Sobriety Program

Essential Elements and Best Practices

THIRD EDITION • MAY, 2017

Contents

Forward

An "evidence based" 24/7 Sobriety Program is a seven (7) day a week, three hundred sixty-five (365) day a year monitoring program for offenders who have committed crimes with a nexus to alcohol and/or drug abuse. Participants submit to scheduled and/or random testing in order to determine the presence of alcohol, marijuana, or other controlled substance in their bodies. If a participant does not appear for testing or tests positive, the participant is subject to swift, certain, proportional, and consistent sanctions. Evidence based 24/7 sobriety programs employ proven methods that research has demonstrated can reduce recidivism in a cost-effective manner. This Best Practices document provides guidelines for the operation of an evidence based 24/7 Sobriety Program.

It is important to understand that not all 24/7 sobriety programs are evidence based 24/7 Sobriety Programs. Certain organizations have included unproven drug and alcohol monitoring programs in their definition of a 24/7 program. The evidence based 24/7 Sobriety Program is much more than a drug and alcohol monitoring program. Participants in the program are required to abstain from consuming alcohol and drugs while on the program. Violations are not tolerated. Participants are monitored and given swift sanctions that may include incarceration every time they miss a test or test positive. Participants that are compliant receive immediate positive feedback. Programs that fail to adhere to these basic principles cannot be expected to obtain the results the evidence based 24/7 Sobriety Program has achieved.

The 24/7 Sobriety Program was created in South Dakota in 2005. Researchers have reviewed the data from the early program and determined that the program effectively impacts participants' long term recidivist behavior. Accordingly, this manual is largely based upon lessons learned from South Dakota's early model.

Policy makers in several states took notice of South Dakota's success and started similar programs. As of March 2017, South Dakota, North Dakota, Montana, Washington, Idaho, Wyoming, Wisconsin, Utah, and Alaska all have legislatively authorized 24/7 Sobriety Programs. This document identifies the core components of an evidence based 24/7 program and the strategies it employs. It is intended to define the best practices necessary to replicate the original program. This is a living document in the same way that evidence based 24/7 programs are evolving programs. Thus, this document provides a method to adapt, incorporate, and study new ideas, methods, protocols, and practices to the program that may ultimately prove worthy of being included in the best practices. The mantra of this method is "follow the data."

OVERVIEW OF THE SOUTH DAKOTA 24/7 PROGRAM

By SD Attorney General Marty Jackley and SD Judge Larry Long

The criminal justice system in South Dakota (and most other states) is fueled by alcohol abuse, consumption of illegal drugs, and repeat offenders. From FY1999 through FY2010, 37% of all felony convictions in South Dakota were felony Driving Under the Influence (DUI) offenses. In second place was felony possession of a controlled substance with 23%. In South Dakota, Felony DUI is a third (or more) DUI conviction within 10 years, or any DUI causing death or serious injury. Since 2005, South Dakota's 24/7 Sobriety Program has reduced DUI recidivism, improved public safety, provided an alternative to incarceration, allowed offenders to remain in the community, and maintain employment. Tax dollars have been saved because the bulk of the program costs are paid by the program participants.

In 2005, South Dakota piloted a new approach to reduce repeat DUI offenses and to slow rising jail populations. The idea was to compel DUI defendants to quit drinking alcohol. DUI defendants with at least one prior DUI conviction within the previous 10 years were court-ordered to abstain from any consumption of alcohol as a condition of pre-trial release and to submit to a breath test twice daily (morning and evening) to ensure compliance. Defendants who skipped or failed a test were immediately incarcerated for 24 hours, reappeared in court, and then were released from custody and placed back into twice per day alcohol testing.

The pilot was launched in five South Dakota counties. The initial results were encouraging. Over 1000 participants, each with at least one prior DUI, were tested for an average of 100 days. Over half of the participants were fully compliant, meaning that they showed up for each test on time and passed. Only 6% of participants had more than two violations (either a "hot" test showing an alcohol concentration or a "no show"). During the pilot, some participants, because of employment or travel issues, had difficulty attending the testing. Also, several counties were sparsely populated and small sheriff's offices were unable, for personnel reasons, to provide twice per day testing. In response, the pilot adopted an additional testing option, namely a transdermal bracelet, which measures alcohol concentration from a person's perspiration to identify use.

To address drug use, drug testing was incorporated into the pilot. Administrators monitor offenders for drug use through urine testing and drug patches. Participants financed the pilot by paying a court ordered daily or per-test fee to cover the cost of the testing. This pilot became the 24/7 Sobriety Program.

In 2007, the South Dakota Legislature authorized statewide implementation of the 24/7 Sobriety Program. The Legislature expanded the scope of the program, authorizing its use for all criminal offenses in which alcohol and/or drug use was a factor in the commission of the crime. The 24/7 Sobriety Program was also authorized for supervision of probationers and parolees. Moreover, state law was modified to allow judges in abuse or neglect cases to place children's caregivers into regular alcohol and/or drug testing as a condition of returning the children to their homes.

