

*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

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

- Alcohol and/or Drug violations make up 86%

# MISDEMEANOR/FELONY PRISON ADMISSIONS

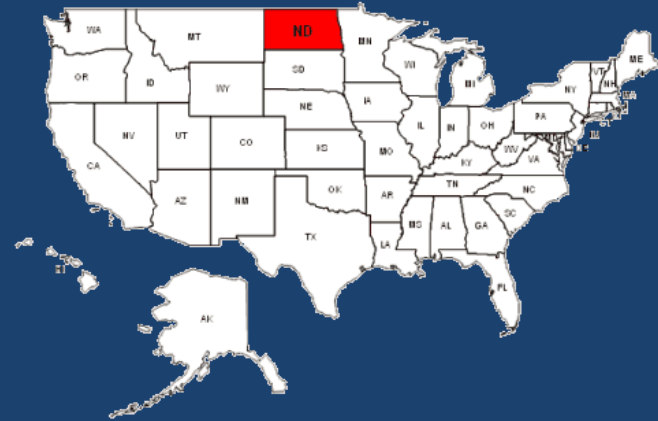
	2006	2007	2008	2009 <small>1/01/09-09/30/09</small>
<b>Aggravated Assault</b>	<b>47</b>	<b>49</b>	<b>71</b>	<b>31</b>
<b>Actual Physical Control Misdemeanor</b>	<b>2</b>	<b>1</b>	<b>4</b>	<b>2</b>
<b>Actual Physical Control Felony</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>DUI Misdemeanor</b>	<b>26</b>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



