



HIGHWAY SAFETY

LAW UPDATE



September 24, 2018 Office of the Prosecuting Attorneys Training Coordinator July/August/September, 2018

Meet PATC

PATC (Prosecuting Attorneys Training Coordinator) is currently comprised of Coordinator Thomas Ferguson, Assistant Attorney General Michael Bennett, Assistant Attorney General Jeremy Peterson, and PATC Support Staff Cindy Glick. PATC provides training, education, support, and other services to all of Iowa’s county attorneys, assistant county attorneys, support staff, and law enforcement. The PATC staff can be contacted at 515-281-5428. Although PATC is designed to assist county attorneys and law enforcement, my goal is to spotlight a different county’s OWI and Traffic “team” every newsletter to inform everyone about potential resources that are “hidden” throughout the State.

convictions¹ and 24 OWI convictions in Adair County according to Division of Criminal & Juvenile Justice Planning².



County Spotlight – Adair County

The first spotlight is on Adair County. Clint Hight is the Adair County Attorney and his office is located in Greenfield, Iowa. Mr. Hight is a part-time country attorney and the only attorney in the Adair County Attorney’s office. Mr. Hight served as the Adair County Attorney from 1995 to 2006 before taking an 8 year break. Mr. Hight then returned to the Adair County Attorney’s office in 2015 and will have served a total of 16 years as the Adair County Attorney by the end of 2018. Greenfield is the largest town in Adair County. Adair County traffic law enforcement is provided by the Adair County Sheriff’s office, Iowa State Patrol, Iowa DOT officers, Stuart Police Department, Greenfield Police Department, Fontanelle Police Department, and Adair Police Department. A stretch of I-80 runs through Adair County. In 2017, there were 2,197 traffic

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¹ “Convictions include all charges resulting in a conviction, including deferred judgments. Cases involving multiple charges may also involve multiple convictions, and each of those individual convictions are included in the results. Local ordinances are not included.”

<https://disposedcharges.iowa.gov/asp/glossary.asp>

² <https://disposedcharges.iowa.gov/>

Inventory Searches Under the Iowa Constitution post-Ingram

On June 29, 2018, the Iowa Supreme Court issued [State v. Ingram](#), 914 N.W.2d 794 (Iowa 2018). Although all justices in Ingram agreed that the inventory search performed in this case was conducted improperly, they were divided on why the inventory search was improper.³ The three justices in the minority analyzed the case under the existing framework of the Fourth Amendment of the United States Constitution.⁴ The minority found that the inventory search was unconstitutional under the Fourth Amendment because there was no evidence of what policy the searching officer followed or if there was a policy addressing what to do with closed containers.⁵ These three justices found it was not necessary to analyze the inventory search under the Iowa Constitution (article I, section 8).⁶

The majority of the Court found the inventory search was unconstitutional under the Iowa Constitution (article I, section 8).⁷ The majority of the Court found law enforcement may conduct inventory searches as long as there is a written policy that is consistent with Ingram.⁸ However, law enforcement may not open closed containers unless there is a “knowing and voluntary” consent.⁹ Absent a “knowing and voluntary” consent to open a closed container, law enforcement must leave the container closed and just inventory the closed container as a closed container (e.g., 1 – closed blue backpack).¹⁰ It is clear from Ingram, that a backpack or pill bottle would be considered a closed container.¹¹ It is less clear how the Court would interpret the vehicle’s glovebox, center console, or trunk. If law enforcement is going to conduct a warrantless inventory search, they should consult with their local county attorney on guidance as to what is a “closed container”. If a law enforcement officer discovers contraband during a warrantless inventory search, they should stop the search and obtain a warrant.

In its decision, the majority also provided guidance for law enforcement as to warrantless impoundment of vehicles, including “park-and-lock options on nearby streets or parking lots or calling a friend or third party to drive the vehicle away.”¹² Law enforcement should make sure their policy on impounding vehicles is in compliance with Ingram and should contact their local county attorney if they have any questions.

