

*North Dakota*  
Attorney General's Office

24/7



Attorney General Wayne Stenehjem

# HISTORY: 60<sup>th</sup> Session

The 60<sup>th</sup> Legislative Assembly, in Section 11 of Senate Bill 2003, authorized the Attorney General to establish a sobriety program pilot project in one or more judicial districts of the state. The sobriety program involved coordination among state, county, and municipal agencies. The Attorney General, in cooperation with Law Enforcement, the Judiciary, the Department of Corrections and Rehabilitation, and the Department of Transportation Traffic Safety Division, was authorized to develop guidelines, policies and procedures, and to establish user fees for a sobriety program pilot project.

## HISTORY: 61<sup>st</sup> Session

The 61<sup>st</sup> Legislative Assembly, in House Bill 1306, authorized the Attorney General to expand the sobriety program pilot project to all judicial districts across the state. The sobriety program was expanded to implement procedures as alternatives to incarceration for offenders charged with, or convicted of, driving under the influence of alcohol or controlled substances, domestic violence, abuse or neglect of a child, or for other offenses in which alcohol or controlled substances are involved.

## HISTORY: 61<sup>st</sup> Session cont.

The sobriety program was expanded to include twice-per-day breath alcohol testing, electronic monitoring, and random drug testing by law enforcement.

The sobriety program with cooperation of the Department of Transportation was approved to grant a temporary restricted driver's permit to sobriety program participants to drive to and from the testing site.

## History: 63<sup>rd</sup> Session

The 63<sup>rd</sup> Legislative Assembly authorized the 24/7 Sobriety Program to be used as a restriction for a temporary restricted driver's license, set a mandatory condition of probation for driving under the influence offenses and also directed that the 24/7 Sobriety Program be used by the Juvenile Court for alcohol related driving violations under the Juvenile Court Act.

## HISTORY: 64<sup>th</sup> Session

The 64<sup>th</sup> Legislative Assembly further defined the time frame of participation for a juvenile in the 24/7 Sobriety Program along with changing the mandatory minimum probation period from one year to 360 days for a second and third offense of 39-08-01 or equivalent ordinance.

