



24/7 sobriety program

THE MONTANA STORY

Montana's drinking and driving culture

- ▶ Montana at or near the top in all of the 2008 national DUI categories:
 - ▶ Highest in the nation for # of alcohol related fatalities per 100 million miles traveled
 - ▶ 1st in the nation for # of alcohol-related deaths per 100,000 people (13.9)
 - ▶ 3rd in the nation at almost 40% of traffic fatalities related to alcohol

Laws then in effect

- ▶ Montana had:
 - **.08 BAC**
 - **Open container**
 - **Ignition interlock**
 - **Court imposed drug & alcohol abstinence for DUI offenders**
- ▶ It clearly wasn't working



Drinking and driving hits home

Two Montana Highway Patrol Troopers were tragically killed in the line of duty by drunk drivers in 2008 & 2009



Time to do something real

Implementing the 24/7 program in MT

2009

Patrol drafted and passed Senate Joint Resolution 39 in 2009 Legislature to study Montana's DUI problem

Patrol leadership reviewed other states' programs to curb drinking and driving
Introduced South Dakota's 24/7 Sobriety Program to the Law & Justice Interim Committee

24/7 sobriety program pilot (2010)

- Lewis & Clark County with then-Attorney General Steve Bullock implemented a 24/7 pilot program Applied to 2nd & subsequent DUIs
- 2x daily breath testing & SCRAM
Failed tests & no shows had bond immediately revoked & went to jail
- 8 month pilot administered 6,057 breath tests with over 99% returning a 0.00 BAC



HB 106 – Statewide 24/7 Program (2011)

Goals of legislation:

- Establish enforcement of judge-ordered drug and alcohol abstinence conditions
- Create “portability” for alcohol monitoring program
- Provide a “carrot” of restricted driver’s license for DUI offenders that participate in 24/7 (waiver of the 45-90 day suspension)
- Reduce costs – 24/7 is entirely offender pay & savings seen from keeping nonviolent offenders out of jail
- Reduction in recidivism for DUI – similar to South Dakota results

Intended to start with a simple program and ramp it up over time

24/7 Sobriety Program Advisory Council 2011-2017

- Heard from program users (judges, prosecutors, sheriffs, public defenders) about experiences & suggested program improvements
- Worked with stakeholder groups to draft HB 233 (2013) to address suggested improvements, clean up statutes & expand 24/7 program
- Working to improve the administrative rules, best practices and approve a new pilot program to study other testing methods.

HB 233 – 24/7 Program Expansion (2013)

Clearly defined core components of 24/7 program for program consistency

- Testing method that allows swift, certain imposition of moderate sanction
- **2x day testing backbone** with SCRAM for hardship cases

Important for program fidelity – ensure program effectiveness not diluted

Expanded program use to other offenses “in which the abuse of alcohol or drugs was a contributing factor in the commission of the crime”

- Domestic violence
- Child abuse and neglect

Requires 24/7 to be evidence-based

- Pilot programs for new testing technologies
- Independent analysis of pilot program data

HB 491-Legislature 2015

- Ensure timely and sober participation in judicial proceedings.
- All alcohol or drug testing ordered by a court must utilize the data management technology plan provided for in 44-4-1204(4).

Having all the data in one place helps make informed policy decisions at the legislative level based on real statewide data from the program

- **Expanded program use to other offenses** “in which the abuse of alcohol or drugs was a contributing factor in the commission of the crime”.

24/7 Sobriety Program Coordinator

A funded statewide 24/7 coordinator in place at the beginning of the program would be extremely beneficial.

- Built-in program champion
- Helps get program functional faster
- Helps with consistency
- Helps with program rollout/follow up

Funding through federal highway bill grants

Training and Education

- Online training provided by Intoxitrack
- One on one training with coordinator
- Notify counties of program updates
- Manage all sites/tasks
- Monitor DMV DL release (based on program participation)

Meeting with all the key players in the county; JP, Municipal Court Judge, County Attorney, Sheriff, Undersheriff...

