

# **An Evaluation of Utah's 24/7 Sobriety Program**

## **Phase I Report October 2020**

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## Introduction

The Utah Criminal Justice Center (UCJC) has been asked to conduct an evaluation of a Driving Under the Influence (DUI) program being piloted by the Utah Department of Public Safety in conjunction with local partners (i.e., Weber County Sheriff's Office, Weber County Courts, private probation agencies, and Utah Driver's License Division). The 24/7 DUI program is a deterrence-based strategy that utilizes frequent and regular alcohol/drug testing in a community supervision framework. Whereas most DUI programs restrict the ability to drive, the 24/7 program restricts the ability to drink through regular (twice daily) alcohol testing. While the current project is a pilot study conducted in one Utah County, results from the study will be used by the State of Utah to determine whether the program is an effective strategy to reduce alcohol-related recidivism and to guide the statewide implementation of the program.

The Utah Department of Public Safety adopted the 24/7 program to target second-time DUI offenders. Program participants that do not pass an alcohol screening at one of their check-in sessions receive swift, certain, and modest sanctions (i.e., brief jail stays). Individuals enrolled in the program are required to pay for each alcohol/drug screening. Additionally, there is a reward component to the program; participants receive their license back immediately following the payment of their fines and installation of an engine-interlock system in their vehicle. Program personnel at the testing sites also offer verbal praise for receiving a "clean" test (i.e., no presence of alcohol and drugs). Reward- and sanction-based interventions have received increased attention and show promising results in community supervision settings (Viglione & Sloas, 2012; Trotman & Taxman, 2011).

Based on current Utah Law, second-time DUI offenders lose their license for a period of two years if: 1) the person has a prior conviction as defined under Subsection 41-6a-501(2); and 2) the current DUI violation under Section 41-61-502 is committed: a) within a period of 10 years from the date of the prior violation; and b) on or after July 1, 2009. The 24/7 program is intended to have a specific-deterrent effect on its participants. Specific deterrence is achieved when sanctions for criminal behavior discourage a specific individual from engaging in future criminal behavior (DeJong, 1997; Andenaes, 1968). In this case, the 24/7 program would presumably enhance participants' perceptions of the certainty, fairness, and swiftness of the sanctions compared to the typical sanctions received for a DUI violation. The 24/7 program combines aspects of procedural fairness (certainty, fairness, and swiftness of sanctions) with deterrence theory (intensive supervision). Therefore, it is hypothesized that the 24/7 participants would be less likely to commit subsequent alcohol-related DUI offenses and related behaviors compared to the individuals who received "treatment as usual."

## Evaluation Plan and Objectives

UCJC contracted with the Department of Public Safety to evaluate the 24/7 Sobriety Program being piloted in Weber County, Utah. Specifically, UCJC is evaluating various aspects of the 24/7 program. This report addresses the following objectives related to the 24/7 evaluation:

1. Conduct a brief literature review of the history of the origins of the 24/7 program, theoretical underpinnings of the 24/7 program, and research evaluating the effectiveness of 24/7 programs in reducing alcohol-related recidivism.
2. Provide a descriptive analysis of the 24/7 participant sample and the control sample to set the stage for future analyses examining the effects of the program on recidivism;
3. An analysis of 24/7 program stakeholder interviews to gain insight into perceptions about the 24/7 program, including barriers to implementation, program administration, eligibility criteria, recommendations for policy and practice, and participant experiences.

Note that this is a Phase One report evaluating the aforementioned objectives of the program. Two additional phases will examine DUI recidivism, self-reported alcohol-related behaviors for second-time DUI offenders, and DUI recidivism in Weber County compared to other counties in Utah prior to and after the implementation of the 24/7 program. UCJC was unable to examine recidivism in this phase of the study due to the limited follow-up period beginning on July 1, 2019. The Phase Two report will examine these additional outcomes.

### **History and Elements of 24/7 Bill in Utah**

The origins of Utah's 24/7 pilot program predate the 2016 General Session. Specifically, state officials were interested in adopting an evidence-based program to reduce DUI offenses. Based on a review of interventions designed to reduce DUIs, Utah identified South Dakota's 24/7 Project as an effective intervention to reduce DUIs. Crimesolutions.gov has also rated South Dakota's 24/7 Sobriety Project as a promising strategy to reduce recidivism. State officials from Utah attended a number of informational sessions and trainings with criminal justice stakeholders involved in the design and implementation of South Dakota's 24/7 program. From these sessions, Utah identified key elements of the South Dakota program to guide the development of their program. Specifically, there are seven main elements: 1) reduce DUI recidivism in a cost-effective manner; 2) alcohol or drug testing is to be ordered by a judge; 3) defendants are required to go to a jail facility and test for alcohol twice daily, seven days a week; 4) defendants can also be ordered to be tested for drugs; 5) under certain provisions, monitoring of program participants may be done remotely using ankle monitors; 6) legislature provided funding to initiate the pilot program; and 7) ongoing costs are funded by participants through testing fees.

During the 2016 General Session, funding was appropriated for developing a 24/7 sobriety program. Weber County was selected as the site to pilot the 24/7 program in Utah. Funding was initially earmarked for the Attorney General's office to implement the program before being transferred to the Department of Public Safety in 2017. In the same year, a taskforce of stakeholders from the Department of Public Safety, Weber County Sheriff's Office, Weber County Prosecutor's Offices, and Weber County Justice Courts was formed to oversee the implementation of the 24/7 program. On March 16, 2018, the 24/7 sobriety program was added to Utah Code (41-6a-515.5).<sup>1</sup>

As previously mentioned, Weber County was selected as the site for the 24/7 pilot program. The Keisel jail facility was identified as the testing location for the program. Justice Court judges

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<sup>1</sup> Specifics relating to Utah Code 41-6a-515.5 will be discussed in the subsequent section on legislation.

may order DUI offenders to participate in the program. Program participants are required to test twice a day, seven days a week at the Keisel facility in the morning between 6 AM and 8 AM and again in the evening between 6 PM and 8 PM. Participants provide a breath sample to screen for alcohol in a portable breath test device. Individuals that test positive for alcohol are then required to do a confirmation test on an Intoxilyzer machine. For individuals who were referred to the program for a drug-related DUI, judges may order that they receive random drug testing (via urinalysis) in order to participate in the program.<sup>2</sup>

Given that the program is designed to fund ongoing operating costs through participant fees, participants agree to pay the following fees prior to enrolling in the program:

- \$30 initial administrative fee (one-time fee)
- \$2 per breath test (twice daily, seven days a week)
- \$6 for each urine test (as ordered by judges)
- \$7.55 per day for a transdermal bracelet<sup>3</sup>

Utah outlined several perceived benefits of adopting the 24/7 program. The main objective of Utah's program is to promote sobriety and reduce DUI recidivism through intensive supervision while allowing participants to maintain their driving privileges. Driving privileges are restored for the duration of the program which could be imposed for up to one year. The program is anticipated to help promote behavior change related to alcohol consumption while in the program with the goal of promoting long-term behavior change. By restoring participants' driving privileges, it is expected that they may be more likely to maintain their current employment as opposed to treatment as usual. Additionally, participants do not serve an initial jail sentence for the DUI offense, allowing them to continue to function in the community. The program is also perceived to lead to a reduction in court costs typically associated with a DUI conviction. Lastly, the program is designed to promote positive personal interactions between program participants and program personnel from the jail in the hopes of improving accountability.

In order to hold program participants accountable for non-compliance while in the program, Utah developed a set of graduated sanctions. The sanctions are intended to be fair, consistently applied, and occur immediately following a violation. Program participants are informed of the sanctions associated with non-compliance prior to enrolling in the program and again during program orientation. Utah identified two violations that can occur while in the program: 1) testing positive for alcohol and if applicable, other illicit drugs, and 2) not showing up for a testing session. For individuals who test positive for alcohol or drugs, the sanctions are as follows:

- 1<sup>st</sup> offense – 8 hour jail commitment
- 2<sup>nd</sup> offense – 16 hour jail commitment

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<sup>2</sup> Random drug screening is not a requirement for program participants referred for a drug-related DUI but rather an option.

<sup>3</sup> Utah is not currently using transdermal bracelets for remote testing. However, this is the approximate fee per participant, per day associated with the use of transdermal bracelets. Utah is currently seeking funding to adopt transdermal bracelets to reduce logistical challenges of in-person testing for participants.

- 3<sup>rd</sup> offense – 24 hour jail commitment
- 4<sup>th</sup> offense – taken into custody and required to meet with a judge; may be removed from the program

For individuals who fail to show up for a testing session, the sanctions are as follows:

- 1<sup>st</sup> offense – 12 hour jail commitment
- 2<sup>nd</sup> offense – 24 hour jail commitment
- 3<sup>rd</sup> offense – 48 hour jail commitment
- 4<sup>th</sup> offense – taken into custody and required to meet with a judge; may be removed from the program

Individuals who are removed from the program for non-compliance (i.e., four violations) are subjected to a mandatory 10 year license revocation. The court order is made by the justice court judges and sent to the Driver’s License Division for processing.<sup>4</sup>

## **Background**

### **National Scale of DUI Offenses**

Alcohol-related accidents and deaths have long been a concern among law enforcement agencies and legislators. In 2016, approximately 1.02 million arrests were made for driving under the influence of alcohol or drugs in the United States (Federal Bureau of Investigation, 2017). Furthermore, 10,497 people lost their lives in alcohol-related accidents in 2016 – accounting for 28 percent of all traffic-related deaths in the United States (National Highway Traffic Safety Administration, 2017). Given the prevalence of alcohol-related accidents and deaths in the United States, criminal justice policy makers are seeking to adopt innovative strategies to combat DUI offenses.

It is also the case that an overwhelming majority of DUI episodes go undetected. Data from the Centers for Disease Control and Prevention (2015) further highlights the issue of alcohol-impaired driving. Specifically, most recent estimates from 2014 reveal that there were approximately 111 million self-reported episodes of alcohol-impaired driving among United States adults – highlighting that nearly 99 percent of all impaired driving episodes go undetected by the police. However, limited studies have examined the efficacy of DUI interventions on self-report alcohol-related behaviors, with much of the research focusing on official record data. Thus, additional research is needed to examine whether DUI intensive-supervision programs have an impact on self-reported alcohol-related behaviors (e.g., usage and DUI), in addition to official arrest records.

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<sup>4</sup> See Appendix A for 24/7 Sobriety Program Utah Code 41-6a-515.5 and Appendix B for 24/7 Sobriety Program Rule R714-510

## **Theoretical Underpinnings of the 24/7 Sobriety Program**

In an attempt to reduce long-term DUI recidivism outcomes, states have developed various innovative community supervision programs. The 24/7 Sobriety Program (hereinafter 24/7) is an intensive alcohol and drug monitoring program first designed and implemented in South Dakota in 2005 (National 24/7 Advisory Council, 2017). 24/7 is primarily a deterrence-based strategy that emphasizes frequent monitoring and is seen as a cost effective alternative to “treatment as usual”. The 24/7 program is grounded in deterrence theory but also combines elements of procedural justice. Furthermore, the program is designed to allow participants to retain their driving privileges in hopes of minimizing disruption to employment. Maintaining employment is seen as a protective factor and is associated with decreased likelihood of recidivism.

### *Specific Deterrence and DUI Recidivism*

To the founders of deterrence theory, the main purpose of the administration of justice is crime prevention. As noted by Beccaria (1986, pp. 93), “It is better to prevent crimes than punish them.” Deterrence is comprised of three key components, which include: the severity, certainty, and celerity of punishment. The components alone, however, cannot deter individuals from engaging in crime (Travis, Western, & Redburn, 2014). It is the confluence of these elements that prevent individuals from engaging in future criminal behavior. Commentators on deterrence theory have suggested that the swiftness and certainty of the punishment, not the severity, have the greatest deterrent effect (Chalfin & McCrary, 2017; Travis, Western, & Redburn, 2014).