# About the Pilot Program

Twelve counties in the South Central Judicial District

Burleigh

Emmons

Grant

Kidder

Logan

McIntosh

McLean

Mercer

Morton

Oliver

Sheridan

Sioux

Two counties in the Northeast Central Judicial District

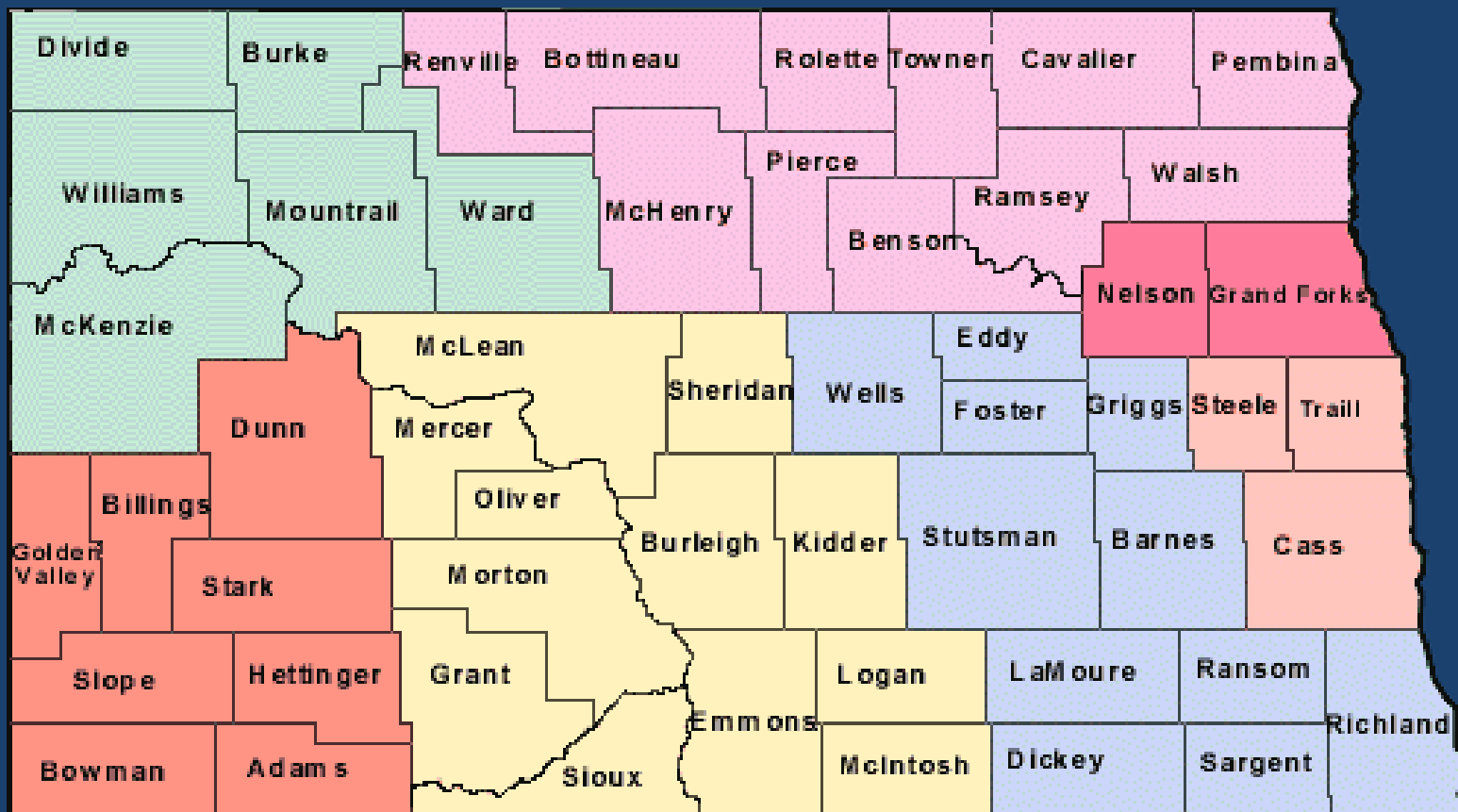
Grand Forks

Nelson

# Geography of Pilot Program

South Central Judicial District (Hi-Lighted in yellow)

North East Central Judicial District (Hi-lighted in red)





# Guidelines for State Wide Program

1. The sobriety program is established to implement procedures as alternatives to incarceration for offenders charged with, or convicted of:
  - a. Driving under the influence of alcohol or controlled substances;
  - b. Domestic violence;
  - c. Abuse or neglect of a child;
  - d. Or for other offenses in which alcohol or controlled substances are involved.

# Guidelines for State Wide Program

2. The sobriety program is to enforce compliance with the sobriety guidelines by the following means:
  - a. Sobriety testing twice per day seven days per week
  - b. Electronic monitoring
  - c. Urine testing and drug patch testing
  - d. Establish fees, which are not subject to NDCC 28-32

# Guidelines for State Wide Program

3. The sobriety program created the Twenty-Four Seven Sobriety Program Fund. This fund is administered by the Attorney General and can consist of appropriated funds; moneys received from grants; agencies of this state; private grants, gifts, or donations; and program fees.
4. Funds are to used toward the operation of the sobriety program.

# Guidelines for State Wide Program

5. The sobriety program granted a criminal justice agency the permission to collect program fees from offenders participating in the sobriety program, including fees for:
  - a. Twice per day breath alcohol testing
  - b. Urine Testing
  - c. Drug patch testing
  - d. Installation and deactivation fees for remote electronic monitoring devices
  - e. Remote electronic monitoring daily fees

# Guidelines for State Wide Program

6. Criminal justice agencies shall pay all program fees into the general fund of the governing body. The fees may only be applied to:
    - a. Twenty-four seven sobriety program support services
    - b. Equipment ,maintenance and replacement
    - c. Compliance with the program
- \*\*The governing body shall pay any daily fees collected for remote electronic monitoring to the state twenty-four seven sobriety program fund.

# APPLICABILITY

## 1. Pre-trial

- Bond conditions

## 2. Parole

- Parole Board imposed

## 3. Probation (supervised and unsupervised)

- Intermediate Measure

## 4. Post conviction

- Conditions of sentence

# Parole and Probation

1. The parole board may authorize participation in the twenty-four seven sobriety program as an intermediate sanction or condition of parole.
2. Unless waived on the record by the court, the court shall also provide as a condition of probation that the defendant undergo various agreed-to community constraints and conditions as *intermediate measures* of the department of corrections and rehabilitation to avoid revocation, which may include the following:

# Parole and Probation

3. Intermediate Measures:
  - a. Community Service;
  - b. Day reporting;
  - c. Curfew;
  - d. Home confinement;
  - e. House arrest;
  - f. Electronic Monitoring;
  - g. Residential halfway house;
  - h. Intensive supervision program;
  - i. or Participation in the twenty-four seven sobriety program.