Almost 50,000 people participated in the program between January 1, 2005 and April 1, 2017. The participants appear for and pass the vast majority of their tests. From 2005 through April 1, 2017, over nine million breath tests have been administered to almost 45,000 24/7 Sobriety Program participants in South Dakota, the majority of whom have been compliant: Since 2005, over 99 of each 100 tests administered have been compliant. On a daily basis, less than one percent of participants had a program violation at the time of each twice-daily test. The program violations were about evenly split between failed tests and "no shows." Between October 2006 and April 3, 2017, almost 10,000 participants wore the transdermal bracelet, which monitors a participant's alcohol level more frequently than twice a day. Seventy-five percent (75%) of those participants were fully compliant, meaning no alcohol was detected during each 24-hour period and the participant did not tamper with the bracelet. From July 1, 2007 through April 1, 2017, almost 9,000 participants have submitted urine samples and been tested almost 230,000 times. The passage rate is almost 95%. Between July 1, 2011 and April 1, 2016, over 1,000 participants wore a drug patch and over 11,000 tests were conducted. Seventy-seven percent (77%) of the tests were negative for drugs. As the data reflects, the 24/7 Sobriety Program, when properly administered, keeps the overwhelming majority of chronic DUI defendants sober.

Researchers have documented the long-term benefits of the originally conceived program that relied on twice-daily breath testing and, in hardship cases, transdermal monitoring for program participants and the general public. An analysis of data collected from participants between 2005 and 2010 showed that during the four-year period after their participation in the program ended, participants were 30% to 50% less likely to be re-arrested for DUI than their non-participating counterparts. Loudenburg, R., Drube, G., Mabee,)., "South Dakota 24/7 Sobriety Program Evaluation Supplemental Findings Report," South Dakota Office of the Attorney General and South Dakota Department of Public Safety, 2015. In a 2013 study published in the American journal of Public Health, researchers from RAND Corporation analyzed South Dakota's 24/7 Sobriety Program data for 2005 through 2010 and concluded that the 24/7 Sobriety Program led to a 12% reduction in repeat DUI arrests and a 9% reduction in domestic violence arrests in participating counties where at least 25% of the offending population was placed on the 24/7 Sobriety Program and 85% of the participants were subject to twice daily breath testing. Further RAND research, published in Lancet Psychiatry in 2016, showed that the implementation of a 24/7 Sobriety Program was followed by a 4.2% decrease in the state's mortality rate, equal to saving the lives of several hundred South Dakotans a year. Finally, during the five years before the program commenced, 2000 through 2004, the average annual death toll in South Dakota from alcohol impaired motor vehicle crashes was 54.5 per year. Between 2010 and 2014, the last year such data is available, the average dropped to 40.4, an improvement of approximately 25%. Many factors contribute to the decrease in fatalities: cars are safer, regular seat belt use increased, and each day since 2005, the South Dakota 24/7 Sobriety Program helped keep chronic DUI defendants sober. For more information, research, and the most recent statistics, please see the Attorney General's webpage at http://apps.sd.gov/atg/dui247/.

THE NATIONAL 24/7 ADVISORY COUNCIL

The purposes of the National 24/7 Advisory Council are:

1. To advise, assist, support, and advocate for evidence based 24/7 Sobriety Programs;
2. To establish criteria defining the essential principles and practices of a 24/7 Sobriety Program as well as optional elements that may or may not be involved;
3. To create program guidelines for "essentials" or optional "best practices" of a 24/7 Sobriety Program;
4. To create a certification process for all 24/7 Sobriety Programs and thus encourage fidelity to the 24/7 Sobriety Program criteria;
5. To establish best practices protocols for testing methods used in evidence based 24/7 programs;
6. To establish data collection criteria by each program; and
7. To encourage and support studies and evaluation of all 24/7 Sobriety Programs.

The National 24/7 Advisory Council includes members who have historical knowledge about the creation and implementation of 24/7 Sobriety Programs, study the program, and/or have expertise in fields such as alcohol treatment and behavioral sciences. They all volunteer their time on the Council. Current members include: Attorney General Marty Jackley (South Dakota), Judge Larry Long (South Dakota), Michael Myers (24/7 Coordinator Douglas County) Nebraska, Dr. Keith Humphreys (Stanford University), 24/7 Program Coordinator Mike Reed (Wyoming), Judge (Ret.) Steven Alm (HOPE Program Founder), Dr. Robert DuPont (Institute for Behavior and Health, Inc.), Stephen Talpins (National Partnership on Alcohol Misuse and Crime), 24/7 Coordinator Arapahoe County Bureau Chief Vince Line (Colorado), and Chairman Bill Mickelson (board founder South Dakota). Each of them contributed to or approved this document.

24/7 Sobriety Program Best Practices

The 24/7 Sobriety Program is a seven (7) day a week, three hundred sixty-five (365) day a year testing, monitoring, and sanctioning program for alcohol and drug involved offenders. Participants submit to scheduled and/or random testing in order to determine the presence of alcohol, marijuana, methamphetamine, heroin, or any other controlled substance in their bodies.

Swift, certain, proportional, and consistent consequences for program violations (i.e. failing to appear for testing, refusing to submit a sample for testing, and failing a test) are essential and necessary program components. Swift and consistent consequences influence participant behavior more effectively than delayed and inconsistent consequences (e.g. "If you keep doing this and get caught, you may end up in prison someday"). Peer reviewed data generated from some of the early 24/7 Sobriety Programs indicate that these programs have produced significant reductions in long term recidivism rates for participants who successfully complete the program.

