

# Interagency **TASK FORCE** ON Drunk Driving

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## Meeting Minutes November 18, 2011

Chief Wolfinbarger (Chair) called the meeting to order.

### Attendees:

- Dave Timken
- Glenn Davis
- Fred Rodgers
- Bill Young
- Vanessa Simmons
- Stephen Hooper
- Paul Aylmer
- Adrian Vasquez
- Jennifer Gray
- Steve Wrenn
- Leslie Nelson Taullie
- Christine Flavia
- James Wolfinbarger
- Heather Halpape
- Katie Wells
- Kris Johnson
- Samantha Bloodworth
- Leslie Nelson Taullie
- Courtney LaCava
- Michael Elliott
- Julie Vardiman
- Matthew Mitchell
- Jill Hart
- Tom Kissler
- Judy Eaton
- Lisa Finch
- Tammy Lovejoy
- Ed Casias
- Patrick Maroney
- Bear Kay
- Robert Ticer
- Heather Garwood
- Ray Fisher

### Introductions and Initial Comments:

All present introduced themselves. There were no public comments.

### Approval of Minutes from Last Meeting:

Steve Hooper moved to approve the minutes, and Christine Flavia seconded. Minutes from the October 21<sup>st</sup>, 2011 meeting were approved unanimously.

### Summary of Key Performance Indicators:

KPIs are attached.

### Media Relations & Significant Upcoming Events (Heather Halpape and Bear Kay):

CDOT and MADD are working on a holiday tree with pictures of DUI crash victims and survivors. CSP will put together an “I am here for (victim’s name and picture)” campaign for patrol vehicles. Heather gave an update on designated driver efforts at the Broncos games. We are still doing a Facebook “like” competition for the designated driver page. The holiday campaign was introduced, and Heather is working with the CLBA and MillerCoors to get information into retail establishments, visitor centers, etc. There will also be radio, billboard, online and TV advertising campaigns. Halloween seems to be a big problem (for the past few years), especially with underage drinking. This year, there were 447 DUI/DUID arrests statewide over the Halloween weekend.

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## NoDUIColorado website (Christine Flavia and Shadia Lemus):

CDHS is looking for feedback by December 1 on major issues and suggestions for ongoing upgrades. Judge Casias suggested that this website be advertised to offenders in the judicial process, possibly at evaluation by giving out bookmarks or cards. Other suggestions included adding prevention tools (tips for hosting a party), providing a link to victim impact information, optimizing the site for mobile use (other than the maps, it is already good), and handing out information at detox facilities. They are hoping to "go live" in mid-December.

## SCRAM Presentation (Matthew Mitchell):

Presentation is attached. On behalf of Alcohol Monitoring Systems (AMS) and SCRAMx technology, thank you for the opportunity to present information about the important work AMS does to make our communities safer by helping people with alcohol issues stay sober. To date AMS and our network of authorized local service providers (RMOMS, Intervention Inc., Singlepoint Services) and government agencies (City and County of Denver, Douglas County) has helped monitor over 20,000 offenders in Colorado with some amazing results.

### Colorado Stats: 2004 – 2011

- 20,000 offenders have been monitored by SCRAMx technology
- 58 million transdermal alcohol tests
- 75 days average length of time on SCRAMx
- 77% compliance rate which means 3 out of 4 offenders stay sober
- 23% non-complaint rate which means either offenders have confirmed drinking or tamper events that have been reported to authorities

### Follow Up Information:

- AMS has an open invitation to members of the task force to come visit our corporate headquarters in Littleton if you are interested
- AMS would also encourage members of the task force to consider learning more about how SCRAM is being used in their jurisdiction or agency
- There was a suggestion from the judges about contemplating legislation that specifically references judicial notice on the admissibility of the SCRAM technology when challenged so as to assist courts and prosecutors in efficiently responding to these challenges. Would this be something the task force would support, endorse or provide a recommendation either in this session or next session?
- Would the task force be interested in discussing Continuous Alcohol Monitoring legislation that mirrors the work of other states in 2013?
- If there is any other information please that members would be interested in please don't hesitate to ask.

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## **Refusals Discussion (Chief Ticer):**

Presentation is attached. Chief Ticer was one of 400 "Law Enforcement Phlebotomists" in Arizona and did many blood draws. He suggested that the group look at the average BACs of warrant draws. The number of refusals in Avon is alarming, and his experience is that most drivers faced with the possibility of a warrant will voluntarily give the blood. Arizona draws blood on any age driver. Wyoming passed a law in July to allow electronic search warrants for DUI cases. Judge Casias asked about the liability or immunity involved in officers drawing blood. Getting the blood within a two-hour window could be a challenge. There could be issues with two filings (Per Se and Refusal).

## **Appreciation for Paul Wood and Sheriff John Cook:**

Commander Paul Wood (representative of Sheriff John Cook and the County Sheriffs of Colorado) is taking on new duties and will no longer be serving on the task force. Sheriff Cook is going to be asking CSOC to appoint another representative. The group wishes to express its appreciation for the participation of Commander Wood over the past few years.