Specific deterrence is said to occur when sanctions for criminal behavior discourage a specific individual from engaging in future criminal behavior (DeJong, 1997; Andenaes, 1968). Much of the research on specific deterrence and alcohol-related recidivism examines whether sentencing severity impacts recidivism. Specifically, studies have examined the relationship between severe sanctions and the specific deterrent effect on DUIs by accounting for the severity of the punishment. For example, Yu (2000) examined the effect of fines, license suspension, and jail sentences on recidivism for DUI offenders while controlling for persistent alcohol problems. The findings indicated that more severe sanctions did not significantly reduce the probability of recidivism. Other researchers have found that DUI offenders who successfully completed alcohol treatment programs had significantly lower subsequent arrests compared to those who dropped out of the programs (DeYoung, 1997; Dill & Wells-Parker, 2006). DeYoung (1997) also found that participants in multidimensional DUI interventions (i.e., alcohol treatment and driver license restriction) were less likely to recidivate than those that only completed one intervention.

### *Intensive Supervision and Recidivism*

The 24/7 program is modeled after an intensive supervision program (ISP). ISPs were introduced as an alternative to incarceration for DUI offenders. ISPs for DUI offenders utilize a variety of restrictive, therapeutic, and control measures to track and monitor their behavior. The 24/7 program tracks and monitors program participants behavior through twice daily, alcohol and/or drug screenings. Based on findings from a systematic review of interventions for convicted DUI offenders, Miller et al. (2015) identified four studies that examined the effectiveness of ISPs on recidivism for DUI offenders. The authors found that three studies produced favorable results

(i.e., ISPs were associated with a reduction in recidivism) and one study that found no difference in arrest rates between DUI offenders sentenced to ISP and those sentenced to incarceration.

### *Procedural Justice and Recidivism*

As previously mentioned, the 24/7 program includes elements of procedural justice. Procedural justice refers to the idea of fairness in justice processes by which decisions are made. There are four core tenets of procedural justice, which include: treating individuals with dignity and respect, ensuring that they understand the process, allowing individuals to have a voice in the process, and decisions are made neutrally (Center for Court Innovation, 2020). Specifically, the 24/7 program was designed to include graduated sanctions for program non-compliance, as well as an incentive for participating in the program (i.e., retain driving privileges). Decisions regarding sanctions are clearly presented to program participants prior to enrollment and during the orientation phase of the program. While procedural justice is not theorized to have a direct effect on recidivism, it is expected to increase offenders' support for and the likelihood of future compliance with the law (Tyler, Sherman, Strang, Barnes, & Woods, 2007). For example, Tyler and colleagues (2007) found that although procedural justice was not directly related to reoffending among a sample of DUI offenders, it was a significant predictor of legitimacy toward the law. Legitimacy, however, was identified as a significant predictor of reoffending.

### *Employment and Recidivism*

The 24/7 program allows participants to retain their driving privileges during the duration of the program. One of the goals associated with this incentive is to minimize disruption to employment. In the criminological literature, employment has been identified as an important criminogenic need and associated with risk of recidivism (Bonta & Andrews, 2017). Research in this area generally examines the relationship between employment and recidivism among samples of parolees. For example, Sampson and Laub (1993; see also Laub & Sampson, 2003) found that there is a strong inverse relationship between employment and risk of reoffending. This suggests that the likelihood of recidivism is significantly reduced for parolees who obtain employment after release.

### **Overview of Research on 24/7 Programs**

Similar to the conclusions drawn by Chalfin and McCrary (2017), the founders of the 24/7 program prioritized the certainty and celerity of the sanctions. The major goal of the initial program was to promote abstinence from alcohol consumption among repeat DUI arrestees through the use of strict community supervision. Additionally, participants who test positive for alcohol and/or drugs are subjected to immediate, modest sanctions (e.g., a night or two in jail). Research has shown that alcohol-dependent individuals tend to be responsive to predictable, yet immediate consequences for their behavior (Petry, Martin, Cooney, & Kranzler, 2000).

Based on initial assessments of the program, researchers have found support that the 24/7 program reduces long-term recidivism outcomes among its participants compared to treatment as usual (Kilmer, Nicosia, Heaton, & Midgette, 2013; Kilmer & Midgette, 2018). Crimesolutions.gov has rated South Dakota's 24/7 Sobriety program as a "Promising Program,"



indicating that the program has been rigorously evaluated and shown to produce a desired effect on offense-related behaviors. Although Crimesolutions.gov relied on one study to rate the 24/7 program, a variety of other studies have examined similar programs using different methodologies and outcomes. These studies will be summarized in the following paragraphs.

### **South Dakota 24/7 Evaluations**

The 24/7 Sobriety program was first introduced in South Dakota in 2005. The 24/7 program in South Dakota has been empirically evaluated more than any 24/7 program in other states (Kilmer, Nicosia, Heaton, Midgette, 2013; Midgette, 2014; Heaton, Kilmer, & Nicosia, 2015; Kilmer & Midgette, 2020). South Dakota's program has served as the model program other states have used to design and implement similar programs. Their program requires that twice-a-day breathalyzer tests were a condition of bail for those who had consecutive arrests for DUIs. Participants in the 24/7 program who failed to appear for testing were immediately subject to a short jail term (e.g., one or two days). Five years after program implementation, approximately 17,000 of 825,000 South Dakota residents had participated in the program (Kilmer, Nicosia, Heaton, & Midgette, 2013). Overall, research has indicated that the 24/7 program had small effects on alcohol-related outcomes in South Dakota.

One of the first formal evaluations of the 24/7 program in South Dakota was conducted by Kilmer and colleagues (2013). The authors examined whether there were changes in arrests for DUIs, domestic violence incidents, and traffic crashes in counties that were implementing the program compared to counties without the 24/7 program. The authors used a differences-in-differences analysis, which estimated program effects on within-county changes in the outcomes related to within-county variation in program availability. Counties with at least 25% of DUI arrests that resulted in 24/7 program participation were defined as the 24/7 condition. Several key findings emerged from their analysis. The authors found that the 24/7 program was associated with a 12% reduction in arrests for repeat DUI offenses. The findings also revealed that the 24/7 program was associated with a 9% reduction in arrests for domestic violence in counties with the program. Although the researchers did not find support that the 24/7 program led to significant reductions in overall traffic crashes, the findings indicated that the 24/7 program was associated with a minor reduction in traffic crashes for men ages 18 to 40. One caveat to these findings is that 37% of the 24/7 participants were referred to the program for an offense other than a DUI suggesting that the authors did not target the outcomes to the nature of the problem for which the participants were referred.

Other researchers have considered whether the 24/7 program has had an effect on criminal recidivism at the individual-level. Kilmer & Midgette (2020) analyzed official record data from 16,513 individuals arrested for a second or third DUI offense between 2004 and April 2012. The researchers found that 24/7 participants were approximately 10.7 percent less likely to be arrested for a subsequent DUI 12 months after the initial arrest compared to individuals who did not participate in the program. When recidivism is examined at 24 and 36 months post-arrest, the effects of the 24/7 program diminished slightly (8.9% and 7.3%, respectively). Furthermore, when the model was fully specified to include individual and county-level controls, the coefficients for the 24/7 program were slightly diminished across the three recidivism intervals. Similar to the Kilmer et al. (2013), there are several data limitations in this study that have

implications for the interpretation of the findings. First, system actors in South Dakota have wide discretion about who they can refer to the 24/7 program. Specifically, participants can be referred to the program as a condition of bond or probation, some are referred for offenses other than DUIs, and others can participate to obtain a restricted driver's license. Second, the time spent in the program can vary dramatically across individuals. It is possible that these data limitations may artificially inflate the association between the 24/7 program and alcohol-related recidivism.

### **North Dakota 24/7 Evaluations**

North Dakota modeled their 24/7 Sobriety program directly after South Dakota's program (Kubas, Kayabas, & Vachal, 2015). In North Dakota, however, judges were afforded a wide amount of discretion in terms of assigning individuals to the program. Not only were DUI offenders assigned to the 24/7 program, individuals charged with other alcohol-related offenses – such as domestic violence or child abuse/neglect – were deemed eligible to participate in the 24/7 program. As of August 1, 2013, any repeat DUI offender is required to participate in the 24/7 program as a condition of their bond or pre-trial release (Fisher, McKnight, & Fell, 2013). Identical to South Dakota's program, DUI offenders are required to submit twice-daily breath tests or alternatively, urinalysis and/or ankle bracelet monitoring. Participants are required to pay for each breath test or alcohol monitoring system. Individuals that fail to appear for testing or have a positive alcohol screening receive short jail sanctions for every detected violation.

Kubas and colleagues (2015) produced the first evaluation of the 24/7 Sobriety program in North Dakota. Using Bureau of Criminal Investigation record data from 2008 to 2014, the researchers identified 3,628 valid traffic-related 24/7 Sobriety Program participants for inclusion in the study. Of these cases, approximately 53% were able to be matched to driver's license records (N=1,910). The authors examined two different recidivism outcomes. High-risk recidivism was said to occur when individuals were convicted of a new DUI within 60 days of starting the program. Moderate-risk recidivism was defined as a new DUI conviction after the 60-day window, which represents offenders who most likely have completed the program. In the sample of 24/7 participants, 2.8% (N=53) were considered as high-risk recidivists (i.e., convicted of a new DUI within 60 days). A slightly higher percentage of participants were convicted of a new DUI after 60 days of beginning the 24/7 program (10.8%; N=204).

The authors of the study do not include a control group and conduct a series of before and after comparisons of outcomes among 24/7 participants. The findings from their analysis revealed that 24/7 participants displayed some improved outcomes following the 24/7 program (i.e., non-DUI citations, vehicle crashes, subsequent DUIs). However, the findings should be interpreted with caution. This study, like others, provides equivocal evidence for the program that is made such due to methodological flaws such as failing to equate the pre-post period, failing to account for time in the analyses, and failing to include any comparison group. The combined evidence seems to indicate a favorable association for the program, but the size of that effect is not knowable owing to these concerns.

Kubas and colleagues (2017) extended their original study to include some multivariate analysis examining the effects of various 24/7 program components on a variety of outcomes (e.g., traffic citations). Of particular note, the authors found that 24/7 program components (i.e., participation

length and monitoring by SCRAM system) were associated with a reduction in the odds of receiving a traffic citation and being involved in a vehicle crash, but only in the short term (up to one year after enrollment in 24/7 program). The association between program components and recidivism were not statistically significant two years post-enrollment into the program. Lastly, the authors compare the mean difference in DUI and traffic citation outcomes between 24/7 participants and a control group derived from a historical cohort of DUI offenders (i.e., DUI offenders prior to the implementation of 24/7 program). The authors found that, on average, individuals in the control group were convicted of a higher number of traffic citations and DUIs than the 24/7 participants. However, it should be noted that this analysis does not account for other potentially relevant predictors (e.g., criminal history, risk level, blood alcohol content from referral case) and demographic controls (e.g., age, race, gender). Similar to their previous study, Kubas et al. (2017) had a number of methodological limitations such as estimating models for non-DUI related outcomes and failing to include a comparison group.

