

2013 WASHINGTON IMPAIRED DRIVING WORK GROUP REPORT

**As requested by the 2013 Legislature
in E2SSB 5912, the DUI Omnibus bill**

***Evaluation of the Effectiveness of Strategies for Reducing Deaths and
Serious Injuries as a result of Impaired Driving Incidents in
Washington State***

December 2, 2013

Co-Chairs

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Project Coordinating Agency

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WASHINGTON
Traffic Safety
COMMISSION

Dear Colleagues:

In the last several years we have made significant progress in reducing alcohol-related deaths and injuries on Washington's roadways. In recent legislative sessions we have significantly strengthened our DUI laws and put in place smart new measures to hold impaired drivers accountable, and the Washington State Patrol and other state agencies have worked effectively together to make our roads safer.

The tragedies continue, however, and impaired driving remains as one of the most serious causes of harm in our society. Victims and their families cry for justice and our intensive legislative efforts continue unabated to strengthen our DUI laws further.

In the 2013 session the Legislature enacted E2SSB 5912, a comprehensive measure with tougher and smarter new measures to reduce impaired driving. Repeat offenders now face mandatory booking in jail and mandatory alcohol monitoring and substance abuse treatment, aimed not only at holding drunk drivers accountable but also at the underlying problem of alcohol abuse. However, more hard work remains before us.

E2SSB 5912 also established an Impaired Driving Working Group to consider unfinished business and outstanding issues related to our DUI laws. The report herein contains a record of the deliberations of the Impaired Driving Working Group during the 2013 interim, research findings and a series of recommendations from the members of the Working Group.

On behalf of the Impaired Driving Working Group, we submit the recommendations in this report for serious consideration by the Legislature, and we hope it provides the foundation for legislation to make further progress in reducing the chronic societal problem of impaired driving.

Very truly yours,



Roger Goodman
State Representative, 45th District
Chair, House Public Safety Committee



Mike Padden
State Senator, 4th District
Chair, Senate Law and Justice Committee

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A Request from the Legislature

Legislature requests additional information and recommendations on the most effective ways to reduce vehicle-related deaths and serious injuries that are a result of impaired driving

During a June special session, the 2013 Washington State Legislature made Impaired Driving legislation a priority and passed comprehensive Driving Under the Influence Legislation, the 2013 DUI Omnibus bill E2SSB 5912, that brought about significant changes in our state’s DUI laws. Governor Jay Inslee signed the bill on July 18, 2013.

The legislation introduced a new program—the 24/7 monitoring program—designed to keep repeat offenders alcohol and drug free 24 hours a day, seven days a week. Officers were directed to book repeat DUI offenders into jail. Judges were directed to order ignition interlock or participation in a 24/7 program or both as a condition of pre-trial release of repeat DUI offenders.

The legislation also directed creation of the **Impaired Driving Work Group (IDWG)** to study the effectiveness of strategies for reducing vehicle-related deaths and serious injuries that involve impaired drivers. It enumerated specific strategies for the group to study and listed 32 agencies, organizations or representatives that were to be included in the Work Group.

The law required the Work Group to compile its findings and recommendations into a final report by December 2, 2013. This is that document, the *“The Impaired Driving Work Group Report.”*

Executive Summary

Purpose

The Washington Impaired Driving Work Group was created to study effective strategies to reduce vehicle-related deaths and serious injuries that are a result of impaired driving incidents in Washington. The IDWG was charged with researching, reviewing, and making recommendations on the following:

- a. Lowering the minimum number of previous impaired driving convictions that must be counted before constituting and being punishable as a felony offense
- b. Providing effective strategies for reducing motor vehicle-related deaths and serious injuries due to impaired driving*
- c. Increasing mandatory minimum penalties and fines for repeat offenders
- d. Promoting and monitoring the use of mandatory ignition interlocks
- e. Creating sobriety checkpoints
- f. Requiring mandatory arrests for a first offense for an impaired driving offense
- g. Increasing treatment and rehabilitation for repeat offenders
- h. Increasing the penalties for refusing to take a breath or blood test for the purpose of determining the alcohol concentration or presence of any drugs
- i. Increasing funding for prevention, intervention, suppression, and prosecution of impaired driving offenses*
- j. Prohibiting the sale of alcohol to offenders convicted of repeat impaired driving offenses
- k. Improving prosecution and encouraging prosecutors to aggressively enforce impaired driving laws
- l. Increasing the number of driving under the influence courts (DUI) and court-related services
- m. Creating state and local impaired driving enforcement task forces to increase the visibility of enforcement
- n. Promoting education and prevention strategies*
- o. Encouraging private sector collaboration*

Note: Those strategies designated with “*” are common components of effective strategies that should be considered with any implemented strategy to maximize the effectiveness of that strategy. Research and references are provided for them, but they were not considered in the strategy priority rankings, as all are needed for any strategy to be effective.

Required Action

To compile Work Group findings and recommendations into a final report and provide the report to the Legislature and Governor by December 1, 2013.

Process

Three Work Group meetings were held where the research available on each strategy was presented followed by a discussion of that strategy by the group. Washington Traffic Safety Commission, the host agency, conducted a survey that allowed IDWG members and attendees to record their opinions about each strategy. The survey assessed their collective preferences and level of support for each strategy.

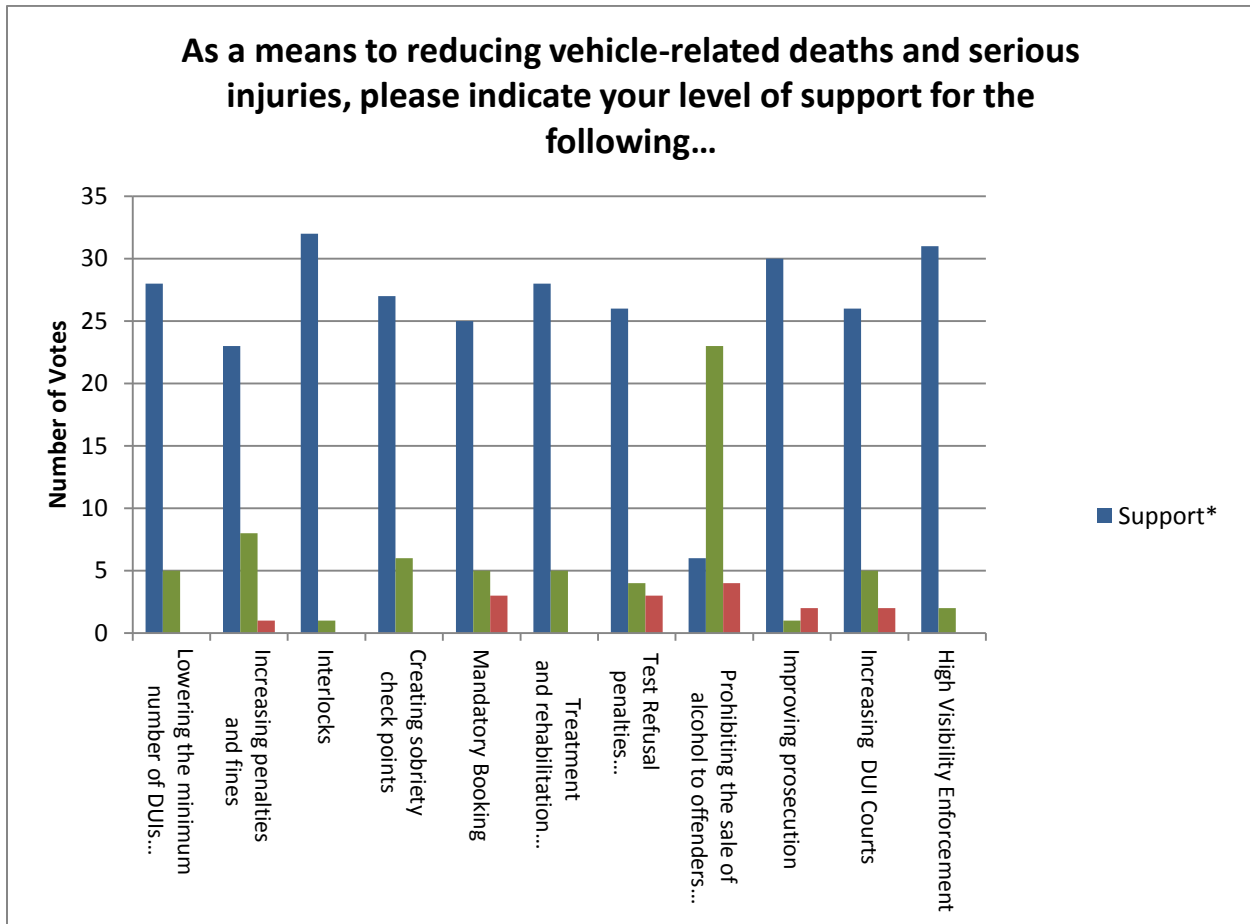
Results

This chart shows a comparison between strategies' positions in the Ranking question versus what was expressed by the same respondents in the Level of Support question. Details behind these numbers are presented on page 12 for Level of Support and page 14 for Rankings.

Comparative of Rankings and Level of Support		
Strategy	Ranking	% who Strongly Support or Somewhat Support
Increasing penalties for refusing to take a breath or blood test for the purpose of determining the alcohol concentration or presence of any drugs.	1	78.8%
Increasing mandatory minimum penalties and fines for repeat offenders.	2	71.9%
Lowering the minimum number of previous impaired driving convictions that must be counted before constituting and being punishable as a felony offense .	3	84.8%
Creating sobriety checkpoints .	4	81.8%
Increasing treatment and rehabilitation for repeat offenders.	5	84.8%
Increasing the number of DUI courts and court-related services.	6	78.8%
Requiring mandatory arrests for a first offense for an impaired driving offense.	7	75.8%
Improving prosecution and encouraging prosecutors to aggressively enforce impaired driving laws.	8	90.9%
Creating state and local impaired driving enforcement task forces to increase visibility of enforcement .	9	93.9%
Promoting and monitoring the use of mandatory ignition interlocks .	10	96.9%
Prohibiting the sale of alcohol to offenders convicted of repeat impaired driving offenses.	11	18.2%

Level of Support for Each Strategy

The survey asked for respondents' level of support for each strategy as a means to reducing vehicle-related deaths and serious injuries. Response options were: "Strongly Support," "Somewhat Support," "Somewhat Don't Support," "Strongly Don't Support" and "Undecided."



The blue "Support" bar includes those who answered either "Strongly Support" or "Somewhat Support" in the survey. The green "Don't Support" bar includes "Somewhat Don't Support" and "Strongly Don't Support" survey responses. The table on the next page shows a break out for all five response options.

Level of Support for Each Strategy						
Strategy	Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided	Total Responses
Lowering the minimum number of previous impaired driving convictions that must be counted before constituting and being punishable as a felony offense .	60.6% (20)	24.2% (8)	9.1% (3)	6.1% (2)	0% (0)	33
Increasing mandatory minimum penalties and fines for repeat offenders.	50% (16)	21.9% (7)	15.6% (5)	9.4% (3)	3.1% (1)	32
Promoting and monitoring the use of mandatory ignition interlocks .	72.7% (24)	24.2% (8)	3% (1)	0% (0)	0% (0)	33
Creating sobriety checkpoints .	57.6% (19)	24.2% (8)	6.1% (2)	12.1% (4)	0% (0)	33
Requiring mandatory arrests for a first offense for an impaired driving offense.	45.5% (15)	30.3% (10)	6.1% (2)	9.1% (3)	9.1% (3)	33
Increasing treatment and rehabilitation for repeat offenders.	63.6% (21)	21.2% (7)	12.1% (4)	3% (1)	0% (0)	33
Increasing penalties for refusing to take a breath or blood test for the purpose of determining the alcohol concentration or presence of any drugs.	60.6% (20)	18.2% (6)	9.1% (3)	3% (1)	9.1% (3)	33
Prohibiting the sale of alcohol to offenders convicted of repeat impaired driving offenses.	9.1% (3)	9.1% (3)	33.3% (11)	36.4% (12)	12.1% (4)	33
Improving prosecution and encouraging prosecutors to aggressively enforce impaired driving laws.	78.8% (26)	12.1% (4)	0% (0)	3% (1)	6.1% (2)	33
Increasing the number of DUI courts and court-related services.	57.6% (19)	21.2% (7)	15.2% (5)	0% (0)	6.1% (2)	33
Creating state and local impaired driving enforcement task forces to increase visibility of enforcement .	63.6% (21)	30.3% (10)	3% (1)	3% (1)	0% (0)	33

Ranking for Each Strategy

Survey respondents were also asked to rank each strategy. They were asked, “Which strategy would be the most effective in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries. A rank of 1 indicates the strategy ranked as most effective and 11 ranked as least effective. A summary of the results is shown here, with a further breakdown of responses on the following page.

Strategy Scoring Table #1 Ranked Most Effective	
Rank	Strategy
1	Increasing penalties for refusing to take a breath or blood test for the purpose of determining the alcohol concentration or presence of any drugs.
2	Increasing mandatory minimum penalties and fines for repeat offenders.
3	Lowering the minimum number of previous impaired driving convictions that must be counted before constituting and being punishable as a felony offense .
4	Creating sobriety checkpoints .
5	Increasing treatment and rehabilitation for repeat offenders.
6	Increasing the number of DUI courts and court-related services.
7	Requiring mandatory arrests for a first offense for an impaired driving offense.
8	Improving prosecution and encouraging prosecutors to aggressively enforce impaired driving laws.
9	Creating state and local impaired driving enforcement task forces to increase visibility of enforcement .
10	Promoting and monitoring the use of mandatory ignition interlocks .
11	Prohibiting the sale of alcohol to offenders convicted of repeat impaired driving offenses.