Consistency

- Simple, but important for program effectiveness
- Consistency in: Judges, prosecutors, law enforcement agencies' application and enforcement of the 24/7 program
- Tracking & penalizing no shows
Penalizing hot/failed tests
Data collection



24/7 Sobriety Program Codes

- **44-4-1201**
- **44-4-1202. Purpose – definitions**
- **44-4-1203. Sobriety and drug monitoring program created**
- **44-4-1204. Rulemaking -- testing fee**
- **44-4-1205. Authority of court to order participation in sobriety and drug monitoring program -- probationary license -- imposition of conditions**
- **44-4-1206. Collection, distribution, and use of testing fees**

codes

45-7-309. Criminal contempt

46-18-201. Sentences that may be imposed

61-5-208. Period of suspension or revocation -- limitation on issuance of probationary license -- notation on driver's license

61-8-442. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- ignition interlock device -- 24/7 sobriety and drug monitoring program -- forfeiture of vehicle

61-8-733. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- ignition interlock device -- 24/7 sobriety and drug monitoring program -- forfeiture of vehicle

Revocation-Contempt of court

45-7-309. Criminal contempt. (1) A person commits the offense of criminal contempt when the person knowingly engages in any of the following conduct:

(g) purposely failing to comply with the requirements of the 24/7 sobriety and drug monitoring program provided for in Title 44, chapter 4, part 12, if ordered by a court to participate in the program.

- To avoid additional charges, some counties hold on contempt then change to revocation of bond.

Montana Study 2015

by Rand Corporation

- ❖ Between 2010 and October 2014, the program has yielded more than 275,000 days without a detected drinking event among 3,500 alcohol-involved offenders.
- ❖ Two-thirds of participants violated at least once, but 99.6% of over half a million (575,000) completed tests were clean, and 96% of scheduled tests were taken and passed. 92% of failures were no-shows.
- ❖ Analysis suggests 24/7 **reduced** DUI-2 offenders' likelihood of getting arrested again within 12 months of their DUI-2 arrest **by 45-70%**, but we didn't have complete criminal history information, so the actual effect may be somewhat different.

South Dakota Study 2016

RAND Corporation released a new report in February 2016 on South Dakota's 24/7 Sobriety Program.

January 2005 - June 2011, 16,932 people (about 3% of the adult population) participated in the 24/7 Sobriety Program:

- ❖ **4.2% reduction** in all-cause adult mortality
with the largest associations among women
(8% reduction in mortality)
- ❖ **4.3% reduction** in mortality among individuals older than 40 years old.

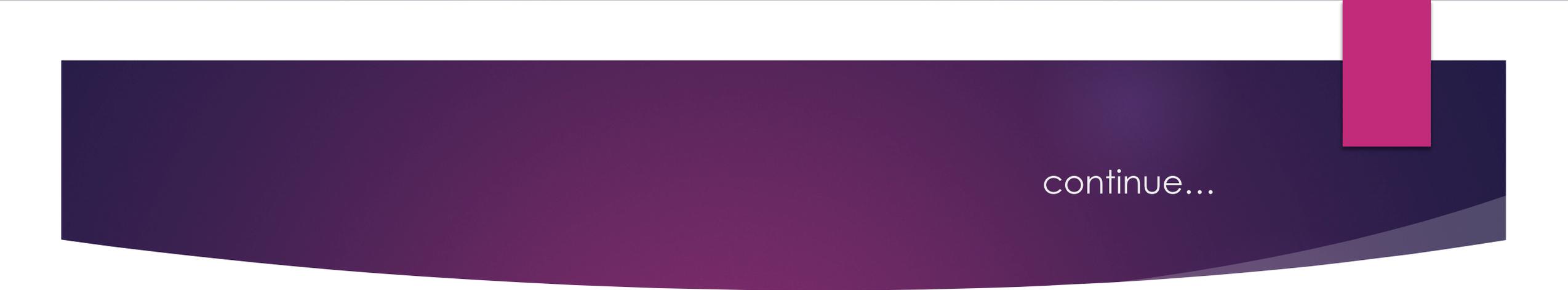
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Analysis provides strong evidence that the 24/7 program;

- Reduced the incidence of repeat DUI arrests
- Reduce domestic violence arrests
- Reduce repeat DUI and domestic violence arrests reduced reported traffic crashes involving men aged 18 to 40 years.

