



# Ignition Interlock: An Investigation Into Rural Arizona Judges' Perceptions



U.S. Department  
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16. Abstract  This study sought to answer several questions regarding 2007 Arizona legislation requiring ignition interlock for all offenders convicted of Driving-Under-the-Influence (DUI), including first time DUI offenders. At the time the law was passed, Arizona was only one of two States (New Mexico being the other) to require ignition interlock for first time offenders. Of particular focus in the study were the implications of the legislation for rural areas. The project staff obtained information from judges in rural Arizona jurisdictions that routinely hear DUI cases to obtain their impressions of the legislation. Several themes emerged from the interviews:  <ul style="list-style-type: none"> <li>• Judges perceived ignition interlock as a practical and effective sanction for DUI offenders.</li> <li>• Ignition interlock service providers were limited or non-existent in rural jurisdictions.</li> <li>• DUI sanctions were costly and may have served as a barrier for offenders attempting to get their licenses reinstated.</li> <li>• Repeat DUI offenders were often charged as first-time offenders in rural jurisdictions.</li> <li>• Judges were aware of ignition interlock and current DUI laws, but were interested in additional training and information.</li> </ul> <p>The researchers also investigated charge reduction behavior for convicted DUI offenders, before and after implementation of the legislation in both urban and rural jurisdictions. They found a historically increasing trend for charge reductions that was driven by charge reductions for Extreme and Felony DUIs. The trend for less serious offenders was flat in both urban and rural jurisdictions. The researchers concluded that judges have not modified their charge reduction behavior toward less serious offenders despite the logistical burdens that the legislation places on DUI offenders, especially those in rural jurisdictions.</p>			
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## I. Introduction

The purpose of the following study was to investigate the effect of 2007 Arizona (AZ) legislation requiring ignition interlock for all offenders convicted of Driving-Under-the-Influence (DUI), including first time DUI offenders. At the time, AZ was only one of two states (New Mexico being the other) to require ignition interlock for first time offenders. In particular, we sought to examine the effect of this legislation on rural jurisdictions.

An alcohol ignition interlock requires a driver to pass a breath test for the presence of alcohol before the vehicle will start. Ignition interlocks simultaneously serve the goals of incapacitation and deterrence. As a means of incapacitation, interlocks are intended to promote public safety by physically preventing convicted impaired drivers from re-offending. The threat of being forced to install an interlock may also serve as a general deterrent discouraging the public at large from driving after consuming alcohol, as well as a specific deterrent reducing recidivism among offenders who have previously experienced the inconvenience of interlock use.<sup>1</sup>

In 2007, Arizona became the second state in the nation to require all first-time drunk driving offenders to equip their vehicles with ignition interlock devices. The first was Arizona's neighbor New Mexico, which implemented a one-year interlock requirement for first-time offenders in 2005.<sup>2</sup> New Mexico saw a concurrent decline in alcohol-related traffic fatalities, although this trend began prior to 2005 and there is insufficient evidence to attribute it to the

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<sup>1</sup> See Robert B. Voas & Deborah A. Fisher, *Court Procedures for Handling Intoxicated Drivers*, 25 ALCOHOL RES. & HEALTH 32, 34 (2001). Voas and Fisher classify the interlock device as a specific deterrent designed to "be aversive and deter recidivism" by persons previously convicted of drunk driving. In Arizona, opponents of the 2007 interlock legislation focused on the general deterrent effect, arguing that "the threat of breath-testing devices would keep social drinkers from spending money on alcohol, thereby harming the liquor industry." Jessica Coomes, *Legislators Send DUI Bill to Governor*, ARIZ. REPUBLIC, May 16, 2007, at Valley & State 1.

<sup>2</sup> Richard Roth, Robert Voas & Paul Marques, Presentation at the 8th Ignition Interlock Symposium: Reducing DWI With Interlocks: The New Mexico Experience, (Aug. 26, 2007), available at <http://www.rothinterlock.org/nminterlockprogram2symposium2007.ppt>.

interlock program.<sup>3</sup> A 2007 study concluded that New Mexico's interlock requirement reduced the annual recidivism rate for first-time DUI offenders by more than 60 percent during the interlock period, but found no statistically significant impact on recidivism following removal of the interlock device.<sup>4</sup> The two states' demographic and geographic similarities, including the existence of large, sparsely populated rural areas as well as substantial American Indian populations, gave New Mexico's experience particular relevance to Arizona's decision to implement a similar interlock program.

We sought to answer four research questions:

1. How and why did this legislation emerge at the time that it did? What mechanisms and processes did the legislation establish to implement its intent?
2. How has this legislation been implemented? What judicial education was provided to judges about the legislation and ignition interlock?
3. What are the impressions of rural judges that routinely hear DUI cases about this legislation? How has it impacted their work? What are their impressions of its impact on defendants? Of its effectiveness? What additional resources do rural judges need to comply with the intent of the legislation?
4. Has the frequency of reducing DUIs to lesser DUIs or to non-DUI charges changed after introduction of the legislation?

It is our hope that this preliminary research will be of assistance to other states that are contemplating adoption of similar legislation, as our results show that they need to be

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<sup>3</sup> Richard Roth, Robert Voas & Paul Marques, *Interlocks for First Offenders: Effective?*, 8 TRAFFIC INJURY PREVENTION 346, 352 (2007); John H. Lacey & Ralph K. Jones, Evaluation of Changes in New Mexico's Anti-DWI Efforts (Feb. 2000).

<sup>4</sup> Richard Roth, Robert Voas & Paul Marques, *Interlocks for First Offenders: Effective?*, 8 TRAFFIC INJURY PREVENTION 346 (2007).

particularly mindful of its effects on rural jurisdictions. We address each of the research questions in turn in the following, after a brief discussion of the scope of the problem of DUI in Arizona.

## II. The Problem

While there has been an encouraging downward trend in the number of alcohol-related fatalities in recent years, it is clear that much work needs to be done. On a national level, the number of fatalities involving at least one driver with a blood alcohol concentration (BAC) of .08 or higher, which peaked in 1982 at more than 21,000 and in recent years has held steady between 13,000 to 14,000 deaths, has since declined to somewhat over 10,000 in 2010.<sup>5</sup> Despite the progress achieved, 31% of road deaths continue to involve a driver with a BAC of .08 or higher.<sup>6</sup>

Table 1<sup>7</sup> below presents statistics about the total number of traffic fatalities in Arizona (1982-2010) and the number and percentage of these that involved alcohol. Note that total fatalities increased at a gradual (though not uninterrupted) rate from 1982 until the peak year of 2006; thereupon (2007-2010) a decreasing trend commenced. Fatalities in 2010 were 41% lower than the fatalities reported for the peak year of 2006.

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<sup>5</sup> National Highway Traffic Safety Administration (NHTSA) (2012). *Traffic Safety Facts. 2010 Data: Alcohol Impaired Driving*. DOT HS 811 606. Washington, D.C.: U.S. Department of Transportation and National Highway Traffic Safety Administration. (2011). *Traffic Safety Facts: Arizona 2006-2010*. Washington DC: Department of Transportation.

<sup>6</sup> National Highway Traffic Safety Administration. (2011). *Traffic Safety Facts: Arizona 2006-2010*. Washington DC: Department of Transportation.

<sup>7</sup> National Highway Traffic Safety Administration. (n.d.) Arizona Fatalities 1982-2010. Data analyses from Fatality Analysis Reporting System (Data File).



Year	Table 1: Arizona Traffic Fatalities				
	Tot	Alc-Rel*	%	Alc-Imp**	%
1982	724	422	58	376	52
1983	675	388	57	350	52
1984	869	473	54	418	48
1985	893	502	56	444	50
1986	1007	582	58	511	51
1987	939	532	57	462	49
1988	944	488	52	439	47
1989	879	443	50	390	44
1990	869	434	50	398	46
1991	816	429	53	390	48
1992	809	403	50	359	44
1993	801	400	50	355	44
1994	904	410	45	360	40
1995	1035	478	46	410	40
1996	994	442	44	386	39
1997	951	451	47	405	43
1998	980	444	45	377	39
1999	1024	424	41	371	36
2000	1036	469	45	407	39
2001	1051	487	46	425	40
2002	1132	489	43	428	38
2003	1118	471	42	411	37
2004	1151	446	39	385	33
2005	1179	508	43	446	38
2006	1293	578	45	480	37
2007	1071	466	44	403	38
2008	938	389	41	327	35
2009	806	331	41	281	35
2010	759	316	42	274	36

\*Based on a BAC of .01 or higher of all involved drivers, motorcycle riders (operators), pedalcyclists, and pedestrians.