Strategy Scoring Table--#1 Ranked Most Effective

Rank	Strategy	Priority Rankings											Total Score
		1	2	3	4	5	6	7	8	9	10	11	
1	Increasing penalties for refusing to take a breath or blood test for the purpose of determining the alcohol concentration or presence of any drugs.	9.4% (3)	28.1% (9)	15.6% (5)	9.4% (3)	3.1% (1)	6.3% (2)	6.3% (2)	12.5% (4)	9.4% (3)	0% (0)	0% (0)	138
2	Increasing mandatory minimum penalties and fines for repeat offenders.	43.8% (14)	3.1% (1)	3.1% (1)	3.1% (1)	6.3% (2)	0% (0)	9.4% (3)	15.6% (5)	0% (0)	9.4% (3)	6.3% (2)	146
3	Lowering the minimum number of previous impaired driving convictions that must be counted before constituting and being punishable as a felony offense.	9.4% (3)	9.4% (3)	12.5% (4)	12.5% (4)	18.8% (6)	6.3% (2)	15.6% (5)	0% (0)	9.4% (3)	3.1% (1)	3.1% (1)	162
4	Creating sobriety check points.	3.1% (1)	12.5% (4)	12.5% (4)	15.6% (5)	9.4% (3)	12.5% (4)	12.5% (4)	3.1% (1)	9.4% (3)	9.4% (3)	0% (0)	173
5	Increasing treatment and rehabilitation for repeat offenders.	12.5% (4)	9.4% (3)	12.5% (4)	9.4% (3)	3.1% (1)	9.4% (3)	15.6% (5)	9.4% (3)	9.4% (3)	3.1% (1)	6.3% (2)	175
6	Increasing the number of DUI courts and court-related services.	9.4% (3)	3.1% (1)	3.1% (1)	15.6% (5)	12.5% (4)	18.8% (6)	12.5% (4)	9.4% (3)	12.5% (4)	3.1% (1)	0% (0)	182
7	Requiring mandatory arrests for a first offense for an impaired driving offense.	3.1% (1)	9.4% (3)	12.5% (4)	6.3% (2)	12.5% (4)	12.5% (4)	9.4% (3)	9.4% (3)	12.5% (4)	9.4% (3)	3.1% (1)	193
8	Improving prosecution and encouraging prosecutors to aggressively enforce impaired driving laws.	0% (0)	6.3% (2)	12.5% (4)	12.5% (4)	21.9% (7)	0% (0)	6.3% (2)	18.8% (6)	6.3% (2)	12.5% (4)	3.1% (1)	198
9	Creating state and local impaired driving enforcement task forces to increase visibility of enforcement.	3.1% (1)	9.4% (3)	6.3% (2)	6.3% (2)	6.3% (2)	21.9% (7)	6.3% (2)	9.4% (3)	12.5% (4)	18.8% (6)	0% (0)	207
10	Promoting and monitoring the use of mandatory ignition interlocks.	6.3% (2)	6.3% (2)	9.4% (3)	3.1% (1)	3.1% (1)	12.5% (4)	6.3% (2)	9.4% (3)	18.8% (6)	18.8% (6)	6.3% (2)	222
11	Prohibiting the sale of alcohol to offenders convicted of repeat impaired driving offenses.	0% (0)	3.1% (1)	0% (0)	6.3% (2)	3.1% (1)	0% (0)	0% (0)	3.1% (1)	0% (0)	12.5% (4)	71.9% (23)	316

Work Group Details

Coordinating Agency

The Washington Traffic Safety Commission (WTSC) was identified as the Project Coordinating Agency. The WTSC Research and Data Division researched and reviewed the effectiveness of the impaired driving strategies identified in E2SSB 5912.

Report Development Process

June	Legislature passes E2SSB 5912, 2013 DUI Omnibus bill
July	Governor Signs E2SSB 5912
July	WTSC conducts outreach, identifies participants, and builds project charter. Work Group members select co-chairs.
July/Aug	Research and review by WTSC of identified strategies
August	Research summaries and background materials sent to Work Group members
Aug 13	Half-day Impaired Driving Work Group Meeting (<i>Meeting Video Part One and Part Two</i>)
Sept 19	Half-day Impaired Driving Work Group Meeting (<i>Meeting Video</i>)
Oct 15	Half-day Impaired Driving Work Group Meeting (<i>Meeting Video</i>)
End of Oct	Survey conducted of Work Group members and those who had attended Work Group meetings
November	Report Compilation and Assembly
Dec 2	Report presented to Legislature and Governor

Impaired Driving Work Group Meetings covered Washington State’s history and current efforts on addressing the impaired driving issue, research summaries and presentations for each strategy, and projections of related impacts for each strategy. Work Group members, and others in attendance, discussed the research, their experiences, and their individual and organizational perspectives.

After final discussions in the Work Group’s third meeting, members directed WTSC to draft the report to the Legislature and Governor and directed that it include the following components:

- Research Summaries
- Individual Work Group member comments about each strategy, as collected by a survey
- Group ranking of strategy’s effectiveness, as determined by a survey

In late October a survey was conducted, using Survey Monkey as the tool, that provided a chance for Impaired Driving Work Group members and those who had attended the Work Group meetings, to record their opinions about each strategy, list their support/lack of support for each strategy, and rank them in order of importance. A copy of the survey can be found in [Appendix D](#).

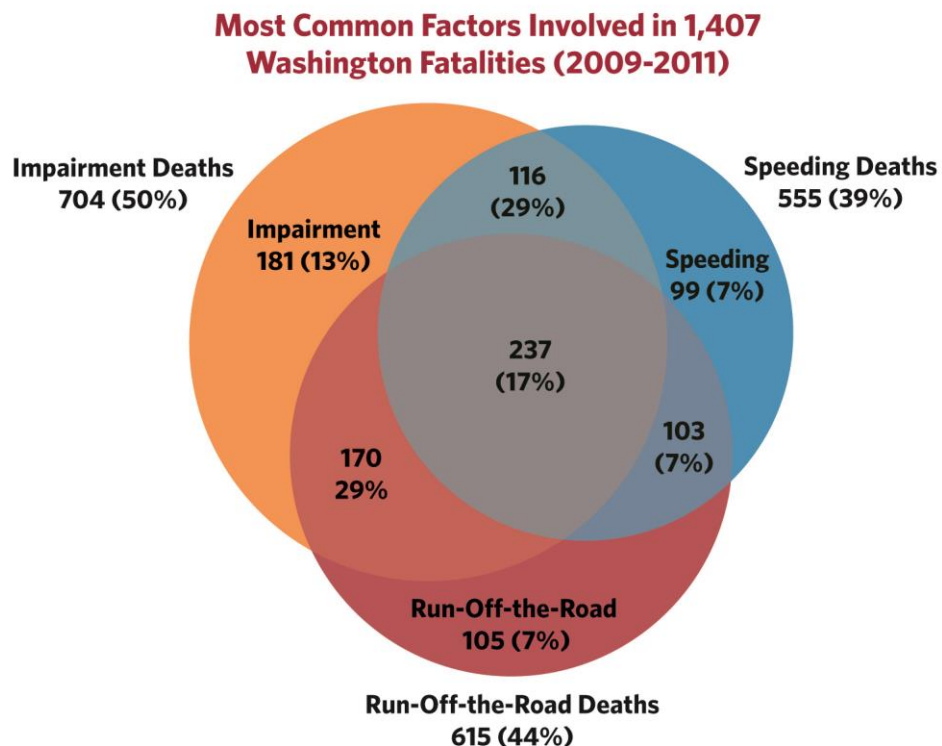
Impaired Driving Work Group Members

The following organizations, as represented by the individuals noted for each, were designated by the legislation (E2SSB 5912) to represent stakeholder groups on the Impaired Driving Work Group.

Organization	Representative (alternates)
Senate Members	Senator Mike Padden, Senator Adam Kline
House Members	Representative Roger Goodman, Representative Brad Klippert
Washington State Patrol	Chief John Batiste (Assistant Chief Rupke, Capt. Rob Sharpe, Capt. Rob Huss, Sgt. JoAnn Buettner)
Liquor Control Board	Chief Justin Nordhorn (Chief Steve Johnson, Kim Sauer)
Department of Licensing	Pat Kohler (Tony Sermonti, Judy Groezinger, Toni Hood)
Department of Corrections	Bernie Warner (Adam Aaseby, Dawn Williams)
Department of Social & Health Services	Kevin Quigley (Scott Waller)
Washington State Department of Transportation	Lynn Peterson (John Nisbet, Mike Dornfeld, John Milton)
Washington State Department of Health	John Weisman (Janet Kastl)
Washington Traffic Safety Commission	Darrin Grondel (Steve Lind, Shelly Baldwin, Staci Hoff)
Washington Association of Sheriffs & Police Chiefs	Mitch Barker (Bruce Bjork)
Superior Court Judges Association	Judge Charles Snyder (Judge Steve Warning)
District & Municipal Court Judges Association	Judge Glenn Phillips
Association of Washington Counties	Eric Johnson (Brian Enslow, Al Rose)
Washington Association of Prosecuting Attorneys	Tom McBride (Mark Lindquist, Jon Tunheim)
Washington Defender's Association OR Washington Association of Criminal Defense Lawyers	Christie Hedman OR Teresa Mathis (Patricia Fulton, David Montes, Alex Frix)
Washington State Assoc. of Drug Court Professionals	Judge Harold Clark, III (Ellen Goodman)
Ignition Interlock Industry	Jerry Stanton
Washington Retail Association	Jan Teague
Washington State Association of Cities	Mike McCarty (Rachel Cormier Anderson)
Treatment Providers	Julie Mitchell, Lakeside Milam
Victim Impact Panel	Marilyn Clapper (John Dorman)
City Law Enforcement	Chief Bill Drake, Orting Police Department
County Law Enforcement	Sheriff Ken Bancroft, Asotin County Sheriff's Department
Court Administrators:	Lynne Campeau, Issaquah Municipal Court Administrator
DUI Victim or Family Member of Victim:	Frank Blair, Carol Blair, Matt Fick, Dan Schulte
Misdemeanant Corrections Associations	Janene Johnstone (Susan Fraser)
Washington Mothers Against Drunk Driving	Amy Lea Ezzo (Brian Ursino)
Harborview Injury Prevention & Research	Beth Ebel
Governor's Office	John Lane (Richard Lazaro)
King County Prosecutor's Office	Amy Freedheim
Washington Coalition of Crime Victim Advocates	Cody Benson

Background Information on Impaired Driving in Washington State

Impaired drivers were a factor in half of all traffic deaths (704 of 1,406) and 21 percent of all serious injuries (1,519 of 7,264) between 2009 and 2011, making it the leading factor in Washington State traffic deaths. Drivers in fatal crashes were as likely to be impaired by drugs as by alcohol, with almost 25 percent impaired by both alcohol and drugs.



Overlap for the top three contributing factors, 2009-2011.

Percentages are based on total traffic fatalities (1,407) during that time period. Impaired driving was involved in 50 percent of fatalities between 2009-2011, run-off-the-road in 44 percent and speeding in 39 percent. In 29 percent of fatalities, both impairment and run-off-the-road were factors. In another 29 percent, both impairment and speed were involved. When combined, 17 percent of fatalities involved all three factors. Impairment was the only contributing factor in 13 percent of fatalities. Run-off-the-road and speeding, each by themselves, were the only contributing factor in 7 percent of fatalities. In another 7 percent of fatalities, run-off-the-road and speeding were both involved.

Impaired Driving Statistics 2009-2011

Age and Gender

- Just over half of those killed in impairment-related crashes, and 56 percent of those seriously injured, were ages 16-34
- Fifty-three percent of impaired drivers in fatal crashes were ages 16-34
- Eighty-one percent of impaired drivers in fatal crashes were male

Location

- Sixty-one percent of fatalities occurred on rural roads
- Five counties in Washington account for over 50 percent of impaired driving fatalities: King (16 percent), Pierce (10 percent), Snohomish (9 percent), Yakima (8 percent), and Spokane (8 percent)

Time, Day, Month

- Nearly 60 percent of deaths occurred at nighttime (7 p.m. - 4:59 a.m.)
- Over half of the fatalities occurred on the weekend (between 7 p.m. Friday and 4:59 a.m. Monday)
- The summer months of June through September account for 43 percent of impairment-related deaths
- The most impaired driving involved deaths occurred in August (13 percent) and the fewest in April (6 percent)

Other

- Sixty-three percent of those killed died in single-vehicle crashes
- Forty-four percent of those impaired were the sole occupants in their vehicles
- Twenty-six percent of impaired drivers were also distracted
- Motorcyclists are the only person group in which drug impairment, involved in 29 percent of fatalities, exceeds alcohol impairment
- Impaired drivers are 38 percent more likely to disobey traffic signs, signals, officers, or laws

Fortunately, Washington is experiencing declines in impaired driving. In 2009-2011, impaired driver involved deaths and serious injuries both decreased by 15 percent when compared to 2006-2008.

Washington's system-wide approach to addressing impaired driving has led to support for prevention initiatives; comprehensive ignition interlock laws; better law enforcement and prosecutor training; more DUI Courts; and innovative, targeted, full time DUI enforcement teams, among other initiatives.

Washington State's impaired driving program is driven by the State Highway Safety Plan, *Target Zero*[®] and the Washington Impaired Driving Advisory Council (WIDAC) Strategic Plan. Strategies for addressing impaired driving are listed in each of these plans and are parallel. The strategies published in these plans have undergone research and review similar to what was conducted for this document.

[Appendix B](#) compares the strategies outlined in the bill to strategies in *Target Zero*[®]. It also highlights other 'most effective' impaired driving strategies that were not identified in the bill.

Evaluation of Individual Strategies

*Overviews, WTSC Effectiveness Summaries, and
Work Group Recommendations*

1. Lowering the Minimum Number of Impaired Driving Convictions before Constituting and Being Punishable as a Felony

1.1 Felony DUI—Overview of Strategy

US States' DUI Felony Laws

A fifth DUI in Washington is charged as a felony. Eighteen states raise felony charges after the fourth offense, 21 states after the third, and four states after the second. States also differ in regard to the previous DUI “look-back period,” ranging from life to the previous five years. Washington’s look back period is ten years. However, five states and D.C. have no felony DUI laws for offenses.

# Convictions	With Previous Offense within XX Years						TOTAL
	No Lookback	12-years	10-years	7-years	6-years	5-years	
TWO	1	0	2	0	0	1	4
THREE	14	0	6	0	0	1	21
FOUR	8	1	3	1	1	4	18
FIVE	0	0	1	0	0	0	1
TOTAL	23	1	12	1	1	6	

1.2 Felony DUI—Research Summary and Possible Courses of Action

As presented to the Work Group by the WTSC.