## **Workplan Updates:**

The task force has added new members since the workplan was created, so we need to establish an opportunity to include new members. We also want to figure out how to address updates to the workplan efficiently. We need to do more status updates with who is on each group and what has been done. Dashboard updates can be done 1-2 times per month by e-mail to start. Please send suggestions for collaboration methods to Jill Hart before January's meeting.

## **Planning for Annual Report (Jill Hart):**

This year's Annual Report will be structured according to the strategic plan. Some updates have already been submitted, and others need to be to Jill by 12/1/11 if possible. A final draft will be submitted to the task force via e-mail by 12/9/11, and final changes will be made by 12/16/11 in order to have it printed before the end of the year.

The report will be given to Sgt. Juchem (CSP) for distribution to the legislature. Chief Wolfinbarger will be presenting the report to the Joint Judiciary Committee in January.

**Schedule next Marijuana Per Se Discussion:** The task force should be a resource for the legislature and provide subject matter experts, but there is no legislation proposed at this point. There is an update on this issue in the Annual Report, so it will be available for review with the rest of the report.

## **Lightning Round Updates:**

Judge Casias - there was a presentation on ARIDE last month, and he is trying to get a block of training on that subject at next judicial conference. Summit County Sheriff is going to do a presentation on ARIDE as well.

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Ray Fisher – troop 1D has been doing a melding of saturation and checkpoints, and it is going really well. Having the DUI van has been great.

Bear Kay – thanks to CDOT, MillerCoors, and MADD for all of our designated driver sign-ups.

Heather – there will be some new games on the Facebook site.

Kris Johnson – Summit County Prevention Alliance has been putting together information for resort employees including things to do in Summit County without drinking. Standard Sales is kicking off its designated driver program for the holidays.

Patrick Maroney – Laura Harris has been reassigned and is being replaced by Don Burmania. During the Rocky Mountain Showdown (CU vs. CSU) there were 73 MIP arrests in the parking lot (up from last year).

Jennifer Gray – the article about McKayla has gotten lots of great responses, and she is speaking by herself this year.

Christine Flavia – Scott DeMuro can no longer represent the Substance Abuse Counselors of Colorado, so SACC will be appointing someone else to the task force. Katie Wells will submit a proposal in January to have the task force “adopt” the underage workgroup.

Adrian Vasquez – is the DUI coordinator for the Colorado Springs Police Department. Even though his Chief’s decision is to move away from checkpoints, CSPD is committed to DUI enforcement through high visibility enforcement, etc.

**Next Meeting: January 20, 2012 in Room C-5 (Main Building) at the CSP Academy**



# Secure Continuous Remote Alcohol Monitoring



Colorado Interagency Task Force on Drunk Driving – November 18, 2011

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# Agenda

- Introductions
- Smart Justice Concepts
- Alcohol Monitoring Systems of Colorado
- SCRAMx 101
- SCRAMx at the national level
- SCRAMx at the local level
- Discussion and Questions



# Smart Justice –

*A Strategic Balance of Correctional Alternatives*

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# We Cannot Expect Different Results

**if we don't change the strategies...**

## Evolution of Approaches to Alcohol Misuse and Crime:



In the last decade, **economic**, **legislative**, and **human** necessity have driven the innovation of alcohol testing methods and technologies – public-private partnerships – resulting in “smart-on-crime” solutions that are getting “tough-on-crime” results