\*\*Based on a BAC of .08 and above of all involved drivers, motorcycle riders (operators), pedalcyclists, and pedestrians.

There is also a decreasing trend in the percent of these fatalities that were alcohol-related (BAC of .01 and higher). The trend is obvious from the first data point in 1982 to the last in 2010, when the percentage dropped from 58% to 42% respectively. The trend began well before the legislation was implemented in 2007. A similar trend can also be noted for alcohol-impaired

driving fatalities (i.e., fatalities wherein the driver had a BAC of .08 or higher), for which the percentage dropped from 52% in 1982 to 36% in 2010.

However, despite the notable progress, the situation on Arizona's rural roadways is troublesome. Arizona's rural traffic fatality rate ranked eighth highest in the nation in 2009 according to a report issued by a national research group, TRIP, in 2011.<sup>8</sup> According to TRIP's report, crashes and fatalities on Arizona's rural roads are nearly three times higher than all other roads in the state. In 2009, Arizona's non-interstate rural roads had a traffic fatality rate of 2.78 deaths for every 100 million vehicle miles of travel, in contrast to a fatality rate of .98 deaths per 100 million vehicle miles on all other roads.

### **III. Arizona Ignition Interlock Statutes and Regulations**

By the time it began mandating ignition interlocks for first-time DUI offenders in 2007, Arizona had already been using the devices with more serious offenders for several years.<sup>9</sup> The 2007 legislation was introduced by freshman state representative David Schapira.<sup>10</sup> Schapira had been injured in a crash with a drunken driver as a teenager, and was encouraged by New Mexico's apparent success with its own interlock program for first offenders.<sup>11</sup> The expansion of the interlock requirement to all DUI offenders was supported by Governor Janet Napolitano, Mothers Against Drunk Driving, the Arizona Police Association, the interlock industry, and the

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<sup>8</sup> TRIP. (2011). *Rural Connections: Challenges and Opportunities in America's Heartland*. Washington, DC: Author.

<sup>9</sup> ARIZ. REV. STAT. §§ 28-1382.D.5, 28-1383.J.1 (LexisNexis 2000); ARIZ. REV. STAT. §§ 28-1381.K.5, 28-1382.F.6 (LexisNexis 1999).

<sup>10</sup> H.B. 2730, 48th Leg., 1st Reg. Sess. (Ariz. 2007).

<sup>11</sup> Luige del Puerto, *Providers of Interlock Ignition [sic] in Arizona: Profit or Public Safety?*, ARIZ. CAPITOL TIMES, Sept. 21, 2007, at News \_\_\_; Lindsey Collom, *Tough DUI Law to Begin*, ARIZ. REPUBLIC, Sept. 16, 2007, at Front 1; David Schapira, Editorial, *DUI Amendments Would Address Growing Problem*, ARIZ. REPUBLIC, Apr. 25, 2007, at Tempe Republic 19.

family of a police officer who had been killed by a drunk driver.<sup>12</sup> The one-year interlock requirement for first offenders took effect on September 19, 2007, and has survived various attempts to repeal it or to reduce its length.<sup>13</sup>

**DUI Offense Classifications and Penalties:** Under Arizona law, a defendant's first or second DUI offense committed within an 84-month period is categorized as a misdemeanor.

"Aggravated DUI" offenses are classified as felonies and include a third or subsequent DUI offense within an 84-month period; a DUI offense committed on a restricted, suspended, or revoked license, or while the offender is required to use an ignition interlock; or any DUI offense committed with a passenger under the age of fifteen in the vehicle. Tables 2 and 3 summarize the penalties for the various categories of misdemeanor and felony DUI offenses under Arizona law as of April 2010, respectively. Four separate levels of intoxication are distinguished under Arizona law:

- "impaired to the slightest degree,"
- BACs of at least .08 (.04 for drivers of commercial vehicles) but less than .15
- .15 to .20
- .20 or higher.<sup>14</sup>

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<sup>12</sup> Editorial, *Anti-DUI Mission Goes On*, ARIZ. REPUBLIC, Feb. 2, 2008, at Opinions 4; Dick Foreman, *Only Time Can Judge Schapira's New DUI Law*, Ariz. Republic, Oct. 26, 2007, at Tempe Republic 31; Jessica Coomes, *Legislators Send DUI Bill to Governor*, ARIZ. REPUBLIC, May 16, 2007, at Valley & State 1; Letter from Gov. Janet Napolitano to Jim Weiers, Speaker, Ariz. H. Rep. (Apr. 29, 2008), available at <http://www.azleg.gov/govletr/48leg/2R/HB2395.pdf>.

<sup>13</sup> See Appendix *infra*.

<sup>14</sup> ARIZ. REV. STAT. ANN. §§ 28-1381 to -1383 (2010)

**Table 2: Arizona Sanctions for Misdemeanor Driving Under the Influence<sup>15</sup>**

Sanction	Minimum BAC					
	.08 or Impaired to the Slightest Degree*	.08 or Impaired to the Slightest Degree, 2 <sup>nd</sup> in 84 months*	.15	.15 (2 <sup>nd</sup> in 84 months)	.20	.20 2 <sup>nd</sup> in 84 months
Jail	≥10 consecutive days	≥90 days (30 consecutive)	≥30 consecutive days	≥120 days (60 consecutive)	≥45 consecutive days	≥180 days (90 consecutive)
Judge may suspend jail for completing treatment	all but 24 hours	all but 30 days	N/A	N/A	N/A	N/A
License revocation	N/A	1 year	N/A	≥1 year	N/A	≥1 year
Ignition interlock	≥12 months	≥12 months	≥12 months	≥12 months	18 months	24 months
Fine	≥\$250	≥\$500	≥\$250	≥\$500	≥\$500	≥\$1,000
Other assessments	\$1,000	\$2,500	\$2,250	\$2,750	\$2,250	\$2,750
Community restitution	court may order	≥30 hours	court may order	≥30 hours	court may order	≥30 hours

Sources: Ariz. Rev. Stat. Ann. §§ 28-1381, 28-1382, 28-3319 (2008).

\*.04 for commercial vehicles.

<sup>15</sup> N/A means “not applicable.”

**Table 3: Arizona Sanctions for Felony (Aggravated) Driving Under the Influence**

Sanction	Circumstances					
	DUI While License Restricted, Suspended, or Revoked	3 <sup>rd</sup> or Subsequent DUI in 84 months	BAC .08 or Impaired to Slightest Degree with Passenger <15 Years*	BAC .15 with Passenger <15 Years	Refusal of Law Enforcement BAC Test While Interlock Required	DUI While Interlock Required
Presumptive prison sentence**	2.5 years	2.5 years	1 year	1 year	1 year	2.5 years
No suspension or release before	4 months	4 months (3 <sup>rd</sup> DUI) 8 months (4 <sup>th</sup> or subsequent DUI)	24 hours	30 days	N/A	N/A
Treatment	yes	yes	yes	yes	yes	yes
Revocation of license	3 years	3 years	3 years	3 years	3 years	3 years
Ignition interlock	≥24 months	≥24 months	≥24 months	≥24 months	≥24 months	≥24 months
Fine	≥\$750	≥\$750	≥\$750	≥\$750	≥\$750	≥\$750
Other assessments	\$3,250	\$3,250	\$3,250	\$3,250	\$3,250	\$3,250
Forfeiture of vehicle	yes	yes	yes	yes	yes	yes

Sources: Ariz. Rev. Stat. Ann. §§ 28-1383, 28-1384, 28-3319 (2008); Ariz. Sup. Ct., 2008 Criminal Code Sentencing Provisions (2009).

\*BAC .04 for commercial vehicles.

\*\*See 2008 Criminal Code Sentencing Provisions for details regarding felony prison sentences.