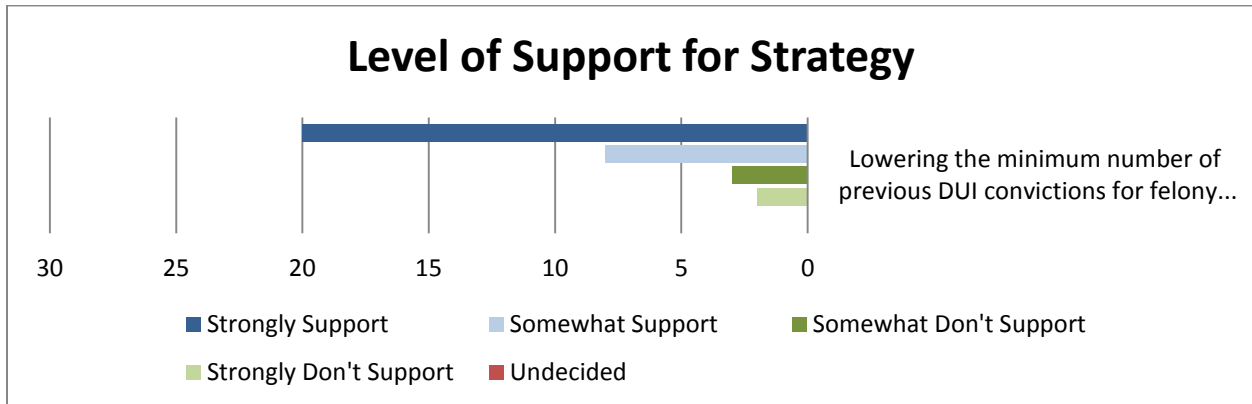
The effectiveness of lowering the minimum number of DUI convictions before being punishable as a felony is lacking supporting literature. Presumably, the felony conviction equates to increased jail times and fines, both of which are established in the literature to be ineffective at reducing DUI recidivism and crash rates. From a policy perspective, strengthening felony DUI laws by lowering the minimum number of convictions and/or increasing the “look-back period” may contribute to specific and general deterrence by increasing certainty of punishment, but only if these efforts are highly publicized.

This strategy has NO AVAILABLE RESEARCH or evaluations on the effectiveness for reducing deaths and serious injuries that are a result of impaired driving incidents. The more severe nature of felony sanctions (increased jail time and fines) have been shown to be ineffective as stand-alone strategies. However, if the felony sanctions result in increased monitoring and probation it could be considered an effective strategy.

The literature suggests that intensive supervision probation combined with frequent meetings with the judge and close monitoring of compliance with the offender’s sanctions (DUI courts) are effective at reducing alcohol-related crashes. This strategy appears to be effective in dealing with multiple repeat offenders. An evaluation of an offender’s problem with substance abuse should be conducted before deciding which sanctions should be imposed.

1.3 Felony DUI—Work Group Recommendation

In the survey, IDWG members were asked their level of support for each strategy as a means to reducing vehicle-related deaths and serious injuries. Among survey respondents to this question, **84.8% either Strongly or Somewhat Support this strategy** as an effective means to reduce deaths and serious injuries from impaired driving. Their comments about this strategy are compiled at [A1.3](#).



Level of Support for Strategy					
Lowering the minimum number of previous impaired driving convictions that must be counted before constituting and being punishable as a felony offense .					
Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided	Total Responses
60.6% (20)	24.2% (8)	9.1% (3)	6.1% (2)	0% (0)	33

3/11 When Work Group members were asked to rank the 11 strategies – “Which strategies do you feel would be most effective, in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries?” – **Lowering the minimum number of previous impaired driving convictions that must be counted before constituting and being punishable as a felony offense ranked 3 out of 11.**

The table below shows how the respondents individually ranked this strategy.

Priority Ranking of Strategy											
Rank	1	2	3	4	5	6	7	8	9	10	11
% of Responses	9.4%	9.4%	12.5%	12.5%	18.8%	6.3%	15.6%	0%	9.4%	3.1%	3.1%
# of Responses	(3)	(3)	(4)	(4)	(6)	(2)	(5)	(0)	(3)	(1)	(1)

2. Increasing Mandatory Minimum Penalties and Fines for Repeat DUI Offenders

2.1 Penalties and Fines—Overview of Strategy

Current mandatory penalties for repeat impaired driving offenses in Washington State include jail time, driver license revocation, and the installation of ignition interlock devices before the reinstatement of driving privileges. Current fines for repeat DUI offenders include a mandatory minimum of \$500. This fine increases with additional DUI offenses and higher BAC, but cannot exceed \$5,000. Offenders pay a \$200 breath test fee. An additional mandatory fine of \$1,000 for carrying a passenger under the age of 16 may also be assessed.

If an offender installs an ignition interlock device, either with an ignition interlock license or an interlock restriction to the regular license, the offender pays a \$100 licensing fee plus costs for installation, removal, and lease of an ignition-interlock device. In addition, while the interlock is installed, the offender pays a \$20 monthly fee that is deposited into the ignition interlock indigence fund.

This strategy aims to increase the current minimum mandatory penalties and fines assessed to *repeat* DUI offenders. The central question here is whether or not these ‘mandatory minimums’ will exert increased specific deterrent effects commensurate with those fine and penalty increases.

2.2 Penalties and Fines—Research Summary and Possible Courses of Action

As presented to the Work Group by the WTSC.

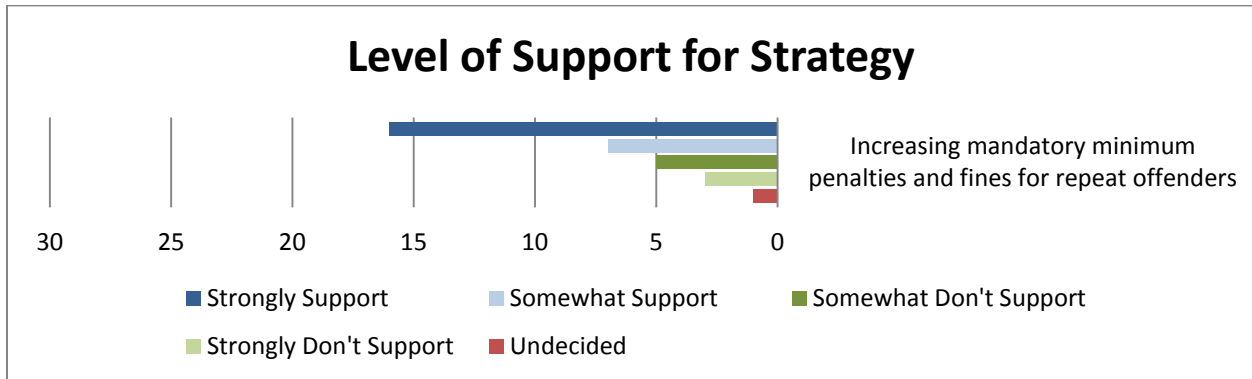
The great majority of studies have found that increasing the jail-time required for repeat DUI offenders does not result in the desired specific deterrent effects or reduction in recidivism. A majority of studies have also concluded that the effectiveness of fines is minimal. The 2013 edition of Countermeasures That Work summarizes these results: “Available evidence suggests that fines appear to have little effect on reducing alcohol-impaired driving.” Severe minimum penalties for repeat offenders may have a general deterrent effect (particularly for first time offenders who are already less likely to reoffend); however they are ineffective at producing specific deterrence in the target group (repeat offenders).

Research suggests this strategy is INEFFECTIVE for reducing deaths and serious injuries that are a result of impaired driving incidents. Some research has shown that traffic crashes actually increased after minimum penalties for impaired driving were increased.

The literature suggests that the alternative course of action is intensive supervision probation combined with frequent meetings with the judge and close monitoring of compliance with the offender’s sanctions (DUI Courts). This strategy appears to be effective in dealing with multiple repeat offenders. An evaluation of an offender’s problem with substance abuse should be conducted before deciding which sanctions should be imposed. Furthermore, increasing taxes on alcohol is likely more effective than increasing minimum fines for an impaired driving offense.

2.3 Penalties and Fines—Work Group Recommendation

In the survey, IDWG members were asked their level of support for each strategy as a means to reducing vehicle-related deaths and serious injuries. Among survey respondents to this question, **71.9% either Strongly or Somewhat Support this strategy** as an effective means to reduce deaths and serious injuries from impaired driving. Their comments about this strategy are compiled at [A2.3](#).



Level of Support for Strategy					
Increasing mandatory minimum penalties and fines for repeat offenders.					
Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided	Total Responses
50% (16)	21.9% (7)	15.6% (5)	9.4% (3)	3.1% (1)	32

2/11 When Work Group members were asked to rank the 11 strategies – “Which strategies do you feel would be most effective, in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries?” – **Increasing mandatory minimum penalties and fines for repeat offenders ranked 2 out of 11.**

The table below shows how the respondents individually ranked this strategy.

Priority Ranking of Strategy											
Rank	1	2	3	4	5	6	7	8	9	10	11
% of Responses	43.8%	3.1%	3.1%	3.1%	6.3%	0%	9.4%	15.6%	0%	9.4%	6.3%
# of Responses	(14)	(1)	(1)	(1)	(2)	(0)	(3)	(5)	(0)	(3)	(2)

3. Promoting and Monitoring the Use of Mandatory Ignition Interlocks

3.1 Interlocks—Overview of Strategy

Ignition interlocks have been in use to prevent alcohol-impaired driving for more than two decades, becoming increasingly sophisticated during that time. Numerous studies have shown that interlock programs reduce recidivism during the time the devices are installed, and show promising effects for reducing alcohol-involved crashes. “NHTSA recognizes that ignition interlock devices must be part of a comprehensive program that includes, but is not limited to, sound legislation, enforcement, treatment for alcohol misuse, monitoring, and reporting” (NHTSA, 2012).

3.2 Interlocks—Research Summary and Possible Courses of Action

As presented to the Work Group by the WTSC.

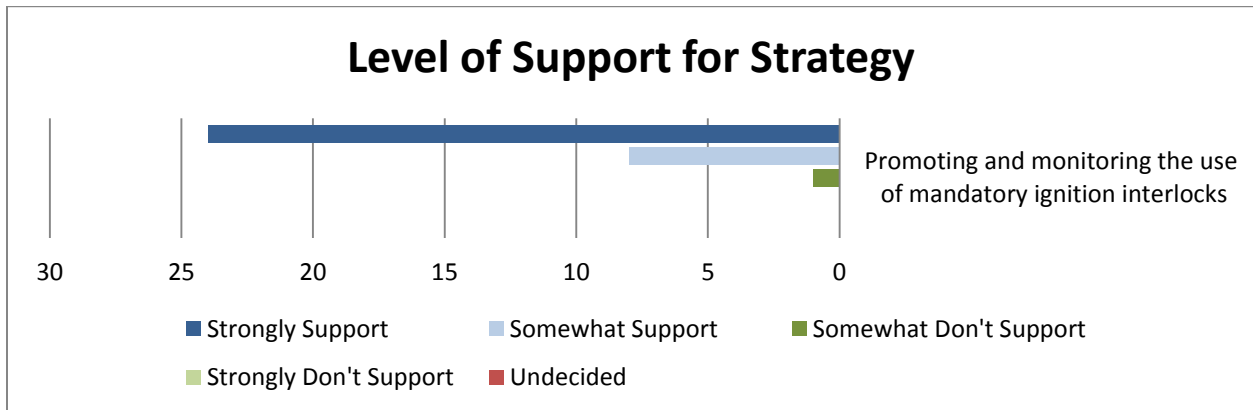
Ignition interlocks have been used for more than two decades and have been proven to reduce recidivism rates among DUI offenders while the device is installed. Research suggests that the effect dissipates once the device is removed; however, more studies are needed to evaluate the effect of ignition interlocks on general deterrence.

Research suggests this strategy is MOST EFFECTIVE for reducing DUI recidivism rates among both first-time and repeat DUI offenders while the device is installed. Weaker associations have been reported in the literature regarding reductions in alcohol-involved crashes.

The literature suggests that several measures must be implemented to maximize the effectiveness of ignition interlocks for reducing alcohol impaired driving. Mandatory alternative sanctions to DUI offenders refusing ignition interlocks should be more inconvenient than the interlock, including jail time or electronically monitored home confinement, also applying to offenders claiming to have no vehicle or no intent to drive. Sufficient and frequent monitoring of DUI offenders with ignition interlocks has been shown to significantly increase compliance. Sufficient human and financial resources must be allocated to compliance monitoring.

3.3 Interlocks—Work Group Recommendation

In the survey, IDWG members were asked their level of support for each strategy as a means to reducing vehicle-related deaths and serious injuries. Among survey respondents to this question, **96.9% either Strongly or Somewhat Support this strategy** as an effective means to reduce deaths and serious injuries from impaired driving. Their comments about this strategy are compiled at [A3.3](#).



Level of Support for Strategy					
Promoting and monitoring the use of mandatory ignition interlocks					
Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided	Total Responses
72.7% (24)	24.2% (8)	3% (1)	0% (0)	0% (0)	33

10/11 When Work Group members were asked to rank the 11 strategies – “Which strategies do you feel would be most effective, in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries?” – **Promoting and monitoring the use of mandatory ignition interlocks ranked 10 out of 11.**

The table below shows how the respondents individually ranked this strategy.

Priority Ranking of Strategy											
Rank	1	2	3	4	5	6	7	8	9	10	11
% of Responses	6.3%	6.3%	9.4%	3.1%	3.1%	12.5%	6.3%	9.4%	18.8%	18.8%	6.3%
# of Responses	(2)	(2)	(3)	(1)	(1)	(4)	(2)	(3)	(6)	(6)	(2)

4. Advantages and Disadvantages of Creating Sobriety Checkpoints

4.1 Checkpoints—Overview of Strategy

Sobriety checkpoints involve law enforcement officers stopping vehicles at predetermined points in the roadway to evaluate drivers for signs of impairment. Checkpoints may involve random stopping (for example, every third car) or brief screening of every driver passing through. The main benefit of sobriety checkpoints comes from the effectiveness of general deterrence of impaired driving, rather than from actual arrests.