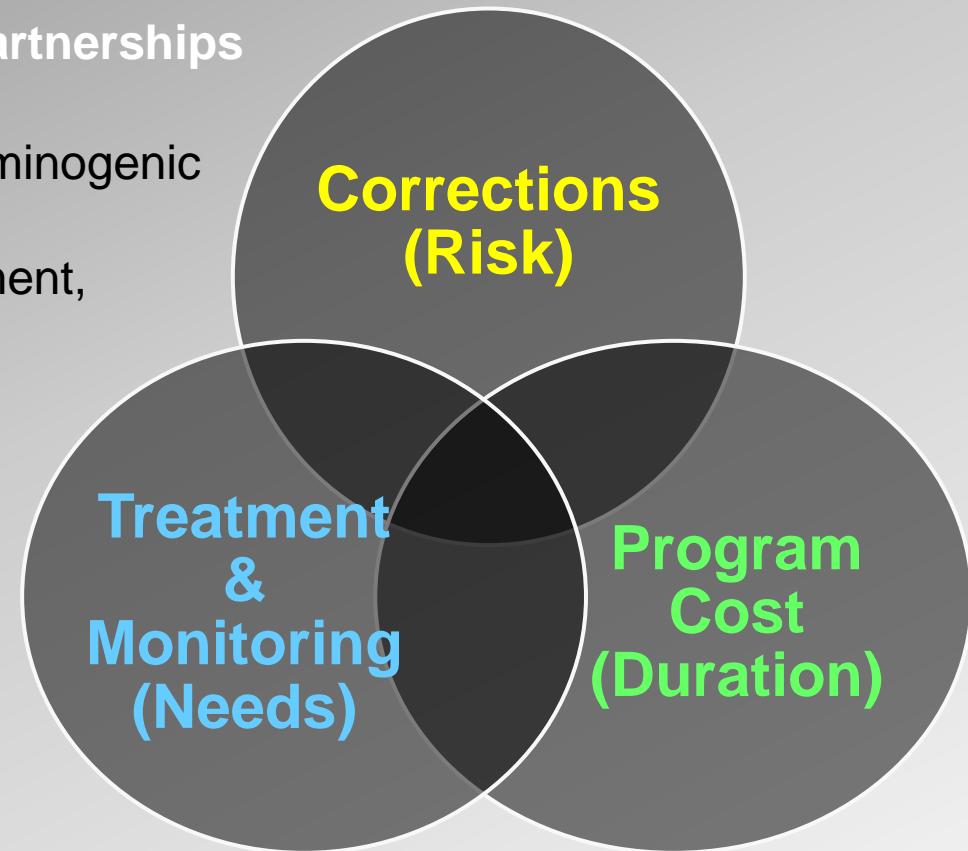
# Smart Justice

**Collaborative, cross-functional partnerships and strategies that:**

- Balance behavioral indicators, criminogenic needs, and economic feasibility
- Integrate the optimal mix of treatment, monitoring, and supervision

**Result in realistic and relevant outcomes:**

- Enhanced public safety
- Lower recidivism rates
- Streamlined caseloads
- Measurable cost savings
- Meaningful impact against the issues involving alcohol and crime

