



Web Search powered by **YAHOO! SEARCH**

CharlotteObserver.com Se

SEARCH

charlotteobserver.com Web Archives

- [Weather](#)
- [Traffic](#)

67° Cloudy | [Forecast](#)

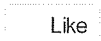
- [Map](#)
- [Trouble Spots](#)
- [Key Routes](#)
- [I-77N](#) | [I-77S](#) | [I-85N](#)
- [I-85S](#) | [I-277](#) | [I-485N](#)
- [I-485S](#) | [74E](#) | [74W](#) | [521](#)

[0 Comments](#)

- [Print](#)
- [Reprint or License](#)
- [Share](#)

DWI courts can't use key tool

N.C. treatment courts can't employ ankle bracelets. Some say turf battles had a role.



Be the first of your friends to like this.

By Ames Alexander

aalexander@charlotteobserver.com

Posted: Friday, Aug. 13, 2010

North Carolina has prevented the state's drug and DWI treatment courts from using technology that has helped thousands of alcoholics stay sober.

Guidelines approved in 2007 prohibit those courts from using the ankle bracelets commonly employed to ensure that offenders don't drink.

That decision has puzzled and frustrated some officials, who question whether opposition to the technology was sparked in part by turf battles and personality conflicts.

David Wallace, director of the National Center for DWI Courts, said he's not aware of any other state that has imposed such restrictions.

"I'm very surprised," said Wallace, whose organization helps train officials in setting up DWI courts. "...It takes away one more tool that could be used to monitor people ... so they're not out there risking the community's safety."

The state's more than 40 drug and DWI treatment courts are designed to help rehabilitate repeat offenders who suffer from addictions. Participants are typically required to follow their jail sentences with months of intensive alcohol or drug treatment.

Judges in other N.C. courts can still order use of the bracelets, which test an offender's sweat every half-hour for signs of alcohol use. When those on probation are caught drinking, judges can order more treatment or punishment. Offenders pay a private company \$12 a day for the device.

The decision to prohibit the bracelets in the drug treatment courts follows opposition by two high-ranking state officials who have raised concerns about the technology. Few dispute some of their chief contentions: The devices are pricey and they can't stop someone from driving drunk.

Gregg Stahl, the senior deputy director of the N.C. Administrative Office of the Courts, is widely viewed as one of the chief foes of the technology.

All the studies about the reliability of the bracelets, Stahl contended, have been funded by the device's leading manufacturer. "That sort of taints the science," he said.

He also maintains the device is vulnerable to "significant false positives" - that is, registering alcohol use when there has been none.

But an author of one study disputes those claims, noting that his research was funded by the federal government.

"Overall, the device worked as it was intended," said co-author Scott McKnight, whose study was published by the National Highway Traffic Safety Administration. "...False positives aren't really a problem."

McKnight and his fellow researcher did encounter one problem: The device became less able to detect alcohol use the longer it was worn. Stephen Talpins, vice president of Alcohol Monitoring Systems, the device's leading manufacturer, said the company has corrected that problem.

A number of groups - including the National Association of Drug Court Professionals and the N.C. Conference of District Attorneys - have endorsed the technology. And a preliminary study by the National Center for State Courts found that repeat DWI offenders who wore the bracelets for 90 days or more were less likely to drive drunk again.

Judges sometimes agree to give a shorter jail sentence if an offender is willing to be monitored by the bracelet. But Stahl and some other state officials question whether that's fair to those who can't afford the \$12 daily fee.

If such technology is used, he argued, the state should own and control it - and judges should be able to provide it regardless of ability to pay.

The bracelets aren't appropriate for drug treatment courts, Stahl said, because drug users - not alcoholics - are the target group for those courts.

Still, it's not uncommon for those courts to monitor alcoholics. About 20 percent of the more than 1,000 adult offenders who participate in an N.C. drug treatment court each year report alcohol as their "drug of choice," state data show.

The device can't immediately stop anyone from driving drunk, Stahl noted. Court officials aren't alerted as soon as an offender begins drinking because the test data are typically transmitted to a central computer just once each day.

"At some point, you're going to write an article where someone's killed somebody and they've got one of these bracelets on their ankle," said Stahl, the No. 2 official in the N.C. courts office and a 39-year veteran of state government. "And

it's going to kill the entire industry."

'System will collapse'

In January 2007, a little-known state committee made a far-reaching decision.

Stahl provided the Drug Treatment Court Advisory Committee a two-page memo laying out many concerns about the technology.

The committee also received a collection of e-mails from others who had raised questions. One of the most vocal opponents was Robert Guy, then head of the state's probation system, who spoke out against the cost and marketing of the device.

"I am adamantly (sic) opposed to the door to door sales peddling approach used by this company to our Judges, DA's, defense attorneys, etc. ... ," reads a 2006 e-mail Guy wrote to one judge. "They are peddling their goods in the wrong environment and in disregard of our competitive bid process."

Guy worried that such companies could interfere with the way his 2,600-employee agency functioned.

"If we open the flood gates for any and all vendors and technologies to solicit business directly from the courts our system will collapse and community correction, probation, and post release as we know it will be rendered ineffective ..." Guy wrote. "Soon to follow is privatizing (sic) and gutting the system, which I strongly oppose."

The committee recommended barring the devices in drug treatment courts.

