

# 24/7 SOBRIETY PROGRAM



Presented by  
Circuit Judge  
Larry Long

# DUI FELONIES FY 99- FY10

	32-23-4 DWI 3	32-23-4.6 32-23-4.7 DWI 4 & 5	22-16-42 Vehicular Battery	22-16-41 Vehicular Homicide	TOTALS
FY99 FY12 Convictions	9,704	2,366	232	112	12,414

FY99-FY12	ALL FELONY CONVICTIONS	40,495
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DUI's felonies consist of 30.7% of all Felony Convictions

# OTHER FELONIES

	22-42-5 Possn. of Cont. Subst.	22-30A- 17(1) Grand Theft	22-39-36 Forgery	22-32-8 3 <sup>rd</sup> Degree Burglary	22-18-1.1 Aggravated Assault
FY99-FY12 Convictions	12,573	5,741	3,668	2,691	3,408
FY99-FY12 Percentage	31%	14.2%	9.1%	6.6%	8.4%

DUI and controlled substances felonies total 61.8%

# ALCOHOL/DRUGS IN SOUTH DAKOTA PENITENTIARY- 2006-08

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- Alcohol Dependent:
  - 72% of men
  - 66% of women
- Meth Dependent:
  - 27% of men
  - 45% of women
- Combined:
  - 87% men
  - 91% women

# GOAL

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- Defendant sobriety- 24/7
- Target group- anyone arrested for DUI with prior conviction in last 10 years

# BOND CONDITIONS

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- No alcohol
- No bars
- Breath test- 7am and 7pm
- If you skip or fail, you go to jail