### **Montana 24/7 Evaluations**

Montana piloted a 24/7 Sobriety Program in two counties beginning in early 2010, before expanding the program to 22 counties in 2011 (Midgette & Kilmer, 2015). Judges are provided the sole discretion to enroll eligible individuals into the 24/7 program. As of 2011, the state operates 28 testing sites. The program implements the same policies and procedures as South Dakota. To date, two evaluations have been conducted which examine the effectiveness of Montana's 24/7 program on reducing DUI recidivism. The findings from these two studies provide support for the efficacy of the 24/7 program as it relates to reducing DUI recidivism.

The first evaluation of Montana's 24/7 program was conducted by Midgette and Kilmer (2015). Drawing on statewide 24/7 program data, the researchers identified approximately 3,500 individuals who participated in the program. On average, individuals who were convicted of their second DUI were enrolled in the program for 169 days. Participants failed to appear on approximately 1 out of every 25 scheduled tests. The overall passage rate of tests (i.e., negative alcohol/drug screening) was above 99 percent – although the passage rate was slightly lower for younger 24/7 participants. Participants were enrolled into Montana's 24/7 program for a variety of offenses, including: assault, burglary, child abuse/neglect, DUI, domestic violence, drug possession, and probation and parole violations.

Midgette and Kilmer (2015) merged data from Montana Vehicles Division, and official criminal history records with the 24/7 participant data to examine re-arrests. Their analysis focused on all individuals who were convicted of two or more DUI offenses during the study timeframe; however, particular emphasis was placed on recidivism between the second and third DUI offenses as this was the primary target population of the 24/7 program. Based on a comparison of the raw counts of recidivism for individuals with a second DUI conviction, 24/7 participants were significantly less likely to be arrested within 12 months of conviction (3.5%) compared to the control group (9%;  $p < 0.001$ ). Although this bivariate analysis suggests that 24/7 participants are less likely to be rearrested for a DUI within 12 months, it is important to note that the 24/7 participants were under intensive monitoring and alcohol testing for an average of 169 days. The results of the multivariate analysis suggest that there is a 60 to 65% decrease in re-arrest rates for 24/7 participants compared to treatment as usual. The researchers also conducted a survival

analysis and found that odds of re-arrest within five years of their second conviction is 44 to 53% lower for 24/7 participants. The authors also examined whether date of enrollment into the 24/7 program had an impact on the re-arrest rates for 24/7 participants. They found that a delay in enrollment into the 24/7 program (i.e., enrolled in program after 60 days of conviction) was not correlated with higher rates of re-arrest.

Stevens (2016) also evaluated the effectiveness of Montana's 24/7 program but did so by comparing DUI arrests data in counties that participated in the 24/7 program and counties that were not participating in the program. The researcher accounted for several county-level, time-varying covariates. Using a fixed-effects panel regression model, the author found that counties with the 24/7 program had a lower number of total monthly DUI arrests in the months following implementation.

## **Methods for Record Data**

### **Current Study**

Although initial assessments of 24/7 appear to be promising, at least in the short term, limited research exists on the efficacy of this program across different contexts and no prior studies have examined the effectiveness of the 24/7 program using a randomized control trial (RCT). The Department of Public Safety (DPS) designed a pilot study as a RCT in order to better understand the impact of the 24/7 program on alcohol-related recidivism. This study will examine whether there are differences in alcohol-related outcomes between individuals randomly assigned to the 24/7 program and individuals randomly assigned to treatment as usual between November 1, 2018 and June 31, 2019.<sup>5</sup> The limited study timeframe and the small sample size for both the 24/7 group and comparison group present some issues to executing the evaluation plan as proposed. Therefore, UCJC agreed to conduct an additional analysis to examine the effects of the 24/7 program on DUI recidivism. Specifically, we will conduct a regression point displacement analysis in subsequent reports to compare rates of third-time DUI convictions in year prior to 24/7 implementation for the treatment (Weber County) and control counties to the rates of third-time DUI convictions in three year blocks post-24/7 implementation. UCJC is also administering web-based, self-report surveys to a random sample of second-time DUI offenders in Weber County during the study timeframe. The surveys are designed to allow respondents to self-report their use of alcohol and DUI. The survey results will be compared to the official record data on DUI offenses obtained from the Administrative Office of the Courts.<sup>6</sup> Additionally, UCJC conducted interviews with program stakeholders involved in the development and implementation of the 24/7 program. The qualitative findings from this analysis are presented below.

The Department of Public Safety is randomizing eligible DUI offenders' assignment to the treatment group (i.e., 24/7 program) and control group ("treatment as usual"). This report will provide a descriptive overview of the treatment and control groups to set the stage for future

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<sup>5</sup> Findings to be presented in subsequent reports to allow for sufficient follow-up periods when examining recidivism.

<sup>6</sup> Similar to the recidivism analysis, sufficient follow-up time is needed to capture recidivism. These findings will be presented in the subsequent report.

analyses when recidivism data are collected. This report will also present the findings from interviews with criminal justice personnel who were directly involved in the implementation of the program to gain insight into the perceived barriers and successes related to the 24/7 program.

## **Data**

The 24/7 Sobriety project was piloted in Weber County, Utah. Justice Courts are responsible for hearing DUI cases in the state of Utah (unless the case rises to a felony-level charge). 24/7 Sobriety Program stakeholders decided to conduct a randomized-control trial; whereby, eligible DUI cases were randomly assigned to the 24/7 program (i.e., treatment group) or to treatment-as-usual (i.e., comparison group). All second-time DUI offenders are considered eligible for the program as long as they do not have outstanding fines/license holds with the Driver's License Division. Individuals were determined to be ineligible for participation in the study by the Department of Public Safety. Specifically, individuals who were first-time DUI offenders and DUI offenders with 3 or more DUI convictions in the past 10 years were excluded from the evaluation. This criteria align with those described in the South Dakota and Montana 24/7 Sobriety programs (see, e.g., Midgette, 2014; Midgette & Kilmer, 2015).

The randomization process involved assigning Weber County Justice Courts to the treatment condition (n=26) and the control condition (n=77). For Ogden City Justice Courts, UCJC randomized the treatment/control condition on a weekly basis. Every Friday the randomization assignments for the upcoming week were mailed to two judges at Ogden City Justice Courts. The Justice Courts that these judges presided over were the only Justice Courts that were randomly assigned a treatment condition on a weekly basis. All other Justice Courts participating in the pilot program kept the condition that was assigned to them at the start of the study. Based on the descriptive statistics presented below, it appears that the randomization process did not work as expected. Specifically, we would expect that the treatment group would be similar in size to the comparison group. However, there were only 26 eligible, second-time DUI offenders that were sentenced to the 24/7 program during the study timeframe (treatment group) compared to 77 second-time DUI offenders that received treatment as usual (control group).

In order to identify whether individuals were assigned to the treatment or comparison group, UCJC was given permission to access the SCRAM software by Weber County Sheriff's Office (i.e., software package used to monitor 24/7 participants testing/sanctions). Research staff at UCJC began extracting individual record data from the SCRAM system in September 2019. Other data elements collected from the SCRAM system included: name, case number, violation(s) description, sanction(s) description, 24/7 status, and sentence date. After the June 2019 24/7 Steering Committee meeting, it was determined that the randomization process was set to end on July 1, 2019 and that the program would be available to all individuals charged with a DUI that met the eligibility criteria. For the purposes of the evaluation, the treatment group was selected if they were sentenced to the 24/7 program for a second-DUI offense between November 1, 2018 and June 30, 2019 (n=26).

Beginning in August 2019, UCJC worked with multiple project stakeholders to identify the best approach to obtaining data for the comparison group (i.e., Weber Justice Courts and Private Probation Agencies). UCJC received partial data from the Private Probation partners in

September and October 2019. The quality of these data (i.e., accuracy and completeness) were highly varied among these partners. UCJC also attempted to obtain the Impaired Driving Risk Assessment records for the 24/7 program participants from the Private Probation partners. UCJC only received partial data on the risk assessments with limited completeness. UCJC met with partners at the Department of Public Safety in November 2019 to discuss the issues and challenges experienced during the data collection process. It was determined that it may be best to work with the Administrative Office of the Courts to obtain the data required to identify the comparison group. UCJC met with the data team in March 2020 to discuss the data elements required for the evaluation. UCJC and AOC collaborated on a data sharing agreement that was executed in April 2020.

AOC and UCJC also developed a query protocol to be used to identify all eligible study participants. The search query used by AOC looked for individuals who were convicted of a DUI-related charge between January 1, 2011 and October 31, 2018 from any Utah jurisdiction and whether those persons were charged with a subsequent DUI-related offense between November 1, 2018 and June 30, 2019 in Weber County, Utah.<sup>7</sup> AOC provided the data to UCJC in April 2020. The following data elements were included in the data from AOC: name, birth date, case number, driver's license number, driver's license state, SID, court location, county, filing date, case type, offense code and description, blood alcohol description, judgement date, and sentence date. AOC indicated that they do not have the Impaired Driving Assessment results in their data system. These data were merged with the data obtained from the SCRAM system. After merging the two data files, 5 cases were dropped from the treatment group because they were not included in the AOC data file. This resulted in a total of 21 cases in the treatment group for the analysis.<sup>8</sup>

## **Descriptive Analysis of Record Data**

### **Characteristics of Treatment and Control Groups**

In total, 98 individuals were identified as eligible for inclusion in the study. Of these, 21 were enrolled in the 24/7 program between November 1, 2018 and June 30, 2019 (21.4%). The remaining 77 individuals will be included in the control sample (78.6%).<sup>9</sup>

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<sup>7</sup> AOC's current data system only includes record data for cases beginning in January 1, 2011. Based on the inclusion criteria set by DPS, record data should include all cases that date back to November 1, 2008.

<sup>8</sup> One of the criteria used to determine eligibility for the 24/7 program is that the individual received their second DUI offense within 10 years of their first. Given that AOC's current data system only includes record data for cases beginning on January 1, 2011, it is possible that the five missing cases received their first-DUI between November 1, 2008 and January 1, 2011. If this is the case, because of the historic data limitation, these individuals would not be flagged as second-time DUI offenders in the AOC data.

<sup>9</sup> Possible reasons for the imbalance between the number of individuals in the 24/7 sample and control sample are covered in the discussion section.

Table 1. Study Conditions

	<b>Frequency</b>	<b>Percent</b>
Control Sample	77	78.6
24/7 Participants	21	21.4
	98	100.0

The majority of cases in both the treatment and control groups were handled in Ogden Justice Court (i.e., 71.4% and 66.2%, respectively). For the remaining individuals in the treatment group, five had their cases handled in the Roy/Weber County Justice Court (23.8%) and one had their case heard in the Farr West Justice Court (4.8%). In the control group, 11.7% of cases were in the Roy/Weber County Justice Court jurisdiction (n=9) and 10.4% were handled in the Riverdale Justice Court (N=8). The remaining 11.7% of cases in the control group were spread across five other Justice Court jurisdictions (n=9).

Table 2. Study Condition by Justice Court Location

	<b>Control Group</b>	<b>Treatment Group</b>	<b>Total</b>
	N (%)	N (%)	N (%)
Farr West	2 (2.6)	1 (4.8)	3 (3.1)
Harrisville	1 (1.3)	0 (0.0)	1 (0.0)
North Ogden	1 (1.3)	0 (0.0)	1 (0.0)
Ogden	51 (66.2)	15 (71.4)	66 (67.3)
Riverdale	8 (10.4)	0 (0.0)	8 (8.2)
Roy/Weber	9 (11.7)	5 (23.8)	14 (14.3)
South Ogden	3 (3.9)	0 (0.0)	3 (3.1)
Washington Terrace	2 (2.6)	0 (0.0)	2 (2.0)
<i>Total</i>	77 (100.0)	21 (100.0)	98 (100.0)

When comparing the judgement description by the study condition, it appears that individuals in the treatment condition were slightly more likely to plead guilty than individuals in the control group; although these findings were not statistically significant (95.2% and 87.0%, respectively, using a test of proportions). Conversely, a slightly higher percentage of individuals in the control group pled no contest relative to the treatment group (11.7% and 4.8%, respectively). One individual in the control group entered a plea in abeyance (1.3%). Upon further examination the differences in proportions of judgement by study condition were not statistically significant.

