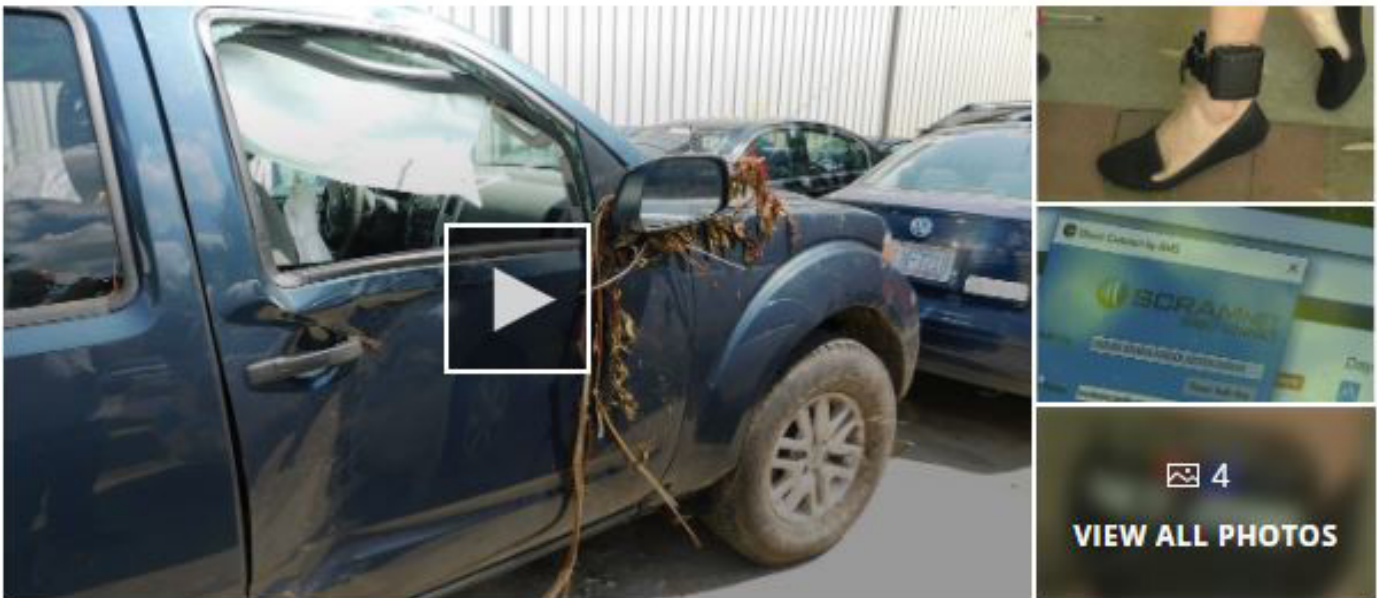


## News 13 Investigates: Judges rarely order DWI prevention tool for repeat offenders

by Karen Zatkulak | Monday, June 17th 2019



Picture from the scene of the crash involving Moser's husband and child.

Frustration and fear.

That's what one local family is feeling after a traumatic accident involving a drunk driver.

Now, several attorneys are joining in the fight, demanding a new type of monitoring device be used for repeat DWI offenders.



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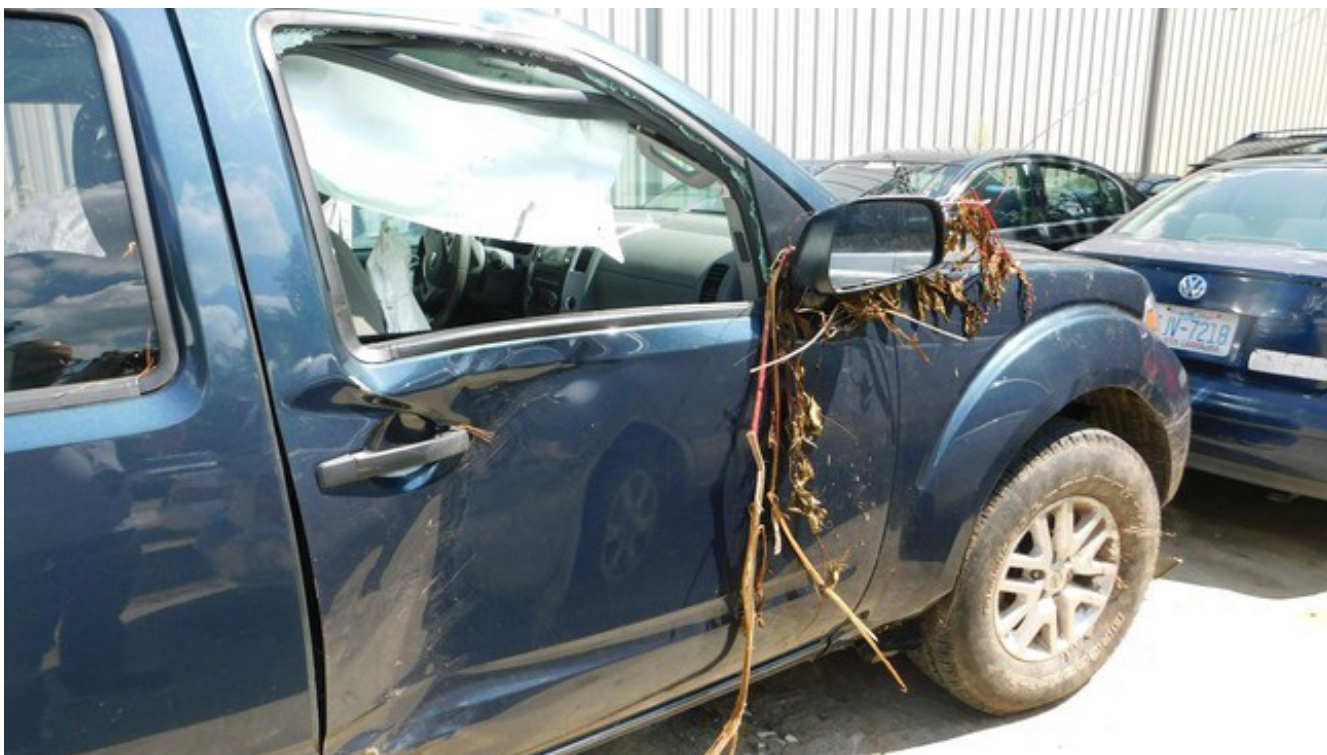
## 'Absolute terror'