Ignition Interlocks

“More than 10,000 people die every year in alcohol-related crashes in the United States[.]”¹³ The 2012 Behavioral Risk Factor Surveillance System survey¹⁴ found “[a]lcohol-impaired driving rates . . . were highest in the Midwest U.S. Census region.”¹⁵ Ignition interlock devices are utilized to prevent a vehicle from starting if the driver has consumed alcohol. The Centers for Disease Control and Prevention found that installing ignition interlocks can reduce repeat OWIs by approximately 70% during their use.”¹⁶ Since 2006, ignition interlock devices have prohibited 2.3 million people from attempting to drive while impaired by

³ [State v. Ingram](#), 914 N.W.2d 794 (Iowa 2018).

⁴ [State v. Ingram](#), 914 N.W.2d 794 (Iowa 2018).

⁵ [State v. Ingram](#), 914 N.W.2d 794 (Iowa 2018).

⁶ [State v. Ingram](#), 914 N.W.2d 794, 827 (Iowa 2018).

⁷ [State v. Ingram](#), 914 N.W.2d 794 (Iowa 2018).

⁸ [State v. Ingram](#), 914 N.W.2d 794 (Iowa 2018).

⁹ [State v. Ingram](#), 914 N.W.2d 794 (Iowa 2018).

¹⁰ [State v. Ingram](#), 914 N.W.2d 794 (Iowa 2018).

¹¹ See [State v. Ingram](#), 914 N.W.2d 794 (Iowa 2018).

¹² [State v. Ingram](#), 914 N.W.2d 794, 820 (Iowa 2018).

¹³ Ignition Interlock Program Best Practices Guide (https://www.aamva.org/IgnitionInterlockProgram_BestPractices/)

¹⁴ “[The BRFSS] is the nation’s premier system of health-related telephone surveys that collect state data about U.S. residents regarding their health-related risk behaviors, chronic health conditions, and use of preventive services.” <https://www.cdc.gov/brfss/about/index.htm>

¹⁵ https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6430a2.htm?s_cid=mm6430a2_w

¹⁶ https://www.cdc.gov/motorvehiclesafety/impaired_driving/ignition_interlock_states.html

alcohol.¹⁷ Every jurisdiction has ignition interlock laws; however, there is no national standard.¹⁸ Some jurisdictions only mandate ignition interlocks for high BAC first offenders or for repeat offenders.¹⁹ Preventing individuals with multiple convictions for OWI is important; however, just because a driver may not have any prior OWIs, the “first offender” may have driven while impaired on more than 80 occasions before being charged with an OWI for the first time.²⁰ It is important to have effective ignition interlock laws. This month the American Association of Motor Vehicle Administrators released their Ignition Interlock Program Best Practices Guide.²¹ In Iowa, prior to July 1, 2018, if a driver was a “first offender” and the BAC was not more than .10, the driver was eligible for a temporary restricted license without having to install an approved ignition interlock device. Since July 1, 2018, anyone in Iowa that applies for a temporary restricted license because their license is revoke due to an OWI must install an approved interlock device on their vehicle(s).²² If you want to read the Ignition Interlock Program Best Practices Guide, [click here](#).

Child Passenger Safety Week – September 23-29, 2018

“Car crashes are a leading cause of death for children ages 1 to 13.”²³ “In 2016, 723 child occupants under age 13 died in traffic crashes; 213 were unrestrained, and many others were inadequately restrained at the time of the crash.”²⁴ “The National Highway Traffic Safety Administration (NHTSA) estimates that car seats reduce the risk of fatal injury by 71% for infants (younger than 1 year old) and by 54% for toddlers (1 to 4 years old) in passenger cars.”²⁵



In an effort to raise awareness of the benefits of car seats, Child Passenger Safety Week is this week (September 23, 2018 through September 29, 2018).²⁶ The NHTSA recommends children should ride in rear-facing car seats if they are under the age of 1.²⁷ NHTSA also recommends that children from the age of 1 to 3 should remain in rear-facing car seats “as long as possible”; however, after a child reaches the top weight or height parameters, they can move to a forward-facing car seat (using a harness and tether).²⁸ NHTSA recommends children from the age of 4 to 7 should remain in a front-facing car seat until they reach

¹⁷ Ignition Interlock Program Best Practices Guide (https://www.aamva.org/IgnitionInterlockProgram_BestPractices/)

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¹⁹ Ignition Interlock Program Best Practices Guide (https://www.aamva.org/IgnitionInterlockProgram_BestPractices/)

