

# A New Approach to Reducing Heavy Drinking and Alcohol-Involved Crime?

Insights from RAND Research on 24/7 Sobriety Programs

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*A New Approach to Reducing Heavy Drinking and Alcohol-Involved Crime?  
Insights from RAND Research on 24/7 Sobriety Programs*

Testimony of Greg Midgette<sup>1</sup>  
The RAND Corporation<sup>2</sup>

Before the Committee on Public Safety  
California State Assembly

March 29, 2016

Good morning, Chairman Jones-Sawyer. I'm Greg Midgette, an associate policy researcher at the RAND Corporation, a nonpartisan, nonprofit research organization with a mission to help improve policy and decisionmaking through research and analysis. I am honored to be here today to share our research findings about 24/7 Sobriety programs around the United States. I think it's very important to discuss new approaches to combatting drug- and alcohol-involved crime.

RAND has conducted research on 24/7 Sobriety for more than five years. My work has involved not only measuring the efficacy of the program, but also a fair amount of time conducting field observations and talking with those who operate these programs throughout the country. RAND's research on 24/7 Sobriety in Florida, Montana, North Dakota, and South Dakota has been supported by the National Institute on Alcohol Abuse and Alcoholism,<sup>3</sup> National Institute of Justice,<sup>4</sup> and Montana Department of Justice.

There are three major components to a 24/7 Sobriety program:

1. ability to order an individual to abstain from alcohol<sup>5</sup>
2. frequent alcohol testing

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<sup>1</sup> The opinions and conclusions expressed in this testimony are the author's alone and should not be interpreted as representing those of the RAND Corporation or any of the sponsors of its research.

<sup>2</sup> The RAND Corporation is a research organization that develops solutions to public policy challenges to help make communities throughout the world safer and more secure, healthier and more prosperous. RAND is nonprofit, nonpartisan, and committed to the public interest.

<sup>3</sup> Grants R01AA020074 and R21AA022439.

<sup>4</sup> Grant 2015-R2-CX-0016.

<sup>5</sup> Many jurisdictions have begun to integrate random drug testing as well, although the share of participants is typically small. In these cases, the drug testing component of the may closely mirror Hawaii's Opportunity Probation with Enforcement (HOPE) model. For more information on HOPE, see <http://www.crimesolutions.gov/ProgramDetails.aspx?id=49>.

3. swift, certain, and very modest sanctions for a violation.

When the program was first piloted in South Dakota in 2005, those who were arrested for repeat drunk driving had to abstain from alcohol and participate as a condition of bond. Participants would go to the sheriff's office twice a day—every day—and blow into a breathalyzer. To rule out false positives, those testing positive for any amount of alcohol had to retest in approximately 15 minutes. If they failed the retest, they were immediately taken to jail, where they would stay for a night or two.

This was very different from the typical practice of ordering individuals to abstain from alcohol but testing irregularly, if at all. 24/7 Sobriety appeared to be creating a credible deterrent threat and holding participants accountable for their behavior while they remained in the community.

While some judges were initially skeptical of the program, they were quite pleased when participants showed up and tested clean; no-shows and failed tests were very uncommon. Judges soon started ordering other types of offenders (e.g., for domestic violence) to the program, and 24/7 Sobriety began to spread to other counties throughout the state. But offense type and geography were not the only ways the program was expanding. It grew from pre-trial assignment to integrate participation after conviction, and some participants have begun wearing monitoring bracelets that test their sweat every 30 minutes for alcohol (instead of blowing into a breathalyzer twice daily). In addition, participants at risk of drug use are now tested and sanctioned when use is evident.

From 2005 through 2015, nearly 30,000 South Dakotans in the program accumulated more than 5 million days without a detected alcohol violation. Of the nearly 8.5 million breathalyzer tests ordered over this period, 99 percent were clean—and that includes no-shows in the denominator.<sup>6</sup>

RAND research published in the *American Journal of Public Health* shows that when counties adopted the program in South Dakota, the total number of arrests for repeat drunk driving fell by 12 percent *at the county level*.<sup>7</sup> In addition, implementation of 24/7 was associated with a 9-percent reduction in domestic violence arrests. More recently, RAND research published in *The Lancet Psychiatry* found that the program was associated with an overall reduction in adult mortality.<sup>8</sup>

Early evidence suggests that the 24/7 Sobriety program can be adapted to work outside South Dakota. Participant compliance in Florida, Montana, and North Dakota appears to be generally similar to that in South Dakota. While in the program, participants appear to drink less frequently than they would otherwise. About half of participants violate 24/7 and serve jail time at least

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<sup>6</sup> South Dakota Office of the Attorney General, "24/7 Statistics," web page, undated. As of March 28, 2016: <http://apps.sd.gov/atg/dui247/247stats.htm>

<sup>7</sup> B. Kilmer, N. Nicosia, P. Heaton, and G. Midgette, "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*, Vol. 103, 2013, pp. e37–e43.