Table 3. Judgement Description by Study Condition

	<b>Control Group</b>	<b>Treatment Group</b>	<b>Total</b>
	N (%)	N (%)	N (%)
Guilty	67 (87.0)	20 (95.2)	87 (88.8)
No Contest	9 (11.7)	1 (4.8)	10 (10.2)
Plea in Abeyance	1 (1.3)	0 (0.0)	1 (1.0)
<i>Total</i>	77 (100.0)	21 (100.0)	98 (100.0)

The average age of individuals assigned to participate in the 24/7 program was 36.7 years old with a standard deviation of 12.2. This indicates that there is a fair amount of variation in the age

of individuals who were assigned to the treatment condition. The average age of individuals assigned to the control group was 34.7 (SD=12.7). Although the average age is slightly higher for the individuals assigned to the treatment condition, the difference is not statistically significant.

UCJC also compared the number of days between the judgement date and sentence date for the treatment and control group. On average, the number of days between the judgement date and sentence date was 7.39 (SD=35.1) for the control group. The average number of days between these dates for the treatment group was 13.7 (SD=25.4). An independent samples t-test reveals that the difference in means is not statistically significant suggesting that they are statistically similar. Hedges' G was calculated to determine the effect size of this relationship. Hedges' G is a preferred measure of effect size when there are different sample sizes. The effect size of this relationship is small (Hedges' G=0.19).

Using the sentence date in the AOC data and the 24/7 program start date in the SCRAM system, UCJC calculated the number of days between these two dates for 24/7 participants. Of the 21 individuals enrolled in the 24/7 program during the study timeframe, the average number of days between the sentence date and 24/7 enrollment date was 22.1 (SD=67.22). The standard deviation value indicates that there is a lot of variation in the number of days between sentencing and the start of the 24/7 program. After a closer look at the data, it was determined that there was one case who started the program about 10.5 months after their sentencing date. After filtering out this case, the average number of days between sentencing and enrollment into 24/7 is 7.5 (SD=6.9).

UCJC received partial data on the blood alcohol content (BAC) at the time of arrest for 24/7 participants and the control group (n=12 and n=46, respectively). Of the 12 for which UCJC received data, 16.7% had a BAC of less than 0.08 (n=2), 16.7% had a BAC between 0.08 and 0.15 (n=2), 33.3% had a BAC between 0.16 and 0.23 (n=4), and 25.0% had a BAC greater than or equal to 0.24 (n=3). One individual was referred to the program for drugs; thus, there was no BAC reported for them (8.3%). Of the 46 individuals in the control group, 6.5% had a BAC of less than 0.08 (n=3), 30.4% had a BAC between 0.08 and 0.15 (n=14), 21.7% had a BAC between 0.16 and 0.24 (n=10), and 21.7% had a BAC greater than or equal to 0.24 (n=10). Nine individuals in the control group were convicted of a drug-induced DUI offense (11.7%).<sup>10</sup>

Of the 21 individuals assigned to the 24/7 condition, 16 committed at least one violation during their time in the program (76.2%). Of the 16 that committed at least one rule infraction, 68.8% (n=11) failed a breath test, 62.5% failed to appear for a testing session (n=10), and 18.8% failed a urinalysis test (n=3).<sup>11</sup> In total, these 16 participants committed 33 rule violations, which include: 14 failed breath tests, 16 failure to appear, and 3 failed urinalysis tests. Only three individuals committed four rule violations while in the program, which led to them being removed from the program due to non-compliance (14.3%). 24/7 participants committed an

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<sup>10</sup> Interpret findings on BAC with caution. There was a considerable amount of missing data for both groups. It is not clear as to why so many cases were missing information on BAC or whether these data were missing systematically. For that reason, differences in BAC between the groups may not be meaningful.

<sup>11</sup> When contrasted with the results in the evaluation of Montana's 24/7 program (see Midgette & Kilmer, 2015), a considerably greater percentage of 24/7 participants in Utah's program failed at least one breath test.



average of 1.6 violations (SD=1.4). The data also reveal that participants received a sanction for each rule violation they committed and the sanctions were graduated in nature for each successive violation. However, one exception to this was evident in that an individual received the same sanction for separate violations.

## **Methods for Interviews with 24/7 Program Stakeholders**

### **Methodology**

Interviews were conducted with criminal justice stakeholders who were approached to voluntarily participate in the study. Sampling was initially purposive with inclusion criteria being those who were involved in the design and development of the 24/7 Sobriety Program, those involved in the advisory group meetings, and those who had key roles in the implementation of the 24/7 program. Names of potential stakeholders fitting these inclusion criteria were proposed by community partners. Snowball sampling was then used as participants recommended other people for inclusion in the interviews. In total, 19 interviews were conducted with program stakeholders between May 2020 and June 2020. These stakeholders were either justice court judges (n=5), private probation agents (n=1), clerks of the court (n=1); or worked for community partners such as the Department of Public Safety (n=6), Weber County Sheriff's Office (n=3), and the Driver's License Division (n=3).

### **Procedure**

Research analysts emailed prospective participants explaining the study and requesting participation. Interviews were then conducted over the phone, with one individual at a time. Consent was obtained prior to the interview. The semi-structured interviews lasted between 20-30 minutes and ensured that all participants were asked the same questions, while the open-ended questions allowed participant's to respond in ways that reflected their unique perspectives (Cohen & Crabtree, 2006). To enhance validity and reliability of the data, interviewees were asked to substantiate their views and probed for reasons for their choices providing examples where possible (McIntosh & Morse, 2015). The research analysts took hand written notes of the stakeholder's responses during the interviews. Questions focused on the perceptions of the program; problems encountered prior to and during implementation; strengths of the program; and recommendations. No identifying information was retained from stakeholders.

### **Analytic Strategy**

Transcripts of interviews were uploaded into ATLAS Ti, a qualitative research software program, for coding. Several inductive techniques were used to strengthen the internal validity of the analysis. The data were read multiple times to code passages and make notes on preliminary observations and themes that emerged from the data. Codes were grouped into larger patterns of interrelated ideas termed themes. Further, a constant comparative approach was used to develop and rework categories as the data was systematically coded (Silverman, 2009). This approach to identifying, analyzing, and reporting on the data is termed Thematic Analysis. It

allowed for consideration of predetermined themes (drawn from the interview guide) as well as inductive themes that emerged from the interview data. Further, it allowed for refinement or rejection of initial identified analytic patterns and the organization of data into a cohesive structure (Braun & Clarke, 2017). The aim was to record and present the most common patterns within and across transcripts in relation to stakeholder perceptions and experiences.

## **Findings from Program Stakeholder Interviews**

### **Overview**

The interview guide was designed to focus on two key areas related to the 24/7 Sobriety program: program implementation and perceptions of the 24/7 program. While some interviewees described issues related to the implementation of the 24/7 program, the majority indicated the program has been successful in changing behavior. A larger analysis, possibly an outcomes evaluation could explore whether 24/7 reduces recidivism. Interviewees recounted that 24/7 program participants viewed the program as having a positive impact on their ability to retain employment and led to reductions in substance use. Overall, responses about the program were constructive and focused on ways that the program can be enhanced prior to statewide implementation. The lack of inter-agency collaboration and communication were commonly cited as barriers to the efficacy of the program.

The qualitative analysis revealed several key themes related to the design and implementation of the 24/7 sobriety program. Within each of the themes, a number of codes emerged that consist of common quotes that speak to various aspects of each theme. The program implementation themes will be described below, and include the following: Program Administration, Implementation and Barriers to Implementation, Entry Criteria, Consequences for Non-Compliance, and 24/7 Policies and Recommendations for Program Improvement. The analysis also revealed two themes that are related to perceptions of the program, which include the interviewees' perceptions of the program (e.g., effectiveness in reducing recidivism), and perceptions of participants' experiences in the program.<sup>12</sup>

### **Program Administration**

#### *Program Overview*

Although opinions on the administration of the 24/7 program varied, the majority of respondents (n=12) indicated that 24/7 participants were provided with a clear set of program expectations and afforded the opportunity to address any concerns they had prior to commencing the program. This was seen as an important factor in the success of the program beginning in the design phase. Many of the stakeholder agencies collaborated on the design and development of the implementation strategy for the program as well as handouts that would be provided to participants. Not only were the supervision and programming staff involved in the development and dissemination of the program overview and expectations, a majority of stakeholders were

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<sup>12</sup> Participant information and DUI recidivism data will be included in the final report.

involved in this implementation process. For example, an interviewee indicated that:

“There are a lot of stakeholders involved in this project so all had to have a clear understanding of the project. It included Driver’s License Division, Weber County Jail, Law Enforcement, and the Courts so it was important that everyone agreed on how it worked and were able to impart that to participants.”

Interviewees also described the participant orientation phase of the program as consisting of more than a single explanation. For example, the orientation phase of the program was described as being multifaceted:

“It was never completed in one court day. Potential participants had multiple explanations and had time to change their minds. There were pre-trial conferences, and two week assessments, probation decisions, then the judge would go over the program with people, there would be time between plea and getting information, and some people changed their minds on their initial decisions. The information was good.”

While most of the interviewees indicated program participants were provided with a detailed overview of the program and their expectations, two interviewees indicated that they believed the handouts and documents given to program participants were lacking detail. Specifically, one interviewee indicated that participants are sometimes confused about the program requirements and that his/her agency has been contacted with questions about the program requirements.

### *Communication*

Many interviewees emphasized the successful communication and collaboration between stakeholders in the design phase of the program:

“I found it very amazing to think that that many people collectively agreed to a program and were invested in it. So there was a lot of discussion and commitment from all.”

All agencies were willing to listen and learn, as reflected in the comment below:

“There was commitment from all agencies. I found it very amazing to think that that many people collectively agreed to a program and were invested in it. So there was a lot of discussion and commitment from all.

However, interviewees identified communication as a barrier in the administration and the implementation of the 24/7 program. In the context of program administration, communication issues were responsible for a delay in some stakeholders receiving information related to the design and implementation of the program. This resulted in delays with agencies on-boarding and implementing the 24/7 program. It was suggested that initial communication issues were attributed to a lack of compatibility of communication systems across the agencies/jurisdictions.

Six interviewees mentioned that communication was a major barrier to getting the program rolled out in the first year of the project. The issue improved following the transfer of the program funding to the Department of Public Safety from the Attorney General’s office. However, staff buy-in with agencies was initially slow and it took time and active

communication for staff to view the program “as an effective strategy”. Further, two interviewees reported that the courts “came late to the game” which made partnership difficult in the implementation phase. Another administrator commented that:

“The hardest thing in the beginning of program implementation was to understand what we had to do and when we had to do it. Initially it was confusing. We eventually came up with a bullet point plan of action items to do. The judge helped formulate these and it did require lots of phone calls to various stakeholders.”

Thus, active communication and engagement was needed. These initial communication issues were between all of the 24/7 program partners and a solution was suggested so as to avoid this obstruction in the statewide rollout of the program:

“We all had our pieces and parts but we did not communicate with the different partners as much as we should have on what the program looks like as it is being implemented. The program needs a single program coordinator that ensures communication is clear and that the program is well vetted and communication is good.”

This suggestion of a program coordinator was echoed by many stakeholders/interviewees.