No minimum BAC is required in order to convict a defendant of driving while impaired to the slightest degree. A BAC of at least .08 creates a presumption of intoxication, a BAC greater than .05 but less than .08 creates no presumption regarding intoxication, and a BAC of .05 or less creates a presumption that the driver was not intoxicated.<sup>16</sup> These presumptions may be rebutted by other evidence, meaning that it is possible for a driver with a BAC of less than .05 to be convicted of driving while impaired to the slightest degree if other evidence shows that the driver was intoxicated.<sup>17</sup> In practice, the presumptions are relevant only to the charge of driving while impaired to the slightest degree, because driving with a blood alcohol content of .08 or above is illegal per se, and no showing of impairment is required for conviction.

<sup>16</sup> ARIZ. REV. STAT. ANN. § 28-1381.G (2010).

<sup>17</sup> ARIZ. REV. STAT. ANN. § 28-1381.H (2010).

Mandatory sanctions for all misdemeanor DUI offenses include jail time, fines and other monetary assessments, and the use of an ignition interlock. Table 2 summarizes the sanctions for misdemeanor DUI offenses. Penalties for driving while impaired to the slightest degree are identical to those for driving with a BAC of .08 or above; penalties increase for BACs at or above .15 and .20. Within each BAC category, penalties for a second DUI offense within an 84-month period are more severe than those for a first offense; second offenses also result in community service and revocation of the offender's driver's license.<sup>18</sup>

Table 3 shows the penalties for felony DUI offenses. All felony DUI offenses result in mandatory alcohol or drug treatment, fines and assessments, license revocation followed by a period of interlock usage, vehicle forfeiture, and prison time as prescribed by Arizona's felony sentencing guidelines.<sup>19</sup>

When a person is arrested on suspicion of DUI and the results of a blood or breath alcohol test indicate a BAC of .08 or higher (.04 for the driver of a commercial vehicle), the arresting officer is required to serve the suspect with an order indicating that an administrative suspension of the suspect's driver's license will take effect 15 days after the date of arrest. The suspect is required to surrender his or her Arizona driver's license to the officer, who issues a temporary driving permit valid until the effective date of the suspension. For a driver's first offense within an 84-month period, the administrative suspension lasts at least 30 days, followed by a 60-day period of restricted driving privileges. For a second or subsequent offense within an 84-month period, or if the driver is accused of causing death or serious physical injury, the administrative suspension lasts a minimum of 90 days. The administrative suspension is separate from the period of interlock usage imposed upon conviction. In order for driving privileges to be restored

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<sup>18</sup> ARIZ. REV. STAT. ANN. §§ 28-1381 to -1382 (2010).

<sup>19</sup> ARIZ. REV. STAT. ANN. §§ 28-1383 to -1384 (2010).

at the conclusion of the period of suspension, the driver must complete alcohol or drug screening. The driver may challenge the suspension by submitting a written request for a hearing before the effective date of the suspension. The hearing is limited to certain issues surrounding the arrest and the BAC test.<sup>20</sup>

**Administration of the Ignition Interlock Requirement:** Because interlock usage is administered entirely by the Motor Vehicle Division (MVD) of the Arizona Department of Transportation, neither the court nor the county probation department is involved in monitoring or enforcing interlock usage. The MVD is responsible for certifying ignition interlock devices and installers and monitoring compliance with the interlock requirement, and has statutory authority to promulgate regulations necessary to the accomplishment of these tasks.<sup>21</sup> When a defendant is convicted of driving under the influence, the court notifies the MVD. Upon receiving notice of a DUI conviction, the MVD automatically imposes the appropriate interlock requirement.<sup>22</sup> In cases of non-compliance, the MVD, not the sentencing court, is responsible for enforcement of appropriate penalties.

For certain DUI offenders, the MVD is also authorized to issue “special interlock restricted” driver’s licenses that allow limited driving privileges during periods of license suspension or revocation, on the condition that the offender use an ignition interlock device.<sup>23</sup> Interlock usage related to a special interlock restricted license does not count towards the prescribed interlock period required of all DUI offenders, so an offender who obtains a special interlock restricted

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<sup>20</sup> ARIZ. REV. STAT. ANN. § 28-1385 (2010).

<sup>21</sup> ARIZ. REV. STAT. ANN. §§ 28-1461 to -1463, -1465 (2010).

<sup>22</sup> ARIZ. REV. STAT. ANN. §§ 28-1381.I.6, -1381.K.4, -1382.D.5, -1382.E.5, -1383. J.1, -3319.D (2010). The court may also order a longer period of interlock usage. ARIZ. REV. STAT. ANN. §§ 28-1381.I.6, -1381.K.4, -1382.D.5, -1382.E.5, -1383. J.1 (2010).

<sup>23</sup> ARIZ. REV. STAT. ANN. §§ 28-1401 to -1402 (2010).

license must still complete the entire statutory term of interlock usage after the suspension or revocation ends.<sup>24</sup>

When it is notified by the court of a DUI conviction, the MVD mails written notice of the interlock requirement to the offender.<sup>25</sup> The offender must have an approved ignition interlock device installed by a certified installer on every vehicle he or she operates before the offender's driving privilege may be reinstated following any period of license suspension or revocation.<sup>26</sup> The offender bears the costs of installation and maintenance.<sup>27</sup> Employer-owned vehicles driven in the course of the offender's employment are exempt from the interlock requirement, provided that the offender has notified his or her employer of the limitations or restrictions on his or her driving privileges.<sup>28</sup> An employer notification form is included with the interlock order mailed to the defendant.

When the interlock device is installed, the installer provides the offender with training and written instructions on how to use and care for the device.<sup>29</sup> Within 24 hours after installation, the installer or manufacturer electronically submits confirmation of installation to the MVD.<sup>30</sup> Once confirmation is received and all other requirements for reinstatement are met, the MVD reinstates the offender's driving privilege. The MVD is required by statute to note the interlock requirement on an offender's driving record;<sup>31</sup> it also issues the offender a replacement driver's license labeled "Ignition Interlock."<sup>32</sup>

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<sup>24</sup> ARIZ. REV. STAT. ANN. §§ 28-1381.I.6, -1381.K.4, -1382.D.5, -1382.E.5, -1383. J.1, -3319.E, -1461.F (2010).

<sup>25</sup> ARIZ. REV. STAT. ANN. § 28-3318 (2010).

<sup>26</sup> ARIZ. REV. STAT. ANN. § 28-1461.A.2 (2010).

<sup>27</sup> ARIZ. REV. STAT. ANN. § 28-1461.A.1.a (2010).

<sup>28</sup> ARIZ. REV. STAT. ANN. § 28-1464.A (2010).

<sup>29</sup> ARIZ. ADMIN. CODE §§ R17-5-609(F) to (G) (2008).

<sup>30</sup> ARIZ. ADMIN. CODE § R17-5-610(C) (2008).

<sup>31</sup> ARIZ. REV. STAT. ANN. § 28-1461.G (2010).

<sup>32</sup> Motor Vehicle Div., Ariz. Dep't of Transp., Ignition Interlock, <http://www.azdot.gov/mvd/driver/ignitioninterlock.asp> (last visited Apr. 5, 2010).



To start an interlock-equipped vehicle, the driver must provide a breath sample indicating a BAC of less than .08.<sup>33</sup> In order to ensure that the breath sample does not come from a non-human source such as a balloon, the driver is typically presented with additional identification tests. After the vehicle has started, the device requires the driver to provide additional breath samples at random intervals in order to deter the driver from having another person breathe into the interlock to start the vehicle or leaving the car idling while consuming alcohol.<sup>34</sup> An attempt to tamper with or circumvent the device, or missing a scheduled compliance check, may result in immobilization of the vehicle until the device is reset by the manufacturer.<sup>35</sup> The device maintains electronic records of the offender's daily driving activities and any violations,<sup>36</sup> the latter being subsequently reported to the MVD as described in the following.

