

# Ignition Interlocks in Texas: A Policy Evaluation

FOCUS GROUPS SUMMARY

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## Introduction

According to the National Highway Traffic Safety Administration (NHTSA), ignition interlock devices (IIDs), specifically designed to detect breath alcohol and prevent the use of a motor vehicle while under the influence of alcohol, have been found to be an effective tool in reducing recidivism among driving while intoxicated (DWI) offenders. Based upon the goal of reducing DWI driving on Texas roadways, legislative statutes have been passed that mandate DWI offenders install an IID as a condition of bond and/or probation if he or she meets certain criteria. Currently, Texas law requires an IID be ordered as a condition of bond for all second and subsequent offenders as well as offenders charged with Intoxication Assault or Intoxication Manslaughter. In addition, Texas law mandates an IID be installed as a condition of probation for: all second and subsequent offenders, first offenders with a blood alcohol concentration (BAC) of .15 or higher, and first offenders under the age of 21.

Each biennium, when the Texas legislature meets, stakeholders work to strengthen Texas' ignition interlock policies. While each group is interested in reducing alcohol impaired driving on Texas' roadways, the ways in which this is achieved may conflict. To better understand potential ways in which Texas' ignition interlock statutes may be changed, it is critical to examine the current statutes from the perspective of each stakeholder group.

To begin evaluating Texas' ignition interlock statutes, investigators for this project conducted a series of four focus groups to discuss the strengths and weaknesses Texas's ignition interlock statutes. These focus groups provided investigators with a first-hand look at the challenges the current framework of statutes creates in dealing with DWI offenders. During the course of the focus groups, several themes emerged: simplification of the codes and statutes related to IIDs; the addition of offenses related to tampering, circumvention, and driving without an IID; more consistent application of the statutes related to IID across the state; strengthening the rules and regulations for the ignition interlock industry; consistent reporting by all of the ignition interlock manufacturers; and compliance-based removal.

This technical memorandum provides details of the planning and logistics of the focus groups. This technical memorandum also summarizes the discussion of each focus group and provides a list of recommended changes to the laws that were strongly suggested by focus groups.

## Methods

Project investigators for the Texas A&M Transportation Institute (TTI) began this effort by identifying relevant stakeholder groups who are impacted and work with Texas' ignition interlock statutes in the work they do to reduce impaired driving. Through this effort, TTI identified prosecutors, members of the judiciary, probation officers, and ignition interlock manufacturers as relevant stakeholder groups. Based on this identification, TTI determined that to best evaluate Texas' ignition interlock statutes from each stakeholder group's perspective,

one focus group should be held for each: prosecutors, members of the judiciary, probation officers, and ignition interlock manufacturers.

### Focus Group Locations

Based on its central location to many of the stakeholders, Austin was selected as the location for the focus groups. At the invitation of Clay Abbott, Texas' Traffic Safety Resource Prosecutor, the prosecutor's focus group was held at the Texas District and County Attorneys Association (TDCAA) office in conjunction with their Prosecutor's Task Force meeting on December 15, 2017. The remaining three focus groups for the other stakeholder groups were held at the TTI Austin office on May 2 and 3, 2018.

### Focus Group Recruitment and Attendance

To recruit the most appropriate stakeholder, who could share valuable insights and lessons learned, the investigative team worked with Clay Abbott of TDCAA to identify prosecutors, Judge David Hodges of TTI to identify members of the judiciary, Dottie McDonald of SmartStart to identify probation officers, and Troy Walden of TTI to identify representatives of ignition interlock manufacturers. Through these representatives, the investigating team identified: 15 prosecutors, 9 judges, 29 probation officers, and 13 representatives of ignition interlock manufacturers to attend the four focus groups. In all, 15 prosecutors, 4 judges, 5 probation officers, and 5 representatives of ignition interlock manufacturers participated in the focus groups.

### Discussion Questions

Prior to the focus groups, the investigative team met to discuss themes and concepts. Through the focus groups, the investigative team sought to gain qualitative insight on:

- The strengths of Texas' ignition interlock statutes.
- The weaknesses of Texas' ignition interlock statutes.
- Application of Texas' ignition interlock statutes.
- Impacts of newer statutes designed to incentivize IID installation.
- Recommendations to improve Texas' ignition interlock statutes.

