



24/7 Sobriety Program

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DWI offenses continue to aggravate society, and DWI repeat offenders account for approximately one third of these drivers (Fisher, McKnight, & Fell, 2013). According to the National Highway Traffic Safety Administration (NHTSA), six factors are critical to reduce recidivism. Two of these factors are that offender sobriety must be monitored, with any necessary sanctions (and treatment), and that prompt action must be taken at any defiance (Fisher et al., 2013). Intensive supervision programs across the nation provide assistance and individualized supervision to DWI offenders (Fisher et al., 2013). One distinct intensive supervision program, South Dakota's 24/7 Sobriety Program, examines substance-use through testing and calls for sanctions if conditions are violated. States have adopted legislation modeled after South Dakotas' program (Fisher et al., 2013).



A 24/7 Sobriety Program seeks to treat alcohol use at its core by monitoring DUI offenders frequently, and program participation is instituted through a judicial or court order as a “condition of pretrial release, a suspended sentence, probation, or parole” (Larkin, 2015, p.66). Originally, DUI offenders were the target for the program with deterrence as an alternative to treatment (Heaton, Nicosia, & Kilmer, 2015). A program consists of three major components: a judicial order that requires an individual to abstain from alcohol, frequent alcohol testing, and immediate sanctions for any violation (Midgette, 2016). A violation includes a missed test or the detected prohibited substance from a BAC test resulting in immediate incarceration (Heaton et al., 2015). The South Dakota program’s success has prompted other states to establish similar programs, and officials are considering whether it can be adopted in urban jurisdictions (Midgette, 2016)

Early data from the South Dakota Attorney General’s Office, and offender data maintained by the Unified Judicial System (UJS), have suggested that the 24/7 Sobriety Program is effective at controlling problem drinkers while enrolled in the program. According to Loudenberg, the 24/7 program reduces the rate of recidivism. Second time DUI offenders showed the most reduced recidivism with statistically “lower rates of future offenses” (Loudenberg, Drube, Leonardson, & Bathke, 2012). While program participants passed the twice – daily breath tests at a high rate, state officials recognize that limiting and timing drinks could allow alcohol to go undetected (Fisher, et al., 2013). A RAND study conducted in South Dakota measured the impacts of substance-involved crime (using data from the FBI’s NIBRS) and found that after 24/7 program implementation, DUI crimes decreased by 48% (Heaton et al., 2015).



Does the 24/7 Sobriety Program reduce recidivism? In some circumstances participants may be placed on a Secure Remote Monitor (SCRAM), which is effective technology for reducing recidivism. The longer an individual wore a SCRAM, the greater decrease in recidivism; however, this effect may not continue after removal (Loudenbergh, Drube, & Young, 2014). An *American Journal of Public Health* article reports that South Dakota participants required to take the breathalyzer test recorded a 99% pass rate. Researchers concentrated their study on: DUI arrests, arrests for domestic violence, and traffic crashes. The study revealed that repeat DUI offenders enrolled in the program had a 12% reduction in arrests (Kilmer, Nicosia, Heaton, & Midgette, 2013). Heavy drinkers reduced their consumption during a period of 2.25 million days. Evidence supports that the 24/7 sobriety program reduced repeat DUI offenses, and indicates that there were fewer traffic crashes among the 18 to 40 year – old male population (Kilmer et al., 2013).

Officials in South Dakota cite many benefits including that the program is cost – effective and self-sufficient (Wiliszowski, Fell, McKinight, & Tippetts, 2011). “Many officials believe that the 24/7 program holds offenders accountable, reduces problem drinking, helps during treatment, and allows offenders to remain productive in the community by keeping their jobs and participating in their communities” (Fisher, 2013, p.37). Those involved in the implementation and monitoring of the program reported minimal additional workload and hindrance to their work (Fisher et al., 2013). South Dakota has overcome its unique challenges with a rural intensive-supervision program: with a larger geographic area, larger distances for offenders to drive, and limited resources (Wiliszowski et al., 2011).



