

## York County works to cut DUIs by issuing alcohol-monitoring bracelets

By TERESA ANN BOECKEL Daily Record/Sunday News York Daily Record/Sunday News

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A new effort that can require repeat driving under the influence defendants to wear an alcohol-monitoring bracelet before trial will help to save lives and protect the public, York County officials say.

People who are arrested on second or subsequent DUI offenses can be required to wear a Secure Continuous Remote Alcohol Monitor bracelet and abstain from alcohol as part of their bail conditions.

It is intended to prevent defendants from being arrested again on new DUI charges while awaiting trial, and to help them get into rehabilitation sooner.

The effort started in January, and officials are eager to see the numbers at the end of the year.

"We're certain that we have prevented quite a few DUIs because we've had very few of the people that have been monitored commit new DUIs," Judge John S. Kennedy said.

Some defense attorneys said alcohol-monitoring bracelets serve as a deterrent to keep people from drinking and getting multiple DUIs, but it does raise some concerns, including the cost and Constitutional rights.

Attorney Korey Leslie said the defendants pay nearly \$300 a month for the bracelet, and that's a financial burden when they're presumed to be innocent until proven guilty. It also prevents people from drinking a beer while watching television at home, for example.

But "I think the benefits outweigh the negatives," he said.

Attorney Ron Gross said the alcohol-monitoring bracelet served as a constant reminder for one of his clients, and she learned to use other tools to cope with a bad day.

But a person is presumed to be innocent until proven guilty and that raises a Constitutional question. However, many defendants don't have the money to challenge the issue, and it would be more on a matter of arguing on principle, he said. The defendant's case would be long over before the courts would rule on the Constitutional issue.

Defense attorney Suzanne Smith said in an email each person accused of a crime is entitled to an impartial decision. It is good to have the alcohol-monitoring bracelet as an option for bail conditions, she said, but it might not be needed in every situation.

Not everyone can afford the bracelet and if forced to choose between going to jail and paying rent, someone might opt for paying for SCRAM and risk losing their housing, she said.

Judges have a wide latitude when it comes to bail conditions, and "there's no perfect system," Leslie said.

Kennedy said he thinks the effort is Constitutional. Bail is meant not only to assure the defendant appears but also to protect the public. Each case is reviewed individually, and he will not require the bracelet unless he is concerned someone will continue to drink and drive.

Kennedy said some lawyers have asked that a SCRAM bracelet be removed from their client's leg. It's pretty tough to argue that when a client has previously been convicted of DUI and gets another DUI with a high BAC or he or she is under the influence of alcohol and/or drugs, Kennedy said.

"...it's pretty hard to argue they were not a danger to themselves or someone else," he said.

Some defense lawyers have asked that their clients be given the alcohol-monitoring bracelet so the defendants can be released from prison, Kennedy said.

## Multiple DUIs not uncommon

Kennedy said he was shocked a few years ago when a man appeared before him on his fourth DUI offense within a year.

Tests showed the man's blood-alcohol concentrations at 0.386, 0.345, and 0.527 respectively for the first three offenses. He refused the test on the fourth violation when he was driving 15 mph on Interstate 83, Kennedy said. The legal limit in Pennsylvania is 0.08.

"When I finally saw this case, I said, Oh my gosh, how did this possibly happen?" Kennedy said. "It was kind of like the wake-up call."

Further research revealed it wasn't an isolated case. An audit of the 2010 docketed cases showed about a quarter of the DUI cases involved repeat offenders, said Timothy Barker, chief deputy prosecutor with the York County District Attorney's Office.

The problem was brought to the attention of the Criminal Justice Advisory Board, which includes the district attorney's office, the public defender's office, law enforcement, York County Prison, and others. A committee analyzed the issues to come up with a plan.

Officials looked at other successful programs, such as the South Dakota 24/7 Sobriety Project, which has required repeat offenders to undergo a breath test twice a day as part of their bail conditions, Barker said.

They also reviewed Pennsylvania's Rules of Criminal Procedure, and officials determined that more could be done earlier in the process to protect society while bringing the defendants into the system faster, Barker said.

It's an effort to shift the odds in the courts' favor to make everyone safer, he said.

Now after officers arrest defendants on DUI, based on probable cause such as field sobriety tests, police run the suspects name through the National Crime Information Center. If the defendants had a previous DUI in the last 10 years, they can be arrested in connection with general impairment, Kennedy said.

District judges can place the defendants on supervised bail if they are determined to be a danger to themselves or the public. They would be outfitted with a SCRAM bracelet within a few days and ordered to get evaluations, including one for drug and alcohol use.

The charge can be amended later when the blood test results come in, Kennedy said.

## Effort generally does not include first-time DUI suspects

The effort generally does not include first-time DUI suspects because many of them go through the ARD program, which is about 80 percent successful, Kennedy said. If they are rejected from the program, it's usually for other reasons, such as not paying costs.

"If someone does incur a second DUI in Pennsylvania, the chances are they do have a drinking problem and chances are that they are going to continue to drink," Kennedy said.

Barker picked up 15 files that came in as part of the bracelet program within the past 20 days. He screens their files within about 20 days to see if they are eligible for DUI treatment court or intermediate punishment.

Kennedy, who in January took over the DUI treatment court, which also uses the SCRAM bracelets, said he has asked defendants when they took their last drink. Almost everyone said the day before they got their bracelet.

Some defendants in the treatment court have said the bracelet is the only thing that was able to get them to stop drinking, Kennedy said.

The cost is \$9 a day for the monitor and a \$75 hookup fee, said Michael Stough, deputy chief of York County Adult Probation/Parole Department. Defendants have not been turned away because of their inability to pay.

Defendant shared how the bracelet changed his life

If a suspect has a serious violation that would place the defendant or public in danger, the person can be sent to jail for a short period of time until a drug and alcohol evaluation can be completed and treatment can be set up, Kennedy said.

Otherwise, this program helps to keep people out of prison, which helps to save money for taxpayers, officials said.

Kennedy said one man told Kennedy how great the SCRAM bracelet is and how it has changed his life. He started enjoying the things he used to enjoy, and he's happier.

Northern York County Regional Police Chief Mark Bentzel said he applauds the new policy and effort of everyone to come together on it. Others have echoed his comments.

His department arrested 500 people on drunken driving charges last year.

He said the change hasn't created a lot of extra time for police officers, he said. The paperwork is completed immediately as opposed to three to four days later.

"Ultimately, that should save lives and reduce injuries of other drivers on our roadways," Bentzel said.

SCRAM bracelet by the numbers

Here are some numbers related to the use of the SCRAM bracelet:

--- Active: 395

--- Clients that have been on since January 2012: 803

--- Confirmed consumptions of alcohol: 45

--- Clients with no infractions: 699

--- Full compliance rate: 87 percent. Nationally, it's about 80 percent.

--- Two clients have received a DUI while on the SCRAM bracelet.

--- The SCRAM bracelet also is used in DUI treatment court. For 13 people who graduated from treatment court, it saved 4,554 jail days and about \$231,344.

Source: Michael L. Stough, Deputy Chief-York County Adult Probation

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