Administrators collect, maintain, and review data via an electronic data management system. This allows them to track participant progress and identify program efficiencies, resources, strengths, weaknesses, accomplishments, and opportunities for improvement.

It is essential for newer programs to maintain fidelity to follow the original model in order to ensure similar results. Accordingly, this document identifies best practices that include a compilation of strategies that have generated the outstanding results documented by independent, peer-reviewed studies of the successful and originally conceived South Dakota Program.

The goal is to provide guidance and support to states, local agencies, and public officials in preparing for and implementing an evidence-based 24/7 Sobriety Program.

ORIGINS OF THE 24/7 SOBRIETY PROGRAM

The 24/7 Sobriety Program began as an effort to reduce impaired driving by forcing offenders to stop drinking for a period of time. It provided offenders with an opportunity to remain in the community with their families and friends and maintain gainful employment rather than incarceration.

Prosecutors and judges originally referred people into the program pre-trial and post-conviction.

The program's methods were as simple as they were effective. It worked by:

1. Requiring participants to abstain from alcohol while in the program;
2. Conducting on-site testing of participants each morning and evening, approximately 12 hours apart, to ensure compliance;
3. Typically sanctioning participant violations with immediate short term incarceration (commonly referred to as "flash incarceration").

When a participant violated the terms of the program multiple times, the participant appeared before a judge and was either placed back into the program or given an alternate bond or sentence.

During the initial stages of implementation, test administrators observed that some participants appeared to be "impaired," but were passing the breath alcohol tests. They realized that those participants were using drugs (usually marijuana) that do not show up on a breath test. Accordingly, they incorporated a drug testing component (urinalysis or drug patch) into the program.

Twice-daily testing at a centralized location proved to be a hardship for some South Dakota residents who lived far away from their local sheriff's offices. The test requirement made it very difficult, if not impossible, for participants to obtain and keep jobs, attend school, or maintain a healthy family life. Administrators added remote transdermal alcohol testing to accommodate these participants.

South Dakota piloted and evaluated the program before taking it statewide. This allowed the state to obtain preliminary information about the program's utility and most effective components. The National Institute on Alcohol Abuse and Alcoholism subsequently funded the RAND studies that documented the program's tremendous impact, as discussed above, http://www.rand.org/pubs/external_publications/EP51155.html.

After the program's effectiveness was documented and peer-reviewed, South Dakota began experimenting with ignition interlock devices. It is yet to be determined, through data analysis and peer-review, if this tool has had a positive or negative impact on meeting program goals.

ESSENTIAL ELEMENTS OF THE 24/7 SOBRIETY PROGRAM

An effective 24/7 Sobriety Program that maintains fidelity to the original model contains the following essential elements: A mechanism for identifying participants who would benefit from participation in the 24/7 Sobriety Program (i.e., offenders charged with drinking and driving or other offenses that have a nexus to alcohol or drug abuse) regardless of who or when the participant(s) is placed in the

program;

Statutes, rules, or regulations for implementing the 24/7 Sobriety Program; testing facilities; written procedures for implementing program methods, testing, and sanctioning offenders, documenting key events, and retaining records;

1. A prohibition against using alcohol and drugs (absent a valid prescription) for all participants while they are in the program;
2. Agreement form(s) or contract(s) that participants must sign acknowledging their understanding of program rules (including abstinence), expectations, and sanctions, and agreeing to abide by them and allow their records to be used for assessment purposes;
3. A primary testing methodology for alcohol and drugs involving twice-daily breath testing at a central site (or sites) for alcohol and regularly conducted random or scheduled testing for drugs;
4. Availability of additional testing methodologies that can be employed in the limited circumstances where individual participants are unreasonably burdened by twice-daily breath testing, include transdermal alcohol monitoring and drug patch testing;
5. Positive feedback for compliance;
6. Swift (preferably immediate), certain, proportional, and consistent sanctions for all violations, including flash incarceration (short-term incarceration);
7. A sustained evaluation of the program through analysis of testing data and participant recidivism;
8. A means to ensure program sustainability through predictable funding sources, including program fees.

Components of a 24/7 Sobriety Program

The best practices of a 24/7 Sobriety Program should contain the following as core components of the program:

1. Stakeholder's advisory group to review procedures and recommend changes;
2. Defined program objectives;
3. Operating procedures,
4. A plan for program funding;
5. Program agreements with testing facilities and other participating agencies, including the courts, parole, corrections, and, where appropriate, social services;
6. Alcohol and drug testing methodologies. As previously noted, the primary methods should include twice-daily breath testing and regular scheduled or random drug testing. Program administrators should incorporate other methods to accommodate participants who are unreasonably burdened by these methods as previously described;
7. Defined testing and maintenance protocols for each of the test methodologies;
8. Participant agreements and other necessary forms;
9. Defined program participant eligibility;
10. Positive feedback for compliance, preferably including a system that rewards participants for maintaining sobriety and complying with program rules;
11. Clearly defined graduated sanctions for program violations;
12. Data collection, evaluation, and dissemination of results; and
13. A defined process for program adaptation, to include methods for identifying and developing new protocols and test methods; pilot testing, evaluating, and peer reviewing outcomes; and incorporating new proven methods into the best practices.

