

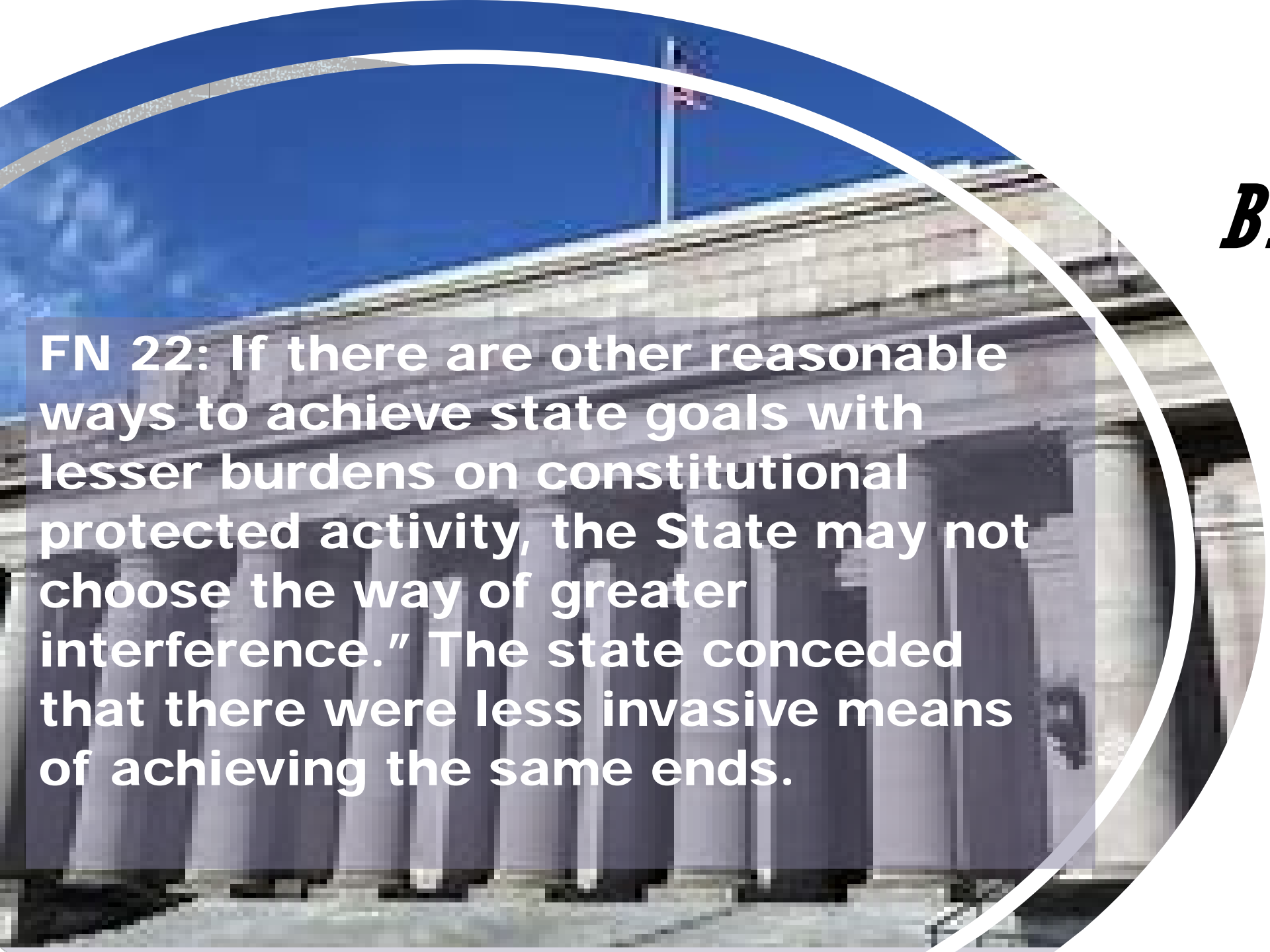
# PRE-TRIAL CONDITIONS POST-*BLOMSTROM*



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WASHINGTON  
**Traffic Safety**  
COMMISSION



FN 22: If there are other reasonable ways to achieve state goals with lesser burdens on constitutional protected activity, the State may not choose the way of greater interference." The state conceded that there were less invasive means of achieving the same ends.

## ***BLOMSTROM V. TRIPP***

- Why was there not authority of law?
- Why did CrRLJ 3.2(d) not apply?



# ***STATE V. OLSEN***

- The court determined that the "authority of law" required by article I, § 7 could be established based on a compelling interest achieved through narrowly tailored means. This was reaffirmed in *Blomstrom*. This was met here, as a probationer has a lessened expectation of privacy.



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# ***Robison v. Seattle***

We have recognized two types of privacy: the right to nondisclosure of intimate personal information or confidentiality, and the right to autonomous decision-making. The former may be compromised when the State has a rational basis for doing so, while the latter may only be infringed when the State acts with a narrowly-tailored compelling state interest."





# ***State v. Olivas – Concurrence***

“When the intrusion by a given search or seizure is minimal, a reviewing court may balance the government's interest in conducting the search, the degree to which the search actually advances that interest, and the gravity of the intrusion upon personal privacy to determine whether the search is reasonable.”