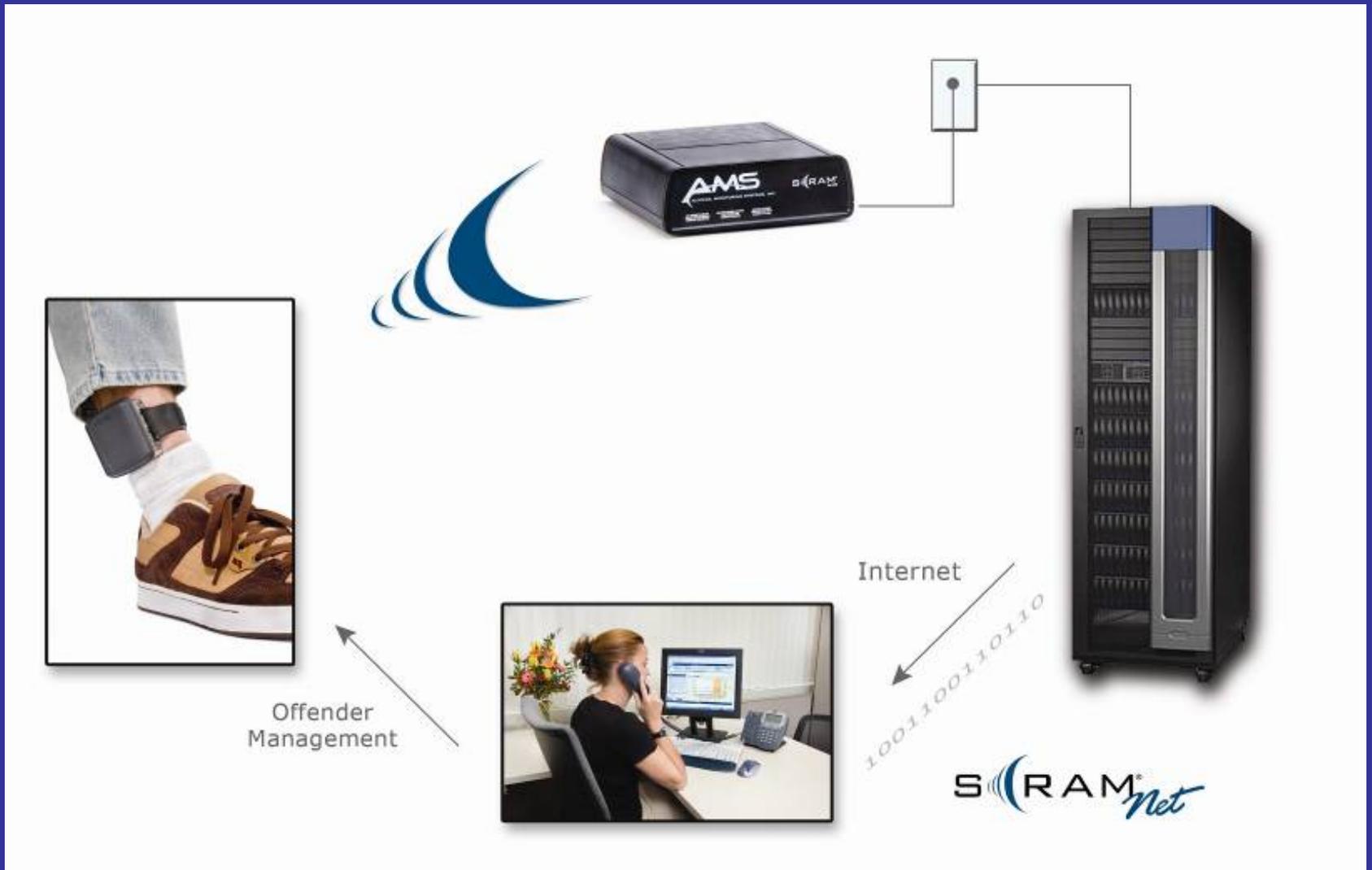
# PBT STATS

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## **February 1, 2005 – January 1, 2016**

- 39,706 Participants (active and completed)
- 8.29 Million Total Tests Administered
- Passing Rate: 99.1%

# A Continuous Alcohol Monitoring System



# SCRAM STATS

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**November 6, 2006 – January 3, 2016**

- 8,347 Participants
- 1.39 Million Days Monitored
- Fully Compliant - 76%
- Non-Compliant - 24%
- 1,128 Confirmed Drinking Events
- 4,462 Confirmed Tamperers

# INTOXALOCK

- Ignition interlock system that prevents an alcohol intoxicated driver from operating a vehicle. Authorities can monitor the offender through:
  - A small camera mounted in the vehicle, producing high quality daytime and infrared nighttime photos to identify who has provided the breath sample.
  - GPS Technology pinpoints the location of starts, sample requests and stops including date, time, coordinates, heading and speeding for each event
  - Real-Time Reporting instantly uploads the results of breath samples, sample requests, their corresponding photos and GPS location.
  - Anti-Circumvention/Anti-Tampering included.

# INTOXALOCK STATS

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**October 1, 2012 – January 1, 2016**

- 389 Participants
- 697,284 Tests Administered
- 693,373 Tests Passed
- Passing Rate: 99.44%

# DRUG URINALYSIS

- Detection of drugs through urine test
- Detectable drugs
  - Cocaine
  - Opiates
  - Amphetamines
  - Marijuana
  - Oxycodone
  - PCP
  - Antidepressants
  - Ecstasy



