



JUDICIARY COMM. NO. 10

Office of the Administrative Director of the Courts – THE JUDICIARY • STATE OF HAWAII
417 SOUTH KING STREET • ALI'ĪOLANI HALE • HONOLULU, HAWAII 96813 • TELEPHONE (808) 539-4900 • FAX (808) 539-4855

Rodney A. Maile
ADMINISTRATIVE DIRECTOR

Brandon M. Kimura
DEPUTY ADMINISTRATIVE DIRECTOR

December 20, 2018

The Honorable Ronald D. Kouchi
President of the Senate
State Capitol, Room 409
Honolulu, HI 96813

The Honorable Scott K. Saiki
Speaker of the House of Representatives
State Capitol, Room 431
Honolulu, HI 96813

Dear President Kouchi and Speaker Saiki:

Pursuant to Section 291E-6.5, Hawai'i Revised Statutes, the Judiciary is transmitting a copy of the *Report on Continuous Alcohol Monitoring for Repeat Offenders*.

In accordance with Section 93-16, Hawai'i Revised Statutes, we are also transmitting a copy of this report to the Legislative Reference Bureau Library.

The public may view an electronic copy of this report on the Judiciary's website at the following link: http://www.courts.state.hi.us/news_and_reports/reports/reports.html.

Should you have any questions regarding this report, please feel free to contact Karen Takahashi of the Judiciary's Legislative Coordinating Office at 539-4896, or via e-mail at Karen.T.Takahashi@courts.hawaii.gov.

Sincerely,

A handwritten signature in blue ink that reads "Rodney A. Maile".

Rodney A. Maile
Administrative Director of the Courts

Enclosure

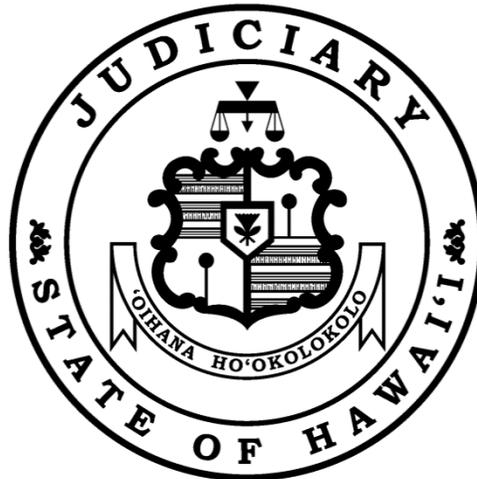
c: Legislative Reference Bureau Library
Office of the Clerk, Hawai'i State Senate
Office of the Clerk, Hawai'i House of Representatives

**ANNUAL REPORT TO THE THIRTIETH LEGISLATURE
2019 REGULAR SESSION**

ON

**ACT 201, SESSION LAWS OF HAWAI'I 2017
HRS § 291E-6.5**

A Report on Continuous Alcohol Monitoring for Repeat Offenders



Prepared by:

**Adult Client Services Branch
The Judiciary, State of Hawai'i**

December 2018

**ANNUAL REPORT TO THE THIRTIETH LEGISLATURE
2019 REGULAR SESSION**

ON

**ACT 201, SESSION LAWS OF HAWAI'I 2017
HRS § 291E-6.5**

A Report on Continuous Alcohol Monitoring for Repeat Offenders

This report is submitted in accordance with Act 201, Session Laws of Hawai'i 2017, Section 3.

Background

Hawai'i Revised Statutes (HRS) § 291E-6.5¹ (Supp. 2017) authorizes the court to order defendants charged with operating or habitually operating a vehicle under the influence of an intoxicant (HRS §§ 291E-61 and 291E-61.5, respectively) to refrain from consuming alcohol and submit to monitoring by a continuous alcohol monitoring (CAM) device. Defendants who are subject to monitoring by a CAM device include repeat offenders or persons who are subject to a pending investigation or prosecution for one or more prior charges of violating HRS §§ 291E-61 and 291E-61.5. Defendants who are ordered to submit to CAM must be monitored for not less than ninety days.

The Hawai'i State Judiciary is tasked to implement the CAM program statewide. The Judiciary procured a contract with SCRAM of California (SCRAM) to provide CAM services. The devices to be utilized by SCRAM are strapped onto the ankles of defendants and measure the alcohol levels found in the defendants' perspiration every 30 minutes. Alcohol levels are electronically recorded and transmitted to SCRAM, who then notifies the appropriate parties.

