



# Between the Lines

## American Prosecutors Research Institute

The Research and Development  
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#### Mid-Atlantic DUI Conference

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Virginia Beach, VA

#### LifeSavers

#### Conference 2009

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Nashville, TN

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June 9 – 11, 2009  
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#### NAPC Summer Meeting

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#### 15th Annual IACP Training Conference on Drugs, Alcohol and Impaired Driving

August 8 – 10, 2009  
Little Rock, AR

#### Drunk Driving. Over the Limit, Under Arrest

National Crackdown  
August 19, – September 7, 2009

#### GHSA Annual Conference

August 30 - September 2, 2009  
Savannah, GA

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## South Dakota's 24/7 Sobriety Program

By Paul Bachand

**B**ennett County is a very rural county in South Dakota with a current population of 3441, with two Indian reservations bordering the county on three sides. Its high unemployment rate is matched only by the rate that alcohol is consumed in that county. Quite typically, criminal offenders celebrate their successful completion of alcohol treatment by getting drunk with their acquaintances. In the early 1980s in order to combat repeat alcohol offenders, whether it be men who abused their wives or drivers who couldn't maintain sobriety, Bennett County State's Attorney Larry Long convinced his local judge to take another approach in dealing with alcohol related offenses. The judge agreed to require offenders to present themselves twice daily to the Sheriff's office and blow into a portable breath test (PBT). The judge also agreed to incarcerate anyone who did not show up for a scheduled test or who failed the PBT despite his concerns that there would not be sufficient jail space to hold all of the offenders. The implementation of this simple concept produced promising results. Hardcore alcoholics were able to maintain sobriety and the jail population actually decreased.

In 2004, now Attorney General Long was appointed by the Governor of South Dakota to a task force charged with examining incarceration rates in South Dakota. Felony driving under the influence, a third or subsequent offense in ten years, and vehicular homicide and battery cases accounted for approximately 35% of all felony convictions in South Dakota. Felony driving under the influence offenses when combined with felony drug offenses accounted for approximately 60% of the total felony convictions in South Dakota between 1996 and 2007. Fifteen percent of

the state prison population constituted DUI offenders. In 2007 87% of men and 91% of women sentenced to the South Dakota Penitentiary suffered from an alcohol and/or illegal drug dependency. Although repeat offenders might be required as a condition of sentence to abstain from the use of alcohol, no effective program existed to ensure their compliance.

Long suggested that his program be implemented as a pilot project in three counties in South Dakota. The Circuit Court judges in those counties agreed to require, as a condition of bond, that defendants totally abstain from the consumption of alcohol. Every defendant arrested for a second or subsequent DUI offense was required to submit to a breath test between the hours of 7 a.m. to 9 a.m. and 7 p.m. and 9 p.m. at the local sheriff's office. Judges immediately revoked the bond of anyone who failed to show up for a scheduled test or whose PBT demonstrated that they had consumed alcohol. Over time, judges witnessed the success of the program and began utilizing it for domestic violence cases and drug offenses.

In 2007, the state legislature unanimously approved the formal creation of the 24/7 Sobriety Program. The statutes implemented by the state legislature charged the Attorney General with the responsibility to coordinate efforts among the various state and local government entities for the purpose of finding and implementing alternatives to incarceration for certain offenses that involve driving under the influence and other offenses involving alcohol, marijuana, or controlled substances. Authority was given to courts, the Department of Corrections and the Board of Pardons and Paroles to utilize the program in a variety of ways. The statutes permitted the court to condition any bond or pre-trial release

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upon participation in the 24/7 Sobriety Program and payment of associated costs and expenses. The statutes indicated that the court could condition the granting of a suspended imposition of sentence, suspended execution of sentence, or probation upon participation in the 24/7 Sobriety Program and payment of associated costs and expenses. The court could also require parents of abused or neglected children to participate in the program in order for their children to be placed back at home. The Board of Pardons and Paroles, the Department of Corrections, or any parole agent was given authority to condition parole upon participation in the 24/7 Sobriety Program and payment of associated cost and expense.