The offender must have the installer perform an accuracy and compliance check every 30 days during the first three months of the interlock period and every 60 days thereafter.<sup>37</sup> During the accuracy and compliance check, the installer downloads the records from the device and inspects the device for signs of tampering or circumvention.<sup>38</sup> If the device has experienced an interruption in service or has been completely disconnected, the installer also performs a calibration test.<sup>39</sup> Within 24 hours after the compliance check, the installer transmits confirmation of the compliance check, along with information about noncompliance, tampering or circumvention, and BAC violations to the MVD.<sup>40</sup> In the case of adult offenders, three attempts to operate the vehicle with a BAC of .08 or higher results in an administrative extension

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<sup>33</sup> ARIZ. REV. STAT. ANN. § 28-1461.E (2010).

<sup>34</sup> ARIZ. ADMIN. CODE § R17-5-603(F)(6) (2008).

<sup>35</sup> ARIZ. ADMIN. CODE § R17-5-603(F)(8) (2008).

<sup>36</sup> ARIZ. ADMIN. CODE § R17-5-603(F)(3) (2008).

<sup>37</sup> ARIZ. REV. STAT. ANN. §§ 28-1461.A.1(c) to (d) (2010); ARIZ. ADMIN. CODE § R17-5-610(D)(1) (2008).

<sup>38</sup> ARIZ. ADMIN. CODE §§ R17-5-706, R17-5-707(F)(7) (2008).

<sup>39</sup> ARIZ. ADMIN. CODE §§ R17-5-706(C) to (D), R17-5-707(F)(7)(b) (2008).

<sup>40</sup> ARIZ. REV. STAT. ANN. § 18.1461.B (2010); ARIZ. ADMIN. CODE §§ R17-5-601(D) to (E), R17-5-707(F)(5) (2008).

of the interlock period.<sup>41</sup> If the offender is under the age of 21 years, any attempt to operate the vehicle with alcohol in the driver's body results in an administrative extension of the interlock period.<sup>42</sup> Tampering, circumvention, or operating a motor vehicle without an interlock constitutes a class 1 misdemeanor offense, and also results in a one-year administrative extension of the interlock period.<sup>43</sup> If the offender fails to provide proof of installation, removes the device before the interlock period is complete, or misses a compliance check, the MVD suspends the offender's driver's license until proof of compliance is provided.<sup>44</sup> An offender is entitled to an administrative hearing to contest the suspension only on the grounds that he or she was not required to equip his or her vehicle with an interlock, or that he or she did in fact provide proof of compliance.<sup>45</sup> Once the offender has provided proof of compliance, the clock on the interlock period is reset to zero.<sup>46</sup> At the conclusion of the interlock period, the installer removes the device and transmits confirmation of removal to the MVD.<sup>47</sup>

#### **IV. Judicial Education**

Drs. Cheesman and Kleiman observed an educational session on the DUI statutes and regulations and ignition interlock that occurred in October 2009 at the Governor's Office of Highway Safety (GOHS) Judicial DUI Conference. Judges from across Arizona, including judges from rural jurisdictions, convened in Tempe for this three-day conference. The afternoon session of the second day of the conference was devoted to the topic of ignition interlocks. This conference session was organized into seven components.

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<sup>41</sup> ARIZ. REV. STAT. ANN. § 28-1461.E (2010).

<sup>42</sup> ARIZ. REV. STAT. ANN. § 28-1461.E (2010).

<sup>43</sup> ARIZ. REV. STAT. ANN. § 28-1464 (2010); ARIZ. ADMIN. CODE § R17-4-408 (2008).

<sup>44</sup> ARIZ. REV. STAT. ANN. §§ 28-1463.A, -1464.J (2010).

<sup>45</sup> ARIZ. REV. STAT. ANN. § 28-1463.B to .D (2010).

<sup>46</sup> ARIZ. REV. STAT. ANN. § 28-1463.A (2010). *See also* ARIZ. REV. STAT. ANN. § 28-1461.E.1, .4 (2010).

<sup>47</sup> ARIZ. ADMIN. CODE §§ R17-5-609(E)(2), R17-5-610(F) (2008).

the Traffic Injury Research Foundation (TIRF) Alcohol Interlock Curriculum. His presentation focused on *research* related to alcohol interlocks (e.g., recidivism studies, process and outcome evaluations), *technological issues* surrounding alcohol interlocks (e.g., How does the device work and how is it installed? What technologies are used in alcohol interlocks to detect alcohol in breath samples?); *implementation issues* including eligibility criteria for exiting the program, and the goals of alcohol interlock programs (incapacitation, deterrence, punishment, and rehabilitation); and, finally, issues related to *legal concerns* (e.g., attribution of a specific breath test to a particular driver).<sup>48</sup> Throughout his presentation, Judge Priester made an effort to ‘debunk’ some of the myths associated with the use of ignition interlock devices. In addition, the judge played a short 20-minute TIRF film that reviewed many of the issues covered in his short talk. Judge Priester concluded his talk by providing attendees with a link to the TIRF page ([tirf.ca](http://tirf.ca)) and encouraged attendees to visit and explore the website.<sup>49</sup> All told, Judge Priester’s presentation lasted about 45 minutes.

During the second component, following Judge Priester’s presentation, attendees were invited to participate in an active-learning session. Five ignition interlock service providers had exhibits where attendees were able to view and experiment with the actual interlock equipment and see how the device works in practice. In addition, service providers were available to answer questions about their program (e.g., costs; how device is installed in vehicles; how the provider downloads data from the unit). In addition, attendees were given the opportunity to tour the Tempe DUI Processing Van—funded by a grant from the Governor’s Office of Highway Safety (GOHS)—and talk directly to an officer from the City of Tempe Police Department.

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<sup>48</sup> A full listing of the TIRF curriculum questions can be found in Appendix A.

<sup>49</sup> An April/May 2009 article, *Ignition Interlocks*, ([www.courtstoday.com](http://www.courtstoday.com)) was provided in the conference binder.

provider downloads data from the unit). In addition, attendees were given the opportunity to tour the Tempe DUI Processing Van—funded by a grant from the Governor’s Office of Highway Safety (GOHS)—and talk directly to an officer from the City of Tempe Police Department.

After a short break, the third component commenced as conference attendees reconvened for a question and answer session with a police sergeant from the City of Tempe. The officer answered questions about how often he comes across the interlock device and provided general comments “from the field” about ignition interlock and DUI.

The fourth component consisted of a question and answer session with a panel of interlock service providers, including representatives from Safe Harbour, Smart Start, LifeSafer, Guardian Interlock, Advantage Interlock, and Intox Lock. The panel answered questions about how their products work, how the unit is installed, the range of service coverage they provide for Arizona (including coverage of rural areas), cost per month, and how data is sent to the Arizona Department of Transportation, Motor Vehicles Division. At that time, there were eight providers in AZ, with an additional four providers awaiting certification by GOHS.

The fifth component was delivered by Administrative Law Judge Kevin Walling, who discussed in detail the growing increase in the number of ADOT Interlock Hearing requests opened over the past three years. Hearing requests were opened for 19 cases during 2006, 372 during 2007, 4,965 during 2008, and 4,208 as of October 5, 2009. Requests for hearings following a violation must be made in writing to the Motor Vehicle Department within fifteen days after the date of the order of extension.

The sixth component was an educational movie from the early 1960’s about drunk driving. The purpose of the film was to contrast current from earlier public perceptions of the seriousness

of drunk driving and to highlight advances in methods of detection and prevention that have occurred since the movie was made.

The final component consisted of a question and answer session with a local public defender and prosecutor who answered questions about the law and their experiences defending and prosecuting matters related to alcohol ignition interlock devices.

## **V. Rural Judges' Perceptions**

In conjunction with NHTSA, it was decided to interview judges from rural jurisdictions in Arizona that routinely hear DUI cases to gauge their perceptions of the legislation and its effects on their workload, defendants, its effectiveness, and their needs for additional training and resources. Rural counties were identified as being those counties that were not Metropolitan Statistical Areas (MSAs) or were not part of a MSA, as defined by the US Bureau of Census.<sup>50</sup>

Table 4 (p. 18) presents some basic information about the Arizona counties, broken down by their urban and rural designations. Among the rural counties, there is wide variation in the number and rate of filings (per 10,000 persons; often higher than that observed in the urban counties), the percentage of the DUI filings that are classified as Extreme DUIs (BAC of .15 or greater), and dismissal rates in both limited and general jurisdiction courts. With the exception of Apache County, almost no DUI filings were disposed by trial. Note that La Paz County has the highest filing rates (per 10,000 persons) in the state: it also has the highest dismissal rate among general jurisdiction courts and the second highest among limited jurisdiction courts.