²⁰ <https://www.madd.org/the-solution/drunken-driving/ignition-interlocks/>; Ignition Interlock Program Best Practices Guide

(https://www.aamva.org/IgnitionInterlockProgram_BestPractices/);

https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6430a2.htm?s_cid=mm6430a2_w

²¹ https://www.aamva.org/IgnitionInterlockProgram_BestPractices/

²² <https://www.legis.iowa.gov/legislation/BillBook?qa=%24selectedGa.generalAssemblyID&ba=hf2338>

²³ <https://www.trafficsafetymarketing.gov/get-materials/child-safety/child-passenger-safety-week>; <https://www.nsc.org/road-safety/safety-topics/child-passenger-safety>

²⁴ <https://injuryfacts.nsc.org/motor-vehicle/occupant-protection/child-restraint/>; <https://www.trafficsafetymarketing.gov/get-materials/child-safety/child-passenger-safety-week>

²⁵ <https://injuryfacts.nsc.org/motor-vehicle/occupant-protection/child-restraint/>

²⁶ <https://www.trafficsafetymarketing.gov/get-materials/child-safety/child-passenger-safety-week>; <https://www.nsc.org/road-safety/safety-topics/child-passenger-safety>

²⁷ <https://www.nhtsa.gov/equipment/car-seats-and-boosters#age-size-rec>; <https://injuryfacts.nsc.org/motor-vehicle/occupant-protection/child-restraint/>

²⁸ <https://www.nhtsa.gov/equipment/car-seats-and-boosters#age-size-rec>; <https://injuryfacts.nsc.org/motor-vehicle/occupant-protection/child-restraint/>

the top weight or height parameters for a front-facing car seat.²⁹ After a child reaches the top weight or height parameters in a front-facing car seat, they can transition to a booster seat, but NHTSA recommends they remain in the back seat of the vehicle.³⁰ Finally NHTSA recommends children remain in booster seats until they can properly wear seat belts.³¹ Once a child can properly wear a seat belt, they can transition from a booster seat to a seat belt; however, the National Safety Council recommends that a child ride in the back seat of a vehicle through the age of 12.³² Do not forget, September 29, 2018 is National Seat Check Saturday.³³

Time to Reorder Criminal Law Handbook

The newest edition of the Criminal Law Handbook, which also contains the most recent versions of the OWI and Traffic Offenses in Iowa Manual and the Iowa Charging Manual, is scheduled for release by the end of September. The manual uses software that makes outdated editions inaccessible, and therefore readers must re-order a new copy of the Criminal Law Handbook every six months. The Iowa Charging Manual, which also contains the OWI and Traffic Offenses in Iowa Manual, or just the OWI and Traffic Offenses in Iowa Manual are also available for order. The Criminal Law Handbook, the Iowa Charging Manual, and the OWI and Traffic Offenses in Iowa Manual will remain valid until September 30, 2018.

Order forms for the Criminal Law Handbook and all other manuals are available by contacting PATC at Cindy.Glick@ag.iowa.gov or by calling 515-281-5428.

RECENT UNPUBLISHED DECISIONS INVOLVING ALCOHOL AND TRAFFIC SAFETY

Citation of unpublished cases is governed by I.R.App.Pro. 6.904(2)(c), which provides that unpublished opinions do not constitute binding authority and requires that when citing an unpublished opinion, a party include an electronic citation where the opinion can be readily accessed on-line. (Note: all opinions may be accessed online in the Archives section of Opinions of the Iowa Court of Appeals or Supreme Court, at <https://www.iowacourts.gov/>).

(Recent Unpublished Decisions Arranged by County)

Adair County [State v. Derek E. Ueligger](#), No. 17-1828 (Iowa Court of Appeals, filed September 12, 2018). **Counsel was not ineffective for failing to object to victim impact statements from the victim's whose counts were dismissed.** The defendant pled guilty to two counts of vehicular homicide in exchange for two counts of serious injury by motor vehicle being dismissed. The court received victim impact statements from the two victims that formed the basis for the serious injury by motor vehicle charges. Held, counsel was not ineffective for not objecting to the victim impact statements of the two victims for the two counts of serious injury by motor vehicle because they are considered victims under Iowa Code section 915.10. The defendant had acknowledged them as victims and agreed to pay them restitution.