To ensure that each of these themes was explored, discussion questions were developed and provided to participants at least one week prior to the focus group. This enabled the participants to prepare for the discussion and conversation to flow. In addition, those who wished to participate but were unable to attend were able to complete the questionnaire and return it to the investigative team. The Appendix contains the questionnaires that were developed for each of the four stakeholder groups.

### Discussion

Each focus group discussion lasted for approximately one hour. During this time, the investigative team posed questions from the previously distributed questionnaires to the

participants to better understand the impacts of Texas' current ignition interlock statutes on reducing and deterring alcohol impaired driving.

### Prosecutors

In partnership with Clay Abbot and TDCAA, the focus group for prosecutors was held on December 15, 2017, at the TDCAA offices in Austin, TX. The focus group lasted for approximately one hour.

One of the most common strengths mentioned by prosecutors of Texas' ignition interlock statutes are the provisions for mandatory installation for certain offenders on bond and probation. Prosecutors stated this removed judicial discretion and arguments from the defense. In addition, prosecutors recognized that IIDs can be a good tool to monitor high risk offenders and hold them accountable during bond and probation supervision. Overall, prosecutors stated that the current ignition interlock statutes help reduce alcohol impaired driving and protect the public in their communities.

One of the most common weaknesses of Texas' ignition interlock statutes mentioned by prosecutors are that they do not prevent offenders from driving vehicles that are not equipped with an IID. Prosecutors also mentioned the cost to install and maintain the device, though not directly related to the statutes, is prohibitive for many offenders, which could lead them to drive a vehicle without an IID. In addition, prosecutors also suggested a weakness of Texas' current ignition interlock statutes is that, despite being mandatory in some cases, judges do not always order an IID, citing judicial discretion. Further, each court handles the reporting of violations, and what qualifies as a violation, very differently.

Prosecutors expressed many varying challenges working with the current Texas ignition interlock statutes. These challenges include:

- Knowing whether an IID will be mandatory because of the waiting period between arrest and lab results to determine BAC.
- Occupational licenses with no restrictions if an IID is installed.
- Offenders who drive vehicles without an IID, when one is ordered.
- Educating the defense bar on the new non-disclosure law.
- Enforcement and monitoring the IIDs of individuals on bond.
- Timing of installation and removal of IIDs.
- Delay in receiving report of violations.
- Difficulty in revoking an individual based solely on IID violations.
- Costs of IID.

When asked about relatively new legislation related to allowing an offender to seek an occupational license without restrictions if the offender installs an IID, most prosecutors have not seen an increase in the demand for this type of license. Though, most prosecutors felt this law could incentivize the installation of IIDs for offenders. However, most prosecutors felt this

law would not have an impact on the number of individuals who are driving with a suspended license.

Prosecutors were also asked which type of offender, first offender, repeat offender, or offender with a BAC of .15 or greater should Texas laws target. The overwhelming majority of prosecutors felt laws should target repeat offenders. However, many also indicated Texas laws should focus on offenders with a BAC of .15 or greater as well. Most prosecutors indicated that IIDs should be used with first offenders on a case by case basis.

Finally, when asked what, if any, changes they would make to the current laws, the prosecutors had many suggestions to improve the laws. These changes include:

- Simplify the Transportation Code to make license suspension easier to understand.
- Add a criminal offense to the Penal Code for those operating a motor vehicle without an IID when ordered.
- Increase jail time for each violation when an offender has their probation revoked.
- Create a length of time stipulation for those who install an IID as a part of getting an occupational drivers license.
- Make IIDs mandatory bond conditions for those who have a BAC of .15 or greater and those charged with Intoxication Assault.
- Make IIDs mandatory as a condition of bond for all DWI offenders.
- Create a state-funded and monitored bond program to monitor IIDs of all offenders on bond.
- Extend the length of time an offender on probation has the IID from 50 percent of the supervision period to 100 percent of the supervision period.
- Make IIDs mandatory for all convicted DWI offenders.