# URINALYSIS STATS

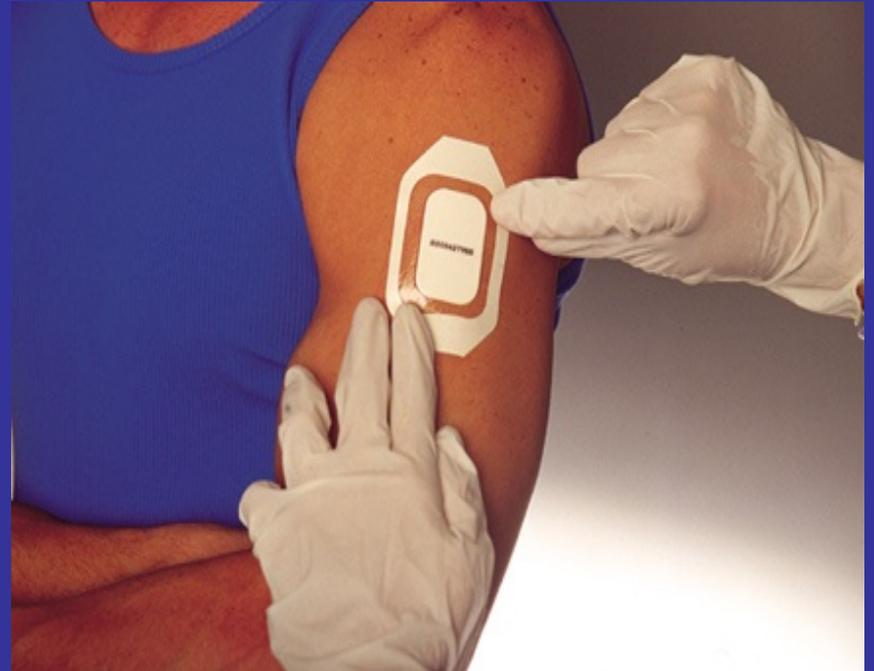
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**July 1, 2007 – January 1, 2016**

- 6,278 Participants
- 158,071 Tests Administered
- Passing Rate: 96%

# DRUG PATCH

- Detection of drugs through sweat
- Patch lasts for 7-10 days
- Drugs detected from 1-2 days before patch applied and up to 24 hours prior to removal
- Detects
  - Cocaine
  - Opiates
  - Amphetamines
  - Marijuana
  - PCP



# DRUG PATCH STATS

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**July 1, 2007 – January 1, 2016**

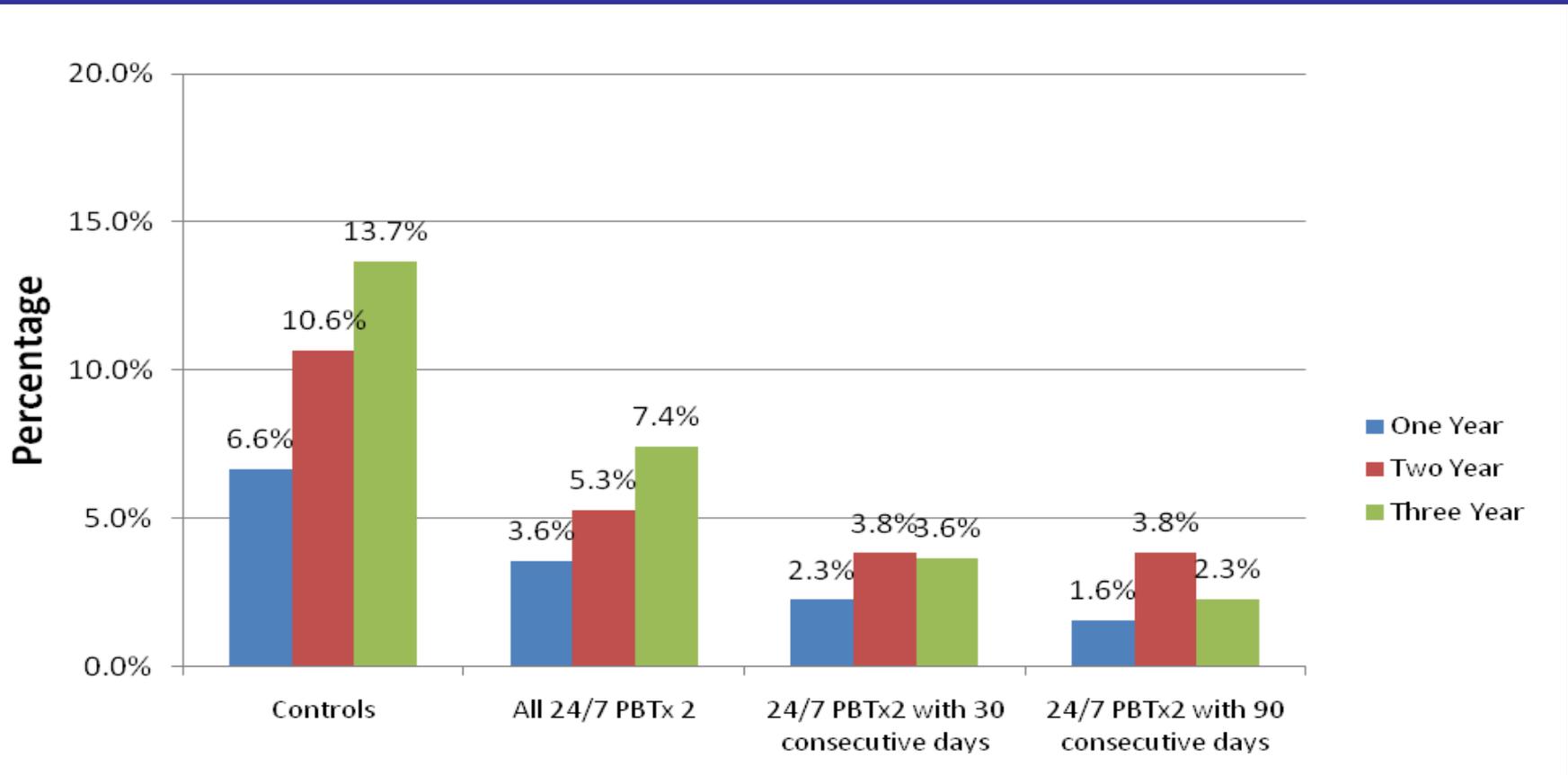
- 790 Participants
- 6,971 Tests Administered
- Passing Rate: 79.9%