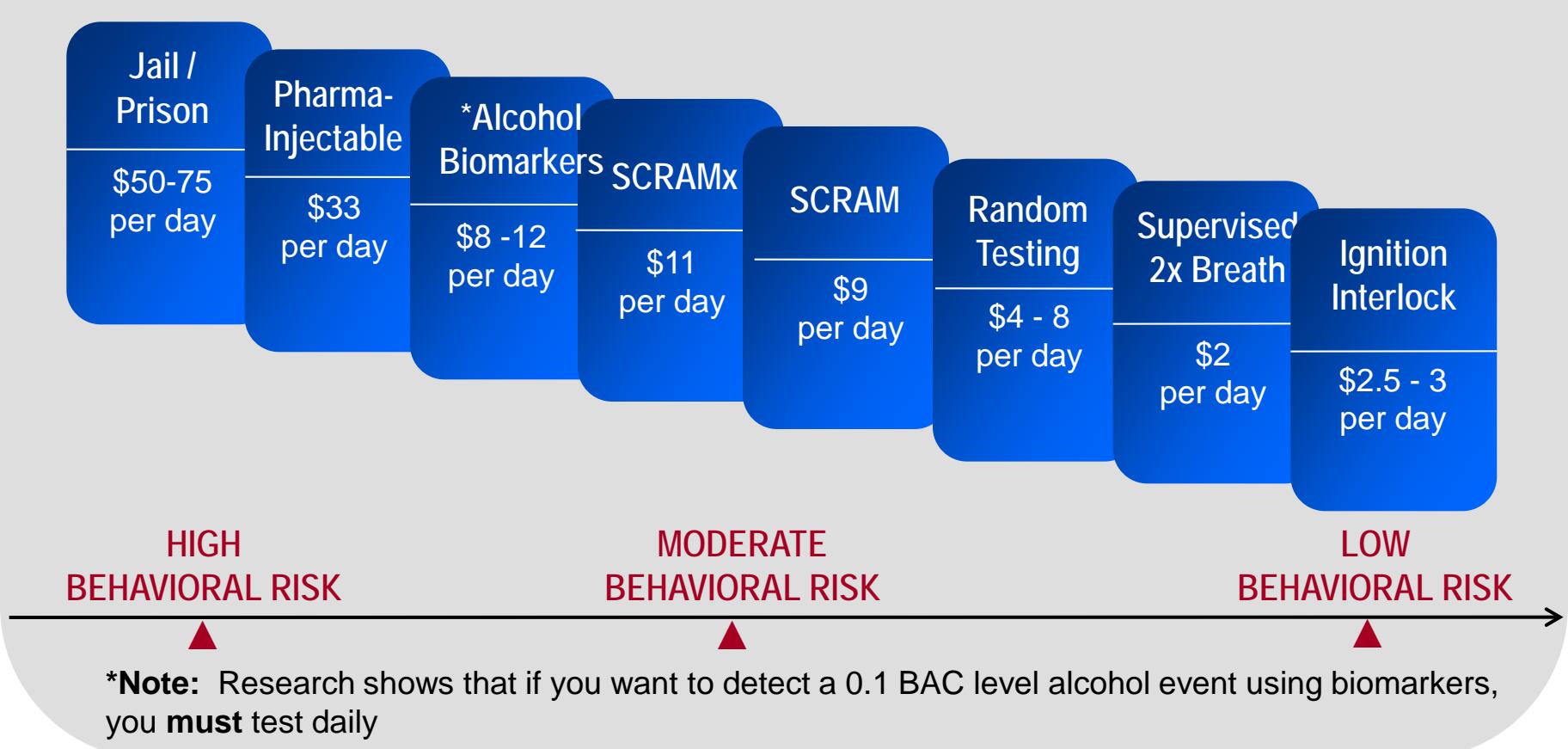




# Alcohol Testing Matrix

## ALCOHOL MONITORING CONTINUUM

Dynamically Adjustable Mix of Continuous, Scheduled, and Random Testing





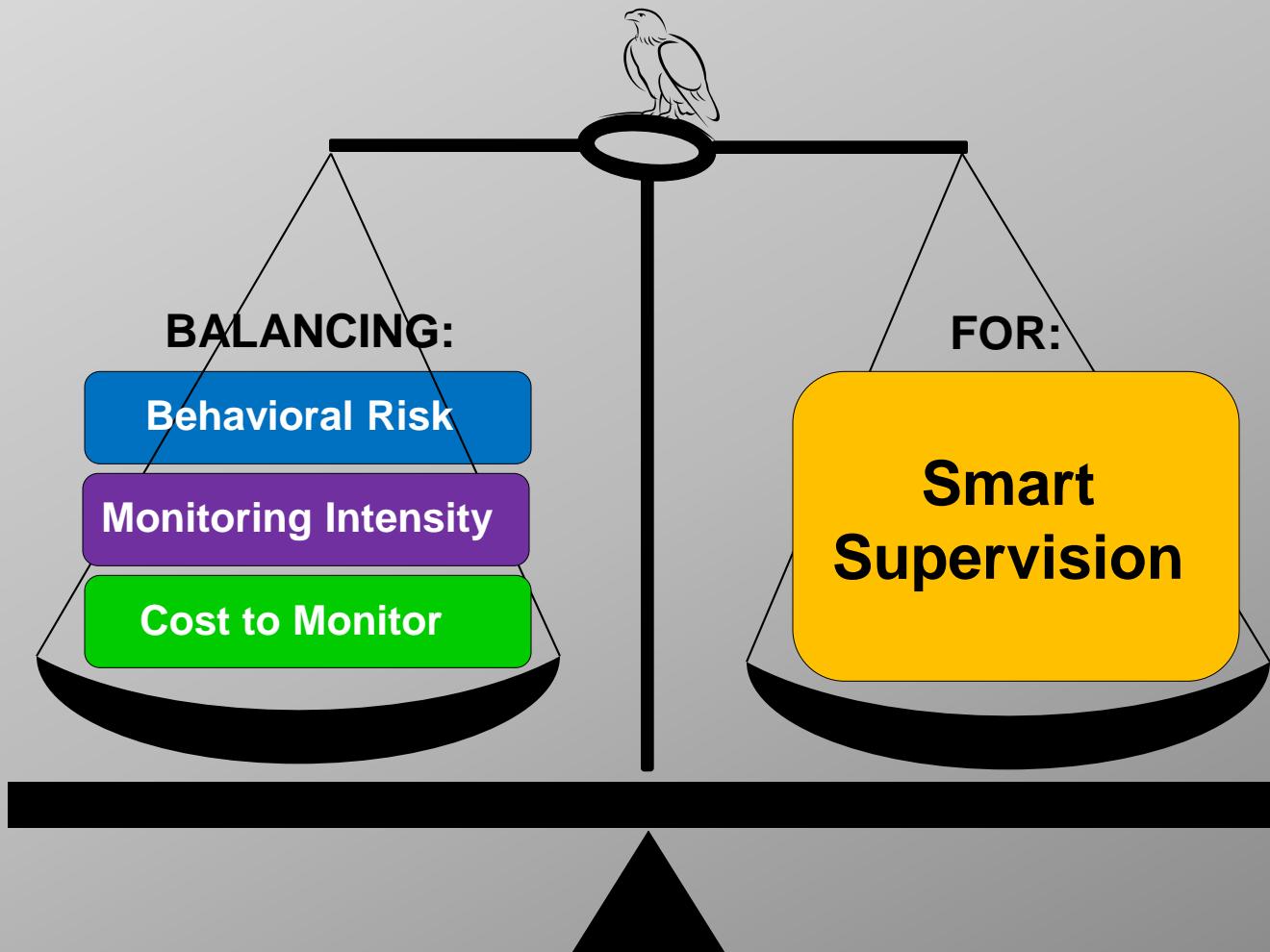
# Alcohol Testing Matrix

Tools Available	Cost per Day	Level of Behavioral Risk		
		HIGH	MODERATE	LOW
▪ Jail	\$55 – \$75	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ Injectable	\$33	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ SCRAMx	\$11	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ SCRAM	\$9.5	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ Biomarkers*	\$8 – \$10	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ Random	\$4 – \$8	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ Supervised 2x Daily	\$3 – \$4	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
▪ Ignition Interlock	\$2.50 – \$3	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

\*Research shows that if you want to detect a 0.1 BAC level alcohol event using biomarkers, you must test daily.

# Smart Justice

## THE CORRECTIONS COMPONENT



# Striking a Balance

From traditional approaches . . .



to Smart Supervision



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# Mission Statement

***Changing the game to revolutionize alcohol offender management***

*Recidivism rates for alcohol offenders have been virtually unchanged for the last 30 years!*

*AMS delivers an enabling technology and service platform that changes the way the corrections industry can manage alcohol offenders.*

CAM + House Arrest



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# Call to Action

**Separate alcohol from the offender...**



*and your job will get much easier.*

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# The Problems We Are Solving

40% of all offenders are alcohol involved when arrested



1.4 million DUI arrests every year



The hardcore drunk driver (HCDD) persists



80% of domestic violence is alcohol related



Jails and prisons are overcrowded



The system is overwhelmed



Recidivism rates remain unchanged



Traditional methods have not produced better results



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# So, what is SCRAMx?