Adair County [State v. Derek E. Ueligger](#), No. 17-1828 (Iowa Court of Appeals, filed September 12, 2018). **The defendant failed to show he was prejudiced by the court receiving a victim impact statement from someone that is not considered a victim under Iowa Code section 915.10.** The defendant pled guilty to two counts of vehicular homicide in exchange for two counts of serious injury by motor vehicle being dismissed. At sentencing, the court

²⁹ <https://www.nhtsa.gov/equipment/car-seats-and-booster-seats#age-size-rec>; <https://injuryfacts.nsc.org/motor-vehicle/occupant-protection/child-restraint/>

³⁰ <https://www.nhtsa.gov/equipment/car-seats-and-booster-seats#age-size-rec>; <https://injuryfacts.nsc.org/motor-vehicle/occupant-protection/child-restraint/>

³¹ <https://www.nhtsa.gov/equipment/car-seats-and-booster-seats#age-size-rec>; <https://injuryfacts.nsc.org/motor-vehicle/occupant-protection/child-restraint/>

³² <https://www.nhtsa.gov/equipment/car-seats-and-booster-seats#age-size-rec>; <https://injuryfacts.nsc.org/motor-vehicle/occupant-protection/child-restraint/>; <https://www.nsc.org/road-safety/safety-topics/child-passenger-safety>

³³ <https://www.trafficsafetymarketing.gov/get-materials/child-safety/child-passenger-safety-week>

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received a victim impact statement from a cousin of one of the victims. Held, the defendant failed to establish he was prejudiced by the court erring in allowing the cousin's victim impact statement (the cousin is not considered a victim under Iowa Code section 915.10). The Court noted other victim impact statements had expressed similar statements regarding sentencing.

Black Hawk County State v. Sam Chester Thomas II, No. 18-0300 (Iowa Court of Appeals, filed September 12, 2018). **The court did not abuse its discretion by not following the State's sentencing recommendation.** The defendant entered an *Alford* plea to OWI 3rd and driving while barred. The written plea referenced the State's sentencing recommendation, but nothing was stated in writing or orally at sentencing that the plea was contingent on the judge accepting the State's recommendation. The judge declined to follow the State's sentencing recommendation without giving the defendant a chance to withdraw his plea. Held, the court did not abuse its discretion in its sentence; Iowa Rule of Criminal Procedure 2.10(4), which allows the defendant the opportunity to withdraw a plea if the court is not going to follow the agreement, only applies if a plea is contingent on the court following the sentencing recommendation.

Boone County State v. Destiny Sumpter, No. 17-1622 (Iowa Court of Appeals, filed September 12, 2018). **Warrantless seizure of the defendant's cellphone "was supported by probable cause and exigent circumstances."** The defendant was a passenger in a vehicle that was stopped for no license plate or working license-plate light after officers observed a possible drug transaction in a parking lot. Officers allowed the defendant to exit the vehicle and leave. While the defendant was waiting for a ride, officers discovered a grocery bag containing methamphetamine a few feet from the passenger door. The officers detained the defendant and seized her cellphone. The officers obtained a warrant for the defendant's cellphone and discovered evidence of drug communications. The defendant filed a motion to suppress arguing that the warrantless seizure of her cellphone was unconstitutional. Held, the seizure of the defendant's cellphone "was supported by probable cause and exigent circumstances." The officers' observation of a possible drug transaction and discovery of a grocery bag containing methamphetamine established probable cause and the exigency requirement was satisfied because data on a cellphone can be easily erased.

Cass County State v. Joseph L. Bartlett, No. 17-1170 (Iowa Court of Appeals, filed July 5, 2018). **No violation of speedy indictment.** The defendant was charged in Cass County with multiple offenses resulting from a high speed chase with law enforcement that occurred in multiple counties on July 3, 2016. The defendant was arrested, transported to Pottawattamie County, and charged with offenses in Pottawattamie County. The defendant was then arrested on the Cass County charges from the July incident on January 10, 2017 and the trial information was filed on January 18, 2018. Held, the trial information was timely filed eight days after the defendant was arrested for the offense.