Several respondents also indicated that program administration was hindered by logistical challenges raised due to the current 24/7 program legislation. Specifically, interviewees noted that working through various channels to get funding for 24/7 took considerable time. Further, an interviewee mentioned that there was “no flexibility in testing locations” which created undue burden for 24/7 program participants. Many interviewees recommended that additional agencies offer testing at multiple sites across the state ensuring participants could meet testing criteria while vacationing or working considerable distances from home.

## **Program Implementation**

### *Budgetary Constraints*

Respondents recognized the operating budget for the 24/7 program as a potential barrier to implementation. Two respondents indicated they believe the lack of financial resources prevented the 24/7 program from recruiting eligible DUI offenders from participating in the program. Specifically, they suggest there are insufficient resources to fund the use of technology for testing and tracking of participants. For example, one interviewee stated that DUI offenders who live outside of Weber County would be unlikely to participate in the program because it is not “feasible financially or logistically for them to drive twice a day to get tested.” The respondent suggested the program could benefit by getting more people to enroll in it if they had the capability to use ankle monitors. Another interviewee echoed these statements by indicating the program needs:

“...resources to get remote testing opportunities (e.g. scam devices or other outreach programs) so it is easier for clients to get back to normal life. Modern technology is very accurate so I hope the money for those devices are moving forward. A long-time participant has a construction job (transient job) that takes him all over and it is difficult

for him to maintain work. Testing with no scam device limits our ability to have people on the program and limits our ability to serve people.”

Although many respondents suggested that increased funding for technology (e.g., remote testing) would enhance aspects of the program, one respondent argued that the use of this technology would decrease the efficacy of the program. The interviewee suggested that technology will increase surveillance and increase the likelihood that participants will “slip up.” The interviewee elaborated more on their concerns with technology:

“I like them [24/7 participants] checking in with deputies and doing random drug testing. The deputies get to know the people and if they present with glazed eyes they can screen them randomly for drugs, an ankle monitor will not allow this personal interaction. We are not trying to catch them out, we are trying to help them to succeed. Checking in twice a day is a burden but it shows commitment. So checking in twice a day is a good part of the program.”

This personal interaction with participants cannot be underestimated. To counter this argument, another interviewee commented that “remote testing opportunities, allow clients to get back to normal life” while being accurate too. Another interviewee expressed possible reluctance of jail staff in using scam devices saying “the jails may not want to mess with that technology” even though it will allow more people to participate in 24/7. It may be perceived as another layer of administration.

#### *Buy-in from Program Stakeholders*

Interviewees, in large part, attributed the success of the program to the coordination and buy-in from the agencies involved in the 24/7 pilot program. Although there were some initial struggles in getting agencies on board for the program, program partners became more invested in the program as they learned more about its potential to reduce DUIs and other alcohol-related offenses. The pilot program was seen as beneficial to program participants as stakeholder groups observed participant actions and responses while enrolled in the program. Speaking to the potential for statewide rollout of the 24/7 program, one respondent recommended that it should be left up to the local jurisdiction to setup the program because local law enforcement agencies “need to want to do it”.

#### *COVID-19, the Current Political Climate, and Program Recruitment*

The COVID-19 pandemic has greatly impacted the way that criminal justice interventions operate. Several respondents indicated that the COVID-19 pandemic has negatively impacted the implementation of the program. Specifically, interviewees reported that they have noticed a marked decline in recruitment into the program. For example, an interviewee mentioned that:

“COVID-19 has affected the program. Less have been recruited but also testing everyday with such regularity is exhausting. People have asked for furloughs to go away on holiday to Bear Lake or wherever because they feel more restricted due to COVID. Furloughs may help with overall mental health.”

Asking for furloughs from work has created issues in testing.

Another interviewee went on to further explain that administrators at law enforcement agencies have asked their officers to reduce their traffic duties in order to prevent the spread of COVID-19. The interviewee also mentioned that officers need to be mindful of the political antagonism towards them. A judge had this to say:

“[I’m] not sure how proactive law enforcement officers [LEOs] are in the current climate. The program is a very good sentencing alternative. Traffic violations give you everything: drunk driving; people under the influence of controlled substances; revocation and suspension. With COVID-19 and antagonism towards police, traffic citations have slowed down considerably and they [LEOs] are not the most popular people in the world right now. They [LEOs] were told to back off on traffic duties with the pandemic as they don’t want their officers getting infected. The process involves using pens, changing citations etc. and puts them [LEOs] at risk.”

Therefore, he/she argues that there are less traffic violations (including DUIs) further reducing recruitment into the program.

### *Communication*

Respondents saw communication as both a strength and weakness in the implementation of the 24/7 program. The majority of interviewees indicated they believed communication and collaboration between program partners was strong and led to the successful implementation of the program. For example, an interviewee indicated that the 24/7 program was a “product of a great deal of input from all participants [program partners] on all sides of the equation, [e.g.] judges, private probation, police departments, etc.”

On the other hand, several respondents pointed to communication issues that occurred between specific program partners. These individuals seemed to indicate that these communication issues led to a lack of fidelity in program delivery. Respondents commonly cited that the breakdown of communication most commonly occurs when 24/7 participants are terminated from the program:

“The biggest barrier to the success of the program is a lack of communication between agencies. The lack of communication is particularly problematic for participants that are unsuccessfully terminated from the program. There is oftentimes a hold up in the relay of this information to [agencies] or it is inconsistently provided to [those agencies]. This is an issue because these cases should receive a 10 year license revocation and if [agencies don’t] receive this information then those individuals are continuing to drive and are not being punished for unsuccessful completion”

Several Justice Courts became involved in the implementation of the 24/7 program later than others. One respondent noted that these courts initially struggled to develop an understanding of the intricacies of the program. From the context of implementation, the respondent indicated that these courts had difficulties in building a partnership with the other program stakeholders. The respondent went on to say that within the last six to nine months these courts are now up to speed and their experience has been “very good”.

Although most interviewees reported that they were unaware of any major communication issues, one respondent mentioned they were aware of communication issues between program partners. The respondent suggested that communication between program partners may be improved moving forward as a new outreach liaison position was created. The individual recently appointed to this position is on a two year contract and is a sitting judge. The position was designed to increase communication between the courts and other program partners.

#### *Data Transference between Agencies*

In addition to communication, data transference between program partners was also seen as a barrier to implementation. Several interviewees suggested that data is not being efficiently transferred and processed by program partners. This is particularly a problem when individuals do not successfully complete the 24/7 program. Participants who are unsuccessfully terminated from the program are supposed to receive a mandatory 10 year license revocation. A considerable number of respondents (n=5) said these are not being authorized with consistency:

“Some [program partners] do not always notify [agencies] when a person fails in the program, so some do not have their licenses re-suspended when they should. The system is not as successful as it could be and people fall through the cracks. There are just too many agencies involved and it is all a manual process. It is a good program but needs better oversight. There was not enough money at the time to automate the pilot, but if this gets rolled out, there needs to be an automated system”

#### *Loophole in Sanction for Unsuccessful 24/7 Completion*

Similar to the previous code on data transference, respondents also indicated that there is a loophole in the process of sanctioning 24/7 participants that unsuccessfully complete the program. This loophole compromises successful program implementation. One respondent commented on the “loophole” by stating that they know 24/7 participants who unsuccessfully completed the program and have had their licenses reinstated. Two other interviewees stated that the issue lies with the failure to comply language in the legislation. More specifically, they indicated program partners are not ordering the failure to comply and individuals are paying the \$40 reinstatement fee and getting their license back with no consequences.

#### *Interlock system*

One requirement for participants in the 24/7 program is to have an interlock system installed in their vehicle prior to license reinstatement. Three respondents indicated that the interlock requirement is “redundant” and “expensive.” Another said:

“The client blows into the system and then drives to me and get tested, it’s the same thing”

Each recommended removing the interlock system as a requirement. These perceptions are noted in the following interviewee’s response:

“The interlock system is a controversial thing for me. All are required that they get their license back in 45 days. I feel if people are enrolled into the 24/7 program they do not

need the interlock system on their car. It's very costly, many participants have struggled to pay for it. It is like they are paying for two different programs, the interlock system and the 24/7 program.”

### *Logistical Challenges with Testing*

Given that the 24/7 program was being piloted in Weber County, Utah, the program was designed to only have one testing location. Several comments were made during the interviews suggesting that one location was not enough to serve the needs of all 24/7 participants. Specifically, respondents indicated that several 24/7 participants were not residents of Weber County. This resulted in a number of barriers for those participants in terms of meeting the daily testing requirements within the testing windows. These logistical challenges will likely be addressed with a statewide rollout so long as participants have the ability to test at any 24/7 testing site.

“People have to test twice a day in Weber Co. at Kiesel. This is a limitation for people. I have had people from Salt Lake County and Davis County that want to be in the program but they cannot commit to the travel twice a day up to Weber. One potential participant was in St George. To increase participation, we need more locations for people to test at”.

### *Research Driven*

The Department of Public Safety consulted the literature on DUI interventions prior to adopting the 24/7 program. Research from 24/7 programs in Montana and South Dakota were associated with reductions in recidivism and impaired driving. These findings were reviewed and this information was disseminated to key stakeholders involved in the development and implementation of Utah's 24/7 program. Several respondents discussed the importance of implementing the 24/7 program to fidelity. For example, an interviewee said, “We have adopted the national standards for the 24/7 program because the research and evaluations done by the RAND Corporation have shown it to be successful and therefore we do not vary from it.” Based on several other comments, interviewees seemed to believe that this groundwork increased buy-in from all criminal justice stakeholders involved in the program.

There were a few stakeholders who felt the punishment of having your license revoked for 10 years “was draconian” and needed to be reconsidered. Others, however, expressed opposing views:

“In order for the program to succeed and maintain its current success, it is important that Utah continues to model the original program and the key aspects of its design. We should not recreate the wheel or change aspects of the design. We should be doing what we know works based on the research. The focus should be on doing what works and why it works.”

### *Alcohol to drugs*

Two respondents expressed concerns that some 24/7 participants switched from alcohol to drugs while in the program. An interviewee described a situation in which a known 24/7 participant



admitted to switching to pills upon entry into the program. The respondent indicated that this individual's drug use progressed while in the program from pills to methamphetamine. According to the interviewee, this individual was testing negative at the jail testing site because he/she was being screened for alcohol. This was supported by another interviewee who observed that the program was seeing an increase in poly-users (i.e., using a variety of drugs/alcohol). Another interviewee offered an explanation for this observed pattern of behavior:

“Some people are anxious – or have mental health issues - and alcohol calms them down, if they can't access alcohol they will use something else”

In response to this, another interviewee offered a recommendation. Specifically, he/she recommended that the program incorporate “drug patches” for individuals referred to the program for “drug-induced” DUIs. They go on to say that, “We don't want DUIs for alcohol or drugs.”

Another issue related to drug usage among 24/7 participants is that some may have been referred to the program for a “drug-induced” DUI. In particular, one respondent mentioned concerns with allowing individuals to enroll in the program if they had a “drug-induced” DUI because the program is primarily concerned with testing for alcohol:

“People do come into the program with a drug induced DUI and we are testing for alcohol, not drugs. Random drug tests are allowed. Going forward, if it rolls out, random UAs for drug screening also need to be done as there is the potential to take up another substance”

Program stakeholders planned to add drug testing capability to address these concerns but it was cost prohibitive. Unfortunately, one interviewee had observed inconsistencies in drug and alcohol testing between agencies saying “when we tested him, he had alcohol in his system but somehow he got through the jail testing”.