# Temporary Restricted Driver's License

## NDCC Section 39-06.1-11(7)

1. If an offender has been charged with, or convicted of, a second or subsequent violation of section 39-08-01 or equivalent ordinance, or if the offender's license is subject to suspension under chapter 39-20 and the offender's operator's license is not subject to an unrelated suspension or revocation, the director (NDDOT) shall issue a temporary restricted license to the offender upon the restriction the offender participate in the twenty-four seven sobriety program under chapter 54-12.

# Temporary Restricted Driver's License

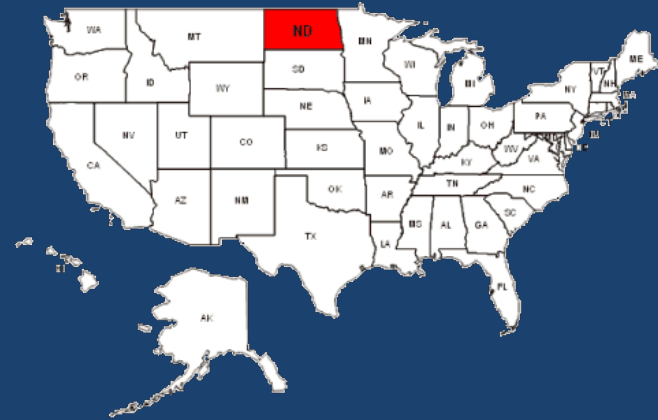
NDCC Section 39-06.1-11(7) continued

2. The offender shall submit an application to the director for a temporary restricted license along with submission of proof of financial responsibility and proof of participation in the 24-7 sobriety program to receive a temporary restricted license.

# THE BIG PICTURE: ALCOHOL AND CRIME

## THE NATIONAL PROBLEM

- 1.5 million DUI arrests each year
  - 66% first time
  - 33% repeat offenders
- 700,000 DUI convictions
- 9,967 alcohol-related fatalities ('14)
- 31% of all traffic deaths involved alcohol
- 75% of all domestic violence offenses
- \$32.5 billion a year lost/spent on alcohol- related crime



DUI in North Dakota			
	1 <sup>st</sup> DUI	2 <sup>nd</sup> DUI	5 <sup>th</sup> DUI (felony offense)
2007	3,286	1,398	41 1% overall
2008	4,564	1,400	36 1% overall
2009	3,353	1,162	35 1% overall
2010	4,477	1,277	36 1% overall
2011	5,040	1,359	35 1% overall
2012	6,019	1,325	30 1% overall
2013	5,490	1,325	17 1% overall
2014	4,806	1231	17 1% overall

# DUI Laws and Penalties

- 1st Offense Class B Misdemeanor
  - \$500 fine if below .16
  - Two days imprisonment and \$750 fine if .16 or greater
  - Addiction evaluation
  - 91 day suspension if below .18
  - 180 day suspension if .18 or greater
- \* A first offense DUI with a minor in a vehicle is up to one year imprisonment and/or a \$2,000 fine. If an individual has a previous conviction for a violation of section 39-08-01.4, it is a Class C Felony

# DUI Laws and Penalties Cont.

- 2nd Offense in 7 years Class B Misdemeanor
  - Ten days imprisonment and \$1500 fine
  - Addiction evaluation
  - One year in the 24/7 program
  - 365 day suspension if below .18
  - Two year suspension if .18 Or greater

# DUI Laws and Penalties Cont.

- 3rd Offense in 7 years Class A Misdemeanor
  - 120 days imprisonment and \$2000 fine
  - Addiction evaluation
  - One year supervised probation
  - One year in the 24/7 program
  - Two year suspension if below .18
  - Three year suspension if .18 or greater

# DUI Laws and Penalties Cont.

- 4<sup>th</sup> and Subsequent offenses Class C Felony
  - One year and one day imprisonment and \$2000 fine
  - Addiction evaluation
  - Two years supervised probation
  - Two years in the 24/7 program

# DUI ARRESTS by County for 2014

Ranked highest number of arrests to lowest

County	DUI Arrests	County	DUI Arrests	County	DUI Arrests
Cass	941	Divide	34	Steele	12
Burleigh	692	Mercer	32	Adams	9
Ward	637	Rollette	31	Emmons	9
Williams	482	Sargent	31	Kidder	9
Grand Forks	460	Dickey	26	Towner	8
McKenzie	390	Pierce	23	Hettinger	7
Stark	356	McHenry	21	Lamoure	7
Morton	288	Ransom	19	McIntosh	7
Ramsey	144	Pembina	18	Billings	6
Stutsman	115	Cavalier	17	Grant	5
Richland	91	Foster	15	Golden Valley	4
Mountrail	80	Griggs	15	Oliver	3
Walsh	76	Bowman	14	Renville	3
Dunn	74	Wells	14	Logan	2
McLean	74	Benson	13	Sioux	2
Barnes	47	Eddy	13	Slope	2
Bottineau	38	Burke	12	Sheridan	1
Traill	35	Nelson	12		

