
Continuous Alcohol Monitoring And Its Financial Considerations

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Introduction

Continuous Alcohol Monitoring (CAM) use by US courts for combating alcohol related crime has grown from 3,500 offenders in 2004 to over 170,000 thus far.

CAM was introduced to the North Carolina criminal justice system in late 2004. Its statewide use has been supported by Rehabilitation Support Services, LLC (RSS) since April 2005, and RSS has conducted over 1350 CAM installations in the state, with approximately 1000 involving an alcohol related offense (DWI, domestic violence, homicide, etc).

CAM technology is now supported by a broad cross-section of professionals within the NC criminal justice community as an effective tool in the state's efforts to combat alcohol related crime. Over 160 District and Superior Court Judges have sentenced with CAM, and formal support includes the Department of Corrections (Oct. 21, 2008 DOC Report to the NC Legislature), Conference of District Attorneys (Nov. 18, 2008 NCCDA Policy Statement) and NC Sheriffs Association (NCSA CAM endorsement of 2009 CAM legislation). CAM-related legislation was enacted by North Carolina in 2007 and 2009.

Nevertheless, CAM use in NC continues to be well below its potential, even though offender compliance rates have been high (82%) and there is clear economic justification for greater use of the technology. CAM currently costs \$12/monitoring day, while NC minimum security state prison costs \$64.59/day and county jail is typically budgeted at \$50/day or more.

This report provides statistical background pertaining to the financial considerations of CAM as well as summary cost/benefit results if CAM is used in NC DWI sentencing as a jail/prison alternative. Two base cases are summarized: 1) no public financial support is provided for CAM use and 2) the state and counties fully fund estimated CAM use for indigent offenders only.

2011 CAM-related NC Legislation

The 2011 NC General Assembly is now considering legislation (H49, "Laura's Law" and also a soon to be filed, more technical CAM bill) which, together, enables expanded discretionary use of CAM by NC courts. Greater CAM use will provide:

1. Substantially reduced taxpayer expense for alcohol related crimes,
2. Increased public safety through 24/7 monitoring of problem drinkers and
3. Reduced offender recidivism by combining CAM with addiction treatment (and thus more directly addressing the alcoholism of many offenders).

Why isn't CAM used to its potential by courts in NC?

The principal limiting factor has been that offenders have been required to pay the fees associated with CAM, and this payment method is opposed by some within the NC criminal justice system for being unfair to indigent offenders. Historically, comparable monitoring technologies, such as electronic house arrest and GPS tracking, have been paid through NC state appropriation at minimal cost to the offender. State appropriation has been used in the past because it enables courts to sentence without consideration for the offender's financial condition.

Offender payment, on the other hand, raises the moral question of "equal access to justice"...in the case of CAM whether it is fair to impose a sanction in a way that enables offenders who can afford its cost to potentially stay out of jail/prison while indigent offenders, who cannot afford the costs, are detained. This dilemma is not new...the current system of bail bonding enables only those who can afford the cost of a bond to avoid detention during pre-trial periods.

Public funding of court sanctions costs taxpayers, but also necessitates years of legislative action for the state to implement innovative technologies. However, temporary state and county funding for CAM use with indigent offenders makes clear financial sense as an effective alternative to jail/prison (see below cost/benefit analysis).

How many NC CAM installations have there been?

Since April 2005, RSS has installed 1354 CAM units, of which approximately 1000 have been for criminal justice related applications (pre-trial condition of release, probationary condition, multiple DWI, domestic violence, homicide, etc.). The remaining NC CAM installations have been voluntary, primarily in support of addiction treatment.

What have been the CAM compliance rates?

82% of all NC CAM clients have been 100% compliant [i.e. no confirmed alcohol or "tamper" events (CAM bracelet obstructions or removals)]. The compliance rate has been somewhat lower, 80%, for court-ordered applications only. However, RSS estimates that 75% of first time CAM program violators become compliant if left on CAM following the first confirmed violation, so **those unable to control drinking while on CAM represent only 5% of a group of predominantly multiple DWI offenders. CAM offers tremendous opportunity for costs savings versus jail/prison without significantly sacrificing public safety**

What does CAM Cost?

CAM fees currently include a one-time Installation Fee of \$75/installation and a daily Monitoring Fee of \$12/day. At their installation, the CAM "client" (a defendant if pre-trial, a convicted offender if probationary) pays the Installation Fee and first two weeks of Monitoring Fees for a total of \$243.00. Each week thereafter, the client prepays the next two weeks of Monitoring Fees.

RSS, in an attempt to address the financial limitations of lower income offenders, introduced a trial sliding scale in Wake County during the summer of 2010. This scale reduces the Monitoring Fee to \$6/day for offenders assigned a Public Defender, charges \$12/day for clients with annual incomes of \$25,000 to \$50,000 and charges \$18/day to offenders with incomes greater than \$50,000. Thus far the program has not met expectations, since most offenders assigned by Wake County courts to CAM have been in the lower income range. If a more representative offender population were assigned to CAM, RSS estimates that the average daily monitoring fee would be approximately \$11/day for Wake County.

Offenders in NC are typically on CAM at least 60 days. However 120 days or more are preferable for using CAM as an important compliment of to an addiction treatment program. CAM verifies abstinence from alcohol consumption, which makes treatment more effective.

Can Offenders Afford \$12/day for CAM?

The DWI offender population is generally believed to be, on balance, more affluent than the overall offender population because alcohol dependency (common to many multiple DWI offenders) occurs independently from socio-economic background. That said, a higher proportion (est. 25%) of multiple DWI offenders is indigent as a result of reoccurring job losses resulting from prolonged alcohol abuse.