#### *Discretion at Program Referral Decision Point*

While Utah's program is intended for second-time DUI offenders that meet specific criteria, respondents suggested that program partners have deviated from these criteria at the program referral decision point. One interviewee elaborated on this specific point:

“It's very clear in statute and in administrative rule when a person can be enrolled in to 24/7 and the requirements, we had several [program partners] think that they could make different decisions that were not included in that, so that was problematic.”

Respondents also noted that there are discrepancies in judicial decision making as it pertains to program referrals. For example, an interviewee stated, “We started with a full one-year program and then allowed first-time offenders to be on the program for six months. That is fine, however some judges make variances to the program like making people blow twice a week for three months etc., which defeats the whole reason of sobriety for this program.” He/she goes on to say that variation in judicial decision making defeats the intended purpose of the program. These findings seem to counter previous comments that the program is being operated with complete

fidelity to those discussed in the RAND evaluation.

### **Entry Criteria**

Respondents had mixed views about the entry criteria for the 24/7 program. Several respondents (n=11) indicated that they felt the program would greatly benefit first-time DUI offenders. An interviewee said:

“First-time offenders [have been referred] to the 24/7 program and the duration and consequences varies, but they have benefitted from being accountable for their actions, and for the structure the program provides. With first-time DUI offenders, there are still immediate consequences and with the daily testing, they have to be accountable and seldom slip up.”

Another respondent, however, did mention that by the time the offender goes to court, they may have already served the license revocation, so the benefit of re-instating the license might not be there. This particular example could be a problem for some first-time DUI offenders and result in the participant missing out on key elements of the program (e.g., license reinstatement). Another interviewee concurred and offered a suggestion for revising the incentives for first-time DUI offenders:

“We would allow first-time offenders at a low level but the program does not have much to offer them with them having a driver’s license [back]. So if you could increase the carrot for first-time offenders so that they want to do it. It is very difficult to go through the program, it takes commitment and thus we need the law to change with including first-time offenders. The carrot could be that they participate in 24/7 as a diversion program or get a lower offense. Thus, increase the number going through the program and there may be a change in seeing second offenses.”

Others suggested that entry for first-time offenders could be on a volunteer basis or at the judge’s discretion should the latter feel a person could benefit from a six-month involvement in the program. On the other hand, a number of respondents stated that the program was designed for high-risk and/or second-time DUI offenders, being an intense a program requiring considerable commitment. Therefore, they argue that the program is inappropriate for first-time DUI offenders. For example, one interviewee said:

“Yes, the program probably wouldn’t serve first-time DUI offenders well. The program was designed for individuals with a persistent alcohol problem.”

Some respondents stated that the original statutory language allowed first-time offenders to participate:

“The statutory language allows individuals with a first-time offense to participate in 24/7. The direction the U [University of Utah] took it only allowed second-time offenders to be involved. The bill is good and is in a good position to get the requested changes going forward.”

One judge had concerns with the initial screening process suggesting that individuals who would be good candidates for the program were not being enrolled due to personal financial constraints:

“Sometimes with that initial screening you will find people who are qualified to be in the program and should be in the program, but they had zero resources to do it whatsoever. So there were people we simply had to screen out. They were homeless and penniless and if they were put in the program they would fail as they could not get themselves to be tested twice a day nor could they pay for the testing. They would be back in front of me for a termination hearing. This always felt slimy for me as the resources were here, but they were to be screened out because they could not afford it. There were people who should have been let in to the program but they could not be. It was a middle class and above, privilege. There needed to be a scale of impecuniosity where the scale can slide down to zero if they could not afford it”.

Other interviewees also had concerns of exclusion, in particular with the verbiage in the statute and delineation of entry criteria:

“The carrot for the program is if you engage in the program, there will be provision made for you to keep your license. It’s a good incentive. But the statute is not written like that. It is a requirement that the person gets their license back in 60 days or they can’t participate. Someone may have one or another reason why they can’t get their license back in 60 days which means they can’t take part in the program. If we think this program benefits someone why wouldn’t we want them in the program? Even if they can’t get their license back in 60 days I would still like to have them in the program. They can benefit from the structured environment and having someone pushing them, overseeing them and helping them to overcome a serious substance use problem. It seems a good tool to help someone back to sobriety and being a functional member of society.”

It was suggested that this issue be addressed by revising the statutory requirement that states program participants must receive their license within 60 days or they cannot be in the program. They suggest that license re-instatement must not be a requirement of the program but rather an incentive of the program. However, the statutory language includes license re-instatement as a requirement because it seemed unfair to put the burden of twice daily testing on someone who cannot legally drive.

### **Consequences for Non-Compliance**

#### *Consequences are consistently applied*

In order for the 24/7 program to be implemented to fidelity, the consequences for rule infractions must be consistently applied by program personnel. There were mixed responses to this question. Many respondents indicated that the consequences for non-compliance are being consistently applied (n=6). Program stakeholders with varying levels of involvement in the program stated that compliance-related issues are being consistently addressed by program staff. For example, one interviewee provided second-hand knowledge of this: “I know they consistently take place; I have been in meetings [to discuss these].” Another respondent with first-hand knowledge discussed that there is “no variance between personnel [in administering consequences]. The consequences are cut and dry and there are no exceptions. [Consequences are] uniformly

enforced.”

However, others felt that consequences were not consistently applied across personnel (n=5):

“The weekend jail staff in charge of testing [do not always consistently enforce consequences]...there are some inconsistencies in delivery of consequences. This is because jail staff are not as familiar with the design and implementation of the 24/7 program and there is a lot of turnover in these positions. New staff are less familiar with the program leading to some inconsistencies.”

Others commented that although sanctions were consistently applied “...participants are offered some wiggle room”. The explanation given was that “staff do this to remove some of the burdens of sanctions, so this creates some inconsistency of when participants receive a sanction”. Some people will be allowed to go to work for the day and check in after work so that people can maintain employment.

Another person had this to say:

“I have been told that some females specifically have gotten away with being sanctioned, but I am not sure who was responsible for that.”

### *Consequences are fair*

One important aspect of the 24/7 program is that the consequences must be fair and considered as fair by stakeholders and participants alike. The majority of stakeholders perceived the consequences as fair. One respondent mentioned that the consequences were based on the Montana and South Dakota 24/7 programs. They further elaborated that consequences are not too severe as to disrupt program participants’ employment and familial relationships (e.g., short jail stays). In support, some interviewees stated that the consequences are fair because program participants are provided with an explanation of the program and consequences prior to enrolling in the program. Others concurred saying:

“They are fair and they are severe if a person fails a test. But, expectations and understanding of the program is explained up front and people can complete it satisfactorily”.

Another common thread across the interviews that speaks to the fairness of the consequences is that the sanctions are graduated. That is, the consequences increase in severity for subsequent rule infractions. There were some stakeholders who generally agreed that the consequences were fair, but felt that the removal of one’s license for 10 years was “draconian” and “extreme”. Such opinions are noted in this stakeholder’s comment:

“Statutory language speaks of subsequent failure will result in your driver’s license being revoked for 10 years. I feel this is too drastic. The working group would like to change that. Failure should be more lenient (e.g. two years, plus one year for loss of license).”

Many countered this response and felt that “to lose it [license] for 10 years is significant but necessary”.

### *Consequences are lenient*

Several respondents indicated that they felt the consequences are too lenient, as observed in the comment below:

“We must not give them too much jail, but 24 hours up front in jail seemed light for a violation and in the district court that could have led to a 30 day”.

Although one respondent felt that the consequences for rule infractions are too lenient, they felt that the consequences are immediate and therefore they are fair and balanced. Another respondent said that the consequences should be stricter for those who persistently engage in rule infractions.

Other stakeholders suggested changes to the statutory language as they felt people who failed to comply in the 24/7 program did not receive the consequences that they should:

“They [participants] are given enough opportunities to be successful. The information at enrolment is clear and people are not forced to join the program, it is a choice. They get three chances and then there is the expulsion (4th). In the future, we should look at changing the state language to re-suspense for the DUI component/portion and not just on failure to comply. That is a problem. The whole 10 years should be reinstated if there is failure in 24/7 that is the general length of time for an FTC. So in future if there is failure in the program, we should have their last DUI re-instated rather than go the FTC route, Then the license can be reinstated after a distinguished amount of time, and they would have to serve that time in order to reinstate the license, determined by the judge. So what is the court going to make them do to re-instate the license and that could be pay fees to the court, which to me, is too easy. People can beat the system and avoid getting their license suspended. Overseeing is very important”.

### **Program Policies & Recommendations for State Rollout**

While a number of recommendations have been interwoven in the sections above, this section integrates all recommendations for policy and practice related to the 24/7 program.

One of the most common issues referenced in the interviews was the need to increase communication between agencies – especially between program partners for 24/7 participants that were unsuccessfully terminated from the program. Such individuals had their licenses reinstated when they should have had a 10 year mandatory license revocation. Respondents recommend using a common data system that allows program partners to share information related to the 24/7 program. For example, a court order for the 10 year mandatory license revocation could be entered and would immediately notify the Driver’s License Division so that they could immediately process the revocation.

Communication and data sharing issues were also raised as a concern when asked about statewide implementation. Similarly, respondents recommended creating an automated web-

based system [one server] that will allow all participating agencies and stakeholders to communicate and access 24/7 program data statewide. As one interviewee said:

“...If someone is in the program in Weber Co but is pulled over in St George, the police officer should access **USEGIS** ...where all law enforcement data is kept, they see he is on 24/7 as he is flagged on his license and this flag says they should not have any alcohol in their system...They should then be immediately taken in if alcohol is found. Right now this is not working as it is just a pilot. We need software that directly connects with **USEGIS**”.

Thus, an automated system that talks between software, local programs, and the Driver’s License Division updating client activities automatically is needed. Another interviewee supported this in commenting that:

“The transference of data between agencies (Courts, LEOs, DLD, etc.) is “archaic”. DLD, courts, BCI all hold data and all different agencies handle data differently. They are not all on one data base across all entities. The various systems currently do not mesh”.

In regard to testing, respondents mentioned the challenges that testing multiple times a day at a single testing site creates for program participants. Respondents recommend increasing the use of technology for testing to reduce some of the logistical barriers caused by testing. Specifically, interviewees recommended purchasing transdermal bracelets to allow participants to test remotely. Some sites may need to redesign office space to accommodate for the 24/7 program.

Similarly, several respondents also suggested that the program increase the number of testing sites. Respondents commented that they are aware of some participants that drive from surrounding counties twice a day to get tested. The testing requirements and participants proximity to the testing site can create barriers for participants in terms of work and family obligations. This recommendation may not be necessary, however, if the program were to use transdermal bracelets as a method of testing. The following judge’s remarks were supported by all the judges:

“We could get more people on it [24/7] and benefiting from the program if we had ankle monitors...it was built into the statute at the start of the program...we wanted the option of having people do it through constant electronic monitoring. Two years into the program there are still no ankle monitors even though we said we needed it”.

Another judge suggested having a ‘judge review calendar’ every four months where judges could check in on past cases to monitor progress of clients, the judge said:

“I felt like I was at a loss at some point ... once I referred them over to the 24/7 program I did not get any reports back or feedback on how they were doing at all... It was very hands off by the judge and I think there may be something to the judge lauding people’s ability to stay clean. If the only time someone is going to go before the judge again is if there is a punishment phase, then I don’t think that is a successful model. People need to be recognized for good behavior. This is drug court insights. 90% lauding and 10%

punishment with DC. Maybe it should be that for 24/7?”

Given the large number of agencies involved in the 24/7 pilot program, respondents indicated that it is sometimes difficult to know who to reach out to with questions, concerns, and comments. It was recommended that the program hire a statewide coordinator. More specifically, as one interviewee stated:

“We need a state-wide coordinator to run the program and assist all other agencies who are participating. The liaison must be a one stop shop for ordering equipment, software (and only have one vendor), training for officers etc.”