PROGRAM OBJECTIVES

A 24/7 Sobriety Program should strive to accomplish the following:

- Ensure that program participants will participate in judicial proceedings in a timely, sober fashion;
- Promote recovery and sobriety;
- Provide an alternative to incarceration with this community-based supervision program;
- Allow offenders to live and work in the community;
- Better manage jail and prison populations;
- Improve participants' ability to work and maintain relationships by providing a mechanism for them to obtain conditional or restricted driving permits or licenses contingent upon program compliance;
- Improve probation and parole monitoring;
- Enable wide expansion of the program, including in specialty courts and family courts;
- Provide testing for specialty courts, including DUI, Veterans, Drug, and HOPE Courts;
- Reduce short and long-term recidivism for a variety of offenses that have a nexus to alcohol or drug abuse; and
- Improve overall public safety by reducing criminal behavior and crashes.

STAKEHOLDERS' ADVISORY GROUP

In most jurisdictions, the chances that a 24/7 Sobriety Program will succeed are dependent, in part, upon support from, and a comprehensive dialogue among, all stakeholders on program objectives, procedures, and features including, but not limited to, the testing facility. Program leaders should create an advisory group to provide input. Ideally, all key stakeholders, including at least one judge and one law enforcement officer, will participate.

The advisory group should include members from several or all of the following:

- Courts
- Probation
- Pre-Trial Services
- Department of Corrections Parole Services
- Department of Human Services and Treatment Providers
- Local, County and State Law Enforcement
- Department of Social Services
- Department of Motor Vehicles
- Attorney General's Office and Prosecutors
- Public defenders and private defense bar

Members representing each stakeholder group and a leader from other partnering disciplines should be engaged to develop and support the goals of the project. Members should serve as liaisons with their peers in their jurisdiction. Stakeholders need to understand and actively embrace the role they play in the day-to day operations of a 24/7 Sobriety Program.

In some cases, stakeholders may have a strong interest in maintaining the status quo. By engaging and educating these state and county officials, probation staff, social service system representatives, and members of the community, Program leaders can educate them about the program's benefits and build broad support for the program during its initial stages.

PROGRAM LEADER / ADVOCATE

Every program needs a leader. Depending on the size of the program, a state or local official should lead the program and ensure proper implementation, including fidelity to model. Ideally, this official should have the ability to lead and influence the stakeholders that will participate in the program. This champion will need to be able to convene, educate and lead the key stakeholders. Statewide 24/7 Sobriety Programs typically are led by the Attorney General or other designated agency head; whereas county programs may be led by sheriffs, chiefs, prosecutors, or directors of state or local probation agencies. Of course, each jurisdiction is different and leadership may vary according to need.

The advisory group also needs a leader. The group should identify a 24/7 Program Coordinator to lead the group. In most cases, the Program Coordinator is a member of the office or agency responsible for overall program administration.

PARTICIPANTS

All offenders with alcohol or drug misuse issues may be considered for the program. Historically, the program was limited to those who committed the crime of driving under the influence of alcohol or drugs; however, many programs currently include people who committed other crimes where alcohol and/or drugs was a contributing factor, such as assaults, as well as child abuse, or neglect cases. In some jurisdictions, family judges may even refer parents who abuse alcohol or drugs to the program.

A participant may be placed on the program at any point during the process and as a condition of release. Thus, a participant may be referred to the program as a condition of pre-trial bond, sentence, or probation or parole. A person may even be placed in the program as a condition for obtaining a restricted driver's license.

CORE TESTING COMPONENTS

Program participants are required to maintain sobriety and comply with all program rules. Their compliance is monitored via frequent alcohol and drug testing methods. Compliant behavior is acknowledged and appreciated. Unlike many other programs, positive alcohol or drug tests are not accepted or tolerated. All violations result in swift, certain, proportional, and consistent sanctions. It is important to note that sanctions are considered "swift" if they occur immediately or very close to when the violation occurs, not how close they happened to when the participant is caught. These core components are essential to the program's success.

Research from the fields of neurobiology, psychology and economics suggests that punishment certainty is a stronger deterrent against criminal activity than punishment severity. Research also suggests that rewards and incentives can significantly impact behavior and that individuals value immediate rewards more than delayed rewards, a tendency which is particularly pronounced among people who abuse alcohol and/or drugs. Testing methods that can produce both immediate positive feedback for compliant behavior and immediate sanctions for non-compliant behavior are preferred.

Program participation length varies according to each participant's risk, need, and compliance. Participants who fail to report for testing or test positive typically participate for an extended period of time. Considerations include why the participant is in the program and the participant's prior

history.

Participants should remain in the program for a period of time sufficient to result in long term behavioral change. Studies have shown that the program may impact some participants in as short as 30 days, greater impacts (reduced recidivism) are associated with longer program participation. Research in the treatment field typically suggests that 90 days is the minimum amount of time needed for a significant dose response relationship.