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# System components



## SCRAMx System Components

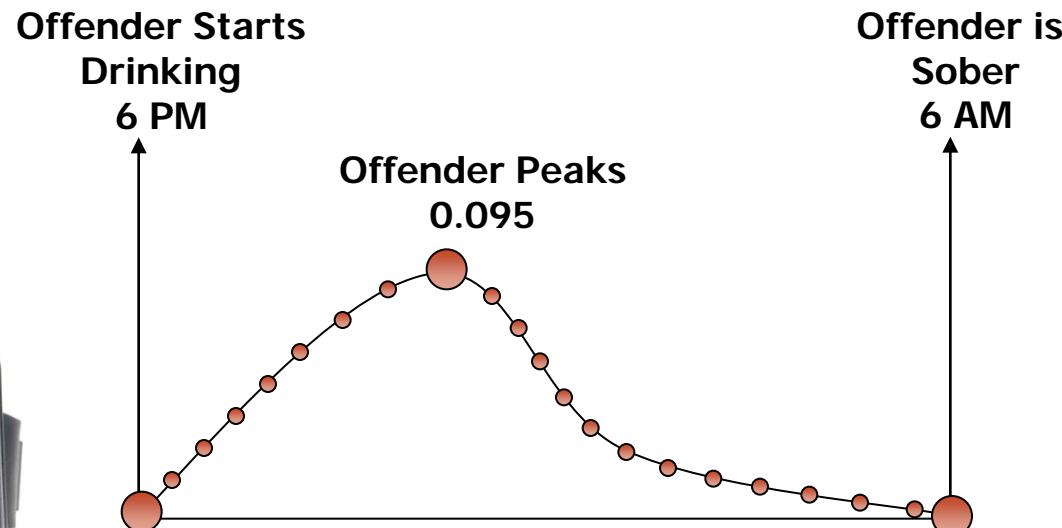
- 1 SCRAMx Bracelet** monitors for alcohol and curfew compliance
- 2 Base Station** receives data from bracelet
- 3 Data** transmits from base station to SCRAMNET
- 4 SCRAMNET** is central database and repository for analysis and reporting

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# 48 Tests a Day

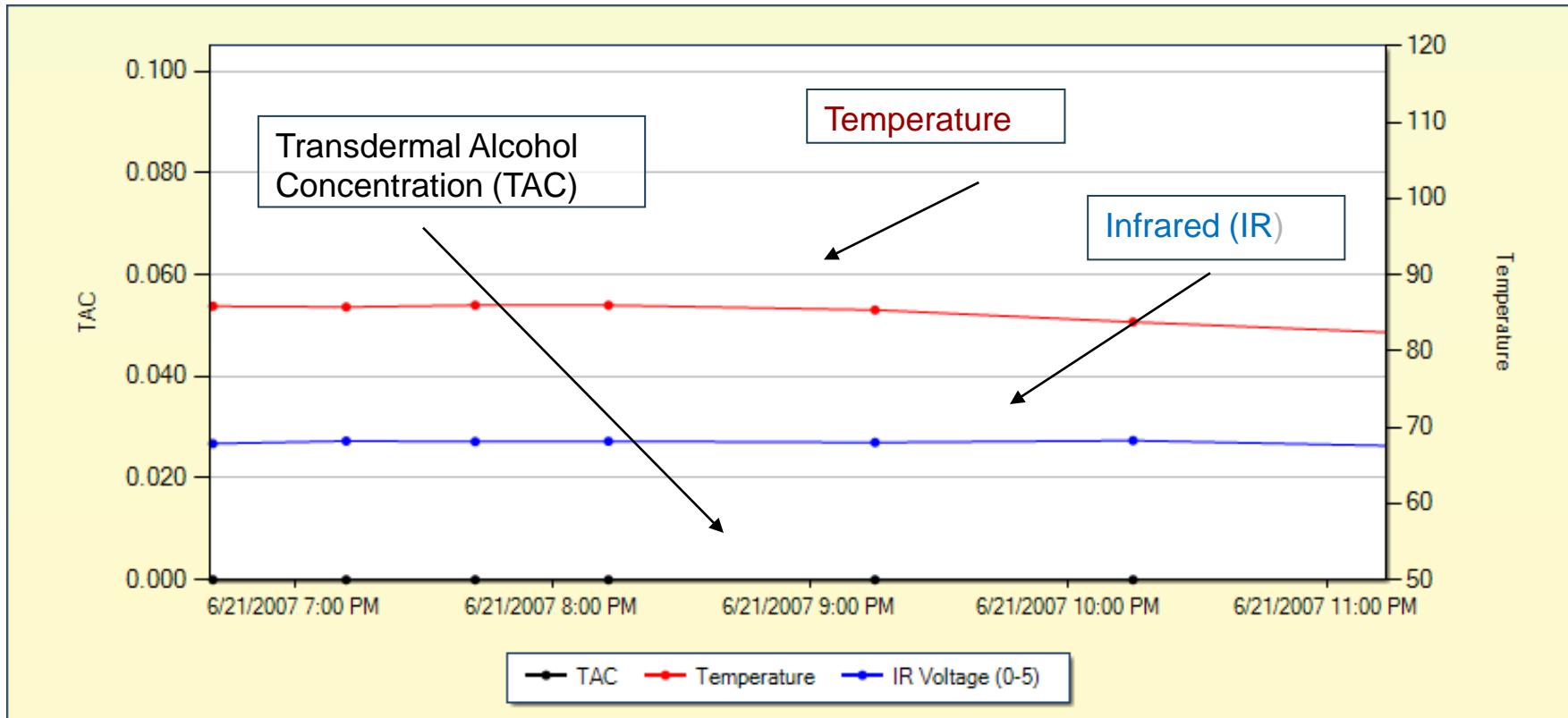
**SCRAM monitors an offender's alcohol consumption every 30 minutes, 24x7!**