Many interviewees suggested that immediate and consistent sanctions will result in a successful roll-out. Several respondents indicated that they felt the 10 year license revocation for failure to comply was too harsh. Two respondents recommended that the legislation be changed to go with the original court mandate for a DUI offense plus one additional year for the failure to comply. As was aptly stated:

“Clean up the language of ‘failure to comply’...the courts need to notify DLD but often it does not happen.

Others suggested that the statutory language needs further clarity:

“State legislature needs to define what infractions lead to what consequences more clearly and [further] discussion over difficult cases so judges don’t have to make decisions on the fly”.

A number of stakeholders would recommend the statutory language change around clients having to get their license back within 60 days to be able to participate. As one stakeholder said:

“They [24/7 clients] can benefit from the structured environment and having someone pushing them, overseeing them and helping them to overcome a serious Substance use problem. It seems a good tool to help someone back to sobriety and being a functional member of society. So why not use to program? It’s silly that we have the “tail wag the dog” and say well they can’t get their license back so we can’t have them in the program. Judges need this tool in their toolbox...Right now it [the statute] says it is a requirement that somebody receives their license within 60 days or they can’t be in the program, all it needs to say is “if someone is participating in the program, they don’t have to get their license back. I can write the language if you give me the email of who to send it to in the legislature so the language does not continue to screw us up. I think it was an accidental use of language.”

Many interviewees indicated that the program is too expensive. One of the implications of this is that the program will disproportionately benefit individuals who are from a higher socioeconomic status. Along with this, respondents also indicated the interlock system is unnecessary for program participants because of the strict daily testing requirements. Additionally, the interlock system places added financial burden on program participants.

Several respondents were under the impression that the program can be offered to anyone with a

second DUI offense who does not have any additional restrictions on their license, including individuals who were convicted of a drug-induced DUI. Given that the program was designed specifically for alcohol-related DUIs, they suggest that individuals convicted of a drug-induced DUI should not be allowed to participate in the program. They recommend that the program consider the distinction between the two types of DUI offenders. However, if the program continues to accept drug-induced DUI offenders, they recommend making adjustments to the program for participants who are identified as poly-users (e.g., use of drug patches for testing; or allow for random UAs for drug use).

Given the multitude of program partners, two respondents indicated that there is a need to delineate stakeholder roles and tasks. They referenced the many moving parts to this program and recommended improving communication between program partners. For example, one interviewee suggested:

“Have clear outlines of tasks each stakeholder is required to do to help the program run efficiently. We had overall training on the program from people from other states, but no one broke down our role on what we had to do. I actually sent our action outline to [one program partner] and I believe they found it useful too. We need to somehow get everybody on the same page. Thus, a focus on clear accurate communication.”

It was suggested that implementation of 24/7 could have been improved by educating the attorneys on the 24/7 program. Specifically, the respondent mentioned attorneys from Weber County were educated on the program in general and the accompanying law and procedure. Concern was raised over attorneys from the surrounding counties (e.g., Davis, Utah) who were not educated on the program. There was concern that attorneys from these counties may have talked prospective 24/7 participants out of enrolling in the program. Thus, educating defense attorneys on the 24/7 program and law is needed.

One respondent referenced the potential challenges rural agencies may face when implementing the 24/7 program. Specifically, rural agencies may not have the resources including the manpower to run the 24/7 program to fidelity and may experience staff-strain:

“Some rural areas do not have the resources and manpower to run 24/7. A solution to this is to run it regionally. If we are the state agency to implement it state-wide then we need a coordinator to deal with the rural community issues and help them get up and running and become self-sufficient with running the program”.

Surrounding counties who heard about 24/7 wanted to have access to the program too. It was suggested that hot spots in Utah where impaired driving rates were high need to be identified as possible 24/7 sites. Further, local jurisdictions need to set up the 24/7 program using local law enforcement and the sheriff's department. These community partners need to be consulted on possible local barriers to program implementation.

Once the program is rolled out, it was suggested that when collecting data on the effectiveness of the 24/7 program, to not only consider DUI related outcomes. This interviewee stated:

“...States that have tracked that data have seen a decrease in domestic violence cases; the



ability to work, which decreases the need for unemployment benefits and a reduction in the consumption of alcohol by the other partner; also an increase in custody being awarded to violators; an improvement in the use of therapy and other assistance programs”.

Another recommendation was that clients of 24/7 be required to receive treatment ordered by the courts, where needed. Reno was used as a successful example of program accessibility, where testing occurred in the same building as other service providers and therefore “the program had a positive impact on other aspects of an individual’s life”.

### **Program Stakeholder Perceptions**

Across each of the program partners, respondents had positive perceptions of the program. Within the participating Justice Courts, the interviewees described witnessing the benefits of the program on behavior change. One interviewee said, “I feel like this program provides individuals with a good opportunity to change their behavior.” Others suggested that the success of the program hinges on whether participants are fully committed to the program. One respondent also described the program as effective in reducing recidivism but acknowledged that it is not a program that can work for everyone. Others suggested that the program focuses on sobriety; therefore, allowing participants to better connect with treatment services. For example:

“By participating in the program, individuals are agreeing to stay sober. Participants are required to remain clean during the duration of the program, which also allows them the opportunity to enroll in outpatient treatment for alcohol/drug use. Being sober allows individuals to better connect with treatment services. This program is designed to force sobriety which ultimately helps them succeed in treatment”.<sup>13</sup>

A few respondents expressed some concerns about the program’s ability to change behavior. For example, an interviewee said:

“It is a good tool for an individual but it is not infallible though. You could have 14 hours between testing. For example, you could test at 6am and come back at 8:30pm and you could have done a lot of drinking in between that and still blown clean. Thus, this program can be circumvented. I feel people are doing this, but they blow clean and I can’t prove that they are in violation.”<sup>14</sup>

Another respondent described the program as effective in terms of meeting the needs of program participants, but suggested that the program offers participants an easy way out of the normal court orders for a second DUI offense.

### **Perceptions of Participant Experiences**

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<sup>13</sup> Treatment for alcohol/substance abuse is not a requirement the program. We do not know how many participants received treatment-related services.

<sup>14</sup> There is no evidence that this has occurred. We attempt to clarify these comments in the final report by presenting findings from participant responses to the self-report surveys.

## *Successes*

Most respondents had either first- or second-hand knowledge of successful participant experiences in the 24/7 program. They spoke to how the program led to changes in participants' personal and professional lives. The following quotes speak to the perceived successes the program has on participants' lives.

"Some struggle with the 24/7 program as they have been drunk for so long that sobriety is hard. They react to us in a cold manner but after they sober up in about a month, they save some money as they are not drinking, they have rearranged their finances, they look different and act different. You get to know them and it is very rewarding".

"From what I have seen. I agree. The one case that stands out in my mind is we had someone referred to the program and she was still on the probation part of her sentence, she had completed the 24/7 side of things and now was doing the court ordered treatment. The report from treatment came back saying that she did not have an alcohol abuse problem and did not need treatment for that".

"There have been a number of success stories. I think the SL Tribune article documenting the interview with past participants summarizes the common successes well. Also participants have told program staff that the program has changed their lives for the better in a variety of ways. The program has improved their health and relationships".

"I have talked to those who succeeded with the program and they all spoke of life changing experiences. People need help to stop drinking and constant testing helps them comply. People's confidence is gained in abstinence for a whole year. This program is life changing. The success is multifaceted in that not drinking for a year impacts many aspects of a person's life. People who complete the 24/7 have follow-through and show they can be responsible and this leads to success and helps people have a good self-esteem which springboards them into other facets of life".

## *Struggles*

Several respondents described how aspects of the program can cause participants to struggle in it. One of the more common threads that emerged is that the objective of the program is to promote sobriety through frequent testing. However, several respondents saw the lack of testing locations as a barrier for individuals who lived outside of Weber County. Specifically, they suggested these individuals struggled to meet the testing requirements due to long commutes and limited testing windows. These testing windows were also set and do not accommodate every participant's work schedule. Others noted that participants have problems keeping up with the financial requirements of the program. For example, participants have trouble paying the interlock system fee within a 60 day window; whereas, others struggle to maintain a zero balance on their testing fees.

One respondent stated it can also be challenging for participants to get permission to pause their involvement in the program for extenuating circumstances. The respondent noted that this is a commitment that participants know about when signing up for the program but they saw it as a

negative side to the program.

“If people have difficult circumstances like a death in the family and they want to go out of state or away for a while to see to the other commitment, there is not a hiatus in the program. They need special permission from the judge who recommends to the jail...It’s a difficult process with lots of paperwork...and needs to be done on a very limited basis”.

## Discussion

The 24/7 program was first implemented in South Dakota in 2005. A growing number of states are adopting the 24/7 program to reduce DUI recidivism. Although the 24/7 program is growing in popularity, few studies have empirically examined whether the 24/7 program leads to reductions in DUI recidivism. Many of the studies that have examined the effectiveness of the 24/7 program are methodologically limited. For example, in several studies researchers have included individuals who were convicted of crimes other than DUI offenses, have not included a comparison group, and have not accounted for time at-risk in their analyses. That said, the 24/7 pilot program in Utah was designed as an RCT to address some of the shortcomings of prior research. Specifically, Utah was interested in understanding whether the program had an impact on alcohol-related recidivism. The evaluation plan consisted of examining whether the 24/7 program had an impact on DUI recidivism using a comparison group, self-reported alcohol-related behaviors for a subsample of second-time DUI offenders, interviews with program stakeholders, and by comparing pre- and post-24/7 program DUI recidivism in Weber County to all other Utah Counties.<sup>15</sup>

### Summary of Descriptive Analysis

After combining the data from AOC and the SCRAM system, 98 individuals were identified as eligible for inclusion in the study (i.e., second-time DUI offender with a sentencing date between November 1, 2018 and June 30, 2019). Of these, 21 were in the treatment group and 77 in the control group. This imbalance demonstrates the challenges of implementing an RCT in criminal justice settings. Specifically, we would expect that there be close to a 50-50 split in the number of individuals in the treatment and control groups. Given this imbalance, it is possible that the randomization process may have deviated from the methodology at some point in the study timeframe suggesting that the program was not conducted as an RCT at the court-level. Although we cannot speak to the actual cause of this discrepancy in sample size, it is possible that eligible second-time DUI offenders declined to participate in the program during the sentencing hearing, program partners deviated from the randomization process, or second-time DUI offenders who would otherwise be eligible for the program could not participate due to holds on their license or they had outstanding fees due to DLD. Therefore, it is likely not possible to analyze the results as an RCT in future reports because of the variation from a randomized process.

The descriptive analysis reveals that the majority of individuals in the treatment and control sample had their cases resolved in the Ogden City Justice Court (i.e., 71.4% and 66.2%,

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<sup>15</sup> This outcome will be evaluated in subsequent reports to allow for sufficient follow-up time.

respectively). When considering the judgement description (i.e., guilty, no contest, and plea in abeyance) by study condition, no statistically significant differences between the proportions emerged. The average age of individuals assigned to the treatment condition is slightly higher than that of the individuals assigned to the control group; however, the difference is not statistically significant. The average number of days between the judgement date and sentence date was about 6 days higher for the treatment group. Again, this difference was not statistically significant. The average number of days between the sentence date and 24/7 enrollment date was 22.1 days for individuals in the 24/7 program. However, one outlier was identified and after filtering out this case the average number of days dropped to 7.5. Of the 21 individuals assigned to the 24/7 program, 16 committed at least one rule violations while enrolled in the program. The majority of these rule violations were for a failed breath test or failing to appear for a testing session (68.8% and 62.5%, respectively).

