



## JUDICIARY COMM. NO. 7

Office of the Administrative Director of the Courts – THE JUDICIARY • STATE OF HAWAII  
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**Rodney A. Maile**  
ADMINISTRATIVE DIRECTOR

**Brandon M. Kimura**  
DEPUTY ADMINISTRATIVE DIRECTOR

December 13, 2019

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](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](mailto: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

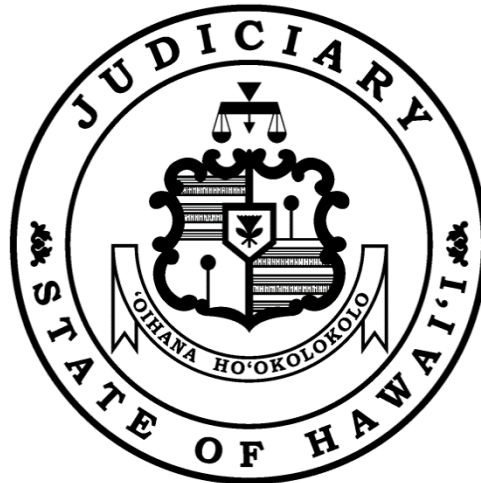
c: Legislative Reference Bureau Library  
Office of the Clerk, Hawai'i State Senate  
Office of the Clerk, Hawai'i House of Representatives

**ANNUAL REPORT TO THE THIRTIETH LEGISLATURE  
2020 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 2019**

**ANNUAL REPORT TO THE THIRTIETH LEGISLATURE  
2020 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-6.5<sup>1</sup> (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. The purpose of CAM is to prevent habitual DUI defendants and multiple DUI offenders from consuming alcohol and driving under the influence. 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 90 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. When ordered by the court, devices 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, which then sends a violation report to authorities.

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.

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<sup>1</sup> 2017 Haw. Sess. Laws Act 201

## Activities This Reporting Period

In fiscal year 2019, SCRAM was contracted to provide CAM services throughout the State of Hawai'i. SCRAM and the First Circuit Court coordinated statewide presentations and trainings for judges, probation officers, and prosecutors from November 15 through 19, 2018. SCRAM-CAM service information was disseminated to the aforementioned parties. Supplemental trainings were also held for First Circuit Court judges and their staff to ensure the Circuit Court criminal division was made aware of the service, procedures, and guidelines.

SCRAM hired mobile installers (MI) for every circuit. MIs are tasked to install the CAM devices and enroll the court-ordered defendants into the program.

Internal guidelines and procedures for the Judiciary were written and implemented by March 2019. The contract with SCRAM of California was extended for another fiscal year, and is in effect until July 31, 2020.

## Projected Number of Participants

The estimated number of total participants statewide per year is 25 persons. Because the court has the discretion to order a defendant to utilize the CAM device, the number on each island cannot be determined in advance. The estimated distribution of participants by county is O'ahu (12), Maui (5), Kaua'i (2) and Hawai'i (6).

## Successes and Challenges/Barriers

### Successes

There were five (5) court orders made and three (3) defendants placed onto the CAM program, statewide. All orders were made in the fourth quarter in fiscal year 2019. See the table below for the details.

**Table #1**

	Number of unduplicated CAM orders	Number of unduplicated defts. enrolled in CAM	Misdemeanor, Felony, or Other	List Other
First Circuit	2	1	Felony	n/a
Second Circuit	2	1	Other	Veterans Tx Ct.
Third Circuit	1	1	Felony	n/a
Fifth Circuit	0	0	None	
<b>Total</b>	<b>5</b>	<b>3</b>		

A contract with SCRAM was executed in August 2018 and statewide SCRAM-CAM trainings for various State Departments were held shortly after. Mobile Installers (MI) were hired by SCRAM in every circuit. The Judiciary conducted background checks on the MIs. The Judiciary has fulfilled the goals and objectives described in the FY 2018 Annual Report:

**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 departments and implement them by January 31, 2019.

Goal #1, Objective #1 was fulfilled in March 2019. The timeline was extended by two months to solicit input in drafting the guidelines from all four judicial circuits. We found that Objective #2 could also be incorporated into the internal guidelines and crafting separate external guidelines with non-Judiciary department(s) was not necessary, thus Objective #2 was also fulfilled through Objective #1.

**Goal #2:** The Judiciary will establish a quantitative data collection system to gather information on referrals, violations, court orders, etc.

Objective #1: Develop a quantitative data collection system and implement it by January 31, 2019.

Objective #2: Analyze effectiveness of the CAM program and the effects it might have on Ignition Interlock, by November 30, 2019.

Goal #2, Objective #1 was fulfilled. See attached Exhibit #1 for the SCRAM-CAM Quarterly and Annual Data Collection Form and attached Exhibit #2 for the Court CAM Data Collection Form. Since there were only five SCRAM-CAM referrals made statewide, and of the five, only three unduplicated participants enrolled onto SCRAM-CAM services, the number of defendants ordered onto SCRAM-CAM was lower than the projected numbers. Given that only three defendants were enrolled into the SCRAM-CAM program in FY 2019, there was no significant impact made by the CAM program on Ignition Interlock. Goal #2, Objective #2 was fulfilled.

### **Challenges/Barriers to Consider**

Challenge #1: In all the DUI cases ordered for CAM services, no immediate action can be taken to prevent a defendant from driving under the influence if a defendant consumes alcohol. Legal procedures, such as notice requirements and scheduling with the court, are required to bring a defendant back to court for a violation. The legal procedures may delay the desired effects of the program.