<sup>8</sup> N. Nicosia, B. Kilmer, and P. Heaton, "Can a Criminal Justice Alcohol Abstinence Programme with Swift, Certain, and Modest Sanctions (24/7 Sobriety) Reduce Population Mortality? A Retrospective Observational Study," *The Lancet Psychiatry*, Vol. 3, No. 3, 2016, pp. 226–232.

once, and multiple failures are less common. Just last year, we examined the re-arrest rate for driving-under-the-influence (DUI) arrestees in Montana. For individuals convicted of repeat DUI, we found that those in the Montana 24/7 program showed a 40 to 70 percent lower one-year repeat-DUI re-arrest rate than those not in the program.<sup>9</sup>

Many policymakers and practitioners have asked if 24/7 Sobriety can work in urban areas.<sup>10</sup> Jacksonville, Florida—the largest city by land area in the contiguous 48 states—began its 24/7 pilot in August 2014 as a pre-trial program run through the Northeast Florida Safety Council, a client-funded, standalone agency with experience running programs with DUI arrestees in conjunction with the court, local law enforcement, and corrections.

Jacksonville's 24/7 pilot directly confronts many of the concerns expressed about the program. For example, in a dense urban area, traffic makes commutes to and from testing more difficult. The program has grown slowly as the city's 18 judges learn how it fits among the existing slate of pre-trial programs for individuals arrested for crimes involving alcohol or drug use. Individuals are jailed after a violation for a short period defined by the sentencing court. For participants who fail a preliminary breath test, commonly referred to as a breathalyzer test, the consequence is immediate; they are remanded to jail directly from the testing center. For continuous alcohol monitoring and participants that fail to appear for a test, a few days typically pass between their violation and the sanction. The city reports that as of August 2015, seven of 38 participants have missed or failed a test.

Jacksonville's experiences may inform other urban jurisdictions considering the 24/7 Sobriety program. They currently are confronting issues related to where additional testing sites should be located, which agency's staff should operate them, and what other pre-trial programming might best be coupled with 24/7. RAND will document these decisions and outcomes and will publish further information on our 24/7 Sobriety research page at <http://www.rand.org/health/projects/24-7.html>.

RAND's current research is largely focused on understanding how the program is implemented across cities, counties, and states. We have observed the program implemented at sites with daily in-person participation ranging from four to 400. Locations have placed their testing centers at jails, courts, police stations, treatment facilities, and separate from other facilities. Most programs rely on breathalyzer devices to administer tests. Some locations—for example, many in rural areas of the Dakotas, where distances between a participant's home and a testing site might be 40 miles or more—rely on body-worn remote alcohol devices for monitoring. Others have integrated ignition interlock and portable breathalyzer-type devices with facial recognition software. Increasingly, when judges or case workers feel it is appropriate, programs integrate drug testing via a transdermal drug patch or urinalysis, with consequences similar to alcohol violations.

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<sup>9</sup> G. Midgette, and B. Kilmer, *The Effect of Montana's 24/7 Sobriety Program on DUI Re-Arrest: Insights from a Natural Experiment with Limited Administrative Data*, Santa Monica, Calif.: RAND Corporation, WR-1083-MHP, 2015. As of March 28, 2016: [http://www.rand.org/pubs/working\\_papers/WR1083.html](http://www.rand.org/pubs/working_papers/WR1083.html)

<sup>10</sup> See, for example, D. A. Fisher, A. S. McKnight, and J. C. Fell, *Intensive DWI Supervision in Urban Areas—Feasibility Study*, Report No. DOT HS 811 861, Washington, D.C: National Highway Traffic Safety Administration, November 2013.

In most jurisdictions, there is not a strict length of time for which participants are placed in the 24/7 Sobriety program. Rather, it is left to the judge, prosecutor, or community corrections officer and based on the needs and risks of each candidate. The costs of the program differ across locations, depending on implementation choices and differences in relative costs by area. The cost to participants also varies, sometimes quite considerably. Participant monitoring fees range from \$2 to \$10 per day, plus other costs associated with participating, such as transportation. Some jails charge participants for each night of incarceration to defray costs. Some jurisdictions also mandate training or treatment along with being in the program, but, to date, most do not. Others have begun to integrate 24/7 testing and sanctions with their drug and DUI court programs.

The structure of how revenue from participant fees is distributed also varies; this is a subtle but important variable. Sites administering the program devote staff and other resources to it, and if revenue is not equitably distributed, 24/7 may crowd out other responsibilities, or agencies may cut corners or reduce fidelity. In South Dakota, testing-fee revenue collected by the state is returned to local departments to cover staffing costs and to provide grants for 24/7-related investments.

Indeed, we do not yet have the necessary data to say whether some implementation choices work better than others. Many yet-to-be-answered questions are extremely important to both the jurisdictions and the participants. What is the minimum sanction required to provide a credible deterrent to getting drunk, and can positive incentives be integrated to improve effectiveness? What is the minimum length of time a participant must be in the program in order to reduce heavy drinking and his or her long-term likelihood of re-arrest? For whom is a continuous alcohol-monitoring or breathalyzer-based testing regime best suited? How can substance treatment, counseling, or other services offered to Californians best be combined with the program? The specific implementation choices that policymakers, judges, and other members of the justice system make based on their knowledge of the communities they serve can maximize the program's effectiveness.

Based on our research in South Dakota, the U.S. Department of Justice designated 24/7 Sobriety a "promising" program on its evidenced-based practices website, [CrimeSolutions.gov](http://CrimeSolutions.gov). Observations from other states suggest that the program can be translated to other justice systems, but the "ideal" combination of choices will likely depend on the participant and the jurisdiction. That said, the 24/7 program is very promising because of its consistent and immediate consequences. Having those in place appears to be a real deterrent to drinking. When integrated into an area's existing justice system and carried out with fidelity, 24/7 Sobriety can reduce alcohol-involved crimes (such as drunk driving) and improve public health and safety.