# 24/7 PROGRAM – RECIDIVISM ANALYSIS

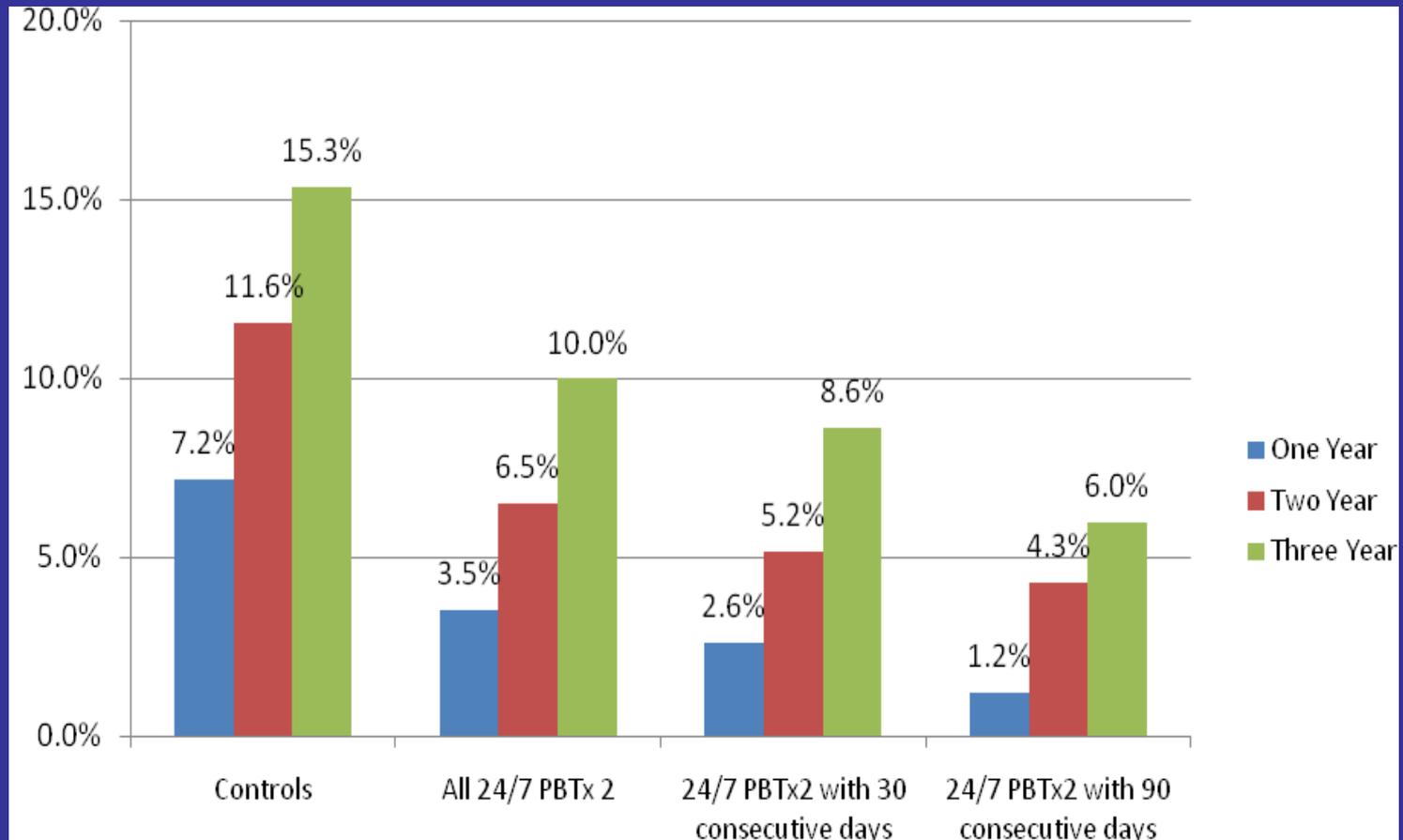
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- Compared to non 24/7 participants, arrest to arrest (next DUI offense) recidivism is substantially lower for 24/7 participants at 1, 2 and 3 years.
- Even lower rates are documented for individuals that have 30 and 90 days of consecutive twice a day testing on the program.