A courtroom setting with wood paneling, a judge's bench, and an American flag. The text is overlaid on the image.

# CASE LAW/STATS/RCWS TO KNOW

"Driving under the influence of alcohol or drugs is itself a serious criminal offense. [RCW 46.61.502\(1\)](#). Therefore, operating a motor vehicle under the influence is rarely, if ever, innocent behavior." *State v. Burch*



# WA ROADSIDE SURVEY

- 62% Drivers involved in fatal crashes since 2008 who tested positive for impairing substances, were under the influence of drugs, not alcohol drugs. Drugged driving is something that we must address and overcome.
- 44% of those 62% were under the influence of multiple substances. The most common was alcohol and marijuana.
- 39.1% of drivers who have used marijuana in the previous year admit to driving within three hours of marijuana use.
- 53% of drivers 15-20 believe that they drive better high.
- 1 in 10 of 8<sup>th</sup> graders report riding in car with a driver who had been using marijuana.
- Driving with kids in the car is increasing. 17% of traffic deaths of children 0-14 were by an impaired driver.





# RECIDIVISTS

- Only 1% of all impaired drivers are detected at any given point
- Multiple DUI offenders, particularly those who have 4 or more, more likely to have patterns of difficulty following rules, and once punished, more likely to continue law-violating behaviors.
- Multiple DUI offenders more likely to be dishonest.







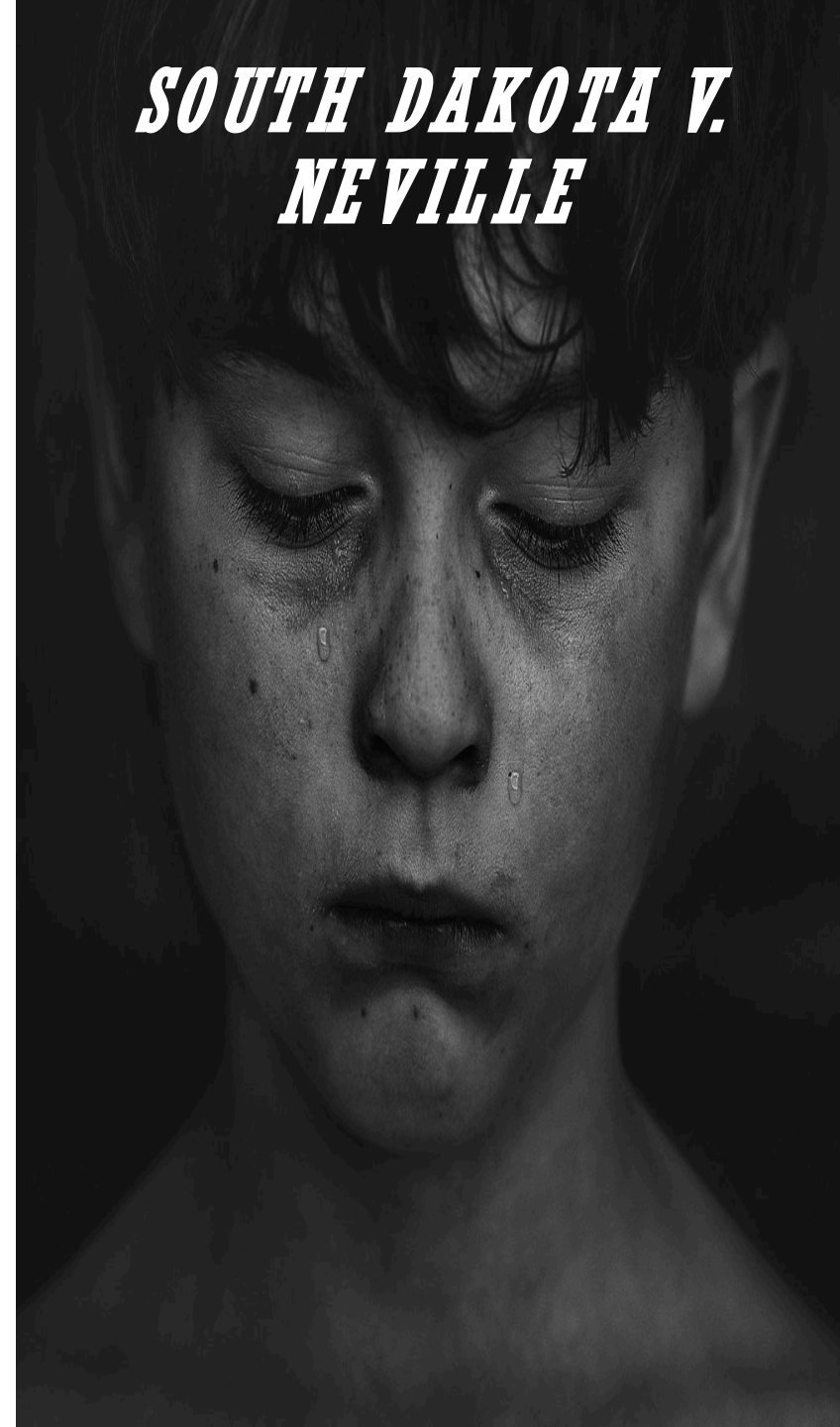
# STATS

- Every day 29 people die in impaired crash; one person every 50 minutes.
- Every 2 minutes a person is injured in a DUI crash.
- 50 to 75% of convicted drunk drivers continue to drive on a suspended license.
- An average person, first timer, driven over 80 times prior to first arrest. FBI stats puts this at 200-300 times.