#### [Ignition Interlock Manufacturers](#)

The focus group for representatives of ignition interlock manufacturers was held on May 2, 2018, at the TTI Austin office. In attendance were representatives from the following ignition interlock manufacturers: SmartStart, LifeSafer, and Alcolock USA. The focus group lasted for approximately an hour and a half.

Overall, the representatives of the ignition interlock industry feel that Texas's ignition interlock statutes are relatively strong. In addition, the industry feels that the Texas legislature has a good understanding of how the device works and the benefits, which is no longer a hurdle to enacting quality legislation on IIDs. Further, the ignition interlock industry feels the breadth of Texas's ignition interlock statutes that cover bond, probation, parole, occupational licensure, as well as incentivize IID installation through non-disclosure agreements are an asset to Texas' ignition interlock program.

However, the ignition interlock industry mentioned several weaknesses and areas in which Texas' ignition interlock statutes can be improved. In terms of weaknesses, the ignition

interlock manufacturer representatives cite judicial discretion and judges not ordering an IID when it is mandatory as one of the largest weaknesses. In addition, it is difficult to determine who the monitoring authority is and should receive IID reports. This is especially true if the offender is not under the supervision of a probation department. Further, there are no criminal penalties related to tampering with the device, circumventing the device, or driving a vehicle that does not have an IID when ordered to do so. Finally, the ignition interlock manufacturers expressed, that perhaps the largest weakness to Texas' ignition interlock program, is lack of rules and regulations for ignition interlock manufacturers in the state. The industry representatives reported Texas' regulations are weak and below the national standards and recommendations.

Ignition interlock industry representatives expressed many varying challenges working with the current Texas ignition interlock statutes. These challenges include:

- Unclear oversight by the Texas Department of Public Safety (TxDPS) of the ignition interlock industry.
- Inconsistent reporting standards to courts and monitoring agencies.
- Inconsistent application of ignition interlock requirement on drivers licenses.
- Complying with the new Occupational Drivers License law has been a burden because these offenders are often not being monitored.

When asked about relatively new legislation related to allowing an offender to seek an Occupational License without restrictions if the offender installs an IID, representatives of the ignition interlock industry reported they have seen a slight uptick in the number of people seeking an IID but stressed that many are unaware of this option. Ignition interlock industry representatives expressed that the defense bar needs to be educated about this option, so they may pass the information along to their clients.

Ignition interlock industry representatives were also asked which type of offender, first offender, repeat offender, or offender with a BAC of .15 or greater should Texas laws target. The majority of ignition interlock providers felt laws should target all subsets of the DWI offender population as to not ignore any one group. However, some also indicated Texas laws should be strong on first offenders to set the tone and prevent recidivism.

Finally, when asked what, if any, changes they would make to the current laws, the ignition interlock industry representatives had many suggestions to improve the laws. These changes include:

- Require IIDs for all DWI offenders as a condition of bond and probation.
- Require IIDs for all DWI offenders as a part of license reinstatement.
- Remove judge's ability to waive IID requirement, if an IID is not ordered, offender should be placed on another type of alcohol monitoring.

- Add a criminal offense to the Penal Code for those operating a motor vehicle without an IID when ordered.
- All IIDs should be monitored by probation departments.
- Require the courts to report to TxDPS Drivers Licensing when an IID is ordered, have TxDPS revoke the license, and require the offender to apply for and receive an IID restricted license.
- Institute compliance-based removal.
- Strengthen Texas' rules and regulations of the ignition interlock industry for stronger industry oversight, which could include standardized reporting among manufacturers.

### Members of the Judiciary

The focus group for members of the judiciary was held on May 2, 2018, at the TTI Austin office. The focus group lasted for approximately an hour.

One of the most common strengths reported by the judges is that in Texas, IIDs must be ordered by the court and are not an administrative action. The judges felt this provided for more compliance by offenders on IID and gave more oversight to offenders on an IID than if the program were run administratively. In addition, the judges viewed the mandatory provisions of Texas' ignition interlock statutes as a strength.