If one rural state can effectively decrease problem drinking for repeat DUI offenders, could a similar program prove effective in other rural jurisdictions? Four states have implemented 24/7 Sobriety Programs (Montana, North Dakota, South Dakota, and Wyoming), and generally state officials support them (Fisher et al., 2013). Using Montana Motor Vehicles Division (MVD) and other administrative data, RAND researchers found that, on average, 95.7% of repeat DUI offenders monitored over 100 days, passed their preliminary breath tests (PBT) (Midgette & Kilmer, 2015). Data show reduced recidivism in the four years, 2010 -2014, following participation in the program (Midgette & Kilmer, 2015). Researchers at North Dakota State University examined North Dakota's 24/7 Sobriety Program to determine if repeat DUI offenders were deterred, and found that while participants were enrolled in the program they had fewer crashes and convictions (Kubas, Kayabas, & Vachal, 2015). Subsequent legislation revised program requirements, which mandated longer enrollment by participants; as a result, sobriety has increased among participants. High-risk and moderate high risk recidivists demonstrated improved behavior (Kubas et al., 2015). Positive results from South Dakota's 24/7 Sobriety Program have prompted investigation to determine its feasibility in urban jurisdictions (Fisher et al., 2013).

The National Highway Traffic Safety Administration sponsored a two-year study to determine if the 24/7 model can be applied to urban locales, and to identify modifications that may be necessary (Fisher et al., 2013). The two jurisdictions selected for the feasibility study were: Fairfax County, Virginia and Washington, D.C. Urban officials were queried using in-person discussions and reports; no quantitative data were examined. Virginia officials expressed the most concerns regarding practical issues, such as training for staff, costs, facilities, and even



communication between agencies; however, the greatest obstacle were the need for reciprocity and legislation (Fisher et al., 2013). Some judges even stated that due process could be an issue (Kubas et al., 2015). Public officials in Washington D.C. were more optimistic, and stated “any effect would be positive” (Fisher et al., 2013, p. 54). Both jurisdictions expressed major challenges to implement of the program, especially reciprocity and the need for legislation (Fisher et al., 2013). Before this study Talpins, Voas, DuPont, & Shea, contended that the program could be cost – effective and adaptable to the entire justice population (2010).

A variety of means have been used to determine which solutions for reducing recidivism and promoting public safety were the most effective. Interdisciplinary studies assert that “punishment certainty is a stronger deterrent to criminal activity than punishment severity” (Kilmer et al., 2013). South Dakota’s 24/7 Sobriety Program is considered to be a ‘Smart Justice’ initiative, which indicates an effective approach. It shares the features of the “Smart Justice strategy” by directly addressing behavior, maintaining a zero-tolerance standard, and providing opportunities for treatment (Talpin et al., 2010). Larkin argues that “swift, certain, and fair punishment” are sensible solutions to substance abuse and crime. Two features of the 24/7 model make it particularly appealing: its adaptability to any judicial process and its imposition of sanctions on convicted offenders (not “soft on crime”) (Larkin, 2016).

A recent article published in *Lancet Psychiatry* examined South Dakota’s 24/7 Sobriety program and found it to be an advantageous approach for decreasing problem drinking. The model is currently being piloted by the Greater London Authority, suggesting optimism to adaptability in an urban locale (Nicosia et al., 2016). An association was found between the 24/7 Sobriety Program and population mortality (Nicosia, et al., 2016). Researchers contend that



policymakers should recognize the program's success and establish pilot programs (Nicosia, 2016).

South Dakota's 24/7 Sobriety Program continues to attract attention, even in more urban locations, such as California and Florida (Midgette, 2016). An associate policy researcher at the RAND Corporation, recently testified before California's Committee on Public Safety, citing the Jacksonville 24/7 pilot program, and discussed its highly adaptable nature (Midgette, 2016). He acknowledged the U.S. Department of Justice's recognition of the program as "promising" (Midgette, 2016). Another state is considering implementation of 24/7 pilot program using federal grant money. Requirements would compare to other programs; participation would be restricted to repeat offenders (Schmidt, 2016).

The 24/7 Sobriety Program model has also reached the United Kingdom. After consulting with the Obama administration, the Home Office mandated a 24/7 Sobriety trial. Keith Humphreys has been responsible for the 24/7 sobriety law adoption in the U.K. and has cited challenges. However, difficulties were mainly inaccurate perceptions. In an article published in the *Brown Journal of World Affairs*, Kilmer and Humphreys concluded that program's benefits such as increased public safety, swift punishments, and court-ordered sobriety outweighed any disadvantages (Kilmer & Humphreys, 2013).