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<sup>50</sup> A MSA is a county or group of contiguous counties that contains at least one city with a population of 50,000 or more or a Census Bureau-defined urbanized area of at least 50,000 with a metropolitan population of at least 100,000. In addition to the county or counties that contain all or part of the main city or urbanized area, an MSA may contain other counties that are metropolitan in character and are economically and socially integrated with the main city. Source: [http://www.workforce.az.gov/admin/uploadedPublications/2174\\_MSAandRegionDef.pdf](http://www.workforce.az.gov/admin/uploadedPublications/2174_MSAandRegionDef.pdf)  
[http://www.naco.org/Template.cfm?Section=Data\\_and\\_Demographics&Template=/cffiles/counties/MSAs.cfm](http://www.naco.org/Template.cfm?Section=Data_and_Demographics&Template=/cffiles/counties/MSAs.cfm)

Dismissal rates are generally very low in general jurisdiction courts. Thus, even though they share the same categorization as rural courts, the rural counties exhibit wide variation in rates of DUI filings, as well as the manner in which these cases are handled.

**Table 4: Summary Demographics (2010) and DUI Filings and Manner of Disposition by County (2009)**

County	Demographics				2009 DUI Filings***							Manner of Disposition for 2009 DUI Filings								
	Population (2010)	% age 18-34	Population Density*	Per Capita Income**	Number of DUI Filings	Number of Filings per 10,000 persons	% Change 1999-2009	% DUI Extreme	% Male	% age 18-34	% Disposed by Trial	Limited Jurisdiction					General Jurisdiction			
												Total Disposed	% Dismissed	% Fail to Appear	% Guilty	% Other	Total Disposed	% Dismissed	% Guilty	% Other
<b>Rural</b>																				
Apache	71,518	21%	6.4	\$11,614	164	23	18%	40%	79%	37%	31.7%	159	9%	4%	59%	28%	5	0%	100%	0%
Cochise	131,346	22%	21.3	\$22,419	544	41	-39%	38%	79%	51%	0.0%	531	10%	4%	79%	8%	13	8%	69%	23%
Gila	53,597	15%	11.3	\$19,054	392	73	-30%	31%	75%	51%	0.3%	375	17%	0%	73%	10%	17	0%	82%	18%
Graham	37,220	26%	8.1	\$15,842	259	70	26%	23%	77%	51%	1.2%	205	11%	3%	59%	27%	54	4%	81%	15%
Greenlee	8,437	21%	4.6	\$20,754	81	96	108%	27%	77%	41%	0.0%	75	32%	1%	47%	20%	6	0%	100%	0%
La Paz	20,489	13%	4.6	\$20,050	236	115	26%	32%	79%	34%	2.5%	233	22%	4%	68%	6%	3	33%	33%	33%
Mohave	200,186	16%	15.0	\$21,321	1,092	55	23%	50%	77%	43%	0.0%	1,088	14%	4%	74%	7%	4	0%	75%	25%
Navajo	107,449	21%	10.8	\$15,794	404	38	2%	41%	76%	41%	0.0%	397	19%	2%	61%	19%	7	29%	57%	14%
Santa Cruz	47,420	19%	38.3	\$15,706	173	36	-33%	45%	86%	51%	0.0%	167	7%	7%	76%	10%	6	17%	67%	17%
<b>Urban****</b>																				
Coconino	134,421	31%	7.2	\$22,238	1,106	82	1%	46%	71%	61%	0.4%	1,044	7%	2%	82%	9%	62	5%	76%	19%
Maricopa	3,817,117	24%	414.9	\$27,185	4,635	12	73%	25%	72%	60%	0.0%	4,635	20%	5%	70%	5%	0	0%	0%	0%
Pima	980,263	24%	106.7	\$24,556	3,583	37	85%	41%	70%	62%	1.7%	3,583	18%	6%	55%	21%	0	0%	0%	0%
Pinal	375,770	23%	70.0	\$21,526	1,166	31	84%	43%	80%	47%	1.4%	1,139	13%	5%	69%	14%	27	0%	0%	100%
Yavapai	211,033	16%	26.0	\$25,458	647	31	55%	37%	75%	42%	1.4%	576	9%	1%	80%	10%	71	0%	63%	37%
Yuma	195,751	23%	35.5	\$18,244	663	34	19%	40%	80%	61%	1.4%	660	9%	2%	80%	9%	3	0%	67%	33%

\* Persons per square mile, 2010 U.S Census Bureau

\*\* 2009 dollars

\*\*\* Includes only those cases where DUI was the most serious charge. Felony and Extreme DUI filings are frequently arraigned in Limited Jurisdiction Courts and are subsequently transferred to General Jurisdiction Courts, in which case the filing is counted for General Jurisdiction and not Limited Jurisdiction courts.

\*\*\*\* Defined by Metropolitan Statistical Area (MSA): a county or group of contiguous counties that contains at least one city with a or a Census Bureau-defined urbanized area of at least 50,000 with a metropolitan population of at least 100,000. population of 50,000 or more

To obtain a ground-level perspective on the impact of the interlock requirements in rural jurisdictions, project staff conducted a structured interview with a judge from each of the nine rural counties. A copy of the survey instrument, developed in collaboration with NHTSA, can be found in Appendix B. The judges were recruited by Arizona Administrative Office of the Courts (AOC). Several themes emerged from the interviews:

***Judges perceive ignition interlock as a practical and effective sanction for DUI offenders.***

Overall, ignition interlock, as a DUI sanction, is viewed favorably by the rural judges we interviewed. One judge noted that “I think it is the safest way of trying to get someone to comply with not drinking and driving, especially people that habitually have problems. If they have a device that prevents the car from starting up if they have alcohol on their breath, then I am all for it.” Other judges suggested that ignition interlock is an effective way to keep defendants accountable and potentially acts as a deterrent.

Despite the generally favorable perception of ignition interlock, the judges did express some concerns about issues of access for rural defendants, both in the form of the availability of service providers and the high monetary costs associated with interlock and other DUI sanctions.

***Ignition interlock service providers are limited or non-existent in rural jurisdictions.***

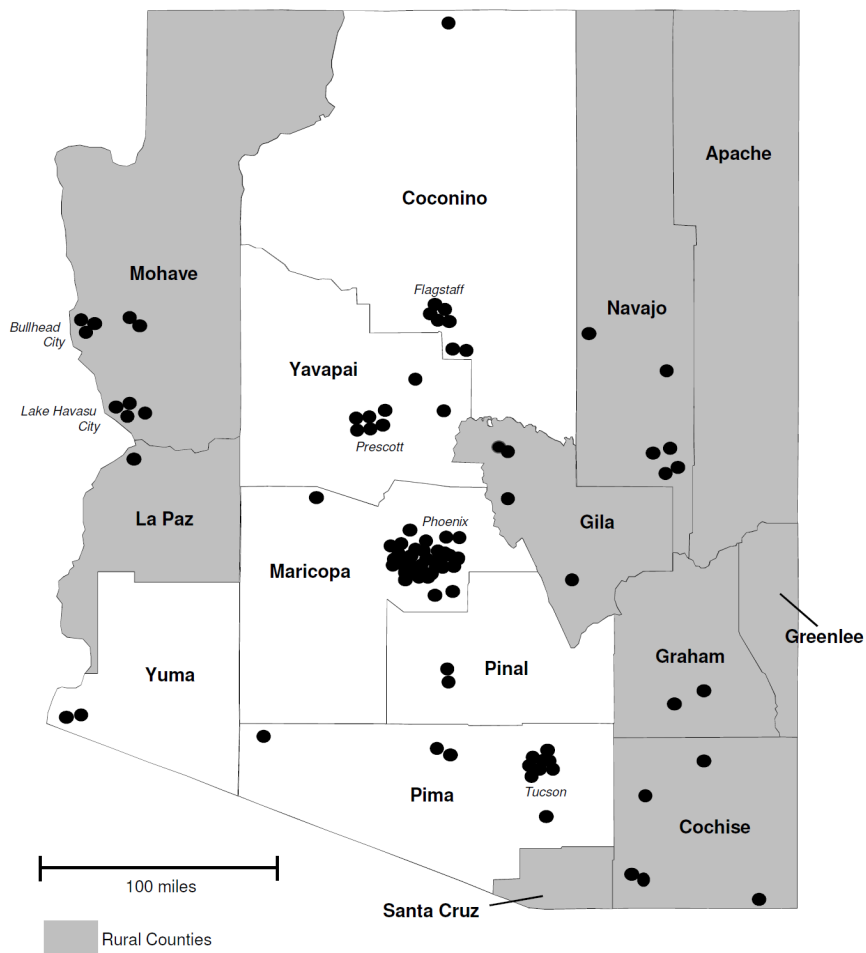
Many of the judges indicated that it is difficult for DUI offenders to have ignition interlock devices installed in their vehicles. Most of the rural jurisdictions do not have a vendor that services their locality. Instead, offenders are forced to drive 50 to 150 miles, each way, to providers who are in the nearest ‘large’ town or city. The judges pointed out that this is a challenge for many rural defendants who may have cars that are operationally unreliable. The end result is that some defendants are not obtaining the interlock device and are being arrested