2014 Total DUI/Arrest: 5476  
 ND Department of Transportation



# DUI ARRESTS AND CONVICTIONS 2005-2014

	<b>Arrests</b>	<b>Convictions</b>
<b>2005</b>	<b>6101</b>	<b>5118</b>
<b>2006</b>	<b>5463</b>	<b>4601</b>
<b>2007</b>	<b>5175</b>	<b>4268</b>
<b>2008</b>	<b>6052</b>	<b>5114</b>
<b>2009</b>	<b>6144</b>	<b>5080</b>
<b>2010</b>	<b>6146</b>	<b>5077</b>
<b>2011</b>	<b>5937</b>	<b>5407</b>
<b>2012</b>	<b>7583</b>	<b>6143</b>
<b>2013</b>	<b>6613</b>	<b>5375</b>
<b>2014</b>	<b>5724</b>	<b>5237</b>

# AGE GROUPS AND BAC OF DUI'S IN NORTH DAKOTA FOR 2014

<u>Age</u>	<u>Number</u>	<u>Percent</u>
13-17	32	0.4%
18-24	1644	24.6%
25-34	2268	33.8%
35+	2761	41.2%
<b>**Total</b>	<b>6705</b>	<b>100.0%</b>

<u>BAC</u>	<u>Number</u>	<u>Percent</u>
0-.17	2139	37.4%
.18+	2746	47.9%
Not on File (NOF)	839	14.7%

\*\*Statistics provided by ND UCR (2015 Report)  
ND Department of Transportation (Updated 3/16/2015)

# PERCENT OF TRAFFIC FATALITIES THAT WERE ALCOHOL RELATED

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Alcohol Related Fatality/ Total Fatality	38/100	56/123	47/111	63/111	53/104	56/140	55/105	66/140	87/170	71/148	63/135
Totals	38%	45.5%	42.3%	56.8%	51%	40%	52.4%	47.1%	51.2%	48%	46.6%

ND Department of Transportation

# GOAL

- Defendant sobriety - 24/7
- Target group
  - Anyone arrested for DUI (alcohol or drugs) with prior conviction in the last 10 years
  - Anyone arrested for controlled substance abuse
  - Anyone arrested for abuse or neglect of a child
  - Anyone arrested for a crime involving alcohol/controlled substance
  - Anyone on parole or probation involved in a crime listed above (intermediate measure)

# PROGRAM CONDITIONS

- No alcohol
- No drinking establishment
- Breath test - 7 a.m. and 7 p.m. or,
- Electronic Monitoring,
- Random U/A or Drug Patch test
- Defendant pays for the program
- If you skip or fail, **you go to jail**
- Does NOT replace any treatment component

# BENEFITS

- Parents, Spouses, and Children are safer
- Public is safer
- Defendant will spend less time in jail
- Treatment prospects improve
- Defendant's employer happy
- ALMOST NO COST TO TAXPAYER

# Current Numbers/Statistics

- As of January 1, 2016

These numbers include all methods of testing  
( PBT, SCRAM, Drug Patch, U/A)

- 13,496 total participants
- 2,121 active
- 8,305 graduated
- 2,322 failed
- 748 re-offended

# 1/1/2008 - 01/04/2016 COUNTY/LOCATION OF TESTING

\*Includes both current *and* discharged participants

Testing County	Participants	Percent
Adams	21	0.157%
Barnes	180	1.345%
Benson	0	0.000%
Billings	6	0.045%
Bottineau	25	0.187%
Bowman	23	0.172%
Burke	11	0.082%
Burleigh	3107	23.214%
Cass County Jail	2242	16.751%
Cavalier	23	0.172%
DOCR	0	0.000%
Dickey	20	0.149%
Divide	0	0.000%
Dunn	120	0.897%
Eddy	13	0.097%
Emmons	32	0.239%
Foster	31	0.232%
Golden Valley	26	0.194%
Grand Forks County CC	869	6.493%

Testing County	Participants	Percent
Grant	3	0.022%
Griggs	39	0.291%
Hettinger	24	0.179%
Kidder	31	0.232%
Lake Region	347	2.593%
LaMoure	22	0.164%
Logan	21	0.157%
McHenry	34	0.254%
McIntosh	52	0.389%
McKenzie	400	2.989%
McLean	278	2.077%
Mercer	317	2.368%
Morton	1396	10.430%
Mountrail	76	0.568%
Nelson	0	0.000%
Oliver	15	0.112%
Pembina	40	0.299%
Pierce	37	0.276%
Ransom	49	0.366%