4.2 Checkpoints—Research Summary and Possible Courses of Action

As presented to the Work Group by the WTSC.

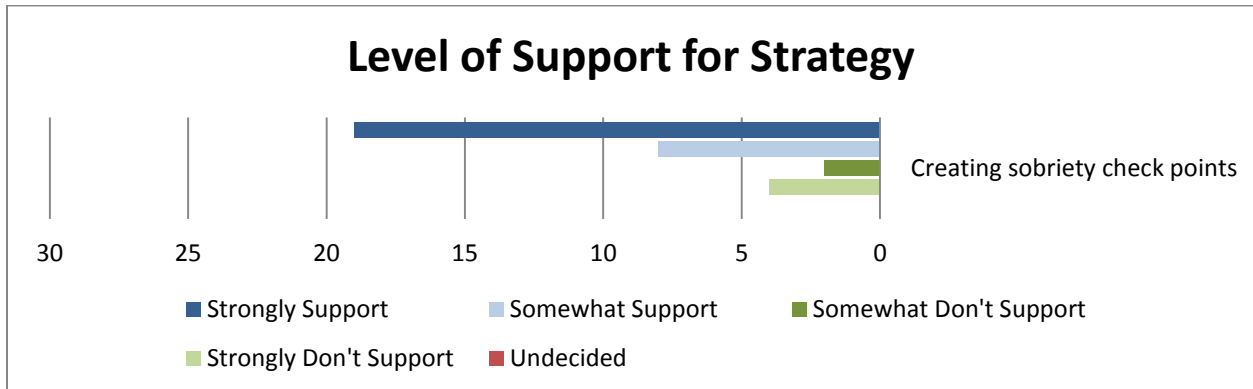
Thirty-eight states, D.C., the Northern Mariana Islands, and Virgin Islands all conduct sobriety checkpoints. In 12 states, including Washington, sobriety checkpoints are not conducted due to prohibitions by state law or constitution. Although the federal Supreme Court (*Michigan Department of State Police v. Sitz*, 1990) determined that sobriety checkpoints did not violate 4th amendment rights to privacy, the Washington State Supreme Court (*Seattle v. Mesiani*, 1988) has ruled them to be unconstitutional under the State Constitution without authorizing statute.

Research shows that sobriety checkpoints are MOST EFFECTIVE for reducing deaths and serious injuries that are a result of impaired driving incidents. The Washington State Supreme Court has determined sobriety checkpoints to be unconstitutional under the State Constitution because they are conducted ‘without authority of law’.

Washington State should identify the statutory requirements for implementing sobriety checkpoints. The Washington State Supreme Court identified the following considerations in determining satisfaction of the balancing test between state interest and individual privacy: amount of officer discretion; checkpoint locations; sufficiency of advance notice to approaching drivers; safety of the checkpoint; notice to the public at large; amount of time drivers are detained; thoroughness of program guidelines; and the vehicle selection process.

4.3 Checkpoints—Work Group Recommendation

In the survey, IDWG members were asked their level of support for each strategy as a means to reducing vehicle-related deaths and serious injuries. Among survey respondents to this question, **81.8% either Strongly or Somewhat Support this strategy** as an effective means to reduce deaths and serious injuries from impaired driving. Their comments about this strategy are compiled at [A4.3](#).



Level of Support for Strategy					
Creating sobriety checkpoints.					
Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided	Total Responses
57.6% (19)	24.2% (8)	6.1% (2)	12.1% (4)	0% (0)	33

4/11 When Work Group members were asked to rank the 11 strategies – “Which strategies do you feel would be most effective, in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries?” – **Creating sobriety check points ranked 4 out of 11.**

The table below shows how the respondents individually ranked this strategy.

Priority Ranking of Strategy											
Rank	1	2	3	4	5	6	7	8	9	10	11
% of Responses	3.1%	12.5%	12.5%	15.6%	9.4%	12.5%	12.5%	3.1%	9.4%	9.4%	0%
# of Responses	(1)	(4)	(4)	(5)	(3)	(4)	(4)	(1)	(3)	(3)	(0)

5. Requiring Mandatory Arrests for a First Offense for an Impaired Driving Offense

5.1 Mandatory Booking—Overview of Strategy

Under this proposed strategy, first-time DUI suspects would face mandatory immediate ‘booking’ and incarceration instead of being released by police to a ‘safe ride’ as currently occurs in a number of jurisdictions in Washington State. This strategy is also employed to ensure DUI offenders face a judge before release in order to sanction ignition interlocks.

“Research on the effectiveness of jail is equivocal at best (Voas & Lacey, 2011; NTSB, 2000). Very short (48-hour) jail sentences for first offenders may be effective (NTSB, 2000) and the threat of jail may be effective as a deterrent (as is done in DWI and Drug Courts), but other jail policies appear to have little effect.” – *Countermeasures That Work*

5.2 Mandatory Booking—Research Summary and Possible Courses of Action

As presented to the Work Group by the WTSC.

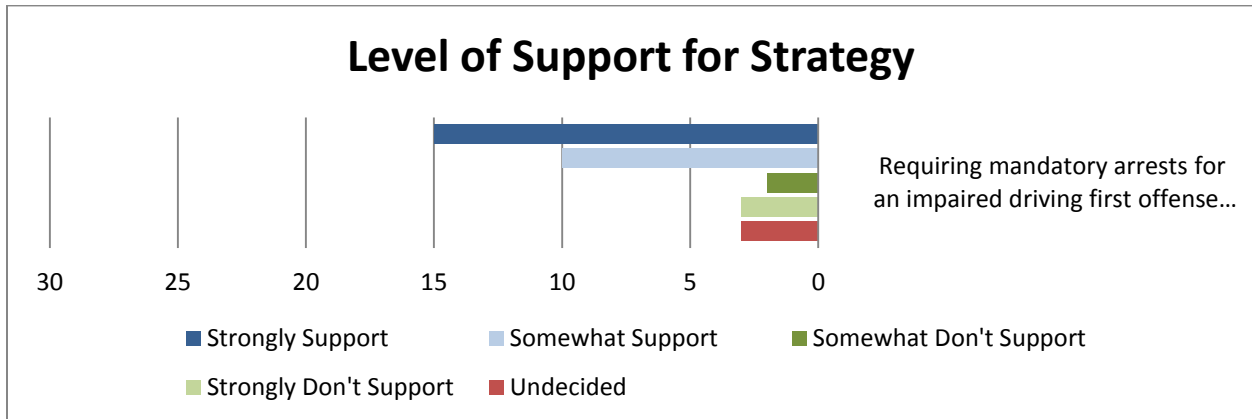
Washington-specific short-term incarceration of DUI arrestees offers the benefit of ‘incapacitation’, i.e., “the temporary benefit of keeping offenders off the roads.” Beyond this benefit, when included as an incentive within a court-monitored compliance process, the threat of jail time for noncompliance is often useful for motivating DUI offenders to adhere to court-imposed treatment and monitoring procedures. However, as a stand-alone measure for preventing DUI offenders from recidivating, jail time has not been shown to be effective.

Research suggests this strategy is EFFECTIVE for ensuring sanctions of ignition interlocks, which have been shown to be effective in reducing deaths and serious injuries that are a result of impaired driving incidents. However, this strategy alone has been shown to be ineffective at producing significant deterrent effects.

Washington State should consider this strategy as a component of ignition interlock strategies, ensuring the DUI offenders are arrested so a judge can sanction an ignition interlock prior to release.

5.3 Mandatory Booking–Work Group Recommendation

In the survey, IDWG members were asked their level of support for each strategy as a means to reducing vehicle-related deaths and serious injuries. Among survey respondents to this question, **75.8% either Strongly or Somewhat Support this strategy** as an effective means to reduce deaths and serious injuries from impaired driving. Their comments about this strategy are compiled at [A5.3](#).



Level of Support for Strategy					
Requiring mandatory arrests for a first offense for an impaired driving offense.					
Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided	Total Responses
45.5% (15)	30.3% (10)	6.1% (2)	9.1% (3)	9.1% (3)	33

7/11 When Work Group members were asked to rank the 11 strategies – “Which strategies do you feel would be most effective, in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries?” – **Requiring mandatory arrests for a first offense for an impaired driving offense ranked 7 out of 11.**

The table below shows how the respondents individually ranked this strategy.

Priority Ranking of Strategy											
Rank	1	2	3	4	5	6	7	8	9	10	11
% of Responses	3.1%	9.4%	12.5%	6.3%	12.5%	12.5%	9.4%	9.4%	12.5%	9.4%	3.1%
# of Responses	(1)	(3)	(4)	(2)	(4)	(4)	(3)	(3)	(4)	(3)	(1)

6. Increasing Treatment and Rehabilitation for Repeat DUI Offenders

6.1 Treatment and Rehabilitation—Overview of Strategy

This strategy is aimed at addressing DUI offenders' underlying issue of substance abuse, in conjunction with appropriate sanctions, to prevent DUI recidivism and reduce alcohol-related crashes. Screening, Brief Intervention, and Referral to Treatment (SBIRT) has been shown to be an effective approach to addressing substance abuse among both alcohol and drug offenders.

6.2 Treatment and Rehabilitation—Research Summary and Possible Courses of Action

As presented to the Work Group by the WTSC.

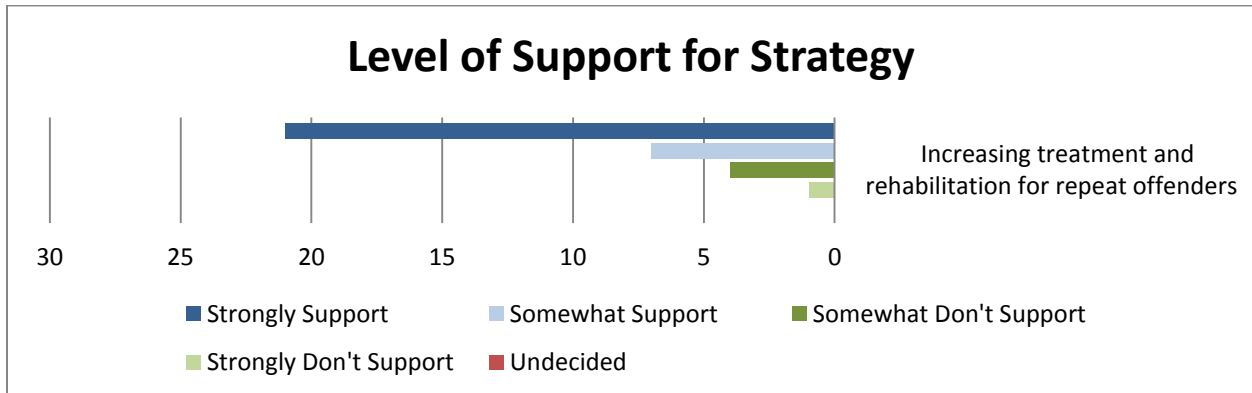
Several studies have shown significant reductions in DUI recidivism and impaired driver involved crash rates following implementation of substance abuse treatment and rehabilitation programs for offenders. Shown effective in a variety of settings, the effectiveness of administering SBIRT in healthcare settings is well documented. Treatment programs vary widely; programs centered around and including components of cognitive behavioral theory have been shown effective among DUI repeat offenders.

Research suggests this strategy is MOST EFFECTIVE for reducing deaths and serious injuries that are a result of impaired driving incidents. Results indicate that reductions in DUI recidivism and subsequent impaired driver-involved crashes may each be reduced by 7-10% when treatment and rehabilitation approaches are integrated with other appropriate sanctions.

The literature suggests that employment of SBIRT in a variety of settings and treatment programs that include components of cognitive behavioral therapy are effective. Consideration to co-morbid psychiatric conditions should be given when determining appropriate treatment plans and sanctions. Treatment and rehabilitation strategies have been shown to reduce recidivism among both first-time and repeat DUI offenders.

6.3 Treatment and Rehabilitation—Work Group Recommendation

In the survey, IDWG members were asked their level of support for each strategy as a means to reducing vehicle-related deaths and serious injuries. Among survey respondents to this question, **84.8% either Strongly or Somewhat Support this strategy** as an effective means to reduce deaths and serious injuries from impaired driving. Their comments about this strategy are compiled at [A6.3](#).



Level of Support for Strategy					
Increasing treatment and rehabilitation for repeat offenders.					
Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided	Total Responses
63.6% (21)	21.2% (7)	12.1% (4)	3% (1)	0% (0)	33

5/11 When Work Group members were asked to rank the 11 strategies – “Which strategies do you feel would be most effective, in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries?” – **Increasing treatment and rehabilitation for repeat offenders ranked 5 out of 11.**

The table below shows how the respondents individually ranked this strategy.

Priority Ranking of Strategy											
Rank	1	2	3	4	5	6	7	8	9	10	11
% of Responses	12.5%	9.4%	12.5%	9.4%	3.1%	9.4%	15.6%	9.4%	9.4%	3.1%	6.3%
# of Responses	(4)	(3)	(4)	(3)	(1)	(3)	(5)	(3)	(3)	(1)	(2)

7. Penalties for Refusing to Take a Breath/Blood Test for Determining Alcohol Concentration or Presence of Drugs

7.1 Implied Consent—Overview of Strategy

“In the U.S. in 2005, 22% of all drivers arrested for DUI offenses refused the BAC test. A driver’s BAC [or drug test result] is a critical piece of evidence in an alcohol-impaired driving case. The absence of a BAC [or drug] test can make it more difficult to convict the impaired driver. If penalties for refusal are less severe than the penalties for failing the test, many drivers will refuse.” – *Countermeasures That Work*

“Although there appears to be only a weak relationship between state refusal rates and crash rates, there is strong evidence that BAC test refusals significantly compromise the arrest, prosecution, and sentencing of DUI suspects and the overall enforcement of DUI laws in the United States.” – Voas, et. al., 2009.

7.2 Implied Consent—Research Summary and Possible Courses of Action

As presented to the Work Group by the WTSC.