However, the judges recognized that one of the primary weaknesses of the current ignition interlock statutes is convoluted nature of the statutes that apply to IIDs. The judges expressed that the laws are less than clear and that there are many different types of statutes and codes that apply to IIDs. In addition, the judges expressed that the statutes are not applied consistently throughout the state and application varies from jurisdiction to jurisdiction and even within jurisdictions from judge to judge.

Judges expressed many varying challenges working with the current Texas ignition interlock statutes. These challenges include:

- Monitoring offenders who are driving vehicles without an IID, usually belonging to a family member or friend.
- Requiring the probation departments to monitor offenders who are on IID but not under formal supervision.
- Deciphering the different reports and formats of the different vendors.
- Indigent offenders who cannot afford an IID.
- Timeliness of orders requiring an IID endorsement on drivers licenses being processed by TxDPS.

When asked about relatively new legislation related to allowing an offender to seek an occupational license without restrictions if the offender installs an IID, most judges have not seen an increase in the demand for this type of license. However, one of the judges present mentioned there have been an uptick in the number of pro se applications for this type of

license, which indicates the offenders are becoming more aware of this type of license and not going to the expense of hiring an attorney to make the application on their behalf. Judges were unsure if this law could incentivize the installation of IIDs for offenders. However, most judges felt this law would not have an impact on the number of individuals who are driving with a suspended license.

Judges were also asked which type of offender, first offender, repeat offender, or offender with a BAC of .15 or greater should Texas laws target. Most judges felt laws should target all subsets of the DWI offender population as to not ignore any one group. However, some also indicated Texas laws should be strong on first offenders as there are far more first offenders than any other group. The judges also stressed the importance of moving to a compliance-based system, as this could be more valuable to identifying higher risk offenders.

Finally, when asked what, if any, changes they would make to the current laws, the judges had many suggestions to improve the laws. These changes include:

- Ensuring that each part of the criminal justice system and the ignition interlock industry is accountable for their roles and responsibilities of IID monitoring.
- Creating more consistency in the application of ignition interlock statutes across the state.
- Codifying and simplifying the existing ignition interlock statutes.
- Creating consistent reporting requirements of the ignition interlock manufacturers.

### Probation Officers

The focus group for probation officers was held on May 3, 2018, at the TTI Austin office. The focus group lasted for approximately an hour.

Overall, the probation officers cited the fact that IIDs are ordered as a part of statutes as one of the biggest strengths of the current laws. Probation officers appreciated that IIDs are mandatory in many cases, particularly for offenders with a BAC above .15, repeat offenders, as well as those with felony level DWI offenses (such as DWI – 3<sup>rd</sup> or more, DWI with a child passenger, Intoxication Assault, and Intoxication Manslaughter). Finally, probation officers found one of the biggest strengths of the current Texas statutes to be that they are written in a way to protect the safety of the public.

However, probation officers recognized there are many limitations to the current ignition interlock statutes. The primary concern for probation officers is the inconsistent application of the laws, which vary from jurisdiction to jurisdiction and within jurisdictions. Probation officers report that judicial discretion is either under or over-utilized. Further, due to the nature and location of the Texas ignition interlock statutes across codes, it is difficult for probation officers to understand the nuances of the laws and apply the appropriate supervision. In addition, under the current statutes, offenders can often skirt the requirement to install an IID (either by

not installing the device on all vehicles they own, driving an employer owned vehicle with permission from their employer, or a vehicle owned by someone else).

Probation officers expressed many varying challenges working with the current Texas ignition interlock statutes. These challenges include:

- Supervising offenders who have an occupational license, but are not under formal supervision.
- Indigent offenders who cannot afford an IID.
- Supervising IID compliance of offenders who are on bond.
- Each ignition interlock manufacturer has their own report format and method for reporting violations.
- Probation department are often charged with implementation of ignition interlock statutes with little in the way of additional resources.

When asked about relatively new legislation related to allowing an offender to seek an occupational license without restrictions if the offender installs an IID, most probation officers have not seen an increase in the demand for this type of license. Probation officers do not think this law will incentivize the installation of IIDs for offenders as the reason offenders are not installing IIDs more is related to the cost of the device and monitoring. Most probation officers felt this law would not have an impact on the number of individuals who are driving with a suspended license.