Since multiple DWI offenders correlate very highly (60% to 90%) to alcohol dependency, this group consumes very high volumes of alcohol and spends significant sums to purchase alcoholic beverages. While patterns of consumption differ from person to person, numerous estimates (self-reporting, liquor store observations, etc.) consistently suggest a direct cost of approximately \$20/day (\$7000/year) or more. The fully loaded cost is even greater when taking into consideration lost income due to work absences, related medical expense, routine property damage and crime related fines.

CAM verifies abstinence from alcohol consumption when mandated by the courts. Though the offender must bear CAM's \$12/day fee, **they are still spending much less per day than if they were consuming high volumes of alcohol.** Families of CAM offenders consistently report higher levels of net disposable income.

However, some of the lowest income DWI offenders simply do not have the funds needed to pay for CAM when initially installed on CAM). **RSS believes that NC would realize significant net savings over jail/prison through public funding of CAM for indigent offenders** (see cost/benefit analysis below).

What has been the Offender Payment History for CAM?

Overall, RSS collects 86% of the CAM fees it is due. For payments made directly by the offender to RSS, the collection rate is approximately 91%. As a result of NC CAM legislation passed in 2007, fees for certain DWI-related probationary applications are paid by the offenders to the local Clerk of Court (i.e. not directly to RSS). The RSS collection rate from these installations has been only 58%, due in large part to the statutory subordination of CAM fees to all other fees and fines (restitution, courts fees, probationary fees, etc.), which was introduced into the NCGS in 2005.

How is RSS paid for providing CAM?

Though the offender pay system obligates offenders to pay CAM-related fees, RSS (and other NC CAM Service Providers) are currently paid either directly by the offender or through the local Clerk of Court, depending on the nature of the CAM application.

Pre-trial and non-DWI applications currently enable direct payment to the vendor. However, 30-60 day Level 1 and Level 2 DWI probationary applications require payment to the local Clerk of Courts and are also subordinated to all other fines and fees assessed by the courts to the offender. **This later protocol is unsustainable.**

As noted above, when payments due CAM Service providers are withheld or substantially (12+ months) delayed, collection rates drop substantially. This makes it **impossible for the private sector to introduce and support innovations to the NC criminal justice system.** RSS believes **all CAM fees should be paid directly by the offender to the CAM Service Provider,** much like fees associated with addiction assessment and treatment and also like ignition interlock.

Have Offenders Been Removed and Incarcerated for Non-payment?

RSS believes that only 7 (of 1000) NC offenders have been removed from CAM, following approval by the presiding judge, for non-payment. RSS is not aware of any of these offenders being incarcerated for non-payment, though this could have occurred in some cases.

Does CAM Lower Recidivism?

Lowering recidivism is the most cost effective factor for reducing the costs of DWI. Traditional sanctions (detention, treatment without accountability, etc.) are estimated to reduce recidivism by 7% to 9%, though some authorities argue that current practices have no material impact.

Independent study suggests that the combination of addiction treatment with verifiable abstinence (via 2x daily alcohol testing or CAM) delivers a significant reduction in re-arrests. A very recent study of over 4,000 participants in the South Dakota "24/7 Sobriety Program" (in place since 2005 and which incorporates 2X daily testing or CAM) suggests a 74% reduction in recidivism for two time DWI offenders breath tested twice daily for 90 days (to 3.6% versus 13.7% for the control group). A 2009 National Center for State Courts review of NC CAM use identified a 44% reduction for multiple DWI

offenders (to 2.6% from 4.6%), though the population of offenders reviewed in this study needed to be larger. Both studies are available for review.

How much could NC save if the NCGS enabled CAM use versus current minimum detention for Level 1 DWI (30 days minimum jail) and Level 2 DWI (7 days) with no public financial support?

RSS estimates the following:

State cost - \$0

State Savings

Net Annual Operating Expense Reduction -	\$4,359,000
Avoided Prison Construction Costs -	\$21,000,000

County Costs - \$0

County Savings

Net Annual Operating Expense Reduction -	\$8,181,000
Avoided Jail Construction Costs -	\$22,414,000

A detailed financial analysis is available from RSS upon request.

How much could NC save if the NCGS enabled CAM use versus current minimum detention for Level 1 DWI (30 days minimum jail) and Level 2 DWI (7 days) with full public financial support for indigent offenders?

RSS estimates the following:

State cost - \$587,000

State Savings

Net Annual Operating Expense Reduction -	\$8,132,000
Avoided Prison Construction Costs -	\$42,000,000

County Costs - \$4,720,000

County Savings

Net Annual Operating Expense Reduction -	\$11,541,000
Avoided Jail Construction Costs -	\$44,827,000

How does CAM create savings for the state and counties?

- As a jail diversion alternative, CAM (\$12/day) costs less than state prison (\$64.59/day) or county jail (\$50+/day typically).
- When paid by the offender, CAM further eliminates the direct financial burden of detention on the state and counties, versus prison/jail.
- Avoided prison/jail reduces related social services for the offender's family while increasing offender state income tax contributions.
- CAM, with treatment (now paid for by the offender), reduces recidivism, which reduces future court costs and related future detention and community supervision (\$3.44/day to \$15.27/day).
- Reduced drunk driving reduces related fatalities (approx. 400/year @ \$3,000,000 insurance cost per occurrence) and injuries (approx. 9000/year @ \$100,000 insurance cost per occurrence).
- For parental assessment (DSS application) CAM reduces or eliminates foster care (\$500 to \$1500/month/child, depending on the NC county).

Questions or Comments

RSS hopes that the above information is helpful to the NC General Assembly as it strives to improve the state's criminal justice practices. RSS is pleased to review the above in greater detail and provide further detail below for the statics, observations and conclusions presented above.

Further inquiry should be directed to:

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