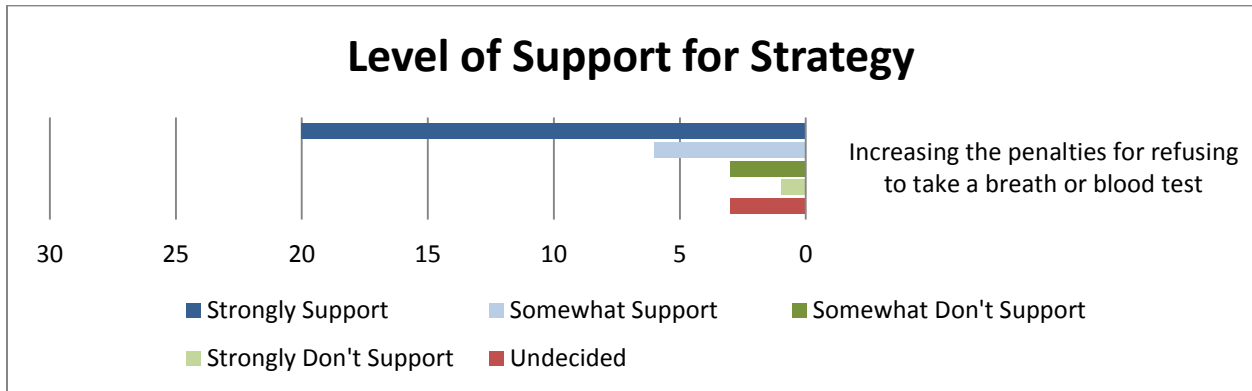
Reducing test refusal rates may increase DUI and high-BAC DUI convictions, increase the likelihood that prior DUI offenses will be properly identified, and provide the courts with better evidence for offender alcohol assessment and appropriate treatment sanctions.

Research suggests this strategy is EFFECTIVE for reducing test refusal rates, resulting in drinking drivers being more appropriately punished, and those in need of treatment more appropriately identified. There is no research measuring the likely effect this would have on reducing deaths and serious injuries that are a result of impaired driving incidents.

Washington State should review our current laws for refusal rates and stiffen penalties for test refusal if appropriate. Strategies gaining breath or blood samples through warrants, such as No Refusal programs, should be implemented more widely.

7.3 Implied Consent–Work Group Recommendation

In the survey, IDWG members were asked their level of support for each strategy as a means to reducing vehicle-related deaths and serious injuries. Among survey respondents to this question, **78.8% either Strongly or Somewhat Support this strategy** as an effective means to reduce deaths and serious injuries from impaired driving. Their comments about this strategy are compiled at [A7.3](#).



Level of Support for Strategy					
Increasing penalties for refusing to take a breath or blood test for the purpose of determining the alcohol concentration or presence of any drugs.					
Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided	Total Responses
60.6% (20)	18.2% (6)	9.1% (3)	3% (1)	9.1% (3)	33

1/11 When Work Group members were asked to rank the 11 strategies – “Which strategies do you feel would be most effective, in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries?” – **Increasing the penalties for refusing to take a breath or blood test for the purpose of determining the alcohol concentration or presence of any drugs ranked 1 out of 11.**

The table below shows how the respondents individually ranked this strategy.

Priority Ranking of Strategy											
Rank	1	2	3	4	5	6	7	8	9	10	11
% of Responses	9.4%	28.1%	15.6%	9.4%	3.1%	6.3%	6.3%	12.5%	9.4%	0%	0%
# of Responses	(3)	(9)	(5)	(3)	(1)	(2)	(2)	(4)	(3)	(0)	(0)

8. Prohibiting the Sale of Alcohol to Offenders Convicted of Repeat Impaired Driving Offenses

8.1 Alcohol Sales Restriction—Overview of Strategy

Administrative licensing sanctions, such as prohibiting alcohol sales to repeat DUI offenders through driver license/identification card demarcations, have not been evaluated in the literature, nor could we find any national or international examples of this strategy. Programs, such as the 24/7 sobriety program, allow DUI offenders to avoid incarceration through sobriety, electronically monitored daily and randomly.

8.2 Alcohol Sales Restriction—Research Summary and Possible Courses of Action

As presented to the Work Group by the WTSC.

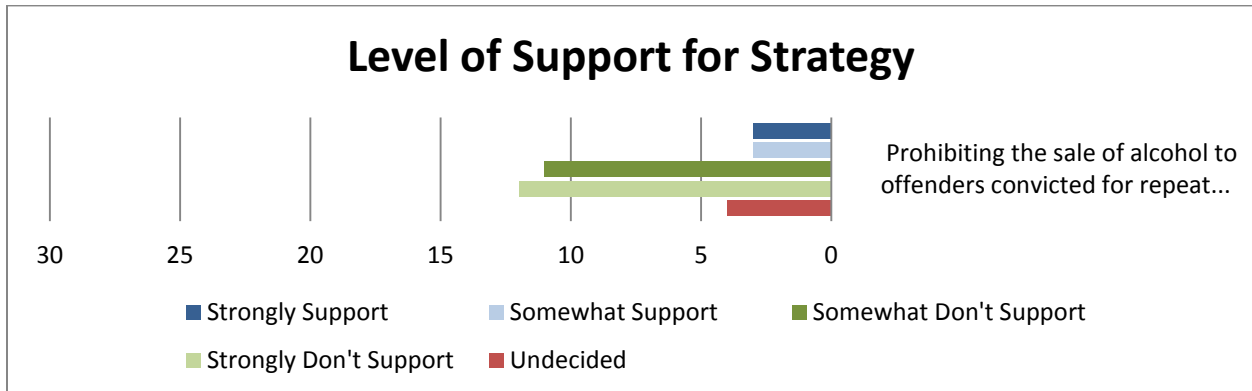
Although restricting alcohol sales to repeat DUI offenders has been a topic of discussion, particularly among legislators in several states, to date there are no evaluations of selectively prohibiting alcohol sales to DUI offenders. There seems to be a lot of disagreement regarding the feasibility and enforceability of such a measure. Examples of similar laws in Alaska and Utah provide little insight.

There are few examples of this type of strategy and NO AVAILABLE RESEARCH or evaluations of the effectiveness are available. The literature suggests that electronic monitoring of alcohol and drug use is a more direct and effective way of enforcing court-ordered sobriety.

Efforts to enforce sobriety of DUI offenders should be focused on substance abuse assessment and treatment strategies, and through multicomponent frequent monitoring programs such as 24/7 sobriety programs.

8.3 Alcohol Sales Restriction—Work Group Recommendation

In the survey, IDWG members were asked their level of support for each strategy as a means to reducing vehicle-related deaths and serious injuries. Among survey respondents to this question, **18.2% either Strongly or Somewhat Support this strategy** as an effective means to reduce deaths and serious injuries from impaired driving. Their comments about this strategy are compiled at [A8.3](#).



Level of Support for Strategy					
Lowering the minimum number of previous impaired driving convictions that must be counted before constituting and being punishable as a felony offense .					
Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided	Total Responses
60.6% (20)	24.2% (8)	9.1% (3)	6.1% (2)	0% (0)	33

11/11 When Work Group members were asked to rank the 11 strategies – “Which strategies do you feel would be most effective, in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries?” – **Prohibiting the sale of alcohol to offenders convicted of repeat impaired driving offenses ranked 11 out of 11.**

The table below shows how the respondents individually ranked this strategy.

Priority Ranking of Strategy											
Rank	1	2	3	4	5	6	7	8	9	10	11
% of Responses	0%	3.1%	0%	6.3%	3.1%	0%	0%	3.1%	0%	12.5%	71.9%
# of Responses	(0)	(1)	(0)	(2)	(1)	(0)	(0)	(1)	(0)	(4)	(23)

9. Improving Prosecution and Encouraging Prosecutors to Aggressively Enforce Impaired Driving Laws

9.1 Prosecution—Overview of Strategy

This strategy aims to strengthen the efforts of prosecutors to secure convictions for those charged with DUI in Washington State. A WTSC analysis based on 2009-2010 DOL data found that the conviction rate for DUI arrest cases in those years was about 61%.

9.2 Prosecution—Research Summary and Possible Courses of Action

As presented to the Work Group by the WTSC.

A number of problems often inhibit the ability of DUI prosecutors to secure DUI convictions. *Countermeasures That Work* states that “DWI cases can be highly complex and difficult to prosecute, yet they are often assigned to the least experienced prosecutors.” A lack of sufficient prosecutorial resources, including personnel, owing to underfunding is a challenge. Courts are frequently overwhelmed by a backlog of pending cases, sometimes resulting (ironically) from unusually high DUI arrest rates. Compounding these issues is the frequent inability of courts to monitor properly those defendants who agree to diversions and plea agreements. Finally, the absence of valid BAC measurements for DUI suspects (e.g., via refusal to take either a blood or breath test) make prosecution challenging.

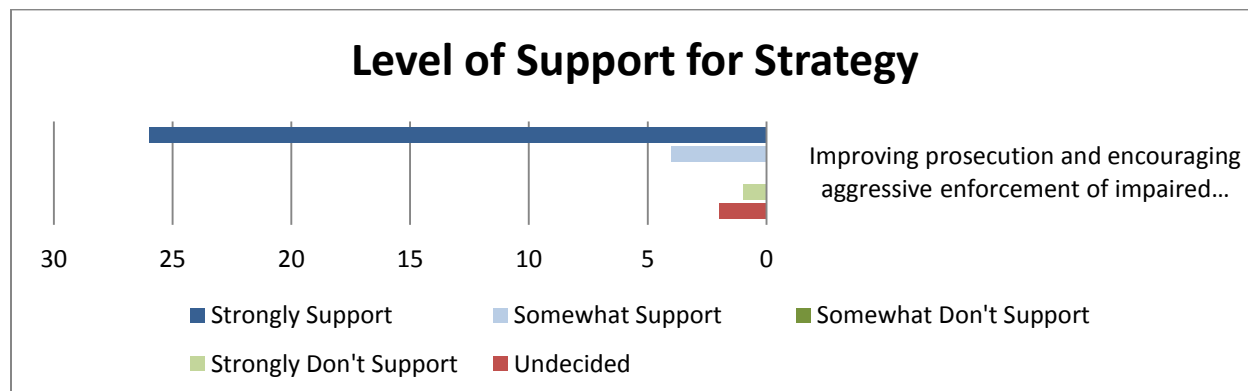
Research suggests this strategy aimed at improving DUI prosecution is MOST EFFECTIVE for reducing deaths and serious injuries that are a result of impaired driving incidents. Effectiveness is maximized when the resulting penalties are swift and sure, and severe when warranted.

The literature suggests that the most effective strategies for improving DUI prosecution include:

- Increase funding for DUI prosecution in Washington courts to assist with case processing. Additional funds allow for hiring additional administrative staff, technical-services personnel, updated equipment, and other enhancements.
- Promote the increased use of traffic safety resource prosecutors, experienced and knowledgeable DUI litigators who can ‘provide training, education, and technical support’ to DUI prosecutors and law enforcement agencies to enhance the successful prosecution of DUI cases.
- Promote limits on diversions and plea agreements.
- ‘Criminalize’ BAC test refusals or issue warrants that require defendants to provide blood samples.
- Consider the use of ‘court monitoring programs’ to publicize DUI disposition activities and outcomes (e.g., how many cases are ‘pled down’ or dismissed). The use of this strategy appears to have declined dramatically in the U.S. in recent years, possibly due to an increase in DUI cases that are being pled down to non-alcohol related charges or dismissed.

9.3 Prosecution—Work Group Recommendation

In the survey, IDWG members were asked their level of support for each strategy as a means to reducing vehicle-related deaths and serious injuries. Among survey respondents to this question, **90.9% either Strongly or Somewhat Support this strategy** as an effective means to reduce deaths and serious injuries from impaired driving. Their comments about this strategy are compiled at [A9.3](#).



Level of Support for Strategy					
Improving prosecution and encouraging prosecutors to aggressively enforce impaired driving laws.					
Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided	Total Responses
78.8% (26)	12.1% (4)	0% (0)	3% (1)	6.1% (2)	33

8/11 When Work Group members were asked to rank the 11 strategies – “Which strategies do you feel would be most effective, in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries?” – **Improving prosecution and encouraging prosecutors to aggressively enforce impaired driving laws ranked 8 out of 11.**

The table below shows how the respondents individually ranked this strategy.

Priority Ranking of Strategy											
Rank	1	2	3	4	5	6	7	8	9	10	11
% of Responses	0%	6.3%	12.5%	12.5%	21.9%	0%	6.3%	18.8%	6.3%	12.5%	3.1%
# of Responses	(0)	(2)	(4)	(4)	(7)	(0)	(2)	(6)	(2)	(4)	(1)

10. Increasing the Number of Driving Under the Influence (DUI) Courts and Court-Related Services

10.1 DUI Courts—Overview of Strategy

Drug courts are a coordinated strategy involving judiciary, prosecution, probation, defense bar, law enforcement, social services, mental health, and the treatment communities that have been proven effective. The first drug court was established in 1989, and in 2008 there were over 2,000. Based on this model, DUI courts are designed to provide constant supervision to offenders by judges and other court officials who administer and closely monitor compliance with court-ordered sanctions coupled with substance abuse treatment. (NHTSA, 2011.)

10.2 DUI Courts—Research Summary and Possible Courses of Action

As presented to the Work Group by the WTSC.

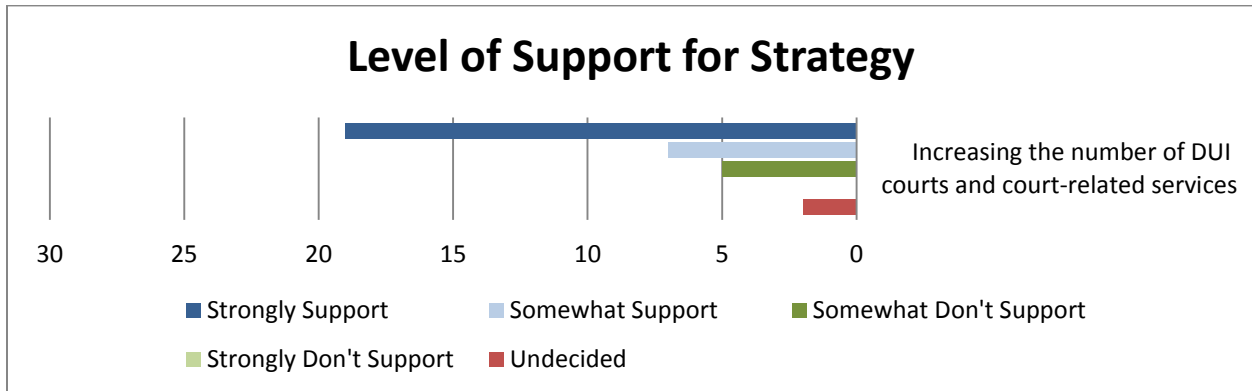
Strong evaluations supporting the effectiveness of DUI courts are limited; however, drug courts have been shown to be effective. DUI courts should be modeled after drug courts to maximize potential effectiveness.