Challenge #2: In pretrial habitual DUI cases, a court-ordered defendant must remain on the SCRAM-CAM service for not less than 90 days. If a defendant is found not guilty

before the 90-day period ends, the statute requires that the defendant must still remain on the service.

### **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:** The Judiciary will establish a quantitative data collection system to gather information on referrals, violations, court orders, and outcomes.

Objective #1: 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.

### **Effects of CAM on Ignition Interlock Devices**

There were five court orders made for CAM services, which were discretionary orders by the courts. CAM services are ordered as a pretrial condition of bail. Ignition Interlock is a voluntary service that offenders ask to be placed on as a post-adjudication service, to reinstate driving legally. CAM monitors alcohol consumption, and Ignition Interlock monitors driving under the influence of alcohol. The purpose of each service differs greatly. In fiscal year 2019, there were no effects of CAM on Ignition Interlock services.

# Exhibit #1

## SCRAM-CAM Quarterly and Annual Data Collection

<b>First Circuit, Oahu (FY 2019)</b>	<b>Qtr 1 (July 1 to Sept 30)</b>	<b>Qtr 2 (Oct 1 to Dec 31)</b>	<b>Qtr 3 (Jan 1 to Mar 30)</b>	<b>Qtr 4 (Apr 1 to Jun 30)</b>	<b>Annual (total all Qtrs)</b>
Number of unduplicated court ordered referrals					
Number of unduplicated individuals placed on SCRAM/CAM					
Number of violations reported to probation and prosecuting attorneys					
Number of unduplicated habitual cases placed on SCRAM/CAM					
Number of unduplicated misdemeanor DUI cases placed on SCRAM/CAM					
Number of individuals completed SCRAM/CAM for at least 90 days					
Number of unduplicated court orders referrals for more than 90 days					

<b>Second Circuit, Maui (FY 2019)</b>	<b>Qtr 1 (July 1 to Sept 30)</b>	<b>Qtr 2 (Oct 1 to Dec 31)</b>	<b>Qtr 3 (Jan 1 to Mar 30)</b>	<b>Qtr 4 (Apr 1 to Jun 30)</b>	<b>Annual (total all Qtrs)</b>
Number of unduplicated court ordered referrals					
Number of unduplicated individuals placed on SCRAM/CAM					
Number of violations reported to probation and prosecuting attorneys					
Number of unduplicated habitual cases placed on SCRAM/CAM					
Number of unduplicated misdemeanor DUI cases placed on SCRAM/CAM					
Number of individuals completed SCRAM/CAM for at least 90 days					
Number of unduplicated court orders referrals for more than 90 days					
<b>Third Circuit, Big Island (FY 2019)</b>	<b>Qtr 1 (July 1 to Sept 30)</b>	<b>Qtr 2 (Oct 1 to Dec 31)</b>	<b>Qtr 3 (Jan 1 to Mar 30)</b>	<b>Qtr 4 (Apr 1 to Jun 30)</b>	<b>Annual (total all Qtrs)</b>
Number of unduplicated court ordered referrals					



Number of unduplicated individuals placed on SCRAM/CAM					
Number of violations reported to probation and prosecuting attorneys					
Number of unduplicated habitual cases placed on SCRAM/CAM					
Number of unduplicated misdemeanor DUI cases placed on SCRAM/CAM					
Number of individuals completed SCRAM/CAM for at least 90 days					
Number of unduplicated court orders referrals for more than 90 days					
<b>Fifth Circuit, Kauai (FY 2019)</b>					
<b>Fifth Circuit, Kauai (FY 2019)</b>	<b>Qtr 1 (July 1 to Sept 30)</b>	<b>Qtr 2 (Oct 1 to Dec 31)</b>	<b>Qtr 3 (Jan 1 to Mar 30)</b>	<b>Qtr 4 (Apr 1 to Jun 30)</b>	<b>Annual (total all Qtrs)</b>
Number of unduplicated court ordered referrals					
Number of unduplicated individuals placed on SCRAM/CAM					
Number of violations reported to probation					

and prosecuting attorneys					
Number of unduplicated habitual cases placed on SCRAM/CAM					
Number of unduplicated misdemeanor DUI cases placed on SCRAM/CAM					
Number of individuals completed SCRAM/CAM for at least 90 days					
Number of unduplicated court orders referrals for more than 90 days					

**Narrative**

Accomplishments/Special Problems/Challenges.

**Staffing**

Document any significant staffing activities such as new hires, critical vacancies that have developed or remained unfilled, change in position assignments, etc..., by completing the attached staffing pattern form.

This report was prepared by:

\_\_\_\_\_

(Print Name)

\_\_\_\_\_

(Title)

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Date)

## Exhibit #2

### Court CAM Data Collection Form

FY \_\_\_\_\_

Date: \_\_\_\_\_

Indicate—Circuit: 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup>

		No.	Comments:
1	Total number of unduplicated SCRAM-CAM orders made by the court.		
2	Number of unduplicated <b>felony</b> DUI cases ordered onto SCRAM-CAM by the courts.		
3	Number of unduplicated <b>misdemeanor</b> DUI cases, court ordered onto SCRAM-CAM.		
4	Number of unduplicated cases, court ordered onto SCRAM-CAM, who did not show up for their initial enrollment into the program.		<b>Any follow up? What happened?</b>
5	Number of unduplicated cases enrolled onto SCRAM-CAM.		
6	Number of violation reports sent by SCRAM.		
7	Number of cases who completed the SCRAM-CAM program.		