for driving with a suspended license. One judge suggested that a potential solution was to require interlock service providers to provide service for rural areas as a prerequisite for obtaining a contract with the state.

The judges' perceptions align well with reality. Figure 1 shows the distribution of ignition interlock providers by county. It can be seen that service providers are concentrated in urban counties and non-existent in some rural counties.

**Figure 1: Arizona Ignition Interlock Providers by County 2011<sup>51</sup>**



<sup>51</sup> This map was created based on the service providers listed on the Arizona Department of Transportation webpages. <http://www.azdot.gov/mvd/driver/CertifiedInstallers.asp>

***DUI sanctions are costly and can serve as a barrier for offenders attempting to get their licenses reinstated.***

DUI is a serious offense that carries with it a bundle of sanctions that can be costly for rural defendants. Sanctions include fines, incarceration fees, mandatory counseling fees, ignition interlock fees, surcharges, undergoing alcohol screening, attending Mothers Against Drunk Driving Victim Impact Panel meetings, and, in some cases, supervised probation. For first time offenders, the aggregate financial penalty can exceed \$4,000. Several judges expressed their concern that the monetary expense of the sanctions make it difficult for rural defendants to comply. “We are a very poor rural county and I think the requirement is good, but there are definitely financial and logistical barriers.” Table 5 lists ignition interlock costs for defendants by service provider and provides additional information about service coverage and availability.

Additionally, a few of the judges pointed out that rural communities do not have sufficient DUI counseling centers or programs. This makes it very difficult for DUI offenders to comply with their treatment requirements. The end result is that warrants can be issued for those who do not attend their review hearings (where an offender is required to provide proof of counseling) and additional, costly jail time may be imposed. It should be noted, however, that not all judges interviewed conduct status hearings to monitor DUI offender compliance with treatment and program requirements.

**Table 5: AZ Interlock Service Provider Information**

	<b>Total Number of Locations (Counties)</b>	<b>Total Number of Rural Locations (Counties)</b>	<b>Costs</b>	<b>Location Type</b>	<b>Service Days/hours</b>	<b>Year Received License</b>
Provider 1	14(7)	3(3)	\$70+/month (includes install and removal)	Most are fixed locations. 2 of 3 rural locations are mobile and open by appt only. For an additional fee, will travel to home or office.	Generally Monday-Saturday 8:30am-5pm, but varies by location	2001
Provider 2	25 (10)	6 (5)	\$80+/month (includes install and removal)	All fixed locations	Varies by location	2001
Provider 3	23(9)	11(4)	\$70+/month (includes install and removal)	Both fixed and mobile units. Can request home/office installs	Open at least 10 hours per day	2003
Provider 4	4(2)	0(0)	\$89+/month (includes, install and removal)	All fixed locations	Monday-Friday, 9am-5pm	
Provider 5	19(10)	6(4)				
Provider 6	5(4)	1(1)		All fixed locations	Varies by location	
Provider 7	3(2)	0(0)	\$75/month, (installation included, \$50 removal)	All fixed locations	Monday-Friday, 9am-6pm, Phoenix also Saturday, 8am-5pm	2003
Provider 8	4(2)	0(0)	\$77/month (includes install and removal)	All fixed locations, can request home/office installs	5 days a week, Tuesday-Saturday (Phoenix also open Monday)	2009

***Repeat DUI offenders are often charged as first-time offenders in rural jurisdictions.***

Several of the judges noted that they do not have access to information about defendants' prior criminal records (including any history of DUIs) at hearings that occur early in the judicial process (e.g., at arraignment). As such, judges do not have a criminal record available when taking pleas and most defendants, even if they have prior DUIs, are charged as first time offenders. This means that the plea agreements and associated sanctions may not be in line with the severity of the offense or the risk of future reoffending, potentially compromising public safety.

***Judges are aware of ignition interlock and current DUI laws, but are interested in additional training and information.***

Judges currently have established avenues for obtaining information about DUI legislation and new laws. Judges regularly receive information on new legislation initiatives via memos from the Administrative Office of the Courts that thoroughly explain any changes. In addition, the Arizona Legislative Service provides a compilation of current session laws that documents what is going to be required and effective dates. Judges also have an opportunity to attend the Governor's Office of Highway Safety (GOHS) Judicial DUI Conference [see the earlier section of this report that describes the October, 2009 conference].

Despite the availability of information and extant training opportunities, several of the judges pointed to information gaps where they would like additional information about ignition interlock programs. Specifically, judges were interested in knowing more about:

- What are the costs involved for installation and the monthly rates?
- How do the ignition interlock devices work and function in practice?
- What is the efficacy of the device? How easy or hard is it to tamper with the device?

- What is the availability of local providers and how challenging is it for defendants to obtain the ignition interlock device in their jurisdiction?
- Are ignition interlock devices effective as a deterrent? What studies are available that documents the effectiveness in reducing recidivism?
- What are the rates of compliance? (Since the sanction is an administrative matter of the Motor Vehicle Department, judges would like to know how the ignition interlock requirements are being monitored and enforced).
- Are there other areas where the technology could be used (e.g., underage drinking)?

## **VI. Analysis of Charge Reduction at Sentencing**

A question that we sought to answer was whether judges, in particular rural judges, would engage in more charge reduction at sentencing in response to some of the challenges they faced in their rural counties, especially lack of nearby service providers and the perceived burdens (e.g., fines, classes to attend) that are imposed on often poor rural citizens (see per capita income in Table 4). A data set listing DUI convictions in AZ between 2000 and 2009 was obtained from the Arizona AOC. The data set was constructed in such a way that it was possible to identify cases wherein a DUI was the most serious offense and that enabled one to determine whether the DUI original charge had been reduced. Cases where DUI was the most serious offense were targeted because we wanted to eliminate cases where a more serious offense (e.g., manslaughter) was reduced to a DUI. There is nothing in the 2007 legislation that would cause us to expect any impact on plea bargaining at this level. Our focus was on DUI offenses because this is where we expected to be able to detect any changes in plea reduction behavior, particularly among first-time DUI offenders targeted by the 2007 legislation.