**CAM detects the entire drinking event!**

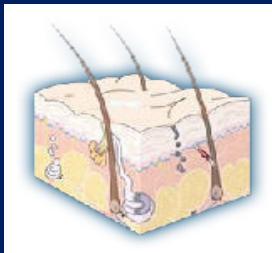
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# Three Core Functions



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# Transdermal alcohol measurement



SCRAM measures ethanol vapor as it is given off by the skin

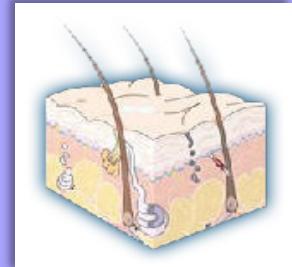
People eliminate a small amount of waste products transdermally in their sweat

- Sensible perspiration: liquid phase
- Insensible perspiration: vapor phase

Approximately 1% of ingested alcohol is eliminated through the skin via insensible perspiration

Alcohol present in this sweat was not metabolized in the liver

- Leaves the body unchanged



# Transdermal Alcohol Concentration (TAC)

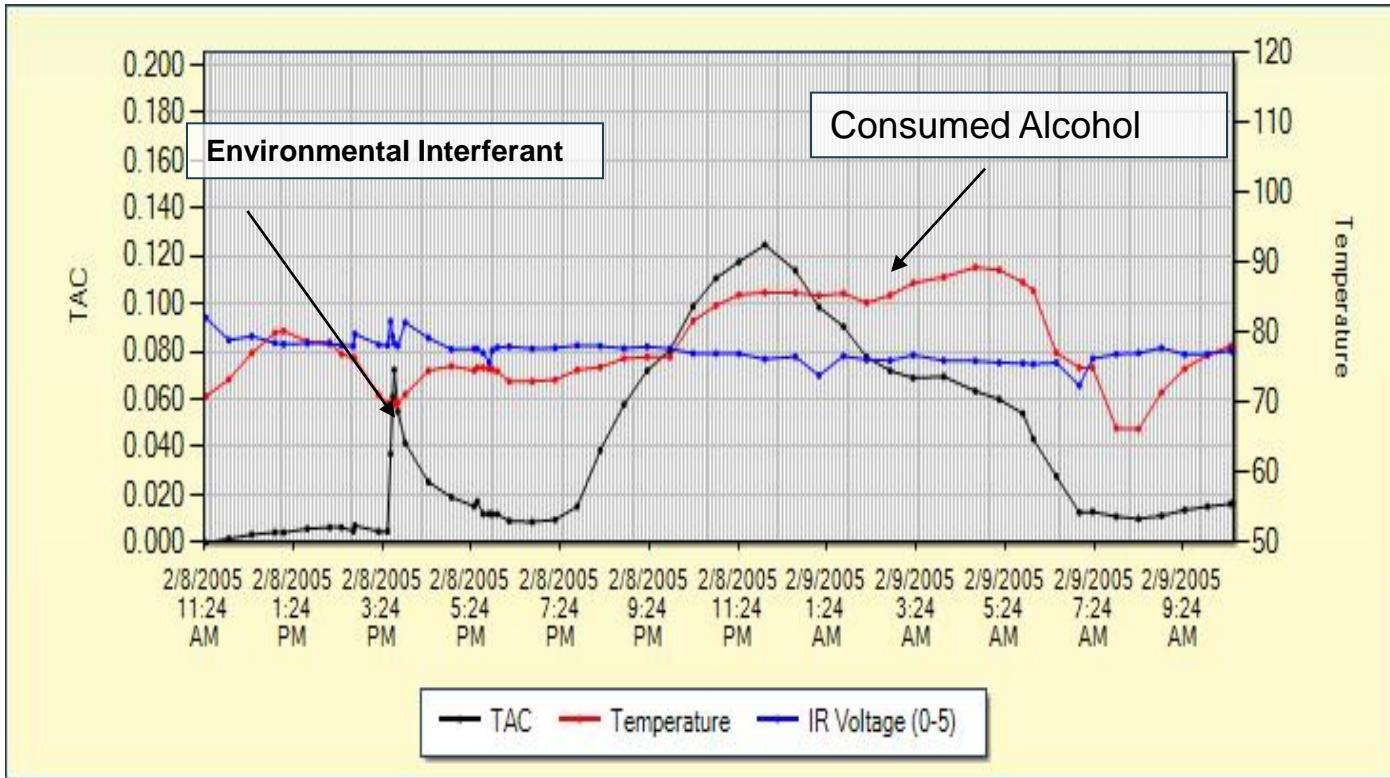
SCRAM  
readings are  
quantitative

- Transdermal Alcohol Concentration (TAC) is correlated with BAC

SCRAMx “flags” drinking episodes when there are 3 or more consecutive readings of  $\geq 0.020$  TAC