South Dakota 24/7 Sobriety Program Evaluation Findings Report

- An analysis of PBTx2 participants with control groups shows a general pattern of lower recidivism rates by participants and suggests that the program has a sustained effect on recidivism rates after program completion.
- Initial findings demonstrate that the 24/7 sobriety program is very successful at addressing DUI offender sobriety while in the program.
- 24/7 Sobriety Program participants utilizing PBT 2xdaily testing have lower recidivism rates.
- Repeat offenders show lower recidivism rates with a minimum of 30 days on the program.



continue...

Our analysis of data from the South Dakota Attorney General's Office revealed that program participants were ordered to take approximately

- 3.7 million breathalyzer tests from 2005 to 2010 and that the pass rate exceeded 99%
 - 99.3% of the tests were clean
 - 0.36% dirty, and
 - 0.34% no shows

Analysis of 24/7 Sobriety Program SCRAM Participant DUI Offense Recidivism

- The data suggests that reductions in recidivism initially gained during the SCRAM monitoring period and in the initial years after removal of the device are not sustained over time.
- The data examined as part of this analysis supports the effectiveness of the SCRAM device as a tool for monitoring alcohol consumption of offenders while the device is worn by the offender. The analysis of the data, however, indicates that once the device has been removed, behavior change **is not sustained**, as over time recidivism rates begin to approach or exceed the recidivism rates of controls.

Challenges Faced

- ❖ **Manpower**
- ❖ **Availability in the detention facility**
- ❖ **Location for the testing facility**
- ❖ **Consistency with violation enforcement**

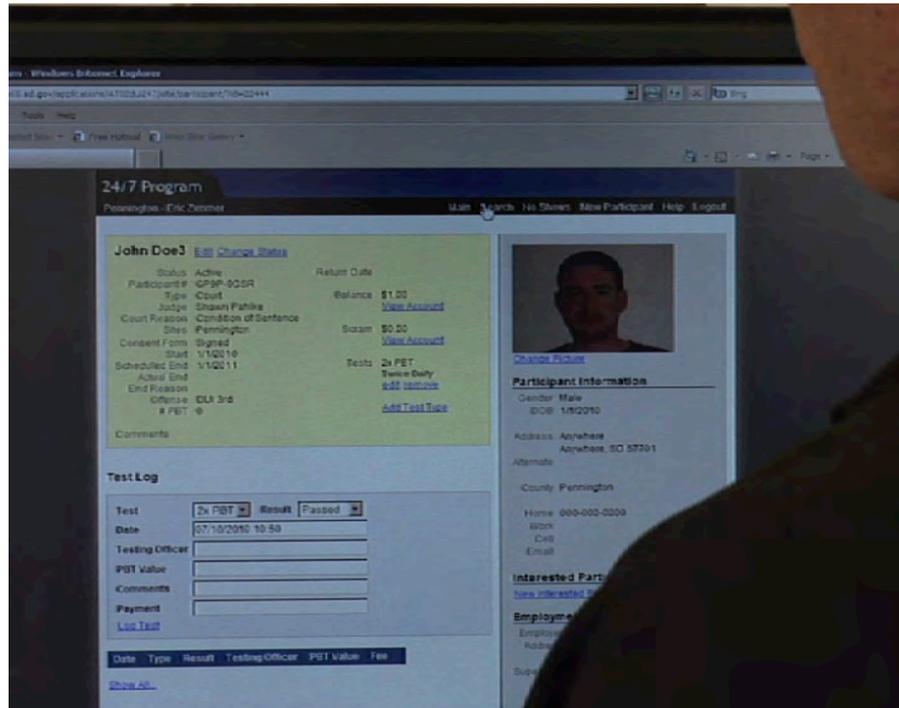
Roadblocks

- ✓ Sheriff's Office does not have staff to run the program
- ✓ Lack of participants/utilization of the program
- ✓ .02 PBT or below has been allowed. It is a ZERO tolerance program.
- ✓ Inconsistency in the violation/sanction process
- ✓ Bail bonds and other companies offering "24/7 testing" that are not valid 24/7 providers
- ✓ Lack of data input/ consistency; tasks and all testing methods
- ✓ Inappropriate use of program
- ✓ Allowing the participant to choose which testing method they use