Judges were also asked which type of offender (first offender, repeat offender, or offender with a BAC of .15 or greater) should Texas laws target. Most probation officers felt laws should target the high risk DWI offender population, which they felt should be determined by an alcohol assessment to determine risk. By and large, the probation officers felt it was unlikely these would be first offenders, but again, stressed that ignition interlock laws should target those who are at a higher risk.

Finally, when asked what, if any, changes they would make to the current laws, the judges had many suggestions to improve the laws. These changes include:

- Require offenders to install an IID on all vehicles they own and in their household.
- Extend the length of time an offender on probation has the IID from 50 percent of the supervision period to 100 percent of the supervision period.
- Remove Penal Code 49.09 (h).
- Codifying and simplifying the existing ignition interlock statutes.
- Focus ignition interlock statutes on ordering IID to the appropriate offenders, regardless of offense, based on an alcohol assessment.

## Recommended Policy Changes

Over the course of the focus groups, many themes and recommended changes to the laws emerged from the conversations. These changes are synthesized into the following list:

- Simplify the Transportation Code and other laws related to IIDs. Most groups agreed the laws were convoluted and confusing. In addition, the laws related to IIDs are found across multiple codes and can be difficult to decipher, even with a law degree. It is recommended to codify and simplify the existing ignition interlock statutes, while thinking about the laws from an application and supervision standpoint.
- Create a criminal offense to the Penal Code for those who tamper with their IID, circumvent their IID, or operate a motor vehicle without an IID when ordered. Many participants hope this will incentivize offenders to comply with orders to have an IID installed and complete the program.
- Almost all groups recommended more consistent application of ignition interlock statutes across the state. Despite laws mandating the use of IIDs in some cases, judicial discretion can be under and over-utilized. In addition, violations are not reported or addressed consistently across jurisdictions and manufacturers. Consistency in this area would allow for improved supervision of offenders.
- By and large, focus group participants advocated for strengthening the rules and regulations for ignition interlock manufacturers. A well-regulated industry will provide a higher quality product that can be trusted by the courts and probation departments, which will improve supervision of offenders and reduce incidences of alcohol impaired driving.
- Most focus group participants, including the ignition interlock industry representatives, would like to see consistent reporting of ignition interlock data by the manufacturers. Standardized reporting aids the prosecutors, judges, and probation officers in reading and interpreting the reports they receive.
- Finally, many recommended moving to a compliance-based removal system. Currently, offenders must only complete a period of time, usually half of their probation period, on an IID. At the end of the time period, the IID can be removed regardless of performance. Compliance-based monitoring typically requires the offender be violation-free for a period of time before the device can be removed. This type of system has led to reductions in alcohol impaired driving as well as recidivism.

## Conclusion

Over the course of the focus groups, the participants imparted many pieces of wisdom and experiences related to Texas' current ignition interlock statutes. During the focus group discussions, several themes emerged: simplification of the codes and statutes related to IIDs; the addition of offenses related to tampering, circumvention, and driving without an IID; more consistent application of the statutes related to IID across the state; strengthening the rules

and regulations for the ignition interlock industry; consistent reporting by all of the ignition interlock manufacturers; and compliance-based removal. In addition, the participants made several recommendations to the research team, which have been synthesized into a list of recommended policy changes. Finally, each group represented in the focus groups faces similar but different challenges implementing Texas' ignition interlock statutes, but each group has the same goal in reducing alcohol impaired driving and ultimately making Texas' roadways safer.

## Appendix: Texas' Ignition Interlock Laws Questionnaire

### Texas' Ignition Interlock Laws Questionnaire – Prosecutors

County:

Position:

1. What are the biggest strengths of Texas' laws related to ignition interlock devices?
2. What are the largest weaknesses of Texas' laws related to ignition interlock devices?
3. As a prosecutor, which parts of the current laws related to ignition interlock make your job most challenging?
4. Are the courts in your jurisdiction ordering ignition interlock when it is mandated by statute for conditions of bond? For conditions of community supervision?
5. How often do the courts in your jurisdiction order ignition interlock when it is not mandatory for conditions of bond? For conditions of community supervision?
6. Who monitors individuals ordered to ignition interlock as a condition of bond in your jurisdiction?
7. With the newer legislation allowing individuals to seek an occupational license without restrictions, have you seen more people seek this type of occupational license? Do you think this law will influence more offenders to install an ignition interlock device? Do you think it will have an impact on the number of individuals who are driving with a suspended license?