- Most people will require at least two standard drinks to achieve a 0.020 TAC

# Non-complaint data



➤ Environmental Interferant

Absorption Rate = 0.191%  
per hour

Elimination Rate = 0.030%  
per hour

➤ Consumed Alcohol

Absorption Rate = 0.022% per hour  
Elimination Rate = 0.014% per hour

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# Gold Standard

## Controlled Sample Delivery

Scientifically validated toxicology screening methodology most widely used in criminal justice

## Draeger Fuel Cell

Most reliable and commercially used fuel cell on the market today

## Single Source Admissibility

No secondary test required to stand up in court. Results are as valid as a drug test

## Manual Data Analysis & Exception Based Reporting

In addition to our automated detection criteria, an individual, and then peer reviewed analysis is done on each potential confirmation to eliminate false positives

## AMS-Supported in Court

AMS has prepared and supported over 1,600 cases and has been validated in every state challenged

## Peer-reviewed and Scientifically Accepted

SCRAM has been proven to be the most reliable and effective tool to continuously monitor for alcohol

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# Field tested and peer reviewed



## Evaluating SCRAM

"The SCRAM system clearly meets the objective of accurately measuring alcohol consumption."

—Michigan DOC

### Ongoing Studies

**National Highway Traffic Safety Administration (7 Case Studies)**  
**RAND Corporation (SD 24x7 Program)**  
**Pruesser Research Group (SD, NE, Wis)**  
**University of Nebraska – Omaha (Nebraska CAM program)**

### Completed Studies

- **NHTSA:**  
“Evaluating Transdermal Alcohol Measuring Devices”
- **University of Colorado Health Sciences:**  
“Validity of Transdermal Alcohol Monitoring: Fixed and Self-regulated Dosing”
- **Traffic Injury Research Foundation (TIRF):**  
Comprehensive overview of CAM and SCRAM
- **Other Studies:** National Law Enforcement and Corrections Technology Center, Acadiana Criminalistics Laboratory, Michigan Department of Corrections, University of Alaska, University of Texas – San Antonio Medical Health Services

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# Impacting Recidivism

**STUDY:**  
**National  
Center  
for State  
Courts  
2009**



## RESULTS:

- Recidivism rate **dropped by:**
  - **14%** for all crimes
  - **45%** for hardcore DWI offenders (2+ convictions)
- Offenders with 90 days on SCRAM had half the recidivism rate of those who were on SCRAM for less than 90 days or not at all

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# Legislative Initiatives 2011

## Continuous Alcohol Monitoring Bills – (CAM)



**Nebraska – LB667**

- Focus on repeat DUI's
- BAC .150 and higher = Jail, CAM, Interlock
- Addresses refusals and IID DL work permits



**Montana – HB 106**

- 24x7 Sobriety Program
- Program to mirror SD and ND with x2 a day BA testing, CAM and Drug Patches
- You fail you go to Jail



**North Carolina – H49**

- Laura's Law
- CAM as pre-trial for multiple DUI offenders
- Alternative to Jail
- Increased sanction for Agg. DUI
- CAM in DWLR setting

# Legislative Initiatives 2011

## Continuous Alcohol Monitoring Bills – (CAM)



**Arizona – SB 1200**

- Enhanced penalties for HCDD
- Authorizes CAM / EM once 20% of sentence is served
- Local, County and State level programs



**Connecticut – HB6391**

- Prison Diversion Plan
  - DOC to create early release incentive plan
  - Alternative to DL suspension via IID



**Colorado – HB11-1189**

- Substance Abuse / DUI
  - Condition of bail would require abstinence from drug and alcohol
  - Required monitoring

# SCRAMx in Colorado

## Continuous Alcohol Monitoring Programs



**City & County of Denver**

- Condition of Pre-Trial
- Condition of Probation
- Sobriety Court
- District Court Probation



**RMOMS**

- Statewide Programs
- Greeley Muni Court
- DMV / DOC



**Intervention Inc**

- Statewide Programs
- Pre-Trial Supervision
- County Level Probation
- DOC

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# SCRAMx in Colorado

## Continuous Alcohol Monitoring Programs



**City & County of Denver**

- 5,048 clients
- 186 active clients
- 14m+ tests
- 80% compliance rate
- 20% noncompliant
- 68 avg days



**RMOMS**

- 10,994 clients
- 375 active
- 33m+ tests
- 77% compliance rate
- 23% non-compliance
- 68 avg days



**Intervention Inc**

- 3,183 clients
- 131 active
- 11m+ tests
- 75% compliant
- 25% non-compliant
- 75 avg days

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# Evidence based statistics

Third-party studies (Zinn, et al) and SCRAM trends show that the longer the duration on CAM, the more beneficial the outcome.