Pursuant to HRS § 291E-6.5, defendants are solely responsible for paying for the costs associated with the CAM devices. However, SCRAM must provide financial relief to defendants who receive food stamps under the Supplemental Nutrition Assistance Program or free services under the Older Americans Act or Developmentally Disabled Assistance and Bill of Rights Act.

Activities This Reporting Period

Following an initial solicitation in 2017, the Judiciary re-issued a Request for Proposals for CAM services in February 2018. SCRAM was selected as the contractor to provide CAM services throughout the State of Hawai'i from August 1, 2018 to June 30, 2019. The

¹ 2017 Haw. Sess. Laws Act 201

contractor and the First Circuit Court coordinated statewide presentations and trainings for the judges, probation officers, and prosecutors in November 2018. The purpose of these presentations and trainings was to inform all parties involved of their roles and CAM procedures, before going live with the service. Information was disseminated about the CAM devices, CAM reports, tampering, and violations of court orders. A separate meeting was held to inform the Department of Public Safety of this new service.

Additionally, SCRAM hired its first Mobile Installer (MI), who is stationed on O'ahu. The MI is tasked to orient the court-ordered defendant about operation of the device before attaching the CAM devices onto the defendant's ankle. SCRAM is in the process of hiring other MIs for the Second, Third, and Fifth Circuits as part of setting up the statewide CAM services.

Projected Number of Participants

The CAM program is in the implementation phase and there were no (0) court orders issued since the contract was executed on August 1, 2018 through November 19, 2018. The CAM service is presently being set up after all of the parties receive training about this new service. The number of total participants statewide per year is estimated at twenty-five (25). Because the Court has the discretion to determine if a person should be ordered to wear a CAM device, the number on each island cannot be determined. However, the estimated distribution is: O'ahu (12), Maui (5), Kaua'i (2) and Hawai'i Island (6).

Successes and Challenges/Barriers

Successes

The SCRAM contract was executed in August 2018 and statewide trainings for courts and various agencies were held. The Mobile Installers (MI) were interviewed and one MI was hired by SCRAM to service the island of O'ahu. SCRAM is in the process of hiring other MI for the neighbor islands. Further discussions and development of guidelines for the use of this service are ongoing.

Challenges/Barriers to Consider

Challenge #1: Violations of the prohibition of consuming alcohol will be reported by SCRAM to the Office of the Prosecuting Attorney. However, the Prosecuting Attorney must then request a hearing to notify the court of the violation. Due to the need for a hearing, violations cannot be addressed immediately, and it will still be possible for defendants to drive under the influence of alcohol.

Challenge #2: A quantitative data collection system must be set up. Data to be considered for the system include the number of court orders issued; actual number of individuals who follow through with their installation; number of CAM violations reported; number of

indigent persons who receive financial relief; number of people who refrain from consuming alcohol while on CAM; and average number of days individuals remain on the device.

The Judiciary is making staunch efforts to establish this program, to produce effective outcomes through collaboration with SCRAM and the other agencies. We are initiating thoughtful solutions with our contractor and partners to address the aforementioned challenges.

Effects of CAM on Ignition Interlock Devices

There were no effects of CAM on Ignition Interlock within the last calendar year. The purpose of each service differs greatly: CAM monitors alcohol consumption, while Ignition Interlock monitors driving under the influence of alcohol. The CAM program is in the beginning stage of implementation and no court orders have yet been made, as they are discretionary orders by the court. CAM services may be ordered as a pretrial condition of bail. On the other hand, Ignition Interlock is a voluntarily service that offenders ask to be placed on as a post-adjudication service, to reinstate driving legally.

Goals and Objectives

Goal #1: The Judiciary will establish internal and interdepartmental guidelines.

Objective #1: Establish internal referral guidelines and procedures within the Judiciary and implement them by January 31, 2019.

Objective #2: Establish interdepartmental guidelines and procedures, with non-Judiciary State Departments and implement them by January 31, 2019.

Goal #2: Establish a quantitative data collection system to gather information on referrals, violations, court orders, and outcomes.

Objective #1: The Judiciary will develop a quantitative data collection system and implement it by January 31, 2019.

Objective #2: Analyze effectiveness of the CAM program and assess its effect on Ignition Interlock, by November 30, 2019.

Dissemination of Program Information

SCRAM and the Office of the Prosecuting Attorney issued a press release and held a press conference on November 15, 2018. Several news agencies featured the press conference, providing information about the CAM device and the legislation establishing this service. An editorial supporting the CAM program appeared in the *Honolulu Star-Advertiser* on November 29, 2018.