLICABILITY – ALL CRIMES

1. Pre-trial

- Bond conditions

2. Parole

- Parole Board imposed

3. Probation (supervised and unsupervised)

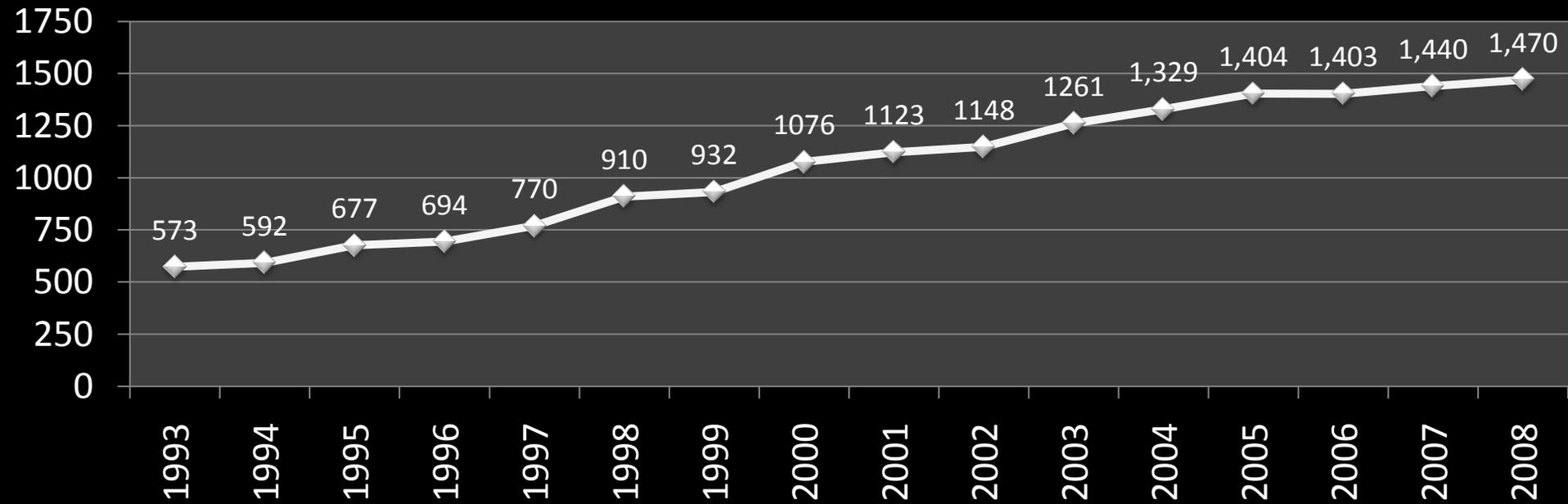
- Intermediate Measure

4. Post conviction

- Conditions of sentence

DOC Prison Population

Inmate Count on Dec 31



24/7 WEB APPLICATION

24/7 Program

TEST ENVIRONMENT

BCI - Admin. Only

[Main](#) [Search](#) [New Participant](#) [Help](#) [Logout](#)

Site Administration

[Daily Payments](#)

[List No Shows](#)

[Add Existing Participant](#)

[Unpaid Fees](#)

[Fees Owed To The State](#)

[Calibrations](#)

Useful Links

[SCRAM](#)

[SCRAM Supplies](#)

Current Participants

Removed Participants

24/7 WEB APPLICATION

24/7 Program

TEST ENVIRONMENT

BCI - Admin. Only

Main Search New Participant Help Logout

Joe Doe [Edit](#) [Change Status](#)

| | | | |
|------------------------|-------------------|---------|-------------------------------|
| Participant # | F9N6-GTN8 | Balance | |
| Type | Court | | View Account |
| Judge | | | |
| Arresting Jurisdiction | | Tests | |
| Offense Date | | | Add Test Type |
| Sites | BCI - Admin. Only | | |
| Start | 12/11/2007 | | |
| Scheduled End | 1/1/2008 | | |
| Actual End | | | |
| End Reason | | | |
| Offense | DUI 1st Offense | | |

There are no tests. In order to log test results, you must [Add a Test Type](#)

| Date | Type | Result | Testing Officer | PBT Value | Fee |
|------|------|--------|-----------------|-----------|-----|
|------|------|--------|-----------------|-----------|-----|

[Show All...](#)

Participant Information

Gender Male
DOB
Hair Color
Eye Color
Height
Weight

OLN

Address 1 Some Street
Bismarck, ND 58501
Alternate

County BURLEIGH

Home
Work
Cell
Email

Interested Parties

[New Interested Party](#)

Employment Information

Employer
Address

Supervisor
Work
Cell

Current Numbers/Statistics

- As of 03/22/10
 - 482 total participants
 - 72 active
 - 314 graduated
 - 87 failed
 - 9 re-offended

Current Numbers/Statistics

- Present and Successful PBT tests versus No shows and failed PBT tests
- 98.5 % Success rate

Total PBT tests: 33,632

- Present and Successful PBT tests: 33,137
- No Shows and Failed PBT tests: 495
 - 204 failed tests; 291 no shows

Current Numbers/Statistics

- Electronic Monitoring Devices: (total 104)

24/7 CONTACT INFORMATION

Special Agent Tom Dahl

NDBCI

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