Abby Moser said Aug. 18, 2018, was like a nightmare.

"It's hard, it's really hard to get past," said Moser.

That's the night her husband and child were involved in a crash.

When she got the call, she rushed to the horrifying scene.



Picture from the scene of the crash involving Moser's husband and child.

She found her husband's truck smashed, pushed off the interstate, with an airbag deployed over her son's car seat.

"I think about it all the time, every day," said Moser.

Her husband and young son were hurt, but survived.

"They're alive ... they're alive," said Moser.

According to court documents, Tilden White was convicted of a Level 4 DWI in the crash.

About six months later, records show he was charged with another DWI.

"We try to be so careful with our babies ,and to know that people are out there just repeatedly, repeatedly doing this, doing this twice, getting arrested for this twice in a short amount of time is unbelievable, unbelievable to me," said Moser.

Which is why Moser asked the judge to issue a Continuous Alcohol Monitoring, or CAM, device.

But that request was denied.

"I think that setting them lose to potentially drive again with no kind of monitoring in place is very scary," Moser said.

## **How it works**

Tarheel Monitoring is one company that provides CAMs.

Lance Cable showed us how it works.

Every 30 minutes, the ankle monitor reads the sweat coming off your skin and alerts the company if any alcohol is present.

"That's naturally coming out of your skin through your pores, and your body actually processes out alcohol that way," Cable said.

That record can be used in court either pretrial or post conviction.

"The people who have lost loved ones and have been victims of drunk driving and intoxicated driving instances and I get a lot of calls at our business about it wanting to know what can they do to let the judges know and let the magistrates know that they would like to see the devices used to have these folks under monitoring," Cable said.

But Cable said, despite many requests, it's often not ordered.



monitor.png

“We just don’t see the pretrials being utilized by the magistrates. Even though they have that authority, they’re opting not to use that authority, and we are getting lots of questions as to why that is,” said Cable.

Local District Attorney Ashley Welch is also asking that question.

She wonders why the 2012 state law allowing not just judges, but magistrates to order CAMs, isn’t being enforced.

“It’s not happening as much as we would like. I know that it’s been asked for, and a lot of times it’s not granted,” Welch said.

Welch admits price is a factor.

The defendant is responsible for paying a \$75 installation fee and about \$10 a day for the monitor.

“I think part of it is the lack of knowledge of what it is, how it works and the cost,” Welch said.

Why it’s not used more

According to a judge, CAMs are only required for the highest level DWIs if the defendant is on probation.

That includes Level 1 or Level 2 DWIs.

But, we're told it can also be ordered pretrial or post conviction for lower level DWIs or repeat offenders.

We wanted to know exactly how often CAMs are being issued in Buncombe County and found out no one is tracking that information.

So, News 13 spent days in the Clerk of Courts Office, digging for the data ourselves.

We went through an entire week's docket from last May and found 128 DWIs.

Then, we looked up each case one by one.

Twenty-one were the highest levels or repeat offenders.

We then pulled the judgments for each of those cases and found that CAMs were ordered just twice.

We wanted to know why, but despite multiple requests to judges in several local counties, no one would agree to an interview.

Buncombe County judge Julie Kepple did send us a statement saying in part, "the use of cam pretrial is discretionary, and there is no policy for its use. Many times it is a financial burden ..."

But defense attorney James Minnick believes it works to keep repeat offenders off the road and on the path to sobriety.

"The legislature has specifically deemed this as an appropriate carrot for reducing a potential sentence, so it should be utilized more, available more to people who want to use it," Minnick said.

It could also be helpful for those on the other side, worried that a driver with a history of impairment could be a danger to someone else's family.

"If this is a tool that can save lives, then I absolutely want to see it be used," Moser said.

We did reach out to the defendant in Moser's case, but he did not want to comment. We also learned there's a push for a grant in order to pay for CAM in local cases.