Testing County	Participants	Percent
Renville	10	0.075%
Richland	93	0.695%
Rolette	28	0.209%
Sargent	76	0.568%
Sheridan	23	0.172%
Sioux	0	0.000%
Slope	0	0.000%
Stark	744	5.559%
Steele	0	0.000%
Stutsman	470	3.512%
Towner	0	0.000%
Traill	67	0.501%
Walsh	81	0.605%
Ward	1312	9.480%
Wells	49	0.366%
Williams	501	3.743%
<b>TOTAL</b>	<b>13384</b>	<b>100%</b>



The Alco-Sensor FST is the instrument that is currently being utilized to conduct breath testing for participants who are in the 24/7 Sobriety Program.



# Current Numbers/Statistics

- Present and Successful PBT tests versus No shows and failed PBT tests
- 95.82 % Success rate

Total PBT tests: 825,929

– Present and Successful PBT tests: 791,418

– No Shows and Failed PBT tests: 18,387

- 3,858 failed tests: 14,519 no shows

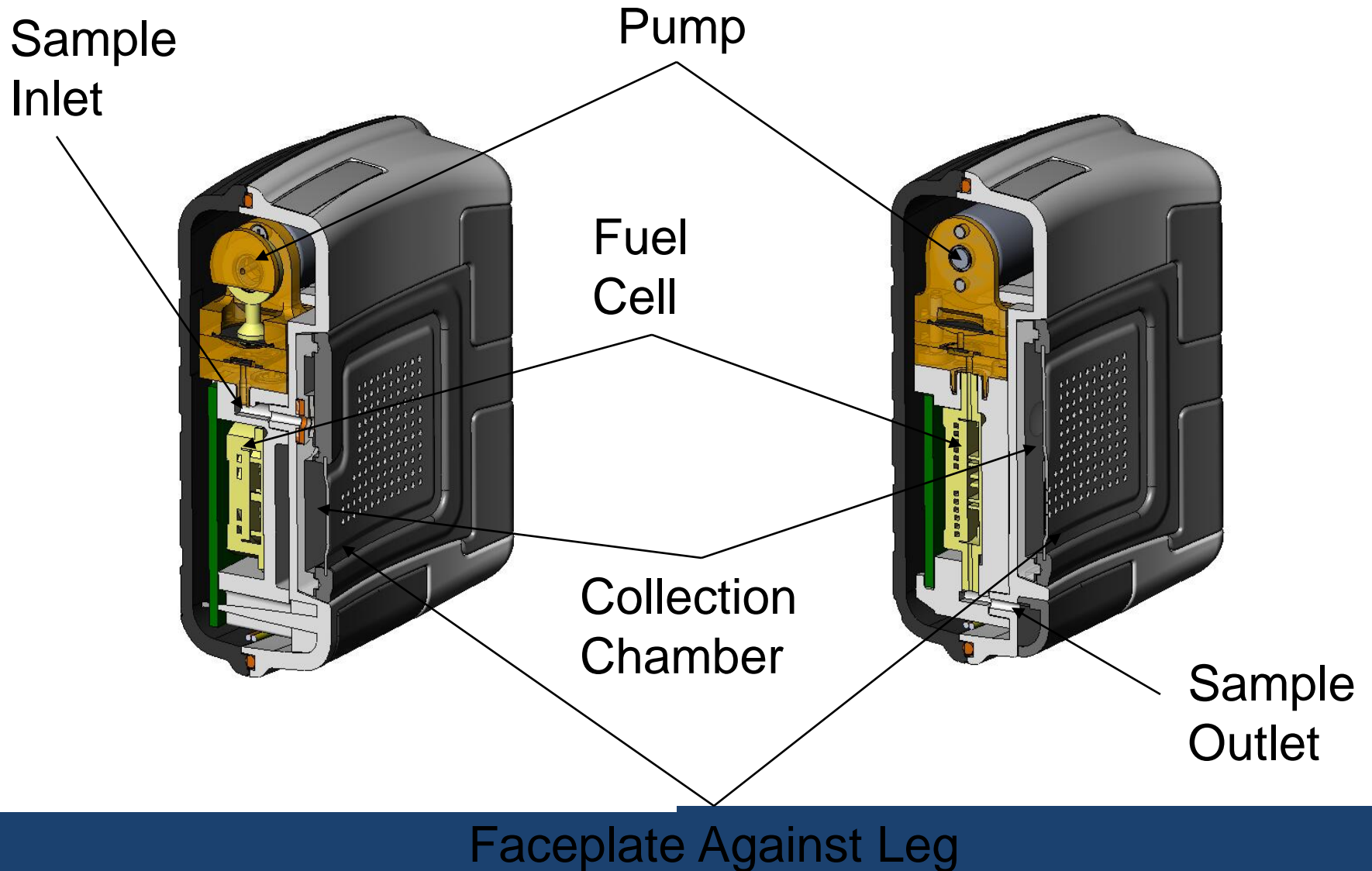
- 16,124 excused tests

(statistics as of January 1, 2016)