Cass County State v. Joseph L. Bartlett, No. 17-1170 (Iowa Court of Appeals, filed July 5, 2018). **Sufficient evidence to support a specific intent to cause damage to the deputy's vehicle, but insufficient evidence to support a**

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specific intent to assault the deputy. The defendant was convicted of multiple offenses, including two counts of assaulting an officer for crashing into a deputy's vehicle twice and two counts of criminal mischief for crashing into a deputy's vehicle twice. Held, there was sufficient evidence that the defendant had the specific intent to cause damage to the deputy's vehicle in trying to escape on two separate occasions. However, the Court also held there was insufficient evidence to show the defendant had the specific intent to assault the deputy when he crashed into the deputy's vehicle twice.

Dallas County [State v. Pedro Ibarra Murillo Jr.](#), No. 17-1025 (Iowa Court of Appeals, filed July 5, 2018). **The driver's interference with a deputy's lawful arrest of a passenger justified prolonging the traffic stop.** A deputy observed a passenger with an active warrant ride by in a vehicle driven by the defendant. The deputy initiated a traffic stop and approached the passenger side door. The door was locked and the defendant initially refused to open the window or unlock the door upon request. After the passenger was eventually arrested, the deputy approached the defendant and requested his license, registration and proof of insurance. The defendant filed a motion to suppress and argued under *State v. Coleman*, 890 N.W.2d 284 (Iowa 2017), the deputy impermissibly extended the stop after the reason for the traffic stop (to arrest the passenger) had been completed. Held, the defendant's infraction (interference with official acts) committed in front of the deputy, justified prolonging the traffic.

Dallas County [State v. Pedro Ibarra Murillo Jr.](#), No. 17-1025 (Iowa Court of Appeals, filed July 5, 2018). **Deputy had reasonable suspicion the defendant was hiding drugs and did not violate his constitutional rights having a K-9 unit come to the scene.** The defendant's statement "that he was unable to open the locked center console—when a rational inference led Deputy Jacobs to conclude the ignition key would unlock the compartment—considered in conjunction with his association with [the passenger], a known drug dealer who was found to have drugs on his person at that time, and [the defendant's] initial refusal to open or unlock the doors, provided a basis for reasonable suspicion there were drugs in [the defendant's] vehicle." Held, the deputy's decision to detain the defendant to have a K-9 unit come to the scene did not violate the defendant's constitutional rights because the deputy had reasonable suspicion the defendant was hiding drugs in the vehicle. The Court noted that refusing to consent to a search cannot be used to establish reasonable suspicion to conduct a warrantless search.

Jasper County [State v. Benjamin T. Gordon](#), No. 17-2104 (Iowa Court of Appeals, filed September 12, 2018). **Counsel was not ineffective for allowing the defendant to plead guilty.** The defendant pled guilty to Theft 2nd and Burglary 3rd for taking a vehicle. The defendant made statements that he initially took the vehicle because he was cold, but then planned to either keep it or sell it for drugs. The defendant appealed and argued he did not have the requisite intent to commit a theft. Held, there was a factual basis supporting defendant's plea of guilty and his counsel was not ineffective.

Linn County [State v. Jerald David Frost](#), No. 17-1794 (Iowa Court of Appeals,

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filed August 15, 2018). **The defendant was not seized by law enforcement officers.** After pulling into a parking lot and exiting the vehicle, the defendant was approached by two law enforcement officers. One law enforcement officer asked to speak to the defendant. The defendant's vehicle was not blocked in, none of the officers used emergency lights when they pulled into the parking lot, officers did not draw their weapons, and a passenger exited the vehicle and entered the store. Held, under the "totality of the circumstances" a reasonable person in the defendant's position would have felt free to leave therefore the defendant was not seized under the Iowa or Federal constitution.

Linn County [State v. Jerald David Frost](#), No. 17-1794 (Iowa Court of Appeals, filed August 15, 2018). **The defendant voluntarily consented when he raised his arms in the air and verbally approved an officer request to perform a patdown.** The defendant raised his arms in the air and then verbally agreed to allow an officer perform a patdown search. Held, the defendant's actions (raising his arms and verbally approving the officer's patdown request) "qualified as consent".