Specific core features include:

- Written procedures setting forth the means by which an eligible participant is placed in the program and which agency is responsible for testing. These procedures may be established through rule, regulation, court order or other means;
- Specified testing agencies, locations, and methods;
- Standard operating procedures (SOP) for each testing agency. The SOPs should specify all acceptable test methods and instruments and provide all necessary forms, orders, and agreements. The protocols should include uniform operating and data collection procedures for any and all testing devices. Leadership should require all vendors to meet program specifications. Finally, the SOPs should establish standards for data collection and Program evaluation;
- Each testing method should be chosen according to clearly defined parameters in the SOPs. Considerations should include the participant's risks, needs, and proximity to testing twice-daily testing stations;
- Data collection and records keeping should allow administrators and justice practitioners to quickly and easily assess participant's progress and the overall program's performance; and
- Clear procedures for addressing all violations.

Sanctions should be:

- Swift. Research has shown that proximal identification of every violation and quick application of sanction increases the impact of the sanction upon the offender and reinforces behavior change. In other words, the quicker a violation can be detected and sanctions applied, the larger impact the sanction will have upon behavior (the same is true for rewards: the more immediate the positive feedback for compliance, the greater the impact on behavior).
- Certain. Offender behaviors are influenced by their perception of the likelihood that they will be caught. In the context of alcohol and drug programs, their behaviors are directly impacted by their perceptions about the likelihood of their alcohol or drug consumption being detected by the testing methods used. The more they believe that an alcohol or drug consumption event will be detected, the less likely they are to use alcohol or drugs;
- Proportional. Responses to a violation should be proportional to the violation. Thus, they should involve an escalating sequence of meaningful sanctions and be sufficient to deter future misconduct, but not so serious that they unnecessarily undermine the participant's ability to live in the community or be viewed as overly punitive (research shows that if a person believes that sanctions are unfair, it may undermine the deterrent effect), and
- Consistent. Sanctions should be applied consistently for similar conduct among offenders. Inconsistent application among offenders may lead to a perception that the testing methods are unfair and undermine the deterrent effect.

Officials should constantly evaluate the participants' sanctions and responses to determine whether the chosen testing methods and the program is properly suited for each participant.

Intensive monitoring of drug and/or alcohol use should employ technologies that:

- Will detect alcohol and drug use consistently, accurately, and reliably;
- Allow for swift and consistent application of consequences for compliance and non-compliance;
- Allow participants to maintain employment, education, and/or a family life;
- Are proven effective in reducing criminal behavior for the long term (i.e. they continue to impact participants after they leave the program). Techniques that reduce recidivism both while the participant is in the program and after they leave the program are preferential to those that only have an impact on recidivism while the participant is actively engaged in the program. Although experimentation and pilot testing of other methods is encouraged, overall fidelity to the original program is important and proven methods are the backbone of any evidence based 24/7 Sobriety Program; and
- Produces valid and defensible results.

Regardless of the chosen methods, program administrators must create minimum standards and ensure that all vendors comply with them.

Participants should be required to invest in their sobriety. Thus, programs should require them to:

- Execute a written participation agreement or contract that defines program expectations and their obligations;
- Abide by the agreed upon schedule testing regimen;
- Pay for the full or partial cost of the testing; and
- Agree to share their test data with interested parties through waivers and consents.

ALCOHOL TESTING

There are several proven ways to test for recent alcohol use, including:

1. Twice-daily in-person breath testing;

2. Transdermal testing

Each of these methods has distinct advantages and disadvantages.

In-Person Alcohol Testing

Twice daily in person testing is the primary method used in South Dakota's program. Participants report to a designated location twice a day, approximately 12 hours apart, for testing. They provide breath samples according to instruction. In person breath testing is advantageous for a host of reasons. Participants encounter law enforcement officers or staff on a twice daily basis. Presumably, this enhances the program's deterrent effects. Program staff or selected testers administer the tests, making it extraordinarily difficult for participants to manipulate results. Participants who test negative are provided immediate positive feedback; participants who test positive are sanctioned immediately. Thus, this method facilitates an instant response to test results that simply cannot be replicated by other methods. Further, breath tests are easy, quick, and inexpensive. This method has two primary disadvantages. First, participants must have reasonable access to the test location. Second, participants may consume moderate amounts of alcohol between tests without being caught. Of course, most participants haven't controlled their drinking in years so this is not a terrible outcome.

Transdermal Alcohol Testing

Transdermal monitoring samples the wearer's sweat for alcohol with prescribed frequency each day. Devices are equipped with anti-tampering technologies that make them difficult to remove or circumvent.

Remote testing devices are particularly advantageous when participants do not have reasonable access to in person testing facilities. Further, they can be used to test people more than twice daily.

Transdermal testing methods also have certain disadvantages. They are subject to increased risk of tampering and circumvention since the tests are not monitored, despite technologies to prevent that. As with twice-daily testing, participants can drink without being caught. Participants who are tested remotely do not encounter law enforcement on a daily basis, receive contemporaneous positive feedback for negative tests, or suffer immediate consequences for violations. This may undermine program effectiveness. Finally, remote alcohol testing is more expensive than twice-daily in-person alcohol testing.

DRUG TESTING

A significant percentage of people with alcohol misuse issues have co-morbid drug problems. Thus, ideally, all participants should be monitored for drug use. If this is not possible, officials should at least drug test those who appear to use drugs.