Research suggests this strategy is EFFECTIVE for reducing DUI recidivism, which is extended to reducing deaths and serious injuries that are a result of impaired driving incidents.

Washington State should expand its use of DUI courts. Existing and new DUI courts should be evaluated for effectiveness on reducing recidivism following documented evaluation recommendations.

10.3 DUI Courts—Work Group Recommendation

In the survey, IDWG members were asked their level of support for each strategy as a means to reducing vehicle-related deaths and serious injuries. Among survey respondents to this question, **78.8% either Strongly or Somewhat Support this strategy** as an effective means to reduce deaths and serious injuries from impaired driving. Their comments about this strategy are compiled at [A10.3](#).



Level of Support for Strategy					
Increasing the number of DUI courts and court-related services.					
Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided	Total Responses
57.6% (19)	21.2% (7)	15.2% (5)	0% (0)	6.1% (2)	33

6/11 When Work Group members were asked to rank the 11 strategies – “Which strategies do you feel would be most effective, in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries?” – **Increasing the number of DUI courts and court-related services ranked 6 out of 11.**

The table below shows how the respondents individually ranked this strategy.

Priority Ranking of Strategy											
Rank	1	2	3	4	5	6	7	8	9	10	11
% of Responses	9.4%	3.1%	3.1%	15.6%	12.5%	18.8%	12.5%	9.4%	12.5%	3.1%	0%
# of Responses	(3)	(1)	(1)	(5)	(4)	(6)	(4)	(3)	(4)	(1)	(0)

11. Creating State and Local Impaired Driving Enforcement Task Forces to Increase the Visibility of Enforcement

11.1 High Visibility Enforcement—Overview of Strategy

High visibility enforcement efforts have been evaluated extensively and have been widely accepted as an effective strategy for reducing impaired driving related crashes and fatalities. Whether the enforcement is conducted through sobriety checkpoints or saturation patrols, the effectiveness of this strategy in increasing specific and general deterrence lies in the ‘highly visible’ enforcement messaging, delivered through a variety of media channels, including paid media.

11.2 High Visibility Enforcement—Research Summary and Possible Courses of Action

As presented to the Work Group by the WTSC.

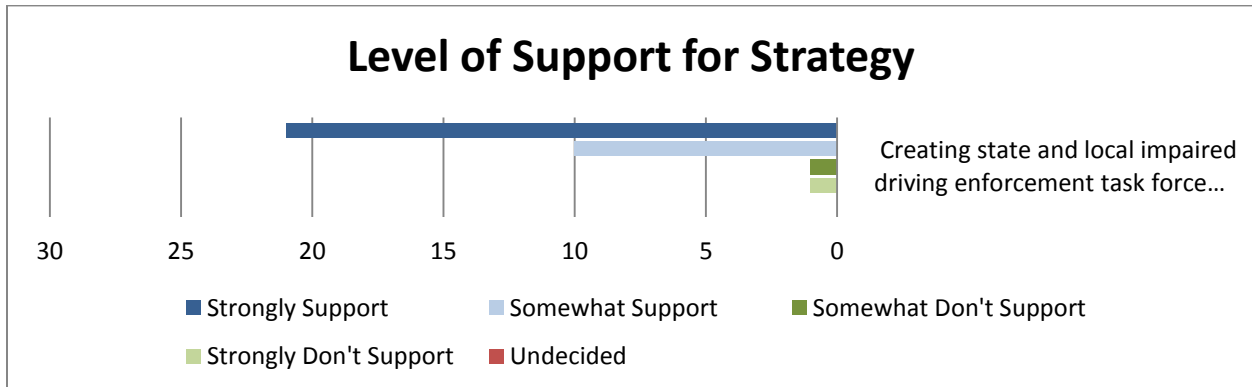
High visibility DUI enforcement efforts are conducted in at least 44 states. High visibility DUI enforcement efforts, whether delivered through sobriety checkpoints or saturation patrols, have been found effective at reducing impaired driver related crashes and increasing general deterrence. Several other safety benefits, such as increased seat belt use, have also been documented.

Research shows that highly visible state and local impaired driving enforcement task forces are MOST EFFECTIVE for reducing deaths and serious injuries that are a result of impaired driving incidents. The key to maximizing effectiveness is consistent and constant messaging of these enforcement activities.

Washington should consider expanding the use of Target Zero Teams, in addition to continuing at current or increased levels, statewide impaired driver high visibility mobilizations.

11.3 High Visibility Enforcement—Work Group Recommendation

In the survey, IDWG members were asked their level of support for each strategy as a means to reducing vehicle-related deaths and serious injuries. Among survey respondents to this question, **93.9% either Strongly or Somewhat Support this strategy** as an effective means to reduce deaths and serious injuries from impaired driving. Their comments about this strategy are compiled at [A11.3](#).



Level of Support for Strategy					
Creating state and local impaired driving enforcement task forces to increase visibility of enforcement .					
Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided	Total Responses
63.6% (21)	30.3% (10)	3% (1)	3% (1)	0% (0)	33

When Work Group members were asked to rank the 11 strategies – “Which strategies do you feel would be most effective, in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries?” – **Creating state and local impaired driving enforcement task forces to increase visibility of enforcement ranked 9 out of 11.**

Priority Ranking of Strategy											
Rank	1	2	3	4	5	6	7	8	9	10	11
% of Responses	3.1%	9.4%	6.3%	6.3%	6.3%	21.9%	6.3%	9.4%	12.5%	18.8%	0%
# of Responses	(1)	(3)	(2)	(2)	(2)	(7)	(2)	(3)	(4)	(6)	(0)

The table below shows how the respondents individually ranked this strategy.

Appendix A: Synopsis of Available Research and Work Group Member Comments

The research summaries were prepared by WTSC analysts and are not implied to be the full extent of review that could be conducted on these topics. Research and review for this report focused on the most recent literature available, with attempts to identify appropriate meta-studies (a comprehensive review of many studies) that have already been conducted.

Although the research summaries are brief, there was an attempt to use sources that already provide a comprehensive review of research related to a topic. Using this approach, the sources that are cited in this document represent hundreds of individual studies. In the absence of meta-studies, collections of recent individual studies were selected based on strength in study design/analysis.

A1. Lowering the Minimum Number of Impaired Driving Convictions before Constituting and Being Punishable as a Felony

A1.1 Felony DUI—Synopsis of Available Research

- Several studies indicate that in order to obtain the broader “deterrent” effect, it is the certainty of punishment, not the severity of punishment, which acts as a stronger deterrent. This is done by improving the likelihood that criminal drinking and driving behavior be detected AND fully carried through to conviction in courts (Wright, 2010). From a policy/legislative perspective, lowering the minimum number of DUI convictions to sanction felony charges may lend to the ‘certainty of punishment’ general deterrent effect, sending a stronger message regarding the social intolerance of DUI. However, no research is available to determine if felony DUI sanctions contribute to the certainty of punishment.
- “Internet technology and pervasive background checking have made it nearly impossible for someone with a federal conviction to escape their past. ...Deferred adjudication [offers] an alternative to incarceration, but also an alternative to the legal barriers and stigma that result from a conviction. ...Deferred adjudication programs that include the possibility of expungement have proven an efficient and effective way of dealing with offenders who are ready to change their behavior.” – Vera Institute of Justice <http://www.vera.org/>
- Available evidence over several decades suggests that jail terms are extremely costly and not effective in reducing DUI recidivism among either first-time or repeat offenders. In contrast, traffic deaths decreased in Norway and Sweden once both countries abandoned mandatory jail sentences for convicted impaired drivers. Alternatively, probation as an alternative to incarceration has been shown to reduce recidivism slightly among drivers at low risk for recidivism, but probation alone (without frequent in-person or electronic monitoring) has no effect among those at high risk for recidivism. In general, effective sanctions include licensing sanctions, vehicle actions, assessment and rehabilitation of substance abuse, and alternative sentencing options. (NHTSA, 2005)
- Traditional incarceration theory has a central premise that people, including criminal offenders, tend to commit less of a behavior as the cost or consequence of that behavior increases; termed rational choice theory based on the basic idea that people make decisions based on rational thought. However, many criminologists predict that offenders become more, rather than less, criminally oriented due to their prison experience and more likely to recidivate due to the ‘school of crime’ of institutionalizing criminals together, having conventional social bonds severed, and stigmatizing labels that foster anger and defiance. Although the research is mixed, there is stronger evidence suggesting that social experiences of imprisonment are actually crime generating. (Cullen, Jonson, Nagin, 2011).
- Substance abuse research clearly shows the debilitating effects of drugs and alcohol, particularly on rational decision making. Incarceration alone has been shown to be an ineffective way to deter impaired driving. One supporting argument of its ineffectiveness is that impaired drivers are not making rational decisions about driving or alternatives to driving, and the particular consequences of that choice, whether those consequences are incarceration or threat to human life. (Yu, Evans, Clark, 2006)

- Washington State conducted an evaluation of the 1980 state law that mandated jail sentences for both first and repeat DUI offenders. The researchers found that people convicted under the new law actually had higher subsequent crash and DUI rates than people convicted under the previous law. The researchers concluded that the mandatory jail sentence failed to deter subsequent acts of drunk driving. (Salzberg & Paulsrude, 1984)

A1.2 Felony—DUI Reference List

Cullen, Jonson, & Nagin. (2006). Prisons do not Reduce Recidivism: The High Cost of Ignoring Science. *The Prison Journal*. Supplement to 91(3). Available upon request from WTSC.

Mothers Against Drunk Driving (MADD). DUI Felony Laws. (2013). http://www.madd.org/laws/law-overview/DUI_Felony_Overview.pdf

National Highway Traffic Safety Administration (NHTSA). (2007). A Guide to Sentencing DWI Offenders, 2nd Edition. DOT HS 810 555. <http://www.nhtsa.gov/people/injury/alcohol/DWIOffenders/index.htm>

Salzberg & Paulsrude. (1984). An Evaluation of Washington’s Driving While Intoxicated Law: Effect on Drunk Driving Recidivism. *Journal of Safety Research*. 15(3). Available upon request from WTSC.

Vera Institute of Justice. (2009). Alternatives to Conviction: Deferred Adjudication as a Way of Avoiding Collateral Consequences. *Federal Sentencing Reporter*. 22(1). Available upon request from WTSC.

Wright. (2010). Deterrence in Criminal Justice: Evaluating Certainty vs. Severity of Punishment. The Sentencing Project. http://www.sentencingproject.org/WA_State_Dept._of_Corrections/deterrence%20briefing%20.pdf

Yu, Evans, & Clark. (2006). Alcohol Addiction and Perceived Sanction Risks: Deterring Drinking Drivers. *Journal of Criminal Justice*. 34(2). Available upon request from WTSC.

A1.3 Felony DUI—Work Group Survey Comments

The background introductory paragraph for this question, provided as an integrated part of the survey, is in [Appendix D](#).

(Ken Almborg, 2 Watch Monitoring) *I'm in favor of lowering the number of DUI's to three before it becomes a felony charge. I'm also in favor of making it a class B felony with a no "look back" period. It's simply three strikes and you're out. I would also like to see our workshop group define what we mean by "monitoring". Our current DUI law includes both Interlock and/or monitoring but I don't think everyone is on the same page by what is meant by "monitoring". There are a lot of different monitoring technologies available that would offer the state the start of the art monitoring for both alcohol and location using GPS.*

(Ken Bancroft, Sheriff, Asotin County Sheriff's Office) *By shortening the "look back" period we should be able to get more accurate data concerning multiple DUI arrests. Even eliminating the "look back" period is a consideration because of the numerous situations of individuals in court on their 9th, 10th, or more DUI arrests and/or convictions.*

A1.3 Felony DUI—Work Group Survey Comments-Continued

(Bruce Bjork, WA Assoc. of Sheriffs and Police Chiefs) *I support lowering the minimum number of DUI convictions, three or four priors, before being punishable as a felony. Felony level DUI includes increased incarceration time; which should reduce DUI recidivism, increase treatment options, and improve public safety. Removing these individuals from society for over a year will decrease alcohol/drug related crime.*

(Frank Blair, Sheena's dad) *Repeat drunk drivers are showing by their actions that can NOT control their behavior and have NO desire to do so. Despite MANY chances and opportunities given by our laws and courts they continue to endanger the lives of those who abide by the law. There comes a time when these people MUST be removed from the society they hold in such low regard. The cost of confining these serial law breakers is small as compared to the loss of a family at the hands of people who don't care who they kill.*

(Dick Doane, WA Traffic Safety Commission) *I agree with the general thrust of the remarks above, i.e., that increasing the harshness of penalties for DUI offenses does not reduce DUI recidivism. A credible threat of incarceration and fines can be useful for ensuring offender compliance with requirements flowing from administrative or judicial sanctions, but jail and fines are generally ineffective for deterring impaired driving, particularly among so-called 'hard-core' or repeat DUI offenders. Rather, raising the potential offender's expectancy that police apprehension is likely, as well as timely case disposition in the courts, will lead to a much stronger DUI deterrence, both specific and general. Moreover, close monitoring of offenders, post-disposition, along with structured chemical-dependency treatment, will also increase the chance that recidivism does not occur.*

(Beth Ebel, Harborview Injury Prevention & Research Center) *There is little literature which pertains DIRECTLY to raising felony charges after the 4th offense vs. 5th offense, but I feel it is a helpful signal that we will not tolerate repeated offenses. Moreover this is more likely to have an impact in the context of other stronger enforcement options, especially the availability and insistence of tamper-resistant ignition interlocks and monitoring with intensive supervision. I am definitely supportive of this strategy. I DO NOT feel that the cost analysis suggesting much higher costs for the lookback and 4th offense felony change is realistic, since it does not consider the cost-reduction measure of the other effective measures, and most importantly, does not consider the HUGE costs for caring for the victims of drunk drivers, and the cost of families. With the other measures taken, we should be impacting the pipeline of drunk drivers with multiple offenses. More swift and sure, more treatment = fewer drunk drivers and fewer victims.*

(Amy Lea Ezzo, MADD) *Forty-five states have felony DUI laws for convictions. The District of Columbia and the following states do not: Colorado, Maryland, Maine, Rhode Island and Pennsylvania. Of the forty five states with felony laws, WA and North Dakota were the only states where a convicted DUI offender in a non-injury crash could be charged with a felony starting on the fifth offense, which is currently the highest number of offenses before a DUI can be charged as a felony. This year, North Dakota, changed their law allowing for fourth time DUI offenders to be charged with a felony. MADD urges you to follow the example of these other states regarding felony DUIs by reducing the number of DUI offenses necessary to be charged with a felony. Currently, WA State has one of the weakest DUI felony law (in non-injury cases) on the books in the nation. This will help send a message of how serious WA takes the violent crime of drunk driving. We advocate for the lowering of the minimum number of impaired driving*

A1.3 Felony DUI—Work Group Survey Comments-Continued

offenses before making a DUI a felony. As we seek to create social change around drunk driving, this demonstrates to the community our commitment to doing so. As a victims' services organization, MADD also advocates for harsher punishments including the lowering of the number of DUI offenses before becoming a felony.