Linn County [State v. Jerald David Frost](#), No. 17-1794 (Iowa Court of Appeals, filed August 15, 2018). **The officer's seizure and search of containers discovered during a patdown when there was nothing to indicate they were illegal contraband went beyond the scope of the consent for a patdown and was a violation of the state and federal constitution.** After obtaining consent from the defendant, a law enforcement officer performed a patdown search. The officer felt two aluminum containers in the defendant's pocket and removed them; however, there was nothing immediately apparent to suggest they were illegal contraband. The officer then opened the containers and found methamphetamine. Held, the officer's seizure and then search of the aluminum containers went beyond the consent to a patdown.

Marion County [State v. Nora Pettyjohn](#), No. 17-1236 (Iowa Court of Appeals, filed August 1, 2018). **Defendant's actions almost immediately after she was stopped were sufficient to establish reasonable suspicion.** The defendant was stopped for a non-working brake light. The officer believed the defendant was under the influence due to her behavior after she was stopped (rapid speaking, fidgety, stating she was hot despite a temperature of 36 degrees, a short attention span, etc.). The defendant completed the SFSTs and a PBT with a result of .001. The defendant was arrested and officers found crystal substance that field tested positive for methamphetamine in her jacket pocket. The defendant then refused to provide a suitable urine sample. Held, the defendant's actions after she was stopped provided the officer with "reasonable suspicion of further wrongdoing" and justified the expansion of the traffic stop.

Marion County [State v. Nora Pettyjohn](#), No. 17-1236 (Iowa Court of Appeals, filed August 1, 2018). **The defendant's conduct and the SFSTs provided sufficient evidence that the defendant was under the influence.** The defendant was stopped for a non-working brake light. The officer believed the defendant was under the influence due to her behavior after she was stopped (rapid speaking, fidgety, stating she was hot despite a temperature of 36 degrees, a short attention span, etc.). The defendant completed the SFSTs and a

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PBT with a result of .001. The defendant was arrested and officers found crystal substance that field tested positive for methamphetamine in her jacket pocket. The defendant then refused to provide a suitable urine sample. Held, there was sufficient evidence to support the defendant's conviction for OWI.

Marion County [State v. Nora Pettyjohn](#), No. 17-1236 (Iowa Court of Appeals, filed August 1, 2018). **“Test results are not required to support a conviction for a drug offense.”** The defendant was stopped for a non-working brake light. The officer believed the defendant was under the influence due to her behavior after she was stopped (rapid speaking, fidgety, stating she was hot despite a temperature of 36 degrees, a short attention span, etc.). The defendant completed the SFSTs and a PBT with a result of .001. The defendant was arrested and officers found a crystal substance that field tested positive for methamphetamine in her jacket pocket. Officers searched the vehicle and discovered hypodermic needles. Held, there was sufficient evidence to support the defendant's conviction for possession of methamphetamine despite not having a confirmatory lab test result.

Muscatine County [State v. Teriona Edwards](#), No. 17-1765 (Iowa Court of Appeals, filed July 18, 2018). **Sentencing court did not abuse its discretion when sentencing the defendant.** The sentencing court did not abuse its discretion and considered all of the “required and relevant factors” when sentencing the defendant upon her plea of guilty to driving while barred.

Plymouth County [State v. Ashtyn Daniel Beller](#), No. 17-1552 (Iowa Court of Appeals, filed July 5, 2018). **Smell of marijuana provided reasonable suspicion to extend the traffic stop for further investigation.** Officer stopped a vehicle for not having the rear license plate illuminated. Upon approaching the vehicle, the officer immediately smelled the odor of marijuana. After completing the reason for the stop, the officer investigated the odor of marijuana and discovered marijuana in the vehicle. Held, the smell of marijuana provided reasonable suspicion to extend the traffic stop for further investigation. The Court also stated the smell of marijuana provided probable cause to search the vehicle.

Polk County [State v. Courtney Jo Dettmer](#), No. 17-1608 (Iowa Court of Appeals, filed July 18, 2018). **Officer had reasonable suspicion to stop the defendant's vehicle.** The defendant arrived in the turn lane at such a speed that she was not going to be able to make the turn safely and skidded to a stop to avoid colliding with a police officer, which also caused the officer to brake. Held, the defendant's driving provided reasonable suspicion for a traffic stop and upheld her conviction for OWI 2nd.