# 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 <sup>st</sup> DUI	2 <sup>nd</sup> DUI	5 <sup>th</sup> 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: 60<sup>th</sup> Session

The 60<sup>th</sup> 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: 61<sup>st</sup> Session

The 61<sup>st</sup> 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: 61<sup>st</sup> 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

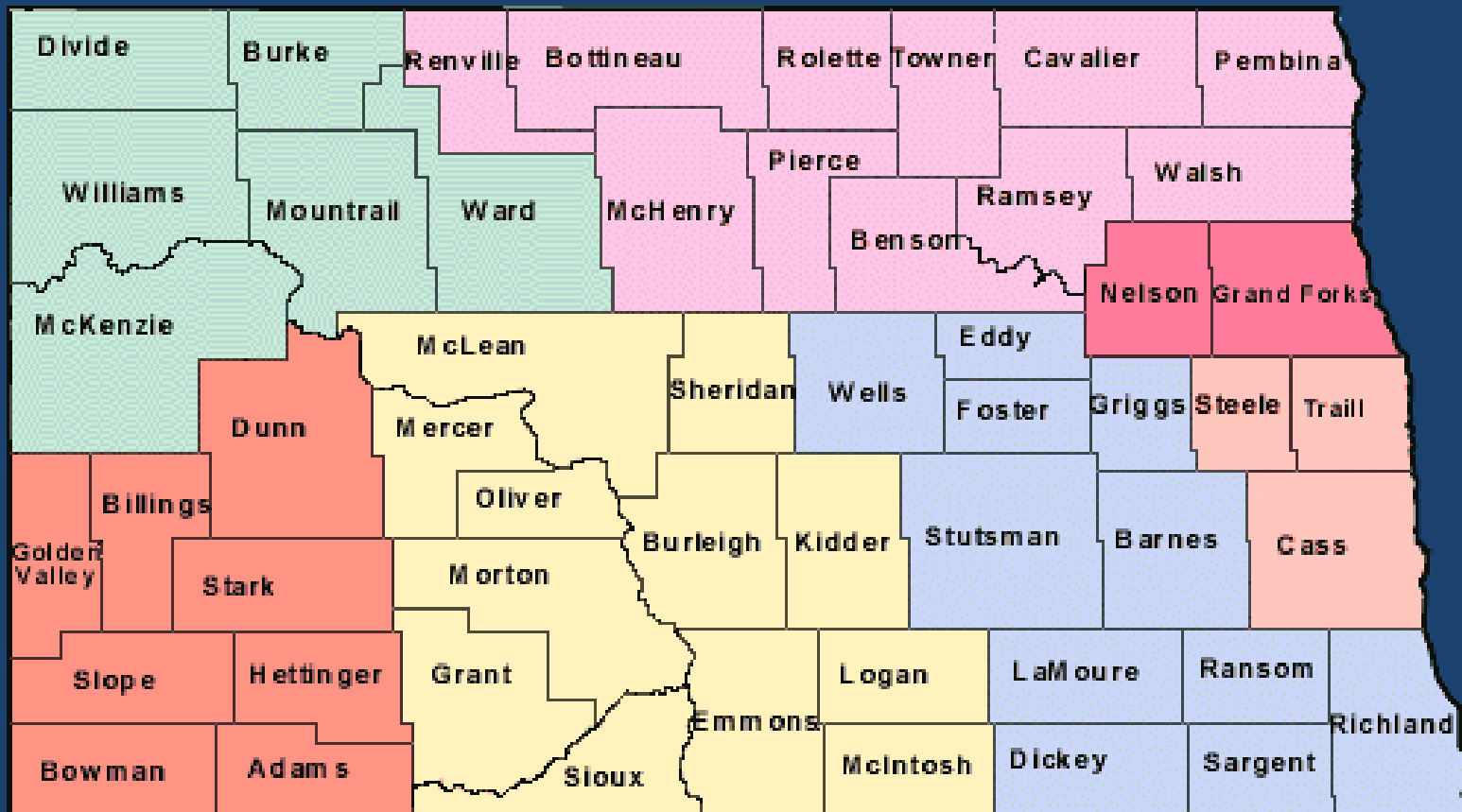
### 1. Intermediate Measures:

- 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%
<b>Total</b>	<b>482</b>	<b>100%</b>

# 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

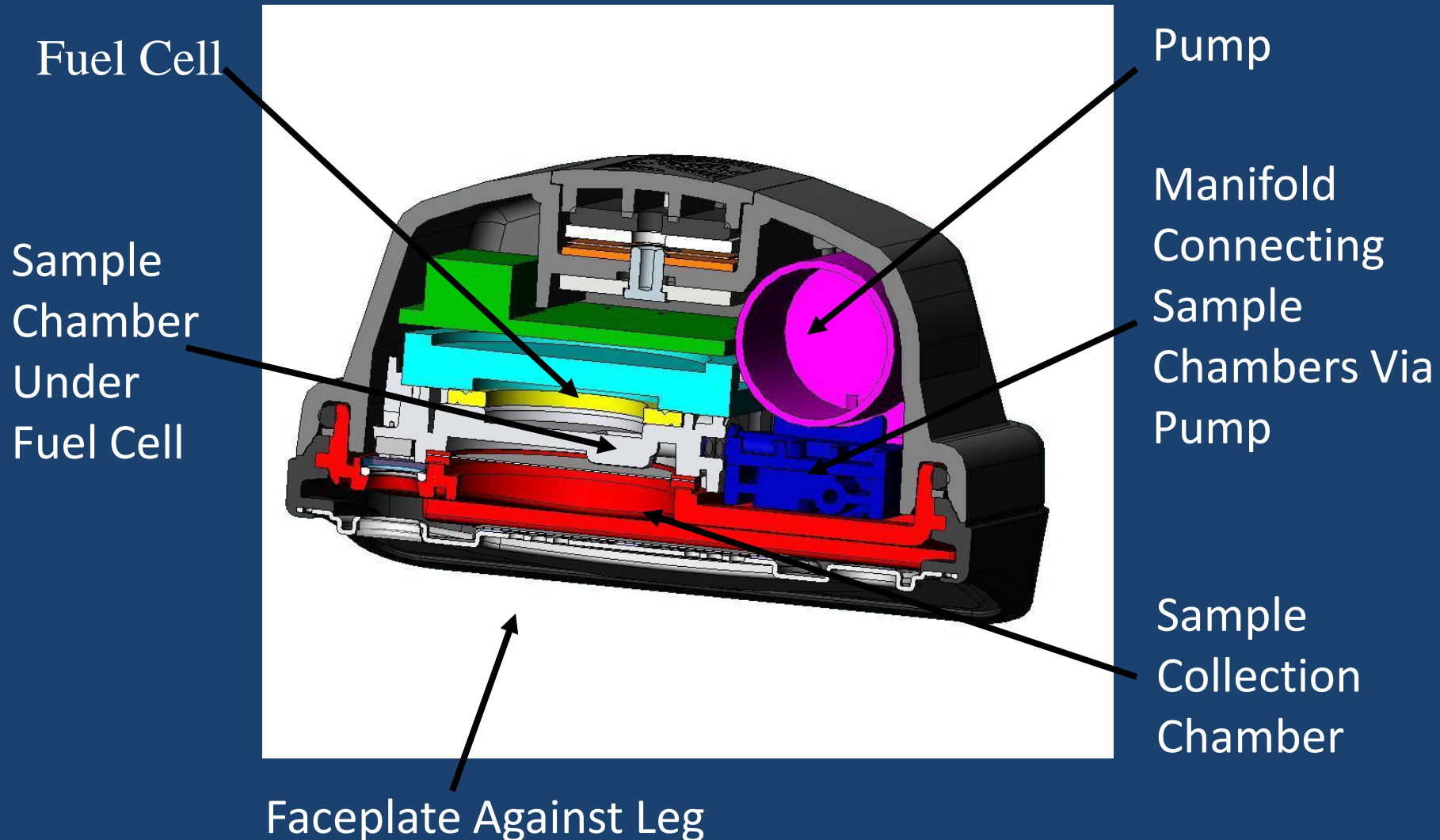
The Alco-Sensor FST and/or CMI SD-5 are the newest instruments in their companies product lines. Offering both direct and passive sampling, these instruments produce fast, reliable, accurate results in a package that is designed so that the operator has maximum control over the subject during sample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