(Matt Fick, Brother of Morgan Fick Williams) *I am in favor of reducing the number of DUIs that a person can have before a DUI charge can be punishable as a felony. I would reduce it to 4 and see if, as some predict, this would cost millions of dollars for new prison space. Even if it is costly, though, I think it makes sense. From my anecdotal observations, it appears to me that the most dangerous drivers are those with multiple DUIs, because they obviously have a serious drinking problem yet they continue to drink and drive. I also think that the number of DUIs that a person can have before it constitutes a felony says something about how our community views drinking and driving. I think people in our community need to change the way we think about drinking and driving. I was watching TV coverage of a Husky game last month, and the commentator mentioned how Austin Sefarian-Jenkins "got in a little trouble last spring", when what he did was drive under the influence of alcohol. As long as we continue to treat this as a minor offense, people will not change their behavior.*

(Brad Fralick, Consumer Safety Technology) *Lowering Felony charges create more of an incentive for Defense Counsel to slow the process with procedural steps designed to create backlog and increase the chance of plea deal out of necessity by the court.*

(Susan Fraser, City of Bellevue, Probation) *I am in favor of increasing the availability of close supervision of DUI's and swift action in response to violation of orders. State support of supervision in the courts of lower jurisdiction can make a large and direct impact. CLJs are located in the middle of our neighborhoods across the state. Offenders live and work around us. I believe the CLJ's time to adjudicate is less than in Superior courts.*

(Amy Freedheim, King County Prosecutor's Office) *I support lowering the number of prior offenses to three, meaning the fourth DUI would be a felony-DUI. This changes the standard range for a "typical" felony-DUI from 22-29mos to 15-20mos. I would also recommend elevating felony-DUI to a Class B felony. Currently, defendants are "maxing out" fairly early and therefore not eligible for any Community Custody. This defeats the purpose of providing WA State Dept. of Corrections supervision for a crime that defines recidivism. It would additionally send a message to the community about how seriously the Legislature views these crimes.*

(Patricia Fulton, WA Defenders Assoc. OR WA Assoc. of Criminal Defense Lawyers) *WACDL and WDA do not support changing the current statutory scheme for felony DUI charges. The changes proposed above would be extremely expensive for Washingtonians and we believe those resources, if available, should be directed toward strategies with more proven effectiveness.*

(Darrin T. Grondel, WA Traffic Safety Commission) *WA State DUI laws should lead the nation by making the second conviction a felony, with prescribed jail time, strict home monitoring for compliance, treatment programs, and mandatory participation in DUI courts. Research has shown a person has driven impaired at least 87 times prior to being apprehended or being involved in a fatality or serious injury collision. It is likely then a person could have driven 435 times or more impaired before they are determined to be a felon. A DUI should no longer be considered socially acceptable or treated as a gross misdemeanor.*

A1.3 Felony DUI—Work Group Survey Comments-Continued

(Richard B. Hume, Seattle Municipal Court Probation Services Division DUI/Jail Unit) *I favor 3 prior arrests or convictions of alcohol related offenses in a life time as a bench mark with a 4th arrest or conviction leading to a felony. If the community classes alcoholism as disease than it seems logical that intervention to treat and address the consequences of the disease are appropriate. Each individual should have a specific treatment plan to address the progression of their symptoms and monitoring of progress or lack of progress by a probation officer who reports compliance or non-compliance to the court. There should be immediate consequences for non-compliance with the therapeutic treatment plan.*

(Captain Rob Huss, WA State Patrol) *Not including offenses that occur outside 10 years does not illustrate the extent of the potential addiction problem. An individual is not detected every time they violate the law (studies show that on average an individual could drive 80 times before they are caught for driving under the influence) and so illegal behavior may exist well beyond a 10 year period. There would be a potential cost to increasing or eliminating the look back period, but consideration should be given to the potential deterrence that this approach may offer and the possibility of getting individuals treatment quicker. A phased in approach could help identify if the change is effective by looking back 20 years with a felony at the fourth offense. However, incarceration was not examined solely within the context of impaired driving when the study was conducted. Felony crime classification at the third or fourth offense sends a very strong message. One fact with incarceration is that it removes the repeat offender from our communities and roadways. A study should be performed that assess the effectiveness of incarceration coupled with the supervision and monitoring as it is believed that this could have an impact on recidivism.*

(Steve Johnson, WA State Liquor Control Board) *I strongly support the reduction of the number of DUIs needed to equate to a felony. I propose the number be reduced to 3, with the 3rd being the felony. However, I would also argue for a complete and unconventional change. I would like to explore the option of making the 1st DUI an infraction that still required all of the interlock and licensing sanctions in addition to a significant fine of around \$5,000 to \$10,000 (or a percentage of the individual's annual income). The only thing we would be giving up would be the 24 hours in jail. We would also be able to move forward with a sanction in a timelier manner and reduce the ability for some of the court related issues. Failure to complete the sanctions or pay the fine would be a criminal offence. The second DUI would be a Gross Misdemeanor with a large monetary penalty and up to a year in jail. However, the monetary penalty and confinement time can be significantly mitigated by participating in an approved, in patient treatment program. If an individual chooses this route, failure to complete the program and/or pay the fine would result in a maximum sentence. Finally, the 3rd DUI would be a felony resulting in a lifetime revocation of the driver's license and significant prison time (18 to 24 months). The biggest hurdles would be using the first offence, an infraction, as a first offense.*

(Janene Johnstone, Misdemeanant Corrections Association / City of Kent) *I believe that if you want to send the message that WA State is tough on DUI's, then lowering the felony threshold from the 5th to the 4th DUI certainly sends that message. Realistically, however, how many felony DUI offenders are going to serve their maximum amount of jail time up front? That leaves community supervision for those individuals, and I believe that the gross misdemeanor probation community is much more well-suited to supervise those offenders than WA State Dept. of Corrections (felony) is, which is why I believe we should look at other options first (besides lowering the felony threshold). Felony DUI's are not the most serious cases that WA State Dept. of Corrections has to supervise, but they are among the highest priority cases for County and City probation departments. At the gross misdemeanor level, Courts have up to 5 years of*

A1.3 Felony DUI—Work Group Survey Comments-Continued

jurisdiction available -- that's 5 years of supervision to ensure that offenders are completing treatment, abstaining from drugs and alcohol, not driving unless properly licensed and insured, have the ignition interlock device installed, not violating the law, etc. -- as opposed to the 6 months of supervision that WA State Dept. of Corrections requires. Furthermore, I believe that violations at the gross misdemeanor level are taken more seriously and have potentially more serious consequences than at the felony level. Every violation at the gross misdemeanor level goes back before a Judge for review and sanction, whereas WA State Dept. of Corrections has a violation sanction grid which includes approximately 3 days jail for each violation up until the 6th violation, at which time the offender goes before a hearing officer and may receive up to 30 days of jail. It doesn't make sense to take the individuals who are at their 4th DUI -- who would be required to complete treatment, be supervised for 5 years, etc. -- and suddenly reduce the length of supervision they are going to have out in the community. I think that it would be far more effective to focus on intensifying probation supervision, treatment requirements and court sanctions for the gross misdemeanor DUI offenders in order to greatly reduce the likelihood that they ever make it to the felony level in the first place. This can be accomplished by expanding and increasing the number of DUI Courts in WA state, or even mandating supervised probation statewide at the gross misdemeanor level (which would of course require \$\$, which is probably why it hasn't been done yet). I believe that it makes more sense to spend the time, effort and resources as early as possible, treating and correcting the behavior that led to the DUI in the first place, rather than waiting until the individual has had enough DUI's to qualify for a felony before taking it seriously.

(Julie Knittle, WA State Dept. of Licensing) *I agree with lowering the minimum number of convictions. I believe this would help with the repeat offenders.*

(Tom McBride, WA Association of Prosecuting Attorneys) *I support the policy of a third DUI being elevated to a felony, but I do not see WA State Dept. of Corrections as having capacity for this change.*

(John McGowan, 2 Watch Monitoring) *I feel that there should not be a 10 year look back. It should take in account you total lifetime DUIs. But I do feel we as a state need to do a better job of monitoring and supervision of repeat offenders. Putting people in jail is very expensive and that money should be spent on education and consoling of repeat offenders.*

(Evan McLaughlin, Seattle University Sociologist) *First let me say this: I do not mean to be disrespectful but I have a dream. A dream where Target Zero is not just an idea but an actual reality. Where DUI offenders can be kept off the roads and countless tragedies can be avoided. Where families aren't ripped apart, loved ones aren't killed and people feel safe to get behind the wheel of a car and drive without fearing that someone driving under the influence is going to crash into them. That said: There is a tremendous amount of bias and downright misunderstanding when it comes to these topics of DUI laws and research because the people writing these laws and discussing what will or will not work have not been through the system from the perspective of an offender. These researchers merely make offenders part of a science project where they study them rather than ask them how they did it, why they did it or what they would do to prevent other DUI offenders from doing it in the future. The result of this lack of research and information from offenders is a system that is inefficient, ineffective and laws that don't allow for success in accomplishing the objectives there were designed to satisfy. At the end of the day despite everyone's hard work, the facts are undeniable. DUI related fatalities still occur with regular frequency despite passing laws that are among the strictest and most harsh laws WA state has ever seen. That is why the perspective you are about to get from me is so important. I don't want to lose face or*

A1.3 Felony DUI—Work Group Survey Comments-Continued

respect and the fact that I am even saying that right now shows how much negative stigma there is surrounding being convicted of a DUI. That said in the summer of 2011 I was convicted of my first DUI and I can tell you that I was not ready for the system I was thrown into and no one helped me. Not even the attorney's I paid to defend me. So, for the last 3 years every crack in the system, every flaw, every part that is broken from every angle I have seen and been in the atmosphere of people who are in the system itself going through it. This perspective is my own and it is one based on actual experiences. Not theoretical assumptions or ideas in some report but the actual results of all your labor to create these laws and try and protect people from those who Drink and get behind the wheel. Now let me tell you why all your efforts have failed and why your questions above regarding changing the number of DUI's before becoming a felony charge are not the questions you should be asking. I will also explain why this change won't work either and I will explain it from the perspective of countless people I have spoken to during the last 3 years of my life with 5 and sometimes 10 DUI's who are still drinking and driving. If you want to find your solutions, first you have to understand your audience and how the problems you are trying to solve are created. The only thing lowering the number of DUI convictions before becoming a felony charge would accomplish is temporary removing those people from society by literally putting them in jail. It would temporary take dangerous people who were drinking and driving off the street but the question is what happens when they enter back into society? When they get out of jail they have learned from everyone inside what not to do in getting caught for all kinds of crimes and they learn this by finding out what people in jail did and how they got caught. So, if and when they do decide to drink and drive again their understanding of how to navigate the system is greater than it was before. This represents a positive gain in knowledge from a DUI leading to a felony charge. These are only a few reasons why research doesn't prove a positive correlation reduction in traffic deaths and serious injuries for people that have had felony DUI charges. Additionally, there is tremendous amount of stigma associated with a felony charge. Getting a job would be harder, thus making paying fines to the court harder, thus creating a gap in funding for the courts/county to provide services to other people (possibly first time DUI offenders) who need help. Also, the stigma from being a convicted felon has been documented to be so great that when a person literally can't get a job they resort to being a criminal full time. Research shows that when no incentive is given for people to obey the law they do not and the chances of them committing another crime increases exponentially. This completely defeats the purpose of punishment in order to modify human behavior. Ultimately we don't want these people to drink and drive anymore and yet what we've done is created a person with no other options but to permanently break laws because they have no other way to reintroduce/re- assimilate themselves back into society successfully. What we want is someone who wants to comply, has the understanding/ education needed to comply and pays their bills on time and in full. That kind of steady compliance and funding is what allows the entire legal process to get streamlined and work effectively. I don't think it's probably ever happened due to the complexity and lack of efficiency of the legal system but theoretically that is how the best system would work. That is also a huge issue currently with the rigidity of the system. I understand how the payment plans work for court fines, community work crew and etc work in paying off the debts owed to courts as well but in the end so many people fail to pay court fines or comply with DUI requirements simply because they don't have the resources or the flexibility is just not there. I'm a middle class, college educated adult with a reasonable income and I could barely comply with making all my payments and the cost of 1 DUI let alone 4 or 5 DUI's. After having to move back home with my family, selling my car and most of my possessions in order to make payments I was even told by a court clerk that I was a criminal and needed to decide what I was going to give up in order to make my payments to the court work. Seriously, the court clerk actually called me a criminal and actually hung up on the phone on me after I said I couldn't pay what she was asking me