# Alcohol Monitoring System (AMS) Secure Continuous Remote Alcohol Monitoring (SCRAM)

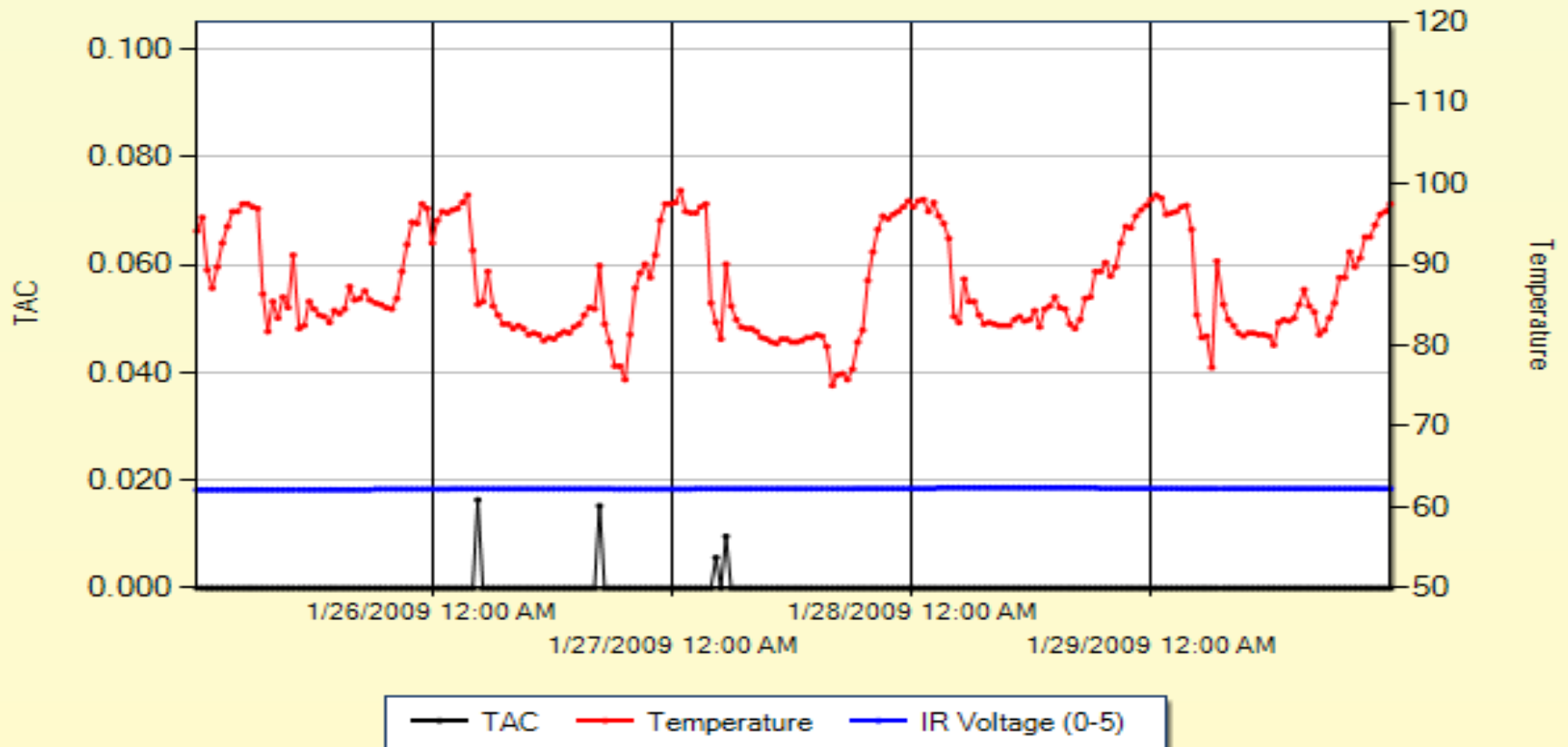


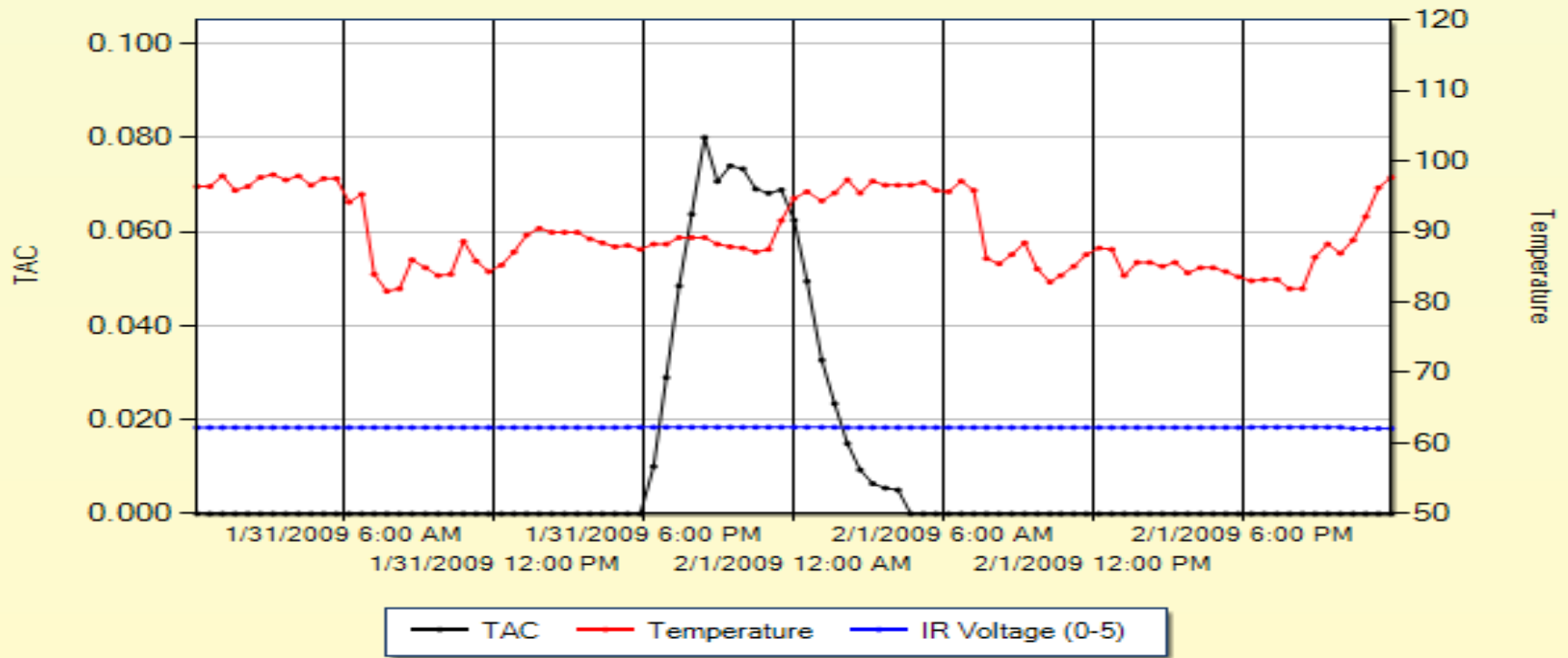
# How SCRAM Works



# Three Tests With Every Sample:

Ethanol / Temperature / IR





## Alerts

Alert Description	Start Date/Time	Status	Resolution
Alcohol Detected	01/31/2009 3:51 PM	Resolved	Confirmable
Action Log:			
Contact AMS	01/31/2009 6:02 PM		
Confirmable			
Contact AMS	02/1/2009 7:38 AM	Confirmed	
Confirmable			

# Current Numbers/Statistics

- SCRAM Bracelets available to BCI = 1775
- SCRAM Bracelets available to DOCR = 90
- SCRAM Bracelets available to Standing Rock = 73
- Total Available = 1938

(Statistics as of January 1, 2016)

