



## **The South Dakota 24/7 Sobriety Project: A Summary Report**

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### **Overview**

The 24/7 Sobriety Project is a court-based management program originally designed for repeat Driving Under the Influence (DUI) offenders. The program began in South Dakota and new programs are now being initiated in other states. The 24/7 Sobriety Project sets the standard of no use of alcohol and no use of illegal drugs as a condition of continuing to drive and remaining in the community, rather than being incarcerated. This standard is enforced by intensive monitoring by law enforcement agencies with alcohol and drug testing mandated for each participant. Violation of program rules leads to immediate and usually brief incarceration of the offender. This combination of a strict monitoring and a no-use standard with swift, certain, and meaningful, but usually not severe, consequences has been extremely successful.

Conceived, developed, and administered by South Dakota Attorney General Larry Long and Special Agent Bill Mickelson, this progressive program received the prestigious John P. McGovern Award for Innovation in Drug Abuse Prevention from the Institute for Behavior and Health, Inc., on June 30, 2009 in Washington, D.C. and most recently an award from the National Highway Traffic Administration Award for Public Service. The 24/7 Sobriety Project:

- reduces recidivism;
- improves public safety;
- serves as an alternative to incarceration that reduces the number of people in local jails and state prisons;
- allows offenders to remain in the community with their family and friends;
- permits offenders to maintain employment;
- saves tax dollars because most monitoring costs are paid by the offenders and because offenders are being diverted from jail and prison where appropriate.

### **24/7 Monitoring and Accountability**

Participants in the 24/7 Sobriety Project have been arrested for DUI offenses on multiple occasions. The program utilizes a variety of mechanisms to ensure abstinence from alcohol and other drugs, including twice-daily breath testing for alcohol, SCRAM ankle bracelets that continuously monitor wearers for alcohol consumption, drug patches that collect sweat samples for laboratory drug testing, and urine testing for drugs. Offenders are given breath and urine tests

at their local sheriff's office. If they test positive, they are taken into custody *immediately and brought to court*. Judges typically give them escalating jail terms. A first violation typically results in incarceration of one or more nights in jail. Repeat violations of the no-use standard or missing test appointments leads to increased periods of incarceration and the revocation of any pretrial release. All sanctioning is swift and certain.

The 24/7 Sobriety Project as originally constituted does not incorporate any screening, assessments or treatment. However, state law required DUI offenders to participate in treatment programs upon conviction. There is no requirement that these offenders undergo treatment pretrial. Currently the treatment and justice systems operate in parallel but separate from one another.

## **Program Results**

The program's results are impressive, particularly given the fact that almost half of the participants have been convicted three or more times for DUI offenses:<sup>1</sup>

- As of January 2010, almost 13,000 offenders participated in twice-daily alcohol breath testing. They took over 2.4 million tests, passing 99.6% of them. Over 66% of the offenders were totally compliant during their entire term of their participation.<sup>2</sup>
- As of November 2009, 1,755 offenders wore the SCRAM ankle bracelet. Offenders wore the device for an average of 125 days. Approximately 77.72% of offenders were totally compliant.<sup>3</sup>
- Forty offenders wore drug patches, passing 92.8% of the tests.<sup>4</sup>
- Over 1,261 offenders took 17,730 urine tests, passing 97.5% of the time.<sup>5</sup>

In addition, the large majority of participants who were surveyed about the program indicated that the program helped them stop using substances, improved their family functioning and helped them maintain or improvement their employment.<sup>6</sup>

## **Public Impact**

While early skeptics of the 24/7 Sobriety model predicted that close monitoring with a strict no-use standard would fill the jails with offenders, the results of the program are exactly the opposite. The program has reduced incarceration leading to reductions in jail populations and jail costs.

At the time the program was introduced, South Dakota had one of the highest rates of adults 18 and older who reported driving under the influence of alcohol in the nation (21.6% in the previous year). Additionally, nearly three-fourths of those involved in fatal crashes in South Dakota had a blood alcohol level (BAC) of 0.15 or higher. The number of people killed in

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<sup>1</sup> R. Loudenberg, "Analysis of South Dakota 24-7 Sobriety Program Data" at 3 (Mountain Plains Evaluation, LLC January 2007).

<sup>2</sup> South Dakota Office of the Attorney General 2010.

<sup>3</sup> Alcohol Monitoring Systems, Inc., 2009.

<sup>4</sup> South Dakota Office of the Attorney General 2010.

<sup>5</sup> South Dakota Office of the Attorney General 2010.

