

The International Diffusion of a Drug Policy Innovation: 24/7 Sobriety comes to the U.K.

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For at least two decades, individual judges and jurisdictions in the United States have imposed the condition of closely-monitored abstinence on criminal offenders who were on community supervision. One such program operated in Lansing, Michigan; another was in Washington D.C.¹ However, such initiatives rarely came to the attention of the general public or of public policy makers. Rather they were locally admired innovations that stayed local. One exception in the past decade is 24/7 Sobriety, which was created by Judge (and one time-State Attorney General) Larry Long in South Dakota². In addition to spreading to a number of states in the U.S., 24/7 “jumped the pond” in 2012 to arrive in the United Kingdom. The present policy case study³ analyzes how this international diffusion occurred.

The nature of 24/7 sobriety will first be adumbrated for context before proceeding to the policy analysis. 24/7 sobriety is one of a range of “swift and certain” community monitoring programs which have been generated by a network of criminal justice reformers in the U.S. Originally targeted at repeat drink drivers, the program mandates that offenders abstain from alcohol for a set period (e.g., 100 days). Alcohol use is regularly monitored with by twice daily in-person breath test or a remotely operated alcohol sensing bracelet. Offenders pay the cost of their own testing (1 USD/breath test). Unlike in typical community supervision, any use triggers an immediate, rapid response from the system with 100% certainty. The actual sanction is modest, namely a night in jail. However, severe punishment is not necessary to deter behavior when swiftness and certainty are in place. To wit, after more than 5.7 million scheduled breath tests, the rate at which offenders have (a) appeared and (b) blown a clean test exceeds 99%.⁴

The spread of the concept behind 24/7 Sobriety to the U.K. seems to have had both an official and unofficial channel. Under President Obama, the White House Office of National Drug Control Policy

(ONDCP) embraced 24/7 sobriety as a program that could promote public safety while reducing incarceration.⁵ ONDCP had standing bureaucratic contacts with criminal justice and health officials in the U.K. As part of the official sharing of information, 24/7 Sobriety was discussed along with similar programs (e.g., HOPE Probation). Meanwhile, informally, American academics who wrote and spoke about programs such as 24/7 sobriety were able to get the idea on the “circuitry of enlightenment”⁶ that included some UK officials. One concrete example was that Professor Jonathan Caulkins mentioned it at the Oxford Policing Forum. One member of the audience, London Deputy Mayor for Policing Kit Malthouse, though he never spoke to Caulkins, was captivated by the idea and announced publically⁷ that he wished to try it in London.

The “policy window”⁸ to attempt such an approach in the UK was opened by multiple factors. The most obvious influence was that for a number of years the number of alcohol-related violent incidents per year in England and Wales had exceeded one million⁹. Even that number understates the impact of alcohol in the U.K., as it does not include lost business and reduced community quality of life in those cities and towns which were experiencing high levels of alcohol-fueled disorder on weekend evenings. An additional factor opening the policy window was the election of a new coalition government in May of 2010. Like most new governments, the Tory-Liberal Democrat leadership in the UK was interested in trying out new policies in a range of areas.

In September of 2010, two centers of policy interest coalesced around 24/7: The Home Office and the London Mayor’s Office. As the lead agency for policing and alcohol policy in the UK, the Home Office had the power to set policy in England and Wales (but not Scotland, because of how alcohol policy is devolved in the U.K.). Further, because Mayors in the U.K. have less autonomy than mayors in the US, the Home Office’s support was needed even if the Mayor of London wished to attempt to pilot 24/7 sobriety within local funds (which was indeed the case). Meanwhile, the London Mayor was

obviously interested in reducing crime in general, and Deputy Mayor Malthouse had committed publically to focus on violence against women. London had at that time about 50,000 domestic violence arrests a year, many of them alcohol-involved.

As with almost any policy innovation, 24/7 sobriety met with resistance. Initially, some UK health advocates opposed the program on the assumption that binge drinkers could not cease alcohol consumption without treatment. Some advocates for women argued that by focusing on the role of alcohol in domestic violence cases, 24/7 sobriety would obscure the true cause of such crimes: Patriarchy and associated sexist attitudes on the part of male offenders. Others felt that because it forced individuals to stop drinking entirely, the program was too American to work in the U.K., where abstinence is less common. Judges warned that the UK court system could not work with the celerity which 24/7 required, and, that it was irregular to have offenders pay for their own testing. Finally, with UK prison populations growing, some argued that 24/7 would increase the prison population to an unacceptable level.

The group that advocated for 24/7 sobriety (of which the author or this presentation was a part) took a two track approach. On the 'hearts and minds' front, many presentations were given to stakeholder groups to present the evidence about 24/7 sobriety and to clarify areas of misunderstanding (e.g., many of the objections noted in the above paragraph). Concurrently, advocacy in Parliament focused on passing a law that would make use of 24/7 sobriety possible in England and Wales. The logic of working with Parliament was that while certain offenders who were already being monitored could be assigned an alcohol-sensing bracelet, nothing in the law of England and Wales allowed the 24/7 sobriety model of in person breathalyzation twice a day across a broad range of offenders, paid for with a modest charge to the offender. Hence the need for a new law.

Research was a significant aid in garnering support for 24/7 sobriety. Related programs, such as HOPE probation¹⁰, had performed well in evaluation studies. 24/7 itself had not been subject to an experiment but alcohol-involved road deaths fell in South Dakota as it spread across the state¹¹. Unlike the U.S., the U.K. political system does not currently include office holders who are reflexively hostile to science. A number of initially skeptical politicians were therefore easily persuaded when presented with the relevant research.