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



# HOW SCRAM WORKS

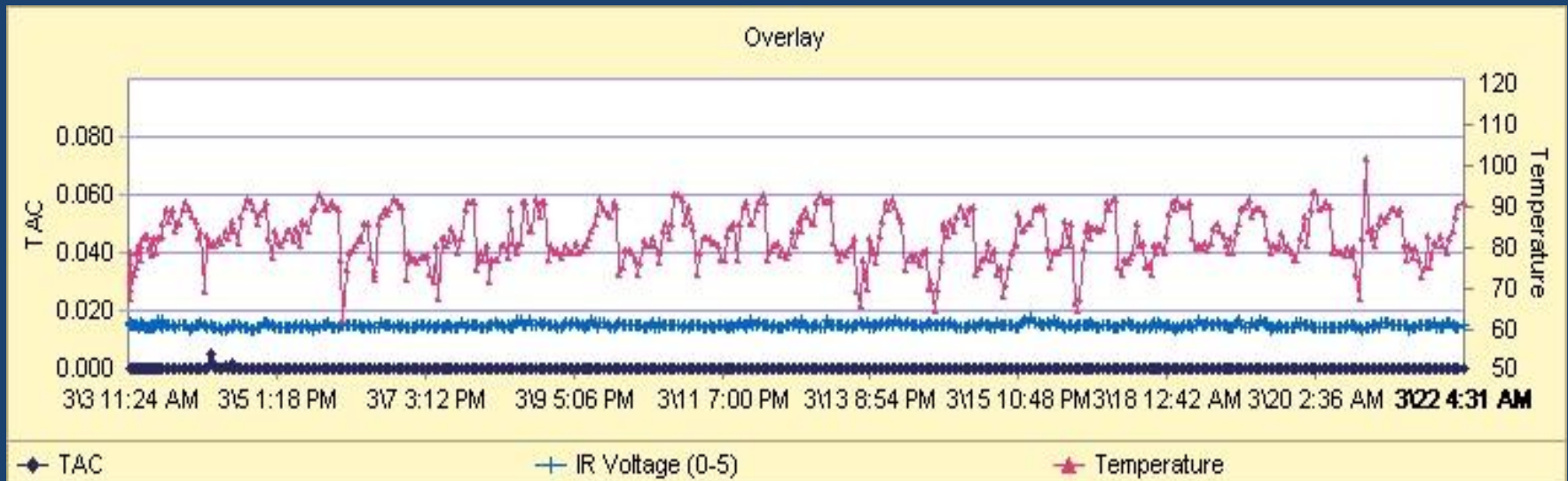


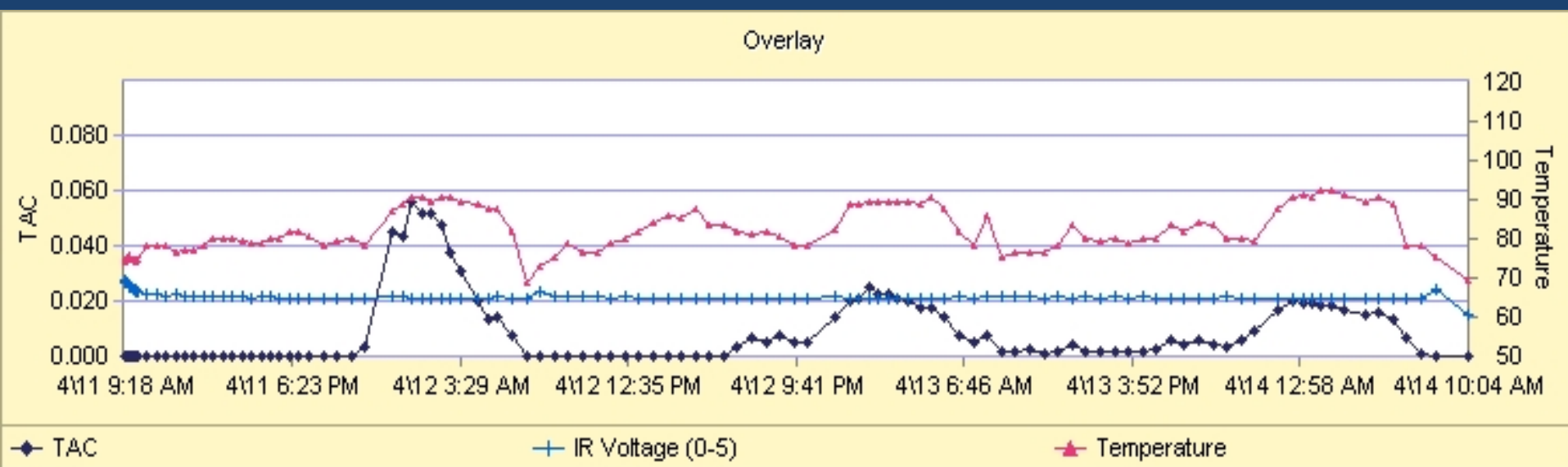
# Three Tests With Every Sample:

Ethanol

Temperature

IR





## 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)



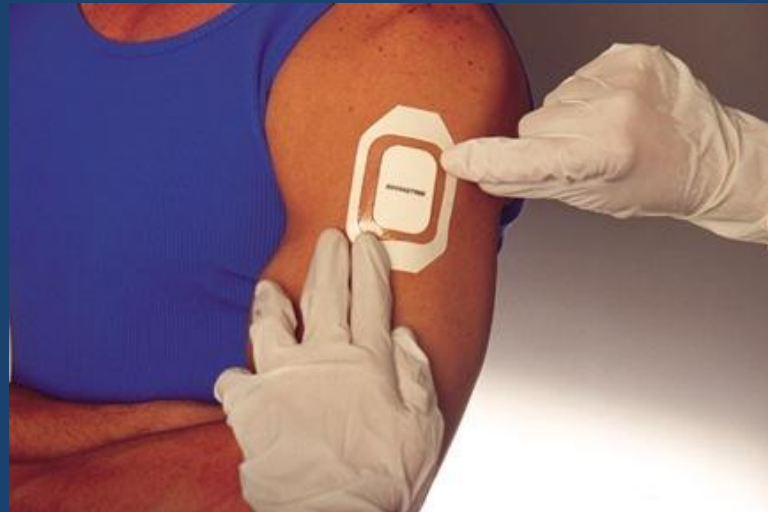
# DRUG URINALYSIS (Redwood Toxicology)

- 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

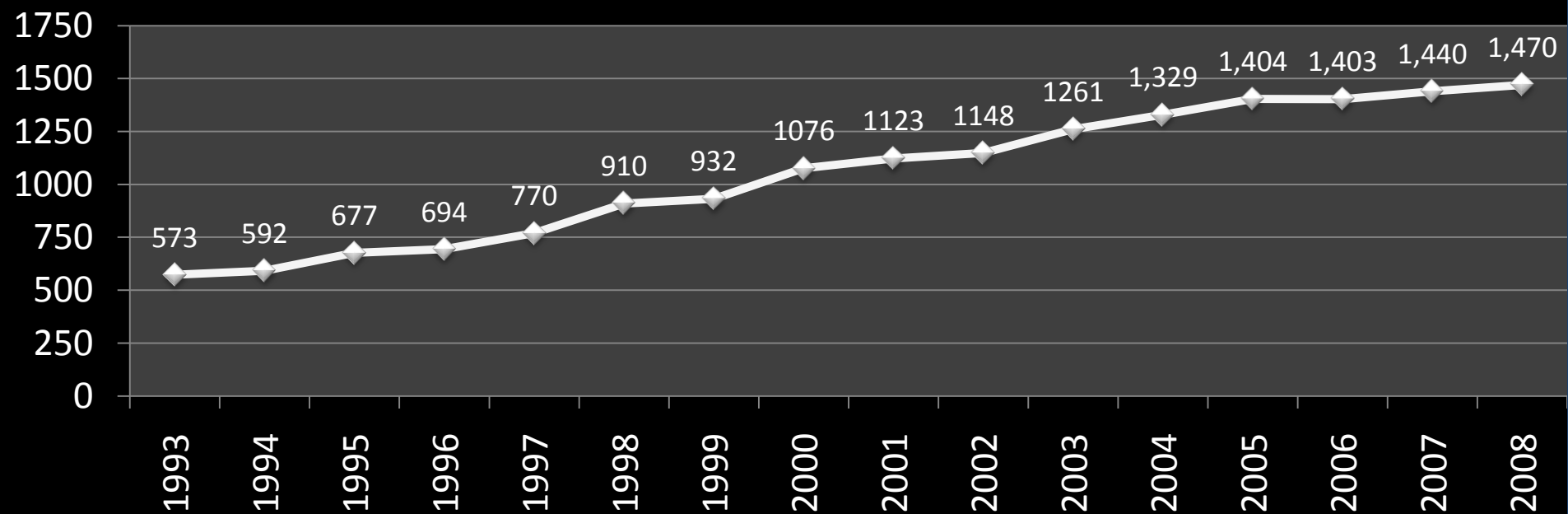
- Counties with high volume
- Need both male and female staff

# 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

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[Daily Payments](#)

[List No Shows](#)

[Add Existing Participant](#)

[Unpaid Fees](#)

[Fees Owed To The State](#)

[Calibrations](#)

### Useful Links

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[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		
Judge			<a href="#">View Account</a>
Arresting Jurisdiction		Tests	
Offense Date			<a href="#">Add Test Type</a>
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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(701) 220-7029-cell