Bruce Roberts, president of Rehabilitation Support Services, a Brevard company that provides the bracelets to N.C. courts, said his company is working to make the devices more affordable for low-income offenders.

He said former N.C. Chief Justice I. Beverly Lake in 2005 gave him approval to approach court officials about the technology. The company has since stopped going door to door to market the device, he said.

In his quest to make the technology widely available in North Carolina, Roberts pushed hard - and rubbed some officials the wrong way, some say.

"I believe there must be some personal animosity on the part of individuals at AOC and Corrections for opposing this life-saving device," said Rufus Edmisten, a former N.C. attorney general who served as an unpaid lobbyist for Rehabilitation Support Services.

"I find that reprehensible that people in government would let petty things get in the way of saving lives."

Stahl, however, said his opposition was based on the merits, not a personality clash.

Guy retired from his job in 2009 after Gov. Bev Perdue made it clear he would not stay on in her administration. A (Raleigh) News & Observer investigation the previous year found that his staff left dangerous probationers unwatched - and that he missed chances to implement technology to help his officers. He now heads a company that provides probation officers with a Web-based system for keeping tabs on offenders.

Beating the system

The 2007 edict continues to impede the use of the technology, Roberts says. Nowhere have the rules affected justice more than in Mecklenburg County, which operates two DWI treatment courts.

In 2005 and 2006, before the technology was banned from treatment courts, Mecklenburg used grant money to buy 10 of its own bracelets. The county courts regularly required participants in the DWI court to use them.

For the first time, probation officers found it easy to catch offenders drinking, said Janeanne Tourtellott, Mecklenburg County's drug treatment court administrator.

Those caught were brought before judges, who usually ordered them to get more treatment. Tourtellott said offenders got the message: "Changes had to be made."

After the 2007 ruling, the DWI court was forced to revert to its old approach: testing offenders two to four times a week with a breathalyzer. Now, Tourtellott said, "there's a high probability that individuals will be able to beat the system."

In Mecklenburg, the number of offenders ordered to wear the bracelets has dropped from 94 in 2006 to just 14 last year, according to Rehabilitation Support Services.

The technology has been slow to take off statewide as well. In North Carolina, about 1,100 offenders have been monitored by the devices. Nationally, the number exceeds 140,000.

As the Observer reported last month, another decision has also sharply limited the bracelets' use. Under a provision in N.C. law - which experts call the only one of its kind nationally - judges aren't allowed to put the devices on serious DWI offenders for more than 60 days.

That's how long Howard Pasour was ordered to wear the bracelet last year after his third DWI conviction. Pasour was allowed to remove the device in January. Today he's in jail, charged with causing a crash in Gaston County last month that killed 17-year-old Laura Fortenberry. Authorities say he had been drinking.

Whether a longer stint on the bracelet would have made a difference in Pasour's case is unclear. But researchers have found that it typically takes more than 60 days of abstinence to ensure that people with serious alcohol problems change their behavior.

Choosing their battles

Some judges have been reluctant to use the technology until they believe all offenders can afford it.

The state's decree cut short a program in Mecklenburg that was designed to make the devices more affordable.

In 2008, the county launched a six-month pilot program to make the anklets available to 100 low-income offenders. But when Stahl, the AOC official, learned of the program, he sent the county manager's office an e-mail noting that state guidelines prohibited the technology's use in drug treatment courts.

Soon afterward, Mecklenburg canceled the two-month-old program.

"My vague recollection is, I didn't want to be in opposition to the AOC on this," said county general manager Michelle Lancaster, who made the decision to end the program.

Billy Wilson, a former analyst for the county manager's office who helped establish the pilot program, said that he and Lancaster understood that defying the AOC could wind up hurting the county. North Carolina's justice system is state-run, so the AOC must sign off on all efforts to use county money on the courts, he noted.

"We were picking and choosing our battles," Wilson said.

Soon after the Mecklenburg program was canceled, Sen. John Snow, D-Cherokee, wrote to the AOC's director to complain about the "continued interference by Stahl."

"Now a money saving program that would have been an example for the other North Carolina counties is destroyed," Snow wrote.

Stahl said he wasn't trying to end the program. But, he said, Mecklenburg officials were planning to use the bracelets for offenders in the drug treatment courts, among others.

"I didn't want Mecklenburg County to be crosswise with the guidelines the committee issued," he said.

Those in the state's drug treatment courts represent only a small percentage of offenders, Stahl notes.

Still, many advocates say, there's little question the tool would assist courts in their mission to help hundreds of alcoholics stay sober.

Tourtellott acknowledges that the bracelets won't prevent all drunken driving.

"But it begins to allow treatment to come in more quickly...," she said. "To me, it just seems like one of those pieces of the puzzle that helps bring a brighter light on the problem."



[Subscribe to The Charlotte Observer.](#)

Like Be the first of your friends to like this.

HIDE COMMENTS


This affects comments on all stories.

Cancel Ok

The Charlotte Observer welcomes your comments on news of the day. The more voices engaged in conversation, the better for us all, but do keep it civil. Please refrain from profanity, obscenity, spam, name-calling or attacking others for their views. [Read more](#)

Add New Comment

[Login](#)



Real-time updating is **enabled**. [\(Pause\)](#)

Showing 0 comments

Sort by newest first