References

- Fisher, D. A., McKnight, A. S., Fell, J. C. (2013, November). *Intensive DWI supervision in urban areas—Feasibility study*. (Report No. DOT HS 811 861). Washington, DC: National Highway Traffic Safety Administration. Retrieved from www.nhtsa.gov/staticfiles/nti/pdf/811861.pdf
- Heaton, P., Kilmer, B., & Nicosia, N. (2015). *Deterring Crime in Community Supervision: Evidence from 24/7 Sobriety*. RAND. Retrieved from http://cep.lse.ac.uk/conference_papers/01_10_2015/heaton.pdf
- Kubas, A., Kayabas, P., & K, Vachal. (2015). *Assessment of the 24/7 program in North Dakota: participant behavior during enrollment*. North Dakota State University <http://www.ugpti.org/pubs/pdf/DP279.pdf>
- Kilmer, B., & Humphreys, K. (2013). Losing Your License to Drink: The Radical South Dakota Approach to Heavy Drinkers Who Threaten Public Safety. *Brown Journal of World Affairs* 20 (1), 267-282. Retrieved from http://heinonline.org/HOL/Page?handle=hein.journals/brownjwa20&div=22&start_page=267&collection=journals&set_as_cursor=0&men_tab=srchresults
- Kilmer, B, Nicosia, N, Heaton, P., & Midgette, G. (2013). Efficacy of Frequent Monitoring With Swift, Certain, and Modest Sanctions for Violations: Insights From South Dakota’s 24/7 Sobriety Project. *American Journal of Public Health* 103, 37-43. 10.2105/AJPH.2012.300989
- Larkin, P.J. (2015). Swift, certain, and fair punishment: 24/7 sobriety and HOPE: creative approaches to alcohol- and related drug-using offenders. *Journal of Criminal Law and Criminology*, 105. Retrieved from <http://scholarlycommons.law.northwestern.edu/jclc/vol105/iss1/2>
- Loudenberg, R., Drube, G., & Young, L. (2014). Analysis of 24/7 sobriety program SCRAM participant DUI offense recidivism. Mountain Plains Evaluation, LLC. <http://apps.sd.gov/atg/dui247/2013%20SCRAM%20Analysis.pdf>
- Loudenberg, R., Drube, G., Leonardson, G., & Bathke, J. (2012). *South Dakota’s Sobriety Program Evaluation Supplemental Findings Report*. <http://apps.sd.gov/atg/dui247/AnalysisSupplementalSD24.pdf>
- Midgette, G. (2016). *A new approach to reducing heavy drinking and alcohol-involved crime: insights from RAND research on 24/7 Sobriety programs*. RAND Corporation. http://www.rand.org/content/dam/rand/pubs/testimonies/CT400/CT455/RAND_CT455.pdf

Midgette, G., & Kilmer, B. (2015). *The Effect of Montana's 24/7 Sobriety Program on DUI arrest*. RAND Justice, Infrastructure, and Environment. Santa Monica, CA: RAND Corporation, 2015. http://www.rand.org/pubs/working_papers/WR1083.html.

Nicosia, N., Kilmer, B., & Heaton, P. (2016). Can a criminal justice alcohol abstention programme with swift, certain, and modest sanctions (24/7 Sobriety) reduce population mortality? A retrospective observational study. *Lancet Psychiatry*, 3. [http://dx.doi.org/10.1016/S2215-0366\(15\)00416-2](http://dx.doi.org/10.1016/S2215-0366(15)00416-2)

“Program Profile: South Dakota’s 24/7 Sobriety Project” (2015). U.S. Department of Justice. <https://www.crimesolutions.gov/ProgramDetails.aspx?ID=404>

Schmidt, M. (2016). *2015 Wisconsin Act 389*. Wisconsin Legislative Council Act Memo. <https://docs.legis.wisconsin.gov/2015/related/lcactmemo/act389>

Talpins, S. K., Voas, R.B., DuPont R., & Shea, C.L. (2010). Smart justice for DWI Offenders: cost effective solutions that reduce recidivism and promote public safety. *The Journal of Offender Monitoring*. http://www.civresearchinstitute.com/online/article_abstract.php?pid=12&iid=461&aid=3183 .

Wiliszowski, C., Fell, C., McKnight, J., & Tippetts, S. (2011). *An Evaluation of Intensive Supervision Programs for Serious DWI Offenders*. National Highway Traffic Safety Administration. (DOT HS811 446). www.nhtsa.gov/staticfiles/nti/pdf/811446.pdf

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