Where the program is now 2017

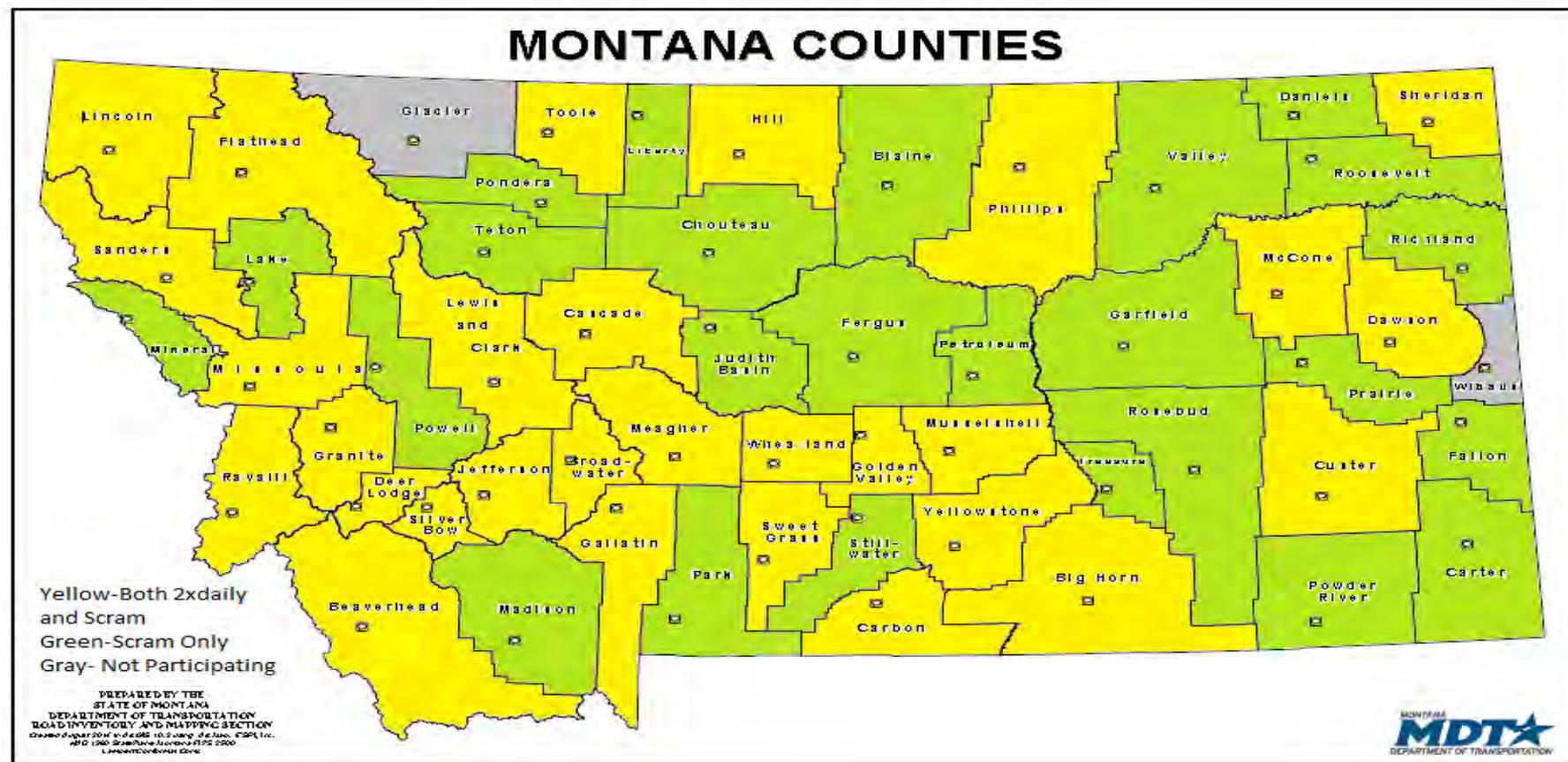
- ❖ Probation and Parole
- ❖ Working with tribal reservations
- ❖ Best Practices
- ❖ Standard Operating Procedures
- ❖ Updating of Administrative Rule