8. How often do you file motions to revoke community supervision based on ignition interlock device violations?
9. Should ignition interlock laws focus on repeat offenders, offenders with high BACs or first offenders? Why?
10. If you could make any changes to the current laws related to ignition interlock devices, what would they be?

#### Texas' Ignition Interlock Laws Questionnaire – Ignition Interlock Manufacturers

Company:

Position:

1. What are the biggest strengths of Texas' laws related to ignition interlock devices?
2. What are the largest weaknesses of Texas' laws related to ignition interlock devices?
3. As an IID provider, which parts of the current laws related to ignition interlock make your job most challenging?
4. How often do you feel the courts in Texas are ordering ignition interlock when it is mandated by statute for conditions of bond? For conditions of community supervision?
5. How often do feel the courts in Texas are ordering ignition interlock when it is not mandatory for conditions of bond? For conditions of community supervision?
6. Who should monitor individuals ordered to ignition interlock as a condition of bond?
7. With the newer legislation allowing individuals to seek an occupational license without restrictions, have you seen more people seek an IID for this type of occupational license? Do you think this law will influence more offenders to install an ignition

interlock device? Do you think it will have an impact on the number of individuals who are driving with a suspended license?

8. Should probation officers and prosecutors seek motions to revoke community supervision based on ignition interlock device violations?
9. Should ignition interlock laws focus on repeat offenders, offenders with high BACs or first offenders? Why?
10. If you could make any changes to the current laws related to ignition interlock devices, what would they be?

#### Texas' Ignition Interlock Laws Questionnaire – Judges

County:

Position:

1. What are the biggest strengths of Texas' laws related to ignition interlock devices?
2. What are the largest weaknesses of Texas' laws related to ignition interlock devices?
3. As a member of the judiciary, which parts of the current laws related to ignition interlock make your job most challenging?
4. Are the other courts in your jurisdiction ordering ignition interlock when it is mandated by statute for conditions of bond? For conditions of community supervision?
5. How often do the courts in your jurisdiction, as a whole, order ignition interlock when it is not mandatory for conditions of bond? For conditions of community supervision?
6. Who monitors individuals ordered to ignition interlock as a condition of bond in your jurisdiction?

7. With the newer legislation allowing individuals to seek an occupational license without restrictions, have you seen more people seek this type of occupational license? Do you think this law will influence more offenders to install an ignition interlock device? Do you think it will have an impact on the number of individuals who are driving with a suspended license?
8. How often do you hear motions to revoke community supervision based on ignition interlock device violations?
9. Should ignition interlock laws focus on repeat offenders, offenders with high BACs or first offenders? Why?
10. If you could make any changes to the current laws related to ignition interlock devices, what would they be?

#### Texas' Ignition Interlock Laws Questionnaire – Probation Officers

County:

Position:

1. What are the biggest strengths of Texas' laws related to ignition interlock devices?
2. What are the largest weaknesses of Texas' laws related to ignition interlock devices?
3. As a probation officer, which parts of the current laws related to ignition interlock make your job most challenging?
4. Are the courts in your jurisdiction ordering ignition interlock when it is mandated by statute for conditions of bond? For conditions of community supervision?
5. How often do the courts in your jurisdiction order ignition interlock when it is not mandatory for conditions of bond? For conditions of community supervision?

6. Who monitors individuals ordered to ignition interlock as a condition of bond in your jurisdiction?
  
7. With the newer legislation allowing individuals to seek an occupational license without restrictions, have you seen more people seek this type of occupational license? Do you think this law will influence more offenders to install an ignition interlock device? Do you think it will have an impact on the number of individuals who are driving with a suspended license?
  
8. How often do you seek motions to revoke community supervision based on ignition interlock device violations?
  
9. Should ignition interlock laws focus on repeat offenders, offenders with high BACs or first offenders? Why?
  
10. If you could make any changes to the current laws related to ignition interlock devices, what would they be?