### **Summary of Qualitative Analysis**

The majority of respondents spoke very highly of the 24/7 program and its potential to reduce alcohol-related recidivism in Utah. They also consistently mentioned they have heard from program participants that the program has had a meaningful impact on their lives (e.g., sobriety, health, and relationships). As with any program, there are some areas that may benefit from improvement. In particular, respondents indicated there is a breakdown in communication between program partners – especially when handling failure to comply cases. This has led to some failure to comply cases having their license reinstated. One recommendation with respect to communication was the need to have a shared data system between program partners.

Prior to statewide rollout, others noted the importance of obtaining funding for the purchase of transdermal bracelets through a single vendor. They suggested that transdermal bracelets will allow for remote testing rather than requiring participants to travel to testing sites twice daily. Additionally, the software that accompanies the transdermal bracelets will create a shared data system to track program compliance across all participating agencies. Lastly, some of the concerns expressed by the respondents will likely be addressed when the 24/7 program is implemented statewide (e.g. testing locations, recruitment); whereas others may be exacerbated (e.g., communication between agencies from different counties).

### **Next Steps**

Future reports will examine whether there are differences in DUI recidivism between individuals randomly assigned to the treatment and control groups. Specifically, we will examine recidivism one and two years post-sentence date. The limited study timeframe and small sample sizes present some issues to executing the evaluation plan as proposed. UCJC will determine the most appropriate analytic strategy to handle the small sample issue. For example, it may be best to model recidivism on study condition using a Bayesian approach. However, this analysis may not be feasible if the speculative reasons for the variation from the randomized process (mentioned above) are accurate. This would indicate that the 24/7 sample and control sample are not from the same population. UCJC will talk with stakeholders about the best approach given the

limitations and that an RCT analytic approach is not likely an accurate representation of the effect of the 24/7 program.

Because of limitations with random assignment noted above, UCJC also proposed conducting a different analysis to examine the effects of the 24/7 program on DUI recidivism. Specifically, UCJC will conduct a regression point displacement analysis in subsequent reports to compare rates of third-time DUI convictions in years prior to 24/7 implementation for the treatment county (Weber County) and all other Utah counties to the rates of third-time DUI convictions in three year blocks post-24/7 implementation. Regression point displacement is a quasi-experimental strategy. In this analysis we will examine whether the difference in posttest (i.e., after 24/7 implementation) displacement in rates of third-time DUI convictions is statistically significant between Weber County (24/7 implementation) and all other counties in Utah that have yet to adopt the 24/7 program. UCJC will obtain DUI counts by county from the DLD.

UCJC is also administering web-based, self-report surveys to a random subsample of second-time DUI offenders in Weber County. Prospective participants must have been arrested for a second-DUI offense during the study timeframe. The surveys are designed to allow respondents to self-report their use of alcohol and DUI. Aggregate survey results will be compared to aggregate official record data on DUI offenses obtained from the Administrative Office of the Courts. The findings from this analysis will allow us to compare self-report DUI recidivism and DUI recidivism captured in official records between the treatment and control groups. As mentioned in the introduction, these are often drastically different.

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## Appendix A

### 41-6a-515.5. 24/7 Sobriety program for DUI.

- (1) As used in this section:
  - (a) "24-7 sobriety program" means a 24 hours a day, seven days a week sobriety and drug monitoring program that:
    - (i) requires an individual to abstain from alcohol or drugs for a period of time;
    - (ii) requires an individual to submit to random drug testing; and
    - (iii) requires the individual to be subject to testing to determine the presence of alcohol:
      - (A) twice a day at a central location where timely sanctions may be applied;
      - (B) by continuous remote sensing or transdermal alcohol monitoring by means of an electronic monitoring device that allows timely sanctions to be applied; or
      - (C) by an alternate method that is approved by the National Highway Traffic Safety Administration.
  - (b) (i) "Testing" means a procedure for determining the presence and level of alcohol or a drug in an individual's breath or body fluid, including blood, urine, saliva, or perspiration.
  - (ii) "Testing" includes any combination of the use of:
    - (A) remote and in-person breath testing;
    - (B) drug patch testing;
    - (C) urinalysis testing;
    - (D) saliva testing;
    - (E) continuous remote sensing;
    - (F) transdermal alcohol monitoring; or
    - (G) alternate body fluids approved for testing by the commissioner of the department.
- (2) (a) The department shall establish and administer a 24-7 sobriety program as a pilot program.
- (b) The department shall establish one pilot program with a law enforcement agency that is able to meet the 24-7 sobriety program qualifications and requirements under this section.
- (3) (a) The 24-7 sobriety program shall include use of multiple testing methodologies for the presence of alcohol or drugs that:
  - (i) best facilitates the ability to apply timely sanctions for noncompliance;
  - (ii) is available at an affordable cost; and
  - (iii) provides for positive, behavioral reinforcement for program compliance.

- (b) The commissioner shall consider the following factors to determine which testing methodologies are best suited for each participant:
  - (i) whether a device is available;
  - (ii) whether the participant is capable of paying the fees and costs associated with each testing methodology;
  - (iii) travel requirements based on each testing methodology and the participant's circumstances;
  - (iv) the substance or substances for which testing will be required; and
  - (v) other factors the commissioner considers relevant.
  
- (4) (a) The 24-7 sobriety program shall be supported by evidence of effectiveness and satisfy at least two of the following categories:
  - (i) the program is included in the federal registry of evidence-based programs and practices;
  - (ii) the program has been reported in a peer-reviewed journal as having positive effects on the primary targeted outcome; or
  - (iii) the program has been documented as effective by informed experts and other sources.
  
- (b) If a law enforcement agency participates in a 24-7 sobriety program, the department shall assist in the creation and administration of the program in the manner provided in this section.
  
- (c) A 24-7 sobriety program shall have at least one testing location and two daily testing times approximately 12 hours apart.
  
- (d) If a person who is ordered by a judge to participate in the 24-7 sobriety program has a prior conviction as defined in Subsection [41-6a-501\(2\)](#) that is within 10 years of the current conviction under Section [41-6a-502](#) or the commission of the offense upon which the current conviction is based, the person shall be required to participate in a 24-7 sobriety program for at least one year.
  
- (5) (a) If a law enforcement agency participates in a 24-7 sobriety program, the law enforcement agency may designate an entity to provide the testing services or to take any other action required or authorized to be provided by the law enforcement agency pursuant to this section, except that the law enforcement agency's designee may not determine whether an individual is required to participate in the 24-7 sobriety program.
  
- (b) Subject to the requirement in Subsection [\(4\)\(c\)](#), the law enforcement agency shall establish the testing locations and times for the county.
  
- (6) (a) The commissioner of the department shall establish a data management technology plan for data collection on 24-7 sobriety program participants.
  
- (b) All required data related to participants in the 24-7 sobriety program shall be received into the data management technology plan.
  
- (c) The data collected under this Subsection [\(6\)](#) is owned by the state.

- (7) (a) In accordance with [Title 63G, Chapter 3, Utah Administrative Rulemaking Act](#), the department shall make rules to implement this section.
- (b) The rules under Subsection [\(7\)\(a\)](#) shall:
- (i) provide for the nature and manner of testing and the procedures and apparatus to be used for testing;
  - (ii) establish reasonable participation and testing fees for the program, including the collection of fees to pay the cost of installation, monitoring, and deactivation of any testing device;
  - (iii) require and provide for the approval of a 24-7 sobriety program data management technology plan that shall be used by the department and participating law enforcement agencies to manage testing, data access, fees and fee payments, and any required reports;
  - (iv) establish a model sanctioning schedule for program noncompliance; and
  - (v) establish a process for piloting alternate components of the 24-7 sobriety program.

DRAFT

## Appendix B

### R714-510-1. Authority.

This rule is authorized by Subsection 41-6a-515.5(7).

### R714-510-2. Purpose.

The purpose of this rule is to establish criteria and procedures for a law enforcement agency to participate in a 24-7 sobriety program.

### R714-510-3. Definitions.

(1) Definitions used in the rule are found in Sections 41-6a-102, and 41-6a-515.5.

(2) In addition:

(a) "24-7 Sobriety Program Committee" or "committee" means a committee comprised of members from the Department of Public Safety, the Department of Technology Services, the Administrative Office of the Courts, and the participating law enforcement agency for the purpose of establishing criteria and procedures for a 24-7 sobriety program.

### R714-510-4. Manner of Testing.

(1) An individual participating in a 24-7 program for in person alcohol testing shall:

(a) appear at the designated law enforcement agency or testing site twice a day, both between the hours of 6-8 am and 6-8 pm;

(b) submit to a portable breath test; and

(i) if the portable breath test result indicates alcohol consumption, submit to an Intoxilyzer test for a confirmation result; and

(c) pay the required testing fee for each test administered.

(2) An individual participating in a 24-7 program for drug testing shall:

(a) appear at the designated law enforcement agency or testing site on a random basis as requested;

(b) submit to required drug testing; and

(c) pay the required testing fee for each test administered.

(3) An individual may be ordered to participate in a 24-7 program through the use of transdermal alcohol monitoring if:

(a) the individual has completed a screening for risk assessment and is determined to be a low risk offender; or

(b) the judge hearing the case has determined that the individual qualifies for a hardship exception based on criteria outlined in Subsection 41-6a-515.5(3)(e).

R714-510-5. Apparatus to be Used for Testing.

(1) The following apparatus are acceptable for use in a 24-7 sobriety program;

- (a) portable breath test;
- (b) Intoxilyzer test;
- (c) urine test;
- (d) oral fluid test; and
- (e) blood test.

R714-510-6. Participation and Testing Fees.

(1) A law enforcement agency that participates in a 24-7 sobriety program may require payment of a testing fee by a person participating in the program as follows:

- (a) \$30.00 user fee for enrollment in the 24-7 sobriety program;
- (b) \$2.00 for each portable breath test or Intoxilyzer test administered;
- (c) \$6.00 for each urine or oral fluid drug test administered; and
- (d) \$7.55 per day for the use of transdermal alcohol monitoring;

R714-510-7. Data Management Technology Plan.

(1) A law enforcement agency that participates in a 24-7 sobriety program must use a data management technology plan approved by the department to manage the following:

- (a) testing;
- (b) data access;
- (c) fees;
- (d) fee payments; and
- (e) any required reports.

R714-510-8. Sanction Schedule for Program Noncompliance.

(1) A person who tests positive for alcohol or drugs under a 24-7 sobriety program may be subject to the following:

- (a) jail commitment of 8 hours for the first occurrence;
- (b) jail commitment of 16 hours for the second occurrence;
- (c) jail commitment of 24 hour for the third occurrence;

- (d) appear before judge, may be removed from program for the fourth occurrence.
- (1) A person who fails to appear for a required test may be subject to the following:
  - (a) jail commitment of 12 hours for the first occurrence;
  - (b) jail commitment of 24 hours for the second occurrence;
  - (c) jail commitment of 48 hour for the third occurrence;
  - (d) appear before judge, may be removed from program for the fourth occurrence.

R714-510-9. Process for Piloting Alternate Components of the 24-7 Sobriety Program.

- (1) The 24-7 Sobriety Program Committee may evaluate and pilot alternate components of the 24-7 sobriety program.
- (2) Upon evaluation and determination of the committee that an alternate component of the 24-7 Sobriety Program is deemed effective, the committee may incorporate the alternate component into the 24-7 Sobriety Program.

KEY

24-7 Sobriety Program, sobriety testing

Date of Enactment or Last Substantive Amendment

December 28, 2017

Authorizing, Implemented, or Interpreted Law

41-6a-515.5