Montana Statistics as of March 31, 2017



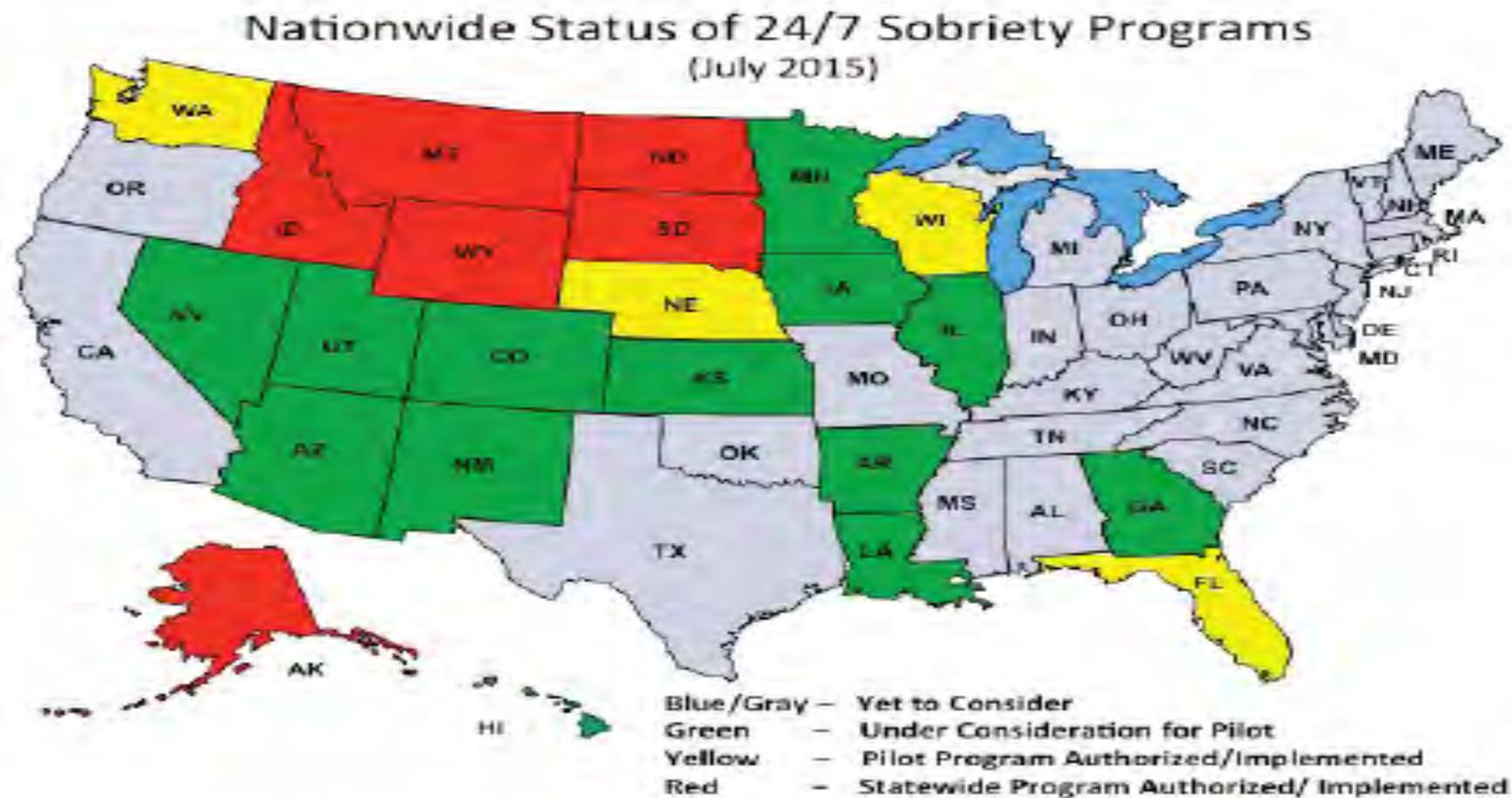
Breath testing

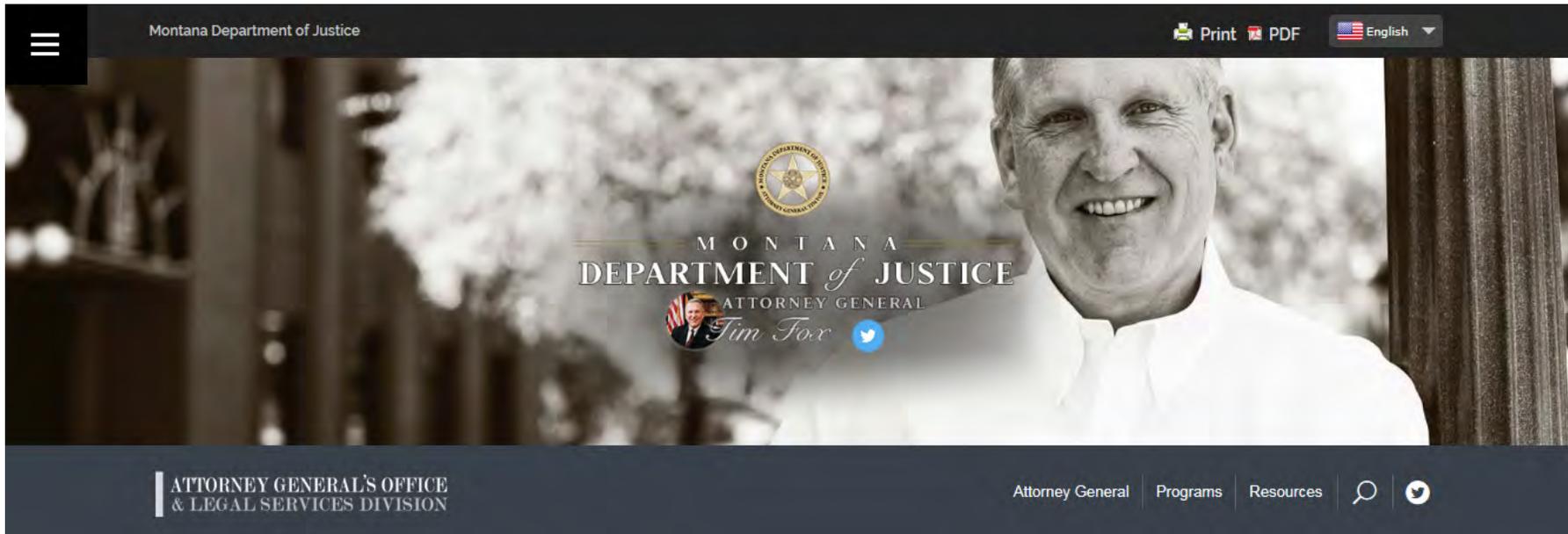
- **6,672** estimate of participants
- **975,643** tests administered
- **99.7%** pass rate



- As of 7/9/2017 the 24/7 programs are up and running in **54** of the **56** counties in MT
- In GREEN (24) counties are operating Scram only
- In YELLOW (29) counties are operating using; 2xdaily testing, SCRAM or both
- In GRAY (3) counties that are not participating in the program

24/7 Nationally





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24/7 RESOURCES