<sup>6</sup> South Dakota Office of the Attorney General 2010.

alcohol-impaired crashes<sup>7</sup> in the state has declined steadily. From 2006 to 2007, alcohol-impaired traffic deaths in South Dakota declined by 33% (National Highway Traffic Safety Administration, 2008). In a year where the U.S. had a 4% decline in DUI fatalities, South Dakota outperformed every other state in its percentage reduction of DUI fatalities. Preliminary data indicates that the number fell another 45% from 2007 to 2008.<sup>8</sup>

It is important to note other important initiatives in South Dakota may have impacted South Dakota's success in combating DUI offenses. In 2006, South Dakota repealed its implied consent law. Any person arrested for a DUI offense must provide a sample of their blood, breath or urine to law enforcement. No longer is a defendant able to refuse to provide evidence of their intoxication. Law enforcement officers increased enforcement efforts through the use of checkpoints and saturation patrols. South Dakota substantially revised required classes for DUI first offenders, which has reduced recidivism. There has been a concerted effort to increase the use of media campaigns. Finally, South Dakota started a "Parents Matters" program to combat underage drinking. The combination of these programs should be considered when discussing South Dakota's success in combating DUI offenses.

It is difficult to attribute the improvements to any one cause or causes; however, the 24/7 Sobriety Project is a contributing component.

## **Conclusions**

The 24/7 Sobriety Project is not just saving lives; it is reducing DUI recidivism and saving tax dollars. Jail populations have decreased in most counties across South Dakota and in the two largest counties these populations have dropped by almost 100 people on any given day. With jail costs estimated at \$75 per day per person, the state is saving millions of dollars.<sup>9</sup> At least part of these gains are due to the 24/7 Sobriety Project.

The 24/7 Sobriety Project is also an important response to critics who erroneously claim that it is not possible to stop DUI offenders from drinking and/or using drugs because they believe relapse is inevitable. It also belies claims that efforts need to focus exclusively on preventing DUI offenders from driving. If efforts to prevent driving without stopping drinking and drugging were possible and successful, there would not be so many repeat DUI offenses. It is the repeat DUI offenders that the 24/7 Sobriety Project identifies and positively impacts changes in behaviors. The 24/7 Sobriety program is continuing to evolve including plans to develop brief screening and intervention modules and formal links to addiction treatment. The comprehensive monitoring and care management model being developed for the 24/7 Sobriety Project has wide applicability within the criminal justice system, well beyond the DUI offense, because alcohol and illegal drug use are major contributors to crime and incarceration. This program demonstrates a powerful ability to stop alcohol and drug use and the criminal behavior that alcohol and drug use often lead to among arrested offenders. The program has been extended to a wide range of criminal charges related to alcohol and drug use, including domestic violence and civil abuse and

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<sup>7</sup> NHTSA defines an alcohol-impaired crash as one where at least one driver had a blood or breath alcohol level at or above the 0.08 illegal limit.

<sup>8</sup> South Dakota Department of Public Safety 2009.

<sup>9</sup> South Dakota Office of the Attorney General 2009.

neglect cases. These changes show the broad applicability of the 24/7 Sobriety Program, far beyond the original focus only on DUI offenders and alcohol use.

Although funding for the program was initially provided by the South Dakota Office of Highway Safety and then supported through legislative appropriations, it is anticipated that it will be a cost neutral program since it is supported through offender fees . Other states have expressed interest in implementing a similar program. The North Dakota Attorney General's Office began a pilot of its own 24/7 Sobriety Project in January 2008 and, with legislative support, is taking it statewide.

The impressive, positive results of the 24/7 Sobriety Project reinforce the results of other related programs, HOPE Probation<sup>1</sup> (Hawaii's Opportunity Probation with Enforcement) in Honolulu,<sup>2,3</sup> and DUI/Drug Court programs. These programs have a zero tolerance standard for any use of alcohol or other drugs that is enforced by intensive monitoring and linked to meaningful and swiftly applied consequences. Each of these programs has produced results that set a new and far higher outcome standard for substance abuse among alcohol and drug dependent people. This unique and transferable model has wide applicability both in the criminal justice system and in substance abuse treatment. The 24/7 Sobriety Project model holds the promise of reducing the serious problems caused by alcohol and other drug use while making substance abuse treatment and the criminal justice system far more successful in promoting both public safety and public health than they are today.

\*A complete listing of the administrative rules, copies of forms, and program statistics can be found on the South Dakota Attorney General's website at: [www.state.sd.us/attorney/DUI247/index.htm](http://www.state.sd.us/attorney/DUI247/index.htm).

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<sup>1</sup> Hawken, A. & Kleiman, M. (January, 2009). Research brief: Evaluation of HOPE probation. Retrieved July 23, 2009, from [http://www.state.hi.us/jud/pdf/Hope\\_Brief\\_Feb09.pdf](http://www.state.hi.us/jud/pdf/Hope_Brief_Feb09.pdf).

<sup>2</sup> McLellan, A. T., Skipper, G. E., Campbell, M. G. & DuPont, R. L. (2008). Five year outcomes in a cohort study of physicians treated for substance use disorders in the United States. *British Medical Journal*, 337:a2038.

<sup>3</sup> DuPont, R. L., McLellan, A. T., Carr, G., Gendel, M & Skipper, G. E. (2009). How are addicted physicians treated? A national survey of physician health programs. *Journal of Substance Abuse Treatment*, 37, 1-7