There are multiple ways to test people for drugs. In most cases, participants undergo in person testing. They submit to on-site urine or oral fluid samples for analysis. If a participant tests positive but claims innocence, the samples are submitted to a laboratory for confirmation. Ideally, in person testing should be conducted frequently enough to detect most violations (i.e. a couple of times per month for urine testing and weekly for oral fluid testing). Random tests are preferred over pre-scheduled tests.

Participants who do not have reasonable access to testing facilities wear drug patches that collect their sweat for laboratory analysis. As with the methods for alcohol testing, the drug testing methods have distinct advantages and disadvantages.

Urine and oral fluid on-site testing are preferred because the immediacy of results allows for the application of swift consequences for positive tests. Urine testing for marijuana use has a longer window of detection, which means that program officials do not need to test people very often. Of course, if they delay testing too long, it undermines the sanction's deterrent effects by putting too much time between the violation and sanction. Urine testing for certain controlled substances has a shorter window of detection. Urine testing has the distinct disadvantage or requiring that a gender appropriate person monitor the sampling process in order to avoid adulteration. Oral fluid testing has a much shorter window of detection. Thus, participants who undergo oral fluid testing must be tested more often. Drug patch testing has all of the advantages of remote testing and can be used to monitor for consumption of a wider variety of drugs. However, it also has the usual disadvantage of remote testing: sanctions are not applied until well after consumption and testing.

NO SHOWS/LATE TEST

Upon entry into the program, participants should be apprised that tardiness and no shows are not permitted. Participants who are late for testing or fail to appear for testing should be sanctioned as quickly as possible.

This program works in large part because participants are required to take responsibility for their actions. Not presenting for a scheduled test should be considered as severe a non-compliant event as a participant who admits use or provides a positive sample.

In testing sites where no shows are treated less severely than positive tests, participants who are using alcohol or drugs are likely to skip their appointments to avoid positive tests.

There should be zero tolerance for participants who abscond or remove an ankle bracelet. Offenders who do so should be punished much more significantly than they would be for a positive test unless they turn themselves in quickly. Program administrators should consider removing offenders who abscond for a significant period of time.

TESTING LOCATIONS

Twice daily breath and drug testing should be done at or in close proximity to a law enforcement facility. If this isn't possible, a law enforcement officer should be readily available to take an enforcement action for program violations. Facility staff must be trained on all program testing procedures to ensure consistent testing, documentation, and sanctions.

CONSEQUENCES: CLEARLY DEFINED SANCTIONS

It is absolutely essential that program staff respond quickly and strategically to all non-compliant events. Program administrators have employed two strategies for accomplishing this. Some programs leave the sanctioning to a judge or supervising agent's discretion with little guidance, while others utilize a formalized graduated sanction schedule to respond to a noncompliant event.

Sanctions should be applied in a swift, certain, proportional, and consistent manner. Celerity is critical; in general, the faster the response, the better the result. The SOPs should establish who will impose the sanction, how they will impose the sanction, and how quickly they will impose the sanctions. Consistency is essential. Arbitrary sanctioning (i.e. responding to violations on a case-by-case basis in a way that is not transparent and predictable to offenders) lowers the effectiveness of the program.

Programs typically impose the following remedial measures and sanctions:

- Community service
- Extended monitoring term
- More strict and intensive testing methodologies
- Short-term incarceration
- Loss of restricted driving privileges
- In family court cases, modification of condition

Some programs use assessment tools prior to determining who should participate in a 24/7 program, while others use them to evaluate participants who fail to comply with program rules. We recommend the use of these tools for both purposes. Most programs also increase the amount of treatment provided to participants who prove unable (or unwilling) to control their drinking and drugging. Many require these offenders to participate in a drug or DWI court as well. We strongly support these types of responses.

The most significant sanction for program violations is, of course, expulsion from the program. While it is generally preferred that participants be kept in the program, expulsion is warranted in cases of repeated violations despite warnings and interventions and in cases where participants present a substantial risk to public safety.

RESOURCES AND COSTS

Like any other program or method, 24/7 Sobriety Programs require proper resources. The originally conceived program started with a grant and implemented an offender pay model. Charging offenders for their participation not only can defray costs, but also means that participants "buy in" to the program in the most literal way possible.

Specific resource needs include:

- Labor: If the site is testing only a few participants, existing full time employees often can perform testing. If, however, a substantial number of participants are assigned to the site, officials should consider using volunteers or hiring new employees or third party providers to administer the tests.
- Program location: Again, depending upon the volume of participants, existing locations, (such as jails or correctional options facilities), may be capable of handling the testing and other program requirements. However, program managers are cautioned to consider ease of access, including proximity to public transit, and available parking.
- Computer, Internet, Data Management Software: Data collection is critical to properly manage participants and evaluate the program. Program officials should collect and maintain the data in a web based management system that is capable of creating test schedules, recording test event histories, supporting the use of a variety of testing modalities and vendor's products, managing cash accounts for each participant, tracking participant status and maintaining records of participant performance while on the program. Additionally, the program should create and monitor workflows to ensure that consequences are applied. Finally, the program should collect and record the data (type and term) associated with any sanction that is applied, in order to assess the impact of such actions at a later point in time. Accordingly, program staff will need, at a minimum, a printer, computer, and internet connectivity. Jurisdictions typically address these needs by using existing equipment and connectivity or through grants.
- Test Equipment: Regardless of which methods are employed, program administrators need to purchase or lease test equipment and contract with the appropriate vendors and laboratories.