One of the individuals who found the evidence compelling and became a strong champion of 24/7 sobriety in Parliament was the cross-bench peer Baroness Ilora Finlay of Llandaff (who not incidentally, was a physician). She convened multiple sessions for other Peers at which advocates made their case. She also made the formal effort in June 2011 to have the 24/7 sobriety amendments included in a Policing Bill then being debated. As is required, the amendments had sponsors from all three parties (Lord Shipley from the Liberal-Democrats, Lord Brooke of Alverthorpe from Labour, and Lord Brooke of Sutton-Mandeville from the Tories). The effort failed by about a 60%-40% margin. Despite support from individual members of all parties, none of the parties' leadership were then in favor¹².

However, in the coming months, this front-bench opposition softened and important advocates were added in favor of 24/7 sobriety. These individuals included incoming London Police Commissioner Bernard Hogan-Howe and Baroness Helen Newlove. Baroness Newlove was a working class woman whose husband was beaten to death by drunken yobs in front of their three daughters. She became a nationally known advocate for crime victims and was subsequently ennobled as a Tory Peer. She was also appointed the coalition government's "champion" for victims and for community responses to crime. Upon hearing of 24/7 sobriety, she embraced it immediately and publically.

Further, Dr. Beau Kilmer, a well-respected researcher at RAND, received a U.S. National Institutes of Health grant to study 24/7 sobriety. Better data was thus on the way, and even before it came it added credibility for advocates to say that NIH had considered 24/7 sobriety worthy of study. It was also helpful for credibility that Scotland, having devolved alcohol powers, simply began doing 24/7 on its own, demonstrating that it was in fact feasible in the UK.

In early 2012, the Legal Aid, Sentencing and Punishment of Offenders bill began moving in Parliament. It looked to advocates the right vehicle for 24/7-focused amendments. They were therefore advanced with sponsorship from Lord Brooke of Alverthorpe (Labour), Baroness Finlay (Cross-Bench), Baroness Jenkin (Conservative) and Lord Avebury (Liberal Democrat). After long discussions with advocates of the program, the Labour front bench announced it would support the bill. Victory in the House of Lords thus appeared very likely.

However, one of the peculiarities of the British system of bicameral government is that the House of Lords can lag the Commons in terms of which is the dominant party. Even though the Tory-LibDem coalition won the 2010 election, and began appointing their own as peers, the legacy of many prior years of Labour rule meant that with front bench support from Labour plus the Lib Dem and Tory peers who would defy their party's leadership, the Lords would vote positively on the 24/7 sobriety amendments to the Legal Aid bill. The snag was that in the Commons, which is the dominant house, the coalition was the guiding force and could simply strip the amendments right back out again.

A last second appeal was therefore made to the government, with particular emphasis on the value of 24/7 sobriety as an aid to meeting the government's stated goal of reducing the size of the prison population. The government made the compromise offer of supporting 24/7 sobriety as long as the still-contentious requirement of offender payment for testing was dropped. Advocates accepted

these conditions and the bill passed unanimously through both House of Parliament, becoming law in England and Wales as of May 1, 2012.

End Notes

1 Kleiman, M. A. R. (2009). When Brute Force Fails. Princeton University Press.

2 National Partnership on Alcohol Misuse and Crime (2009). South Dakota 24/7 Sobriety Project. Available at http://www.alcoholandcrime.org/images/uploads/pdf_tools/sd_program.pdf

3 The author was involved in the diffusion of this policy and this paper should be read not as a scholarly, disinterested analysis but as a personal account of policy change. It could therefore fairly be criticized as lacking in standardized procedure and subject to personal biases.

4 Office of the Attorney General of the State of South Dakota. (2013). 24/7 Sobriety Program. Available at <http://apps.sd.gov/atg/dui247/247stats.htm>

5 Executive Office of the President of the United States, The White House. (2011). Alternatives to Incarceration. Available at <http://www.whitehouse.gov/ondcp/alternatives-to-incarceration>

6 Weiss, C (1987) The circuitry of enlightenment. *Knowledge: Creation, Diffusion, Utilization* 8: 274-281.

7 Wintour, P. (2010). Jail problem drinkers for 24 hours, says senior Tory. Available at <http://www.guardian.co.uk/uk/2010/aug/02/jail-problem-drinkers>

8 Kingdon, J. (1984). Agendas, Alternatives and Public Policies. Boston: Little, Brown.

9 British Crime Survey (Subsequently renamed the Crime Survey for England and Wales).

Available at <http://www.homeoffice.gov.uk/science-research/research-statistics/crime/crime-statistics/british-crime-survey/>

10 Hawken, A., & Kleiman, M.A.R. (2009). Managing Drug Involved Probationers with Swift and Certain Sanctions: Evaluating Hawaii's HOPE. Final Report to U.S. National Institute of Justice, Washington, D.C.

11 Humphreys, K. (2013). An update on 24/7 Sobriety and Drink Driving Fatalities. Available at

<http://www.samefacts.com/2012/11/crime-control/update-on-247-sobriety-in-south-dakota/>

See also Kilmer, B. et al. (2013). Efficacy of frequent monitoring with swift, certain, and modest sanctions for violations: insights from South Dakota's 24/7 Sobriety Project. American Journal of Public Health, e37-43.

12 The debate as recorded by Hansard's is available at

<http://www.theyworkforyou.com/lords/?id=2011-07-14a.901.0>