A1.3 Felony DUI—Work Group Survey Comments-Continued

to pay to the court. That is a huge problem with the court systems. Presence of rigidity, using force to encourage compliance and the stigma of being an offender even if it is your first time all contribute to a lack of compliance. This is also the reason why even though literature may suggest that intensive supervision, combined with frequent meetings with the judge and close monitoring of compliance will ultimately fail as well. First of all, how are people going to do all this? How are they going to get to the court hearings? On the bus? How are they going to get the time off work to do that assuming they can even get a job because their employer is going to likely do a background check and see a DUI on the offender's record? What if their manager doesn't approve the time off and they have to go to court so their manager ends up firing them? Once again, the system is so rigid in forcing compliance that it literally forces a person to end up in a situation that doesn't allow them to succeed. I don't know how I would have made it through half of the things I've had to do in going through getting one DUI and I have a family that has been there to support me. A family with resources and a family with the ability to drive me places because my car may breakdown and I'm not supposed to drive without an interlock device in my vehicle or I could be arrested, jailed and lose everything including my job. Simple car repairs or car trouble turn into complex minefields to navigate just to make life work. What happens to people with no family, no friends and no resources? How do you expect them to succeed in this system you have created or are thinking of creating? Some people literally have a snowballs chance in hell of making it through their probation period now with how strict the laws are and you want to make it harder? Try walking a few miles in the shoes of offenders and it will forever change the way you think about the laws you're writing or advocating for. I also understand this goes both ways for victims of drunk drivers as well but it's a two way street and offenders like me who try to do the right thing and are obliterated by the complexity/difficulty of following the laws are grossly underrepresented. That said I don't believe intensive supervision and monitoring will be effective on a broad scale. Every other offender I have talked to go through the process the best they can, assuming it isn't so hard they just give up first and when it's over they go right back to doing what they were doing before. I have talked to many that have given up and had multiple DUI's but drive without a license anyway because even following DOL procedure is so hard they can't get their license back. Some offenders even turned in all their paperwork, did all the counseling, all their community service, paid all their fines and a simple clerical error here or a drug and alcohol counselor not turning in paperwork caused their license to get suspended again. This is what happened to me and I thought I was alone in what I experienced but I learned that not only was I not alone, these kind of gross errors happen on a daily basis and no one is saying a thing. This further encourages people to not comply with the laws already in place and subjecting more requirements is not the answer here. The lack of customer service is completely unacceptable and most offenders when treated this way figure screw the system, they think I'm just a criminal anyway. These are all reasons for failure and I have experienced them all first hand. I have even asked scores of other people about their experiences with the court and they have confirmed similar experiences with being disrespected, talked down to or even hung up on. I understand dealing with criminals is hard but last time I checked, the starting wage at the clerk's office was way above minimum wage. Customer service, appreciation and compassion are three core principles that should be practiced by every single person in the legal system. If somebody pushes you, you push right back. If someone else helps you, you are way more likely to succumb to their requests. In conclusion to this question: For something to work it has to be easily implemented, easy to follow, easy to enforce and easy to comply with some degree of flexibility that allows for unforeseen circumstances. That doesn't mean that circumstances can't be managed but when designing something you should take into account that you won't be able to anticipate or understand every single instance in the realm possibility. That is why you must allow some degree of error or flexibility to manage those circumstances when they arise.

A1.3 Felony DUI—Work Group Survey Comments-Continued

Notice this applies to both the systems that are implementing the processes and also the participants (or in this case the offenders) going through it. The current system doesn't allow any flexibility and the biggest issue is that offenders have difficulty complying due to the rigidity and lack of voice because the law is the law. You want a law to work, you need to consider customer service. Granted, we are dealing with offenders here but still. Helping someone be in compliance is more likely to get you compliance than saying they have to comply or else and court clerks only have so much patience. As it stands now people who are convicted of a DUI go through a very intensive and rigorous process that I know all too well. The issue I see is not lowering the number of DUI convictions before it becomes a felony. As it is already the system is so difficult to get through it actually encourages a lack of compliance, lack of enforcement and so easily gets overloaded that people either end up getting away with everything or getting nailed for everything. What I have described is the opinion coming from a college educated person that barely made it who is free of chemical addictions that actually has the mental capacity to understand the system. Imagine how hard this would be and the failure rates for people who have a chemical addiction that can cause them to be irrational no matter what? They are put into this same system with a few resources but how many of them actually know about finding treatment that doesn't cost 1000s of dollars and is supplemented by the county. What about people who don't have the mental capacity to understand the system at all and don't comply because of ignorance? I mean real people who are mentally unable to understand but still able to consume alcohol. Where do they fit into the equation? The first questions should be what are they doing driving but that aside, when they do get caught drinking and driving is the system providing the support needed to make compliance, easy, affordable and put in place support groups of positive encouragement that help ensure compliance rather than force someone to do something? Force is met with force. Help is met with appreciation and compliance. In short, No, I don't think lowering DUI convictions before becoming a felony charge would help and I don't think implementing more strict requirements would do anything but further complicate an already inefficient and flawed system. Whether you have a 5 year look back period, a 10 year look back period or no limit on look back periods the issue here is that people who have multiple DUI's are still getting access to vehicles and driving under the influence. Work on making your current system work now and then ask how to make it better. But getting it to work now, be efficient and actually enforce the currently laws in place is more than enough to take on.

(John Milton, WA State Dept. of Transportation) *With greater supervision and monitoring this strategy could be effective, particularly when used in combination with enhanced technology ignition interlocks for monitoring purposes. However, the increased costs to monitor by multiple agencies would need to be considered in relation to the benefits that this strategy might have for reducing repeat offenders.*

(Karen Minahan, Victim Impact Panel Coalition) *I would like to say that we need to change it to a Class B Felony, I believe that is what I heard Amy Freidham say, so that we can monitor and supervise people for treatment, home monitoring, probation, ILD, etc., as we all know most of the repeat offenders have addiction problems.*

(Corrie J. Moore, AutoSafe) *The intent is certainly in line with helping the prosecutors stop repeat offenders. According to Work Group discussion, the duration between offenses determines if prior offenses may be counted & some offenders who are repeat offenders wait just long enough between convictions to not have them counted, even if they are convicted every 7 years they may never get charged with a felony. The main consideration should be if this is the right question to ask. Many offenders are never convicted of a first DUI due to pre-trial diversion agreements. Even if we change the*

A1.3 Felony DUI—Work Group Survey Comments-Continued

minimum number for felony, the priors which don't "count" still won't go towards the felony charges. If there are federal funds at risk if we don't come up to the national standard, it would be worth making this change but in the grand scheme, the consensus seemed to be we will still be missing the mark, even if we do change it.

(Justin Nordhorn, WA State Liquor Control Board) *As DUI collisions, from fatalities to non-injury collisions, are not necessarily associated with a driver's DUI history, the focus should be on preventing the impaired driving versus strict punishment. People should be held accountable, but as the research suggests jail time and fines do not necessarily reduce DUI recidivism, the strategy should focus on the aspects of intensive supervision and monitoring. If lowering the number of DUI offenses from 5 to 4 for felony charges means the offender is more likely to get the intensive supervision and monitoring, then the cost / benefit appears to favor this as a strategy. Obviously the jail time for the offender increases public safety from that offender while incarcerated, but it is unclear if the incarceration will change the behavior of the DUI offender.*

(Linda Richardson, AutoSafe Ignition Interlock Services) *I completely concur with lowering the minimum number of previous impaired driving convictions before constituting and being punishable as a felony. WA has been very progressive with its DUI laws and I believe we need to address this issue. I am surprised we stand alone with allowing 5 convictions before counting this as a felony.*

(Al Rose, WA State Association of Counties) *The second paragraph misses the point entirely. It is not about reducing recidivism, it's about holding serial drunk drivers accountable. Did the state enhance gross misdemeanor penalties to reduce recidivism? Absolutely not, it was done to hold these individuals accountable, and punishing these individuals commensurate with the danger they represent. Bringing WA State in line with the felony standards in the other states is about a) holding serial drunk drivers accountable, b) sending a message to the citizens of WA State that the state is serious about prosecuting DWIs, c) letting offenders know that the state will deal harshly with serial drunk drivers. If punishment is longer than at least during those times of incarceration, that individual will not be out driving drunk. Lowering the felony threshold brings uniformity to prosecution and case resolution of repeat offender. In smaller jurisdictions in this state the cost of incarceration influences case resolution - cases get reduced to avoid the cost to the jurisdiction of the mandatory jail time, or these resolutions reflect undertrained or overworked prosecutors in small jurisdictions. Kicking the serial drunk drivers up to felony status sooner brings more resources to bear (the cost of incarceration spread out throughout the state) and brings better trained prosecutors to the prosecution. The "solution" proposed above (dui courts) ignores (either willfully or as a result of a lack of knowledge) the reality that many municipal courts and some smaller counties do not have any probation depts. and the workloads in the courts will not accommodate a more intensive court experience. Moving these cases up as felonies puts them in Superior Court and the Legislature can require WA State Dept. of Corrections to monitor these individuals. I am somewhat disappointed in the task force in that it was clear to me that the decision was already made to not bring our felony standard in line with other states. It also seems to me that the task force was concerned with not increasing state costs but unsympathetic to the counties concerns about costs being pushed onto them.*

(Kim Sauer, WA State Liquor Control Board) *I support this strategy. It would also heighten the awareness and communicate the seriousness of DUI.*

A1.3 Felony DUI—Work Group Survey Comments-Continued

(Jerry Stanton, Ignition Interlock Providers) *I don't believe that simply raising the fourth or third DUI to a felony is an effective answer to the problem. My initial thought was to change the name to "Fourth DUI" and treat it as a Felony, but rather than the warehouse offenders at the prohibitive cost of state prison facilities, establish secure residential substance abuse treatment programs, hopefully at a lower cost and a better outcome per participant. Fourth DUI offenders would have minimum residential treatment confinements equal to Felony incarceration and require offenders to prove eligibility for release into community supervision as with compliance based removal for people with IID restricted licenses. Then I noticed the results of this case before the Nebraska Supreme Court, and wondered if another solution might be to increase the penalties for driving on a revoked (or suspended) license without an IID following a DUI conviction: PUBLISHED SATURDAY, OCTOBER 26, 2013 AT 1:00 AM / UPDATED AT 3:28 AM*
Nebraska Supreme Court upholds Lincoln man's conviction on felony driving charge LINCOLN (AP) — The Nebraska Supreme Court upheld Friday the felony conviction of a Lincoln man who argued that he should have been charged with a misdemeanor after he was caught driving without a court-ordered ignition interlock device. Joshua Leibel, 37, was convicted last year for driving with a revoked license after he was found guilty in May 2011 of his third drunken-driving offense. That DUI conviction allowed him to drive as long as his car was equipped with an ignition interlock device, which prevents an engine from starting until a driver blows into an alcohol detector to prove he is sober. But when Leibel was stopped in October 2011, he had no ignition interlock device on his car, nor had he obtained a permit for one. He was sentenced to 90 days in jail and had his license revoked for 15 years. Leibel appealed, arguing among other things that he should have been charged with a misdemeanor count of driving without an ignition interlock device in violation of a court order, citing a May 2012 Nebraska Supreme Court decision as precedent. But the state's high court said Friday that in the previous case, the driver had obtained a permit to get an interlock device, and Leibel had not. State law requires anyone caught driving with a revoked license to face the felony charge "unless otherwise provided by law pursuant to an ignition interlock permit." "One cannot be operating a vehicle 'provided by law pursuant to an ignition interlock permit,' if the driver does not have a permit," Nebraska Supreme Court Judge Michael McCormack wrote in the opinion. <http://www.omaha.com/article/20131026/NEWS/131028900/1707>

(Rose Torgerson, WA Coalition of Crime Victim Advocates) *The WA Coalition of Crime Victim Advocates strongly supports this initiative. Through discussions in this Work Group, it is evident that those that drive impaired do so habitually. Reducing the "look back" and lowering the number of DUI offenses before a felony is charged is integral in demonstrating to citizens and victims that WA is not tolerant of impaired driving. We acknowledge that a faceted approach is necessary to reducing deaths and injuries. We believe this to be an important facet.*

(Brian Ursino, MADD) *I am in favor of lowering the number of DUI offenses to be considered a felony to three (3) and am OK with keeping the 10-year look back period as currently codified.*

(Sern Watt, Concerned Citizen) *The "look back" period should be life-long. The issues (addiction and personality disorders) that cause people to be repeat offenders are lifelong issues and the law should recognize this. The questions of felony vs. misdemeanor offense, along with if and when a felony should result, are in my view a distraction. Chronic offenders are largely unaffected by legal sanctions. A person cannot re-offend while in prison, but there are less expensive and more effective ways to achieve this. I believe that DUI offenses should be a three strikes and you're out situation. On the third offense in a life time a person should experience a permanent, life-long loss of driving privileges in WA.*

A1.3 Felony DUI—Work Group Survey Comments-Continued

(Dawn Williams, WA State Dept. of Corrections) *I think it would be a positive move to adjust the look back period for counting previous DUI's. Problem Solving Courts across the nation do have positive impact; however, what was not discussed in the meetings is the difficulty with monitoring alcohol use. Felony Problem Solving courts have a very difficult time with this type of monitoring due to the expense. Any move to monitor needs to include very specific rules on alcohol monitoring relying upon scientific principles. Problem Solving courts have great anecdotal "evidence" but not through research because each court practices differently.*

A2. Increasing Mandatory Minimum Penalties and Fines for Repeat DUI Offenders

A2.1 Penalties and Fines—Synopsis of Available Research

MANDATORY INCARCERATION

- **Whetten-Goldstein et al., (2000)** found that mandatory jail-time for first offenders did not add any measurable deterrent effect: ‘To deter drinking and driving, many states have adopted mandatory criminal sanctions, such as minimum jail terms, sentences, fines, and license revocations/suspensions for first offense DUIs. Many of these penalties have become stricter over time. The rationale of these sanctions is to increase certainty of punishment, thereby deterring driving under the influence’. Part of the reason for the ineffectiveness of deterrent effects from these policies is the inconsistency of their application, since ‘most states allow judges considerable discretion in sentencing’.
- **Houston and