FUNDING SOURCES

Offender Pay Model

South Dakota and other states and counties have had great success employing an "offender pay model." Essentially, they require offenders to pay most, if not all, program costs. Several jurisdictions report earning profits and using the

excess funds to enhance their 24/7 Sobriety Programs.

The offender pay model is largely based on the philosophy that the program participants should pay for the program because (1) they created the need for it; and (2) the program allows them to remain in the community where they can work, rather than sit in jail or prison. Many program proponents also believe that the offender pay model encourages behavioral change.

Some programs charge a one-time activation/de-activation or participation fee. Participants typically pay these fees when they enter the program. For most methods, participants also pay a fee per test or a daily fee. Participants usually pay these fees when tested or over a defined period of time. Program staff are encouraged to use test methods that are affordable for most, if not all, offenders.

Some people have expressed skepticism about charging offenders. They are concerned that indigent offenders will not be able to pay. However, South Dakota and other jurisdictions have not had a significant problem addressing the issue, possibly because it costs offenders less money to participate in the program than it does to support their drinking or drug use. Still, administrators should also consider creating a fund to help truly indigent participants meet their financial obligations to their programs. If they create such a fund, they should establish clear rules and standards defining who is indigent, the process for establishing indigence, and the process for reassessing each person's indigence as they remain in the community. Under the offender pay model, indigent offenders should be required to pay at least nominal fees whenever possible. Program fees should be uniform across testing sites so that offenders at one site are treated identically to offenders at other sites and should only be used to support costs associated with operating or improving the program, including staff, software, equipment, and indigent needs.

Because this model requires offenders to pay for their participation, it is believed that these programs are more sustainable than those completely funded by tax dollars.

Public Subsidized Model

Several states, or agencies within states, have elected to partially subsidize or fully pay for the program using funds from the state or jurisdictions budget.

Grant Funding

The Fixing America's Surface Transportation (FAST) Act that was signed into law on December 4, 2015 provides a great opportunity to start statewide 24/7 Sobriety Programs. The Act provides Impaired Driving Countermeasure Grants to "States that enact a State law or program that authorizes a State court of agency with jurisdiction to require an individual who has committed a DUI offense to abstain totally from alcohol or drugs for a period of time subject to testing for alcohol or drugs at least twice a day at a testing location, by continuous transdermal monitoring device, or by an alternative method approved by NHTSA." The law's language suggests that the program must have statewide applicability (although the law or program need not require that every DUI offender be subject to a 24/7 sobriety program, it must be authorized to apply on a statewide basis). Consequently, a pilot program that may be in use in a small portion of a State or a program that is based solely at a local government level (e.g. county-based) may not be eligible for these funds. Programs that do not have statewide applicability may obtain funding under other provisions, as well as state, local, and private sources. Administrators who are interested in obtaining Federal grants are encouraged to speak to the NTHSA Program Manager assigned to their state for more information.

DATA COLLECTION AND DISTRIBUTION

As previously noted, it is absolutely essential for program administrators to collect data on practice and performance, at the individual and group level. The data should be used to determine program successes and identify opportunities for improvement.

The data collected within and across a program should be uniform with regard to enrollment, test methodology, accounting, sanctioning, and participant status. At a minimum, data should be collected for each participant that includes:

- Participant demographics and other characteristics;
- Entry point for program participation (offense, violation, pre-sentence or post-sentence);
- Participant level of risk and need;
- Testing method selected;
- Data specific to each monitoring method that includes;
- Participant status;
- Time and date related testing (time of day, date);
- Late shows or tests;
- No shows (missed tests);
- Tampers (for remote testing);
- Test results; and
- Longitudinal data on participant outcomes, including criminal and substance use behavior.
- There are many different ways to collect and manage the data. Program administrators should consider the best approach for collection and management of program data for evaluation and program management purposes prior to program implementation. They should consider their program's size, need, and resources when determining how they are going to collect and maintain program data and re-address the issue on an ongoing basis as program needs or resources change.
- If a 24/7 Sobriety Program only has one testing site and one practitioner placing participants in the program and requesting access to the test results, data can be collected and tabulated manually or recorded in a simple Excel type spreadsheet. If multiple test sites are used, multiple practitioners are enrolling participants, or multiple practitioners need access to data, a web based management system may be much more efficient

and effective. For these programs, a software program specifically designed for managing a 24/7 Sobriety Program is recommended. Web application that allow practitioners to enroll, enter test results, record charges, collect fees, track account balances, and document test results at different sites within the system are commercially available. Program administrators who use this type of management system should ensure that it has a secure access control system that limits the ability of practitioners to access only the data they need to enter or view.

DATA DISSEMINATION

Program data should be disseminated among stakeholders to facilitate discussion and to inform and guide program improvements and modifications. Program officials must be prepared to "follow the evidence."