Statistics		Lifetime		Colorado
▪ Alcohol Tests Performed	▪ 834 m+		▪ 59.7 m+	
▪ Monitored Days	▪ 118m+		▪ 1.3 m+	
▪ <b>Average Days on SCRAM</b>	▪ <b>85</b>		▪ <b>70.5</b>	
▪ Offenders Monitored	▪ 203,724		▪ 19,260	
▪ Offenders Completed	▪ 189,584		▪ 18,534	
▪ <b>Offenders Fully Compliant</b>	▪ <b>145,101 (77%)</b>		▪ <b>14,594 (76%)</b>	
▪ 1-2 Violations	▪ 30,219(16%)		▪ 2,725 (14%)	
▪ 3+ Violations	▪ 14,264 (8%)		▪ 1,531 (8%)	

# The Greater Good

## *The Offender Perspective . . .*



- “*The SCRAMx program saved my life. I was lost in alcohol. SCRAMx should be recommended in every DUI program.*”
- “*This was an awakening for me and made me not want to drink – ever. Living is a lot better now. I got my life back!*”
- “*Easy choice of go clean or go back to jail. [SCRAMx] does work.*”
- “[With SCRAMx] I didn’t feel like a criminal. The bracelet saved my life and perhaps even someone else’s.”
- “*It kept me from my first drink so I could get back on my feet and make the right choices.*”
- “*It allowed me to keep my job, stay with my family, and stay alive.*”
- “*The SCRAMx device has proven to me that I can do everyday things in, life no matter what the circumstances . . . something that AA or other alcohol awareness classes could not make me understand.*”

# Thank You!



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# DUI Refusals/Use of Search Warrants

Presentation for the Colorado  
Interagency Task Force on Drunk Driving  
By  
Chief Robert L. Ticer

# The Problem....

- High incidences of DUI Offenders refusing to provide a breath or blood test when arrested for DUI/DWAI/DUID.
- Short lived evidence (BAC) is lost.
- District Attorneys and Jurors do not have a tangible number to consider.

# A Solution.....

- Use of Search Warrants to obtain blood evidence from DUI/DWAI/DUID offenders when the offender refuses to provide a sample under Expressed Consent.
- USE ON ALL CASES

# Is this Lawful?

- YES!
- Schmerber v. California, 384 U.S. 757 (1966).  
Leading case on compulsory blood tests.
- State v. Woomer, 196 N.J. Super 583 (N.J. App. Division 1984). Police may use force to obtain blood sample.

# Arizona Program

- In 2003, Arizona DPS saw a 12 percent drop in DUI refusals with the use of the DUI Search Warrant-IACP Sep 2005 Police Chief Article-Ticer.
- Procedures-Arrest based upon PC; subject refuses consent; search warrant is obtained; blood is seized via the warrant using minimum and reasonable force necessary.
- Subject still loses license for refusing to provide the sample.

# Benefits

- Evidence is obtained
- Evidence is obtained quicker (law enforcement phlebotomists)
- Less time in court for officers
- Higher conviction rates
- Higher rates of consent
- SAFER COMMUNITY-REDUCED NUMBER OF ALCOHOL RELATED CRASHES!

# Can this work in Colorado?

- Yes it can and does. Avon Case (discussion).
- Support of Law Enforcement Executives.
- Support of the District Attorney and Judges.
- Secure the use of phlebotomists that are authorized to draw blood per state statute.
- Ensure proper policies and procedures are intact and followed.

# Moving Forward-The Law Enforcement Phlebotomist

- 2005-Arizona Law Enforcement Phlebotomists number more than 400 (103 Arizona DPS).
- Phoenix Community College Law Enforcement Phlebotomy Program. 40 hours. Cathee Tankerslee is the founder.
- Supported and funded by the Arizona Governor's Office of Highway Safety.
- Difference in statutes between AZ and CO to consider.

# Arizona State allows law enforcement phlebotomists

- **A.R.S. §28-1388 – Blood**

If blood is drawn under §28-1321, only a physician, a registered nurse or *another qualified person* may withdraw blood for the purpose of determining the alcohol concentration or drug content in the blood. The qualifications of the individual withdrawing the blood and the method used to withdraw the blood are not foundational prerequisites for the admissibility of a blood alcohol content determination made pursuant to this subsection.

- **Arizona Case Law:**

- **State v. Olcavage**, 200 Ariz. 582, 30 P.3d 649 (App. 2002) - A phlebotomist was determined to be a qualified person by the Arizona Court of Appeals.
  - it is the training and experience that make a person qualified
- **State v. Carrasco**, 203 Ariz. 44, 49 P.3d 1140 (App. 2002) - A medical assistant was determined to be a qualified person.

# Who can draw blood under Colorado Law

- CRS 42-4-1301.1 (6) (a)-No person except a physician, a registered nurse, a paramedic, as certified in part 2 of article 3.5 of title 25, CRS, an emergency medical technician, as defined in part 1 or article 3.5 of title 25 CRS, or a person whose normal duties include withdrawing blood samples under the supervision of a physician or registered nurse shall be entitled to withdraw blood for the purpose of determining the alcoholic or drug content therein.

# Questions?

Thank you!

Robert L. Ticer, Chief of Police

Avon, CO

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