"The situation underlying this case—that of the drunk driver—occurs with **tragic frequency** on our Nation's highways. The **carnage** caused by drunk drivers is well documented and needs no detailed recitation here. This Court, although not having the daily contact with the problem that the state courts have, has repeatedly **lamented the tragedy**. See *Breithaupt v. Abram*, 352 U.S. 432, 439, 77 S.Ct. 408, 412, 1 L.Ed. 2d 448 (1957) ("The increasing slaughter on our highways, most of which should be avoidable, now reaches the **astounding figures only heard of on the battlefield**"); *Tate v. Short*, 401 U.S. 395, 401, 91 S.Ct. 668, 672, 28 L.Ed.2d 130 (1971) (BLACKMUN, J., concurring) (deploring "traffic irresponsibility and the **frightful carnage it spews upon our highways**"); *Perez v. Campbell*, 402 U.S. 637, 657 and 672, 91 S.Ct. 1704, 1715 and 1722, 29 L.Ed.2d 233 (1971) (BLACKMUN, J., concurring) ("**The slaughter on the highways of this Nation exceeds the death toll of all our wars**").

## ***SOUTH DAKOTA V. NEVILLE***





RCW [46.55.350](#): Findings—Intent.

(1) The legislature finds that:(a) Despite every effort, the problem of driving or controlling a vehicle while under the influence of alcohol or drugs remains a great threat to the lives and safety of citizens. Over five hundred people are killed by traffic accidents in Washington each year and impaired vehicle drivers account for almost forty-five percent, or over two hundred deaths per year. That is, impairment is the leading cause of traffic deaths in this state;

(b) Over thirty-nine thousand people are arrested each year in Washington for driving or controlling a vehicle while under the influence of alcohol or drugs. Persons arrested for driving or controlling a vehicle while under the influence of alcohol or drugs may still be impaired after they are cited and released and could return to drive or control a vehicle. If the vehicle was impounded, there is nothing to stop the impaired person from going to the tow truck operator's storage facility and redeeming the vehicle while still impaired;

(c) More can be done to deter those arrested for driving or controlling a vehicle while under the influence of alcohol or drugs. Approximately one-third of those arrested for operating a vehicle under the influence are repeat offenders. Vehicle impoundment effectively increases deterrence and prevents an impaired driver from accessing the vehicle for a specified time. In addition, vehicle impoundment provides an appropriate measure of accountability for registered owners who allow impaired drivers to drive or control their vehicles, but it also allows the registered owners to redeem their vehicles once impounded. Any inconvenience on a registered owner is outweighed by the need to protect the public;

...







# COURT DISCRETION

Pretrial release decisions are within the discretion of the trial court. *State v. Kelly*, 60 Wn. App. 921, 928, 808 P.2d 1150 (1991); *State v. Reese*, 15 Wn. App. 619, 620, 550 P.2d 1179 (1976).

Specifically, the determination that a defendant poses a substantial danger to the community is a factual determination involving the exercise of sound discretion of the trial judge. *State v. Smith*, 84 Wn.2d 498, 505, 527 P.2d 674 (1974).





## **COURT RULES APPLICABLE TO PRETRIAL CONDITIONS**

- CrRLJ 3.2(e) & (d)
- Purpose of CrRLJ 3.2





# RCWS PERTAINING TO CONDITIONS OF RELEASE

- RCW 9.94A.030(55) Violent Offense means (xiii) Vehicular Assault... (xiv) Vehicular Homicide
- RCW 10.21.0105: Pretrial Release Program (includes EHM, day monitoring, 24/7)
- RCW 10.21.030: Conditions of Release- Judicial officer may Amend Order (pretrial release order, prohibited from possessing or consuming, prohibited from operating vehicle w/o IID)
- RCW 10.21.055- IID, 24/7 required when defendant has a prior
- Submit to Testing under RCW 10.21.045- codified judges' ability to impose conditions to test upon imposing condition of abstinence





# CONDITIONS OF RELEASE- IIDS

- RCW 10.21.055(1)(a)(i) (prior offense IID or 24/7 required)
- RCW 46.04.215 (definition of IID)
- RCW 46.20.720(1)(a)
- RCW 10.21.030(2)(j)
- RCW 10.21.045 (submit to testing)



# CONDITIONS OF RELEASE- 24/7 (EHM)

- RCW 10.21.015
- RCW 10.21.020\*\* (temp detain)
- RCW 46.04.215 (definition of IID)
- RCW 10.21.030 (pretrial release program)
- RCW 10.21.055 (prior offense, then IID or 24/7 required)

**Please  
forward all  
complaints to  
my Mother...  
After all, I'm  
HER fault!**



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