# SCRAM STATS

February 19, 2009 through January 1, 2016

3,993 participants

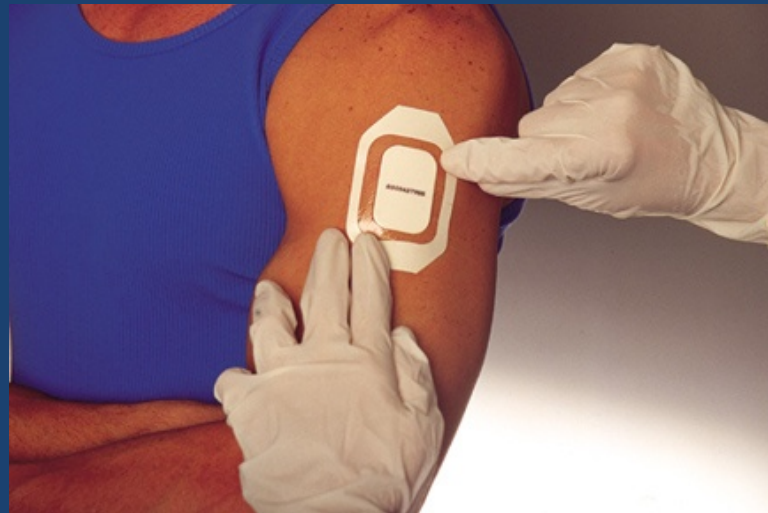
- 670,944 total monitoring days for an average of 161 days per participant
- 2,096 were fully compliant during monitoring period 68%
- 937 non-compliant clients 32%
- 347 clients had a total of 1,690 confirmed drinking events 11%
- 838 clients had a total of 4,227 confirmed tampers 27%
- 212 clients had both confirmed drinking and tamper events 7.0%

Updated 09/01/2015



# DRUG PATCH (PharmChem)

- Detection of drugs through sweat test
- Detectable drugs
  - Cocaine
  - Opiates
  - Amphetamines
  - Marijuana
  - OxyCodone
  - PCP
  - Antidepressants
  - Ecstasy



# Growth of Drug Patch Applications

- In 2010 - Four counties utilized the drug patch applying a total of 173 drug patches that year.
- In 2014 - Twenty four counties across the state were utilizing the drug patch and had applied a total of 6,770 drug patches that year.
- In 2015 – Twenty eight counties counties utilized the drug patch and had applied a total of 8,182 drug patches that year.

# DRUG URINALYSIS (Redwood Toxicology)

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



# 24/7: AVAILABLE SERVICES/FEEES

\$1.00 per test  
\$2.00 per day



- PBT
  - Small counties
  - Ease and Test

\$5.00 per day  
(\$25.00  
activation &  
\$25.00  
deactivation)



- SCRAM
  - Small counties
  - No jail
  - Defendant has odd situation

\$50.00 per  
patch



- Drug Patch
  - Small counties
  - Need both male and female staff

\$5.00 per test  
\$25.00 for  
Laboratory  
Confirmation



- Drug Urinalysis
  - Counties with high volume
  - Need both male and female staff

# 24/7 WEB APPLICATION

## 24/7 Program

TEST ENVIRONMENT

BCI - Admin. Only

[Main](#) [Search](#) [New Participant](#) [Help](#) [Logout](#)

### Site Administration

[Daily Payments](#)

[List No Shows](#)

[Add Existing Participant](#)

[Unpaid Fees](#)

[Fees Owed To The State](#)

[Calibrations](#)

### Useful Links

[SCRAM](#)

[SCRAM Supplies](#)

### Current Participants

### Removed Participants

# 24/7 WEB APPLICATION

## 24/7 Program

TEST ENVIRONMENT

BCI - Admin. Only

Main Search New Participant Help Logout

### Joe Doe [Edit](#) [Change Status](#)

Participant #	F9N6-GTN8	Balance	
Type	Court		<a href="#">View Account</a>
Judge			
Arresting Jurisdiction		Tests	
Offense Date			<a href="#">Add Test Type</a>
Sites	BCI - Admin. Only		
Start	12/11/2007		
Scheduled End	1/1/2008		
Actual End			
End Reason			
Offense	DUI 1st Offense		

There are no tests. In order to log test results, you must [Add a Test Type](#)

Date	Type	Result	Testing Officer	PBT Value	Fee
------	------	--------	-----------------	-----------	-----

[Show All...](#)

### Participant Information

Gender Male  
DOB  
Hair Color  
Eye Color  
Height  
Weight  
  
OLN  
  
Address 1 Some Street  
Bismarck, ND 58501  
Alternate  
  
County BURLEIGH  
  
Home  
Work  
Cell  
Email

### Interested Parties

[New Interested Party](#)

### Employment Information

Employer  
Address  
  
Supervisor  
Work  
Cell

# Assessment of the 24/7 Sobriety Program in North Dakota: Participant Behavior during Enrollment

March 2015

Andrew Kubas, Ph.D.

Poyraz Kayabas Ph.D. Candidate

Kimberly Vachal, Ph.D.

Upper Great Plains Transportation Institute

North Dakota State University

Fargo, North Dakota

To view report [click here](#).

# 24/7 CONTACT INFORMATION

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