EVALUATION

Administrators should create performance measures and goals for their programs. They should compile data and evaluate their program's successes and challenges on an ongoing basis. At a minimum, they should be aware of how many people have participated and are participating in the program, the number and outcomes of each test (and method), and the rates of non-compliance (including tardiness, failures to appear, positive test results, and absconding). It is also recommended that administrators assess their program's impact on recidivism.

ADAPTATIONS TO THE MODEL PROGRAM

We recommend that new programs implement the original model. This will provide the best opportunity for a program to generate data that can be compared to the data published in the literature, and it provides a baseline to evaluate any adaptations made to the program. Once the program is operational, officials should conduct process and outcome evaluations to identify opportunities for improvement and incorporate local adaptations as needed.

The term "adaptation" is used to describe any changes or departures from the original and proven methodologies. Program fidelity is essential to replicating impact. All changes should be piloted with a small group. Program officials should document the changes, collect data, and assess their impact. This will not only ensure that the alterations are contributing to the Program (and not undermining it), but inform future modifications and recommendations.

Practitioners should recognize that the following changes may significantly reduce the program's impact and success:

- Changing the theoretical approach;
- Insufficient staffing;
- Lowering the level of participant engagement;
- Reducing the intensity of the program;
- Reducing the immediacy, level, or consistency of the consequence;
- Reducing the number or length of sessions or how long participants are involved;
- Failure to create performance measures;
- Changing the use or type of the model testing methodologies;
- Poor data collection; and
- Waiving program fees.

Most jurisdictions have experimented with the program and considered various adaptations. For example, in 2012 South Dakota piloted and incorporated ignition interlock based monitoring into the program. Some offenders who cannot reasonably appear for testing twice daily at their local sheriff's office are being required to submit to interlock based testing twice-daily. Remote testing technologies do not offer immediate sanctioning. They may prove to be useful in hardship cases when traditional twice daily testing is unrealistic, particularly if sanctions can be imposed in a reasonably efficient manner. From October 2012 through February 1, 2017, over 450 participants have used the ignition interlock device. Those participants passed their multiple daily tests at a rate exceeding 99%. Currently, there are no studies documenting the effectiveness of using interlocks for this purpose (though there are studies that demonstrate that, while the device is installed on the vehicle, DUI offenders with interlock equipped vehicles recidivate at significantly lower rates than DUI offenders who don't use vehicles equipped with the technology). South Dakota collects data on all of its methods. Once sufficient data is available to allow a proper evaluation and peer review of this method, researchers will examine it and determine its efficacy. If the methods prove effective, they will be incorporated into the best practices document.

Other jurisdictions have expanded their use of transdermal alcohol testing devices and are considering the use of remote breath testing devices. While these technologies certainly can be useful in hardship cases when twice daily testing at a centralized location is unrealistic, there are no definitive studies suggesting that programs relying primarily on remote methods can be as effective as the original model where 85% of participants were on twice daily in person testing, and 15% on transdermal testing.

We encourage program officials to experiment with new methods once their programs are established and they have a base set of data to compare the adaptations to. However, they should ensure that all of the technologies they use are defensible in court.

24/7 Program Agreements

INTER-AGENCY AGREEMENTS

In order for the program to operate in the most efficient way possible, the participating agencies should enter into a Memorandum of Understanding (MOU) that clearly outlines the duties and responsibilities of all parties, including test sites and methods.

Participant/Program Standard Working Forms and Documents

PARTICIPATION AGREEMENT

All participants should be required to execute a Participation Agreement (or contract) during the orientation process that outlines the participant's obligations under the program. In some jurisdictions, the agreement outline sanctions the participants may expect for non-compliant events. This Participation Agreement is an important part of the "buy in process" and enhances the program's deterrent effects by ensuring that the participants are fully aware of program expectations and consequences for violations.

CONSENT, WAIVER, AND RELEASE OF INFORMATION FORMS

This document or series of documents provides the necessary permissions to allow the appropriate collection, communication, and dissemination of individual and aggregate data between and among participating agencies, interested parties, and researchers.

VIOLATION FORM

Program officials' complete violation forms to document program violations and responses. This information should be created and always stored within the data management solution, but practitioners may need to fill out the forms by hand or create hard copies in certain situations.

Testing Protocol Best Practices - Draft

The advisory board is drafting best practice protocols for testing methods used in an evidence based 24/7 Sobriety Program. The release of these testing protocol best practices will be an addendum to this document and will be updated as new technologies vetted for use in the evidence based 24/7 Sobriety Programs occur.

Conclusion

Research demonstrates that the model 24/7 Sobriety Program can dramatically improve participants' lives and public safety. Officials implementing new or similar programs may only expect similar results by maintaining fidelity to the model. By incorporating and adhering to the essential components identified within this best practices document, these jurisdictions should have no difficulty replicating their own programs and obtaining the model's benefits.

Every jurisdiction is different and technology evolves. Program officials are encouraged to collect, review, and evaluate data on their program, measure participants' progress, and "follow the evidence." The program reflects current evidence and thinking, but, as with all other programs, assuredly can be improved over time. Officials are cautioned against altering the program's proven methods on a large scale in the absence of clear evidence.

> "The results speak for themselves. The statistics prove that it's possible to change the culture of drinking and driving... one person at a time."
>
> - Montana Governor Steve Bullock