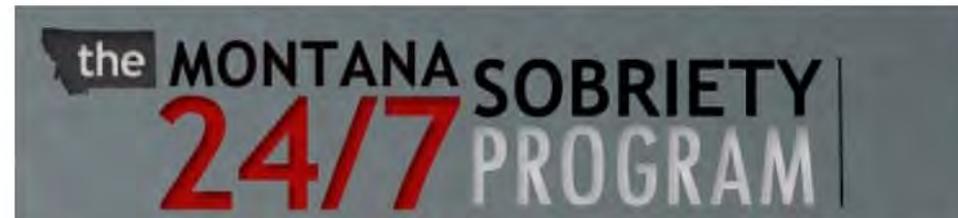
For Counties

[Sample Legal Forms](#)

[Q&A](#)

[Approved Vendor Agreements](#)

[Customizable Forms](#)



“Drinking and driving has been a chronic - and deadly - problem on Montana’s roadways for decades. In 2008, Montana was ranked as the deadliest state in the nation when it came to per capita DUI-related traffic fatalities”

<https://dojmt.gov/247-sobriety-program/>

Questions?

Colonel Tom Butler & Sergeant Lacie Wickum

Montana Highway Patrol Headquarters

2550 Prospect Avenue

P.O. Box 201419

Helena, MT 59620-1419

Phone: (406) 390-5122

E-mail: lwickum@mt.gov