Polk County [State v. Mejdil Ahmetovic](#), No. 17-0913 (Iowa Court of Appeals, filed August 1, 2018). **After law enforcement verified a confidential informant's tip, they did not need a search warrant to detain the defendant.** Law enforcement received a tip from a confidential informant that the defendant would be parked in a particular parking lot, in a particular vehicle, around a certain time, and he would be in possession of cocaine. Law enforcement went to the location and verified the information was correct.

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Held, law enforcement did not need a search warrant to approach the defendant and the driver after verifying a confidential informant's tip.

Polk County State v. Mejdil Ahmetovic, No. 17-0913 (Iowa Court of Appeals, filed August 1, 2018). **Plain-feel exception to the warrant requirement justified a warrantless search.** After verifying a confidential informant's information was accurate, law enforcement approached the vehicle the defendant was a passenger in, had him exit, and conducted a *Terry* pat-down search. The officer felt a bulge and immediately recognized it was contraband. The officer then obtained the defendant's consent to remove the contraband, which was cocaine. Held, "the warrantless search of [the defendant's] pocket was valid under the plain-feel exception to the warrant requirement." The Court also found the warrantless search was valid under the consent exception to the warrant requirement.

Polk County State v. Mejdil Ahmetovic, No. 17-0913 (Iowa Court of Appeals, filed August 1, 2018). **Passenger does not have standing to challenge the search of the vehicle.** After arresting the defendant for possession of cocaine in his pocket, officers conducted a warrantless search of the vehicle the defendant was a passenger in and discovered a larger bag of cocaine. The Court of Appeals affirmed the district court's determination that the defendant "as a mere passenger with no possessory interest in the vehicle, lacked a reasonable expectation of privacy in the vehicle, and therefore lacked standing to challenge the search." See *Rakas v. Illinois*, 439 U.S. 128, 148–50 (1978); *State v. Haliburton*, 539 N.W.2d 339, 342–43 (Iowa 1995).

Polk County State v. Fernando Lopez-Aguilar, No. 17-0914 (Iowa Court of Appeals, filed August 15, 2018). **The Court did not abuse its discretion in denying the defendant's motion for mistrial.** A jury found the defendant guilty of multiple charges stemming from a fatal car crash. During the trial an officer mentioned he questioned the defendant if he had a driver's license. The trial court ruled whether the defendant had a driver's license was not relevant. Later in the trial, a video of the defendant's interrogation was played and a statement was made during the interrogation that the defendant did not have a driver's license. Held, the trial court did not abuse its discretion when it denied the defendant's motion for mistrial; the statements were inconsequential when compared to "the entirety of the evidence presented."

Polk County State v. Fernando Lopez-Aguilar, No. 17-0914 (Iowa Court of Appeals, filed August 15, 2018). **There was sufficient evidence of "recklessness" to support the defendant's convictions of serious injury by reckless driving and reckless driving.** At trial, the state presented evidence that the defendant was driving on an unfamiliar street, faster than the speed limit, with the sun in his eyes, failed to stop at the stop sign, his brakes were not defective, and an eyewitness did not observe him breaking. Held, there was sufficient evidence of "recklessness" to support the defendant's convictions of serious injury by reckless driving and reckless driving.

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Polk County [State v. Fernando Lopez-Aguilar](#), No. 17-0914 (Iowa Court of Appeals, filed August 15, 2018). **To convict a defendant of involuntary manslaughter, the State must prove he “recklessly committed a public offense”.** A jury found the defendant guilty of involuntary manslaughter. Speeding alone is not sufficient to convict the defendant of involuntary manslaughter. In addition to speeding, the defendant committed other public offenses (failed to stop at a stop sign and failed to operate the motor vehicle at a safe speed under the existing conditions), despite being advised to slow down, not being familiar with the hilly area, and driving into the sun. Held, there was sufficient evidence to support the involuntary manslaughter conviction.

Scott County [State v. Rodney L. Hanneman](#), No. 17-1147 (Iowa Court of Appeals, filed August 1, 2018). **Substantial evidence the defendant took a motorcycle “owned by another with the intent to permanently deprive.”** Police found the defendant riding a motorcycle without turn signals or a license plate. The defendant could not provide registration or insurance for the motorcycle. The motorcycle had been modified (repainted, identification features had been removed, and the VIN numbers scratched off) since it was taken from the owner. Held, there was substantial evidence the defendant took a motorcycle “owned by another with the intent to permanently deprive.”

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