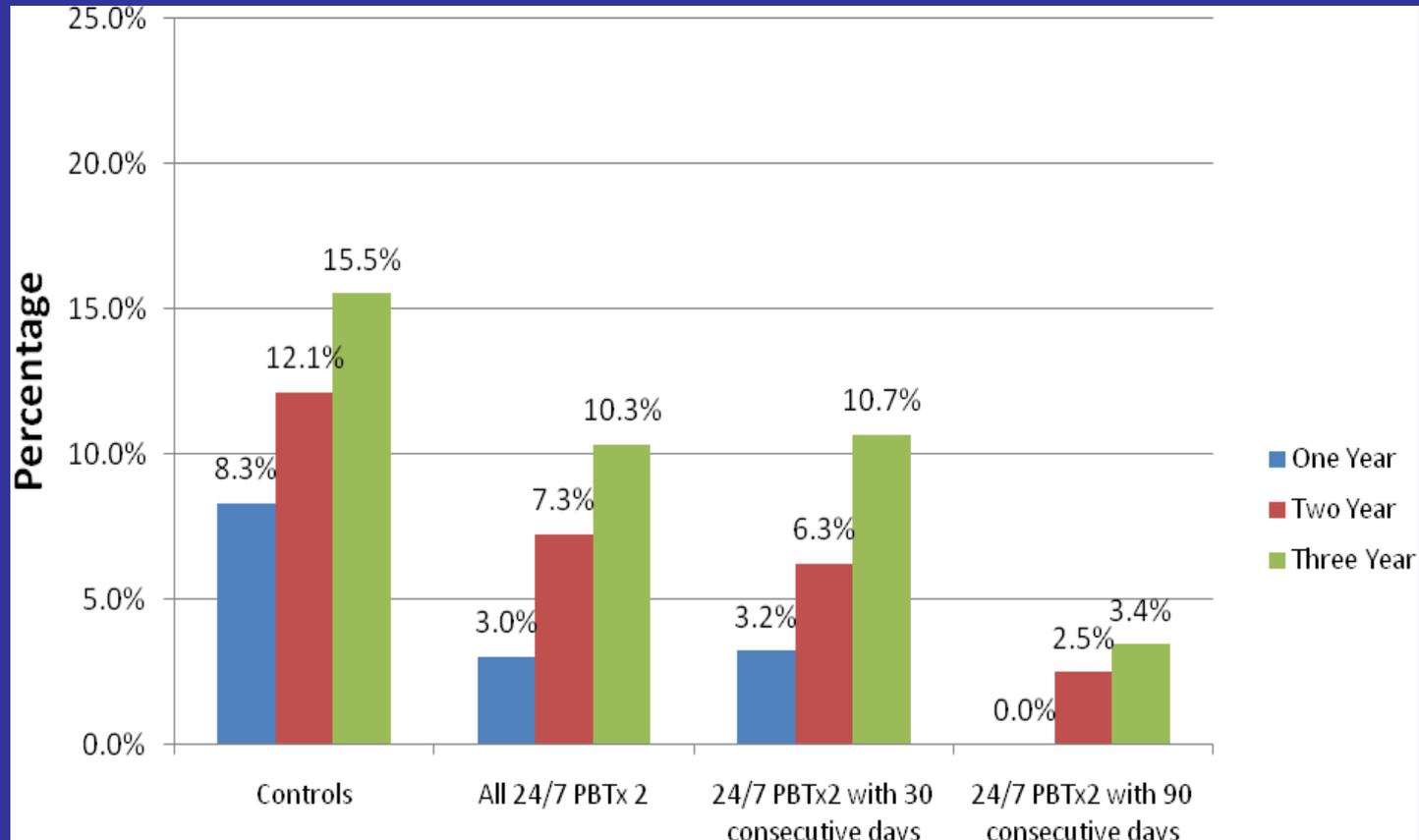
# Rearrest rates of 24/7 program participants compared to non participants for second offense DUIs (Mountain Plains Evaluation, LLC)



# Rearrest rates of 24/7 program participants compared to non participants for third offense DUIs (Mountain Plains Evaluation, LLC)



# Rearrest rates of 24/7 program participants compared to non participants for fourth offense DUIs (Mountain Plains Evaluation, LLC)



# STUDIES

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- RAND Corporation – November 2012
  - In SD Counties with 25% participation in 24/7 repeat DWI arrests down 12%, and Domestic Violence arrests down 9%.
- RAND Corporation – Recent Study
  - Implementation of 24/7 Sobriety associated with 4.2% drop in mortality from all causes; including 8% drop among women.

# CASE LAW

- St. v. Lemler, 774 NW2d 272, (S.D. 2009)
  - SCRAM Bracelet meets (DAUBERT) standard for presence of alcohol
- St. v. Spady, 2015 MT 218, 354 P3rd 590 (2015)
  - Montana's 24/7 Program survives facial 4<sup>th</sup> Amendment Constitutional Challenge
- U.S. v. Redd, 318 f3d 778 (8<sup>th</sup> Cir. 2003)
  - “Sweat Patch” results are “reliable” in probation revocation hearing.
  - U.S. v. Drager, 2013 WL 139364 (2013)
  - U.S. v. Rojas, 577 fed. Appx. 33 (2<sup>nd</sup> Cir. 2014)

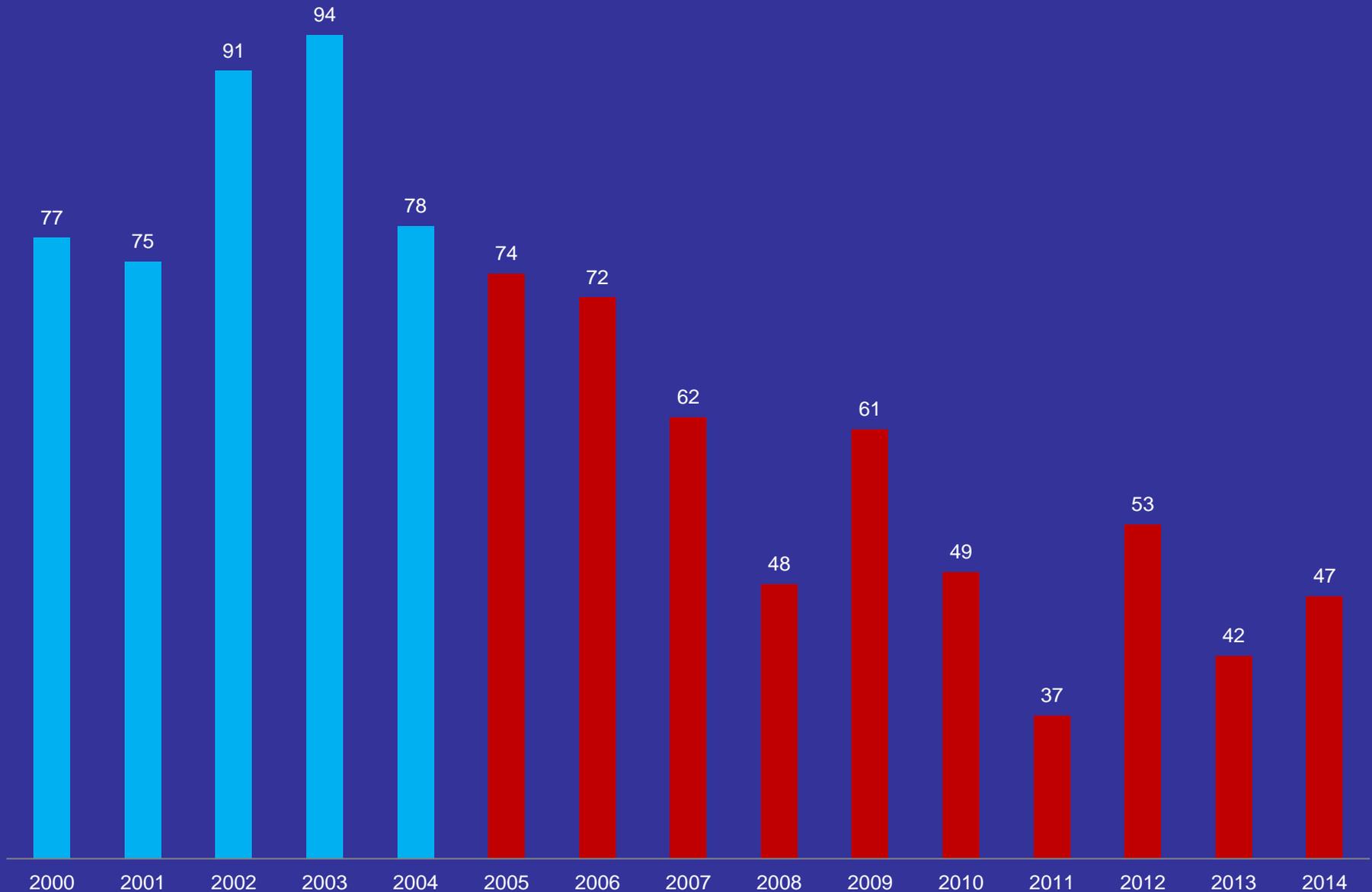
# SD STATUTES

- Pre-trial – Conditions of bail or release
- Probation – Conditions of a suspended sentence
- Parole – DOC uses 24/7 as a sanction in lieu of revocation
- Abused or neglected children – 24/7 as a condition of returning children to the adult caregivers
- Work Permits – 24/7 participation as a condition – MANDATORY

See SDCL 32-23; SDCL 1-11; and SDCL 26-8B

# PERSONS KILLED IN ALCOHOL INVOLVED CRASHES 2000-2014

(Source: SD Department of Public Safety Office of Accident Records)



WANT TO START 24/7?

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# 24/7 PROGRAM – WHAT'S NEXT

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- Other technology
- Immediate consequence

# South Dakota 24/7 Sobriety Program

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<http://atg.sd.gov/>