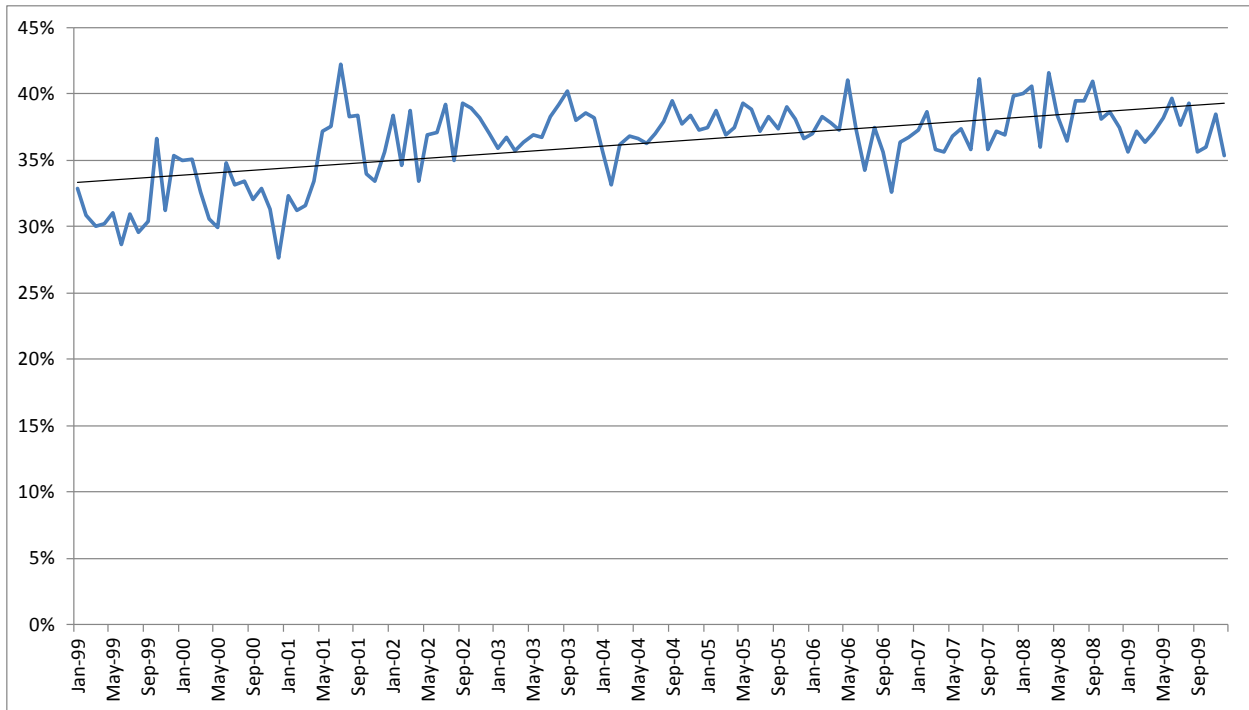
Table 6 shows the rate of charge reduction for defendants for whom DUI was the most serious charge at filing by county, 2000-2009. A charge reduction is defined as a decrease in charge severity from either a DUI to a lesser DUI or to a non-DUI offense. Figure 2 displays the

trend of charge reductions over time. There is clearly a general trend of increasing charge reductions in most counties, including rural counties. This trend began well before the implementation of the 2007 legislation and does not appear to be related to it.

**Table 6: Rate of Charge Reduction for Convicted DUI Defendants, 2000- 2009**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
<b>Rural counties</b>										
Apache	22%	26%	20%	36%	55%	48%	44%	48%	43%	51%
Cochise	40	41	46	48	48	53	58	56	60	63
Gila	36	36	41	44	36	39	44	35	42	41
Graham	13	15	18	22	18	14	14	25	33	29
Greenlee	24	40	26	46	21	63	35	55	52	54
La Paz	24	32	42	46	43	34	40	31	38	37
Mohave	15	12	18	23	21	30	24	25	25	23
Navajo	39	37	40	40	42	33	41	43	41	46
Santa Cruz	58	57	57	64	65	70	71	67	72	64
All rural counties	32%	32%	37%	39%	37%	40%	41%	38%	41%	40%
<b>Metropolitan counties</b>										
Coconino	32%	35%	35%	30%	33%	37%	39%	43%	43%	48%
Maricopa	39	35	37	38	38	39	37	34	35	29
Pima	34	40	39	40	38	38	37	41	45	47
Pinal	26	27	38	43	43	43	40	32	38	32
Yavapai	35	37	33	37	33	27	30	30	26	29
Yuma	22	24	21	23	26	33	35	37	44	50
All metropolitan counties	34%	35%	36%	37%	37%	38%	37%	36%	38%	37%
<b>Statewide</b>	33%	34%	36%	38%	37%	38%	37%	37%	39%	38%

**Figure 2: Trend in DUI Charge Reductions, 2000-2009**



More to the point of this report, we wanted to investigate the extent of charge reductions among what we could reasonably determine to be first-time DUI offenders. Consequently we repeated the analysis of charge reductions described above, this time excluding Felony DUI and Extreme DUI ( $BAC \geq .15$ ) cases. As Table 7 shows, the trend observed for all DUIs largely disappears. Thus, it appears that judges are not engaging in higher rates of charge reductions for first time offenders as a result of the 2007 legislation. A logical inference from a comparison of Tables 6 and 7 is that there is an increasing trend in charge reductions for Felony and Extreme DUIs.

**Table 7: Rate of Charge Reduction for Convicted DUI Defendants by County, 2000 - 2009, Excluding Felony DUI and Extreme DUI**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
<b>Rural counties</b>										
Apache	10%	8%	5%	6%	7%	5%	11%	11%	15%	21%
Cochise	30	28	34	35	33	34	47	38	39	44
Gila	18	8	14	11	15	10	12	7	13	13
Graham	6	6	12	4	5	6	6	16	11	9
Greenlee	17	7	0	15	0	33	8	24	26	13
La Paz	14	22	23	26	20	14	6	13	11	19
Mohave	4	4	7	6	10	6	5	5	3	5
Navajo	24	25	26	17	21	13	12	13	14	15
Santa Cruz	41	37	19	23	38	45	42	46	55	27
<b>All rural counties</b>	<b>19%</b>	<b>18%</b>	<b>20%</b>	<b>20%</b>	<b>20%</b>	<b>18%</b>	<b>20%</b>	<b>17%</b>	<b>18%</b>	<b>18%</b>
<b>Metropolitan counties</b>										
Coconino	19%	23%	22%	18%	15%	22%	23%	26%	32%	29%
Maricopa	24	22	22	23	22	20	21	17	20	18
Pima	20	20	18	19	16	15	14	16	16	14
Pinal	10	14	13	19	24	22	20	13	25	15
Yavapai	12	15	8	10	10	9	11	12	8	12
Yuma	13	15	13	6	13	20	17	19	19	25
<b>All metropolitan counties</b>	<b>19%</b>	<b>20%</b>	<b>18%</b>	<b>19%</b>	<b>18%</b>	<b>18%</b>	<b>18%</b>	<b>17%</b>	<b>19%</b>	<b>18%</b>
<b>Statewide</b>	<b>19%</b>	<b>19%</b>	<b>19%</b>	<b>19%</b>	<b>18%</b>	<b>18%</b>	<b>18%</b>	<b>17%</b>	<b>19%</b>	<b>18%</b>

Notes: Includes convictions in which DUI was the most serious charge at filing. Felony DUI and extreme DUI (BAC >15) are excluded. A charge reduction is defined as a decrease in charge severity from DUI to a non-DUI offense between filing and sentencing. Cases filed on or after September 19 of each year are attributed to the following year. n=56,402

## VII. Conclusions and Recommendations

On the basis of the research described in the preceding, NCSC offers the following conclusions and recommendations:

- Conclusion 1: Accessibility of Ignition Interlock providers is crucial:** It is clear that ready access to ignition interlock service providers is a major problem for most rural jurisdictions in Arizona. It is not clear that this was a consideration when the 2007 legislation was passed although it appears that the designers of the legislation expected market forces to act to provide statewide access to ignition interlock services.

Unfortunately, it is clear from discussion with judges and service providers that these



forces do not operate efficiently in low-density rural jurisdictions. It simply is not profitable for service providers to operate in such jurisdictions.

- **Recommendation:** *Any state considering requiring ignition interlock for all convicted DUI offenders should develop plans and contingencies well in advance of implementation of such a policy to ensure that citizens from rural jurisdictions, as well as from urban jurisdictions, have ready access to ignition interlock services.* One judge suggested making the provision of services to rural jurisdictions a stipulation of contracts with ignition interlock providers that profitably serve largely urban jurisdictions. The state itself could also serve as the provider-of-last-resort.
- **Conclusion 2: Judges desire additional education:** Please see Section V for a listing of topics that Judges would like to see covered by training on the 2007 legislation and ignition interlock, based on our telephone interviews of rural judges. We observed that participants in the educational session seemed to particularly appreciate the opportunity to see ignition interlock devices installed on actual vehicles and to ask questions of the service providers.
  - **Recommendation:** *Any jurisdiction with an ignition interlock law should consider providing ongoing (at least annual) education on the topics identified in this report.*
- **Conclusion 3: Charge Reduction behavior has not changed since passage of the 2007 legislation:** Our analyses revealed that there has been a general and longstanding trend of increasing rates of charge reductions for convicted DUI offenders that began well before implementation of the 2007 legislation. However, when the more serious Felony and

Extreme DUI convictions are excluded from this analysis, leaving a pool of less serious DUI offenders (including most first-time offenders), the rate of charge reduction displays a flat trend over the same time period. The flat trend was true in both urban and rural counties. Apparently, judges have not modified their charge reduction behavior toward less serious DUI offenders, despite the logistical burdens that their rural locations place on offenders. Judges are apparently making efforts to be compliant with the legislation, which also came across during the interviews. By inference, it is clear that the overall trend of increasing rates of charge reductions for convicted DUI offenders is being driven by charge reductions for Extreme and Felony DUIs.