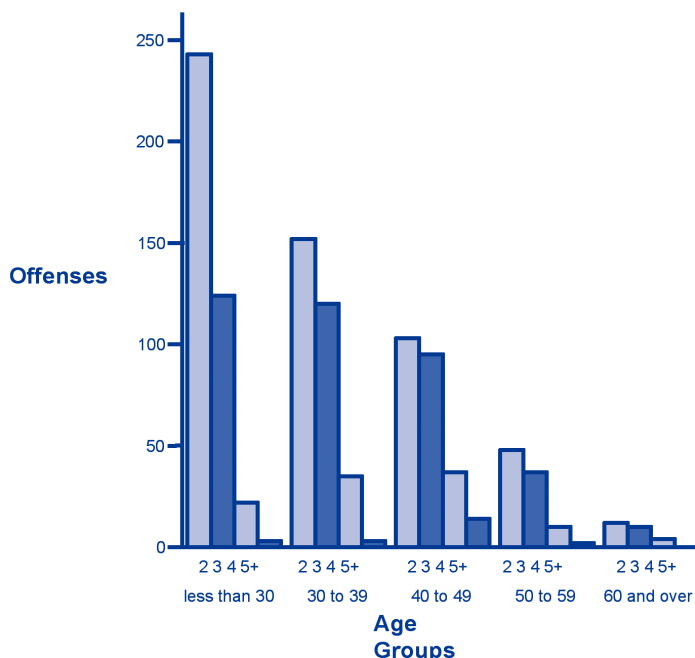
The 24/7 Sobriety Program has been implemented in virtually every county in South Dakota. The current program utilizes a number of mechanisms in order to ensure both sobriety and lack of drug use. These mechanisms include the SCRAM (Secure Continuous Remote Alcohol Monitoring) bracelet, drug patch and a presumptive urinalysis kit. The SCRAM bracelet, which is attached to a defendant's leg and monitors alcohol consumption on a set schedule, has been a useful tool due to the rural nature of South Dakota. The SCRAM bracelet automatically collects, stores, and transfers all data to the SCRAM Modem attached to a wearer's phone line and the information collected by the bracelet is downloaded on a set schedule. Long commutes to the Sheriff's office have been eliminated as have the excuses by defendants that their geographic location hampers their ability to be on the program.

Participants with drug issues are required to submit to a urinalysis test at the direction of the testing agency or they are required to wear a drug patch. The drug patch is worn on the skin of a participant for up to seven days. The drug patch screens for: marijuana, cocaine, opiates, amphetamine/methamphetamine & PCP.

The 24/7 Sobriety Program, where 48% of participants have three or more DUI offenses, is producing significant positive results. To date, over 1.4 million alcohol breath tests have been administered to nearly 9000 defendants, who show up and blow a clean test 99.3% of the time. Over 8700 drug urinalysis tests have been administered to 893 defendants. Their pass rate is 97%. 83% of the 819 SCRAM bracelet wearers are alcohol free. The 28 drug patch participants have a 93.5% pass rate. Frequent testing and immediate sanctions can keep defendants free of alcohol and drugs.

The 24/7 Sobriety Program may also be impacting South

**Prior DUI Offenses**



Dakota's public safety and prison population. South Dakota had 191 alcohol-impaired driving fatalities in 2006. That number decreased to 146 in 2007, a 23.6% reduction. The South Dakota prison population has dropped from 3,428 to 3,378 in 2007 and dropped again to 3344 in 2008. This reduction follows an average annual population increase of 152 for the previous ten years.

The 24/7 Program also won a Council of State Governments' 2008 Innovations Award. This award is given each year and highlights outstanding state programs that address a trend affecting the states and their future policies. This has been a great opportunity to give the program national exposure. Other states have expressed interest in the program and the North Dakota Attorney General's Office began a pilot of the 24/7 program in January of 2008. A complete listing of the administrative rules, copies of forms and program statistics can be found at the South Dakota Attorney General's Web site at: [www.state.sd.us/attorney/DUI247/index.htm](http://www.state.sd.us/attorney/DUI247/index.htm).

In short, the 24/7 Sobriety Program has helped decrease both traffic fatalities and prison population. But even more valuable is the positive impact that freedom from alcohol and drugs is having on the lives of the offenders and their families. These long term benefits are priceless.

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