- **Recommendation: Any state implementing legislation that changes penalties for DUI should investigate whether sentencing behavior (particularly charge reductions) changes in response to the legislation, to ensure fidelity of implementation.**
- **Conclusion 4: *Criminal history reports are crucial:*** Our interviews revealed that rural judges and magistrates do not always have adequate information about DUI offenders' criminal history (including DUIs) at the time of sentencing. Given the high fatality rates on rural AZ highways, this is a serious problem because it makes identification of repeat DUI offenders difficult. Ideally, judges would also receive assessment information related to the offenders' alcohol abuse and other criminogenic needs, prior to sentencing and along with criminal history information.
  - **Recommendation: *Sentencing and plea-bargaining should not occur in the absence of information about a DUI offender's criminal history.*** An efficient means to provide such information (e.g., Pre-sentencing Investigation (PSI)

report, computerized criminal history reports) should be developed and made accessible to all judges. Assessment information for selected offenders should also be available.

- **Conclusion 5: *The bifurcation of responsibility between courts and the MVD for sentences to ignition interlock makes enforcement difficult:*** Judges in Arizona sentence but the MVD is responsible for executing and enforcing orders to install ignition interlock and monitor its use. This bifurcation makes it easier for offenders to simply not get an ignition interlock installed on their vehicle and to continue to drive with a suspended license. Continued judicial involvement (e.g., in the form of periodic “status” checks) would go a long way to remedy this situation. Several of the interviewed judges expressed a desire for additional involvement. Research from problem-solving courts suggests that such involvement could lead to better outcomes.
  - **Recommendation: *At a minimum, Judges should receive information about ignition interlock compliance by offenders who they have sentenced, in order to help them make better sentencing decisions in the future. Consideration should also be given to an expanded role for judges to conduct periodic status hearings for convicted DUI offenders to monitor and facilitate their compliance with ignition interlock and other sentencing requirements.***
  - **Recommendation: *Screen all first-time offenders to identify candidates for additional assessment and if warranted, provide treatment for substance abuse.*** Substance abuse treatment should be provided to offenders identified through assessments as being at high risk for DUI recidivism.

## Appendix A: TIRF Curriculum Questions

### A. RESEARCH

1.
  - a) Do alcohol interlocks reduce drunk-driving recidivism among offenders?
  - b) Do alcohol interlocks reduce recidivism among first time offenders?
  - c) Do alcohol interlocks reduce recidivism among hardcore offenders?
2.
  - a) How often do judges impose sentences which require alcohol interlock?
  - b) What are some factors that contribute to judicial reluctance to impose alcohol interlocks as a sentence?
3.
  - a) Do offenders comply with orders to install alcohol interlocks?
  - b) Once installed, do offenders comply with alcohol interlock devices?
4. Can the information from the interlock data recording device be used to predict future offences?
5. What do participants/offenders think about alcohol interlocks?
6. How does the alcohol interlock impact the participant's family?
7. What is the relationship between alcohol interlocks and treatment?
8. What happens when the alcohol interlock is removed from the vehicle?
9. How do the costs for ordering alcohol interlocks compare to the benefits?
10.
  - a) What are the strengths of the existing research?
  - b) What are the limitations of the existing research?
11. What research is still needed?

### B. TECHNOLOGY

1.
  - a) How does the alcohol interlock work and how is it installed?
  - b) What technologies are used in alcohol interlocks to detect alcohol in breath samples?
2. How accurate are alcohol interlocks in detecting alcohol?
3. Are there technical standards established for alcohol interlocks?
4.
  - a) How does mouth alcohol affect the alcohol interlock device?
  - b) How do temperature and altitude (elevation) affect the performance of the alcohol interlock?

- c) What is the expected warm-up time for an alcohol interlock?
- 5. a) What programmable features are provided with the alcohol interlock?  
b) Who is responsible for programming the alcohol interlock device?
- 6. Which anti-circumvention features are included with the alcohol interlock?
- 7. What is a running retest?
- 8. What is the emergency override feature, and how does it work?
- 9. What types of alcohol interlock technology are being considered for future use?

**C. IMPLEMENTATION**

- 1. What are the goals of an alcohol interlock program?
- 2. What are common types of programs to implement alcohol interlocks?
- 3. How are alcohol interlock programs funded?
- 4. What are the key components in legislation?
- 5. a) Who is eligible to be required to install an alcohol interlock?  
b) Do offenders install the interlock once they are ordered to do so?
- 6. What information is captured by the data recorder in the alcohol interlock?
- 7. a) What types of workload activities are associated with monitoring offenders on an alcohol interlock device?  
b) How can the monitoring of offenders be streamlined?
- 8. How can treatment interventions enhance alcohol interlock programs?
- 9. What are the criteria for removing the alcohol interlock and exiting the program?
- 10. Are there particular challenges associated with the use of alcohol interlocks in rural areas?

**D. LEGAL CONCERNS**

- 1. How is alcohol metabolized by the body?
- 2. How does mouth alcohol affect an alcohol interlock device?
- 3. What types of food are likely to interfere with a breath alcohol reading?

4. Is it possible to attribute a specific breath test to a particular driver?
5. Who can/should be certified as an expert witness to give testimony about alcohol interlocks?
6. Is the alcohol interlock an inconvenience to other family members?
7. What about persons who are unable to provide a sufficient breath sample?
8. How much does the alcohol interlock cost?
9. How do jurisdictions determine indigence for the purposes of an alcohol interlock program?

## **Appendix B: Arizona Judge Telephone Interview Questions**

### **Judge's Background**

1. How many years have you been a judge?
2. Do you have a law degree?

### **Caseload and Case Processing**

1. How many DUI cases did you hear in the past year (estimate if necessary)?
  - a. What percentage of these cases went to trial (estimate if necessary)?
2. Please describe how a DUI case is processed in your court.

### **Knowledge and Attitudes about Ignition Interlock**

1. What sort of challenges have you as a judge faced implementing legislation passed in 2008 that requires ignition interlock for all DUI offenders, including first time DUI offenders?
2. What challenges does sentencing a first time DUI offender present to you as a judge? A repeat DUI offender?
3. As a judge in a rural county, do you feel that sentencing a first time DUI offender presents you with unique challenges in comparison to judges from more urban jurisdictions? Repeat DUI offenders?
  - a. How do these challenges affect DUI cases in rural jurisdictions?

### **Service Availability**

1. Please describe the availability of ignition interlock service providers to DUI offenders in your jurisdiction.
2. Can you identify the ignition interlock providers for your county?
  - a. Who are they?
3. How satisfied are you with the level of service that offenders sentenced to ignition interlock in your court receive from the local ignition interlock providers?  
(Very Satisfied) (Satisfied) (Neutral) (Unsatisfied) (Very Unsatisfied)
4. Please explain how local ignition interlock providers could improve their level(s) of service to offenders.

### **Ignition Interlock/DUI Informational Needs**

1. What information about judicial sentencing of offenders to ignition interlock in AZ have you received? Was this information provided to you through a Court Newsletter, via the Web, at a conference, or in some other way?
2. Would you like to receive additional information about judicial sentencing of offenders to ignition interlock in AZ?
  - i. If “Yes”, what topics should be covered?
3. Have you received any information about ignition interlock itself? How (by what means) was this information provided to you?
  - a. Would you like additional information on this subject?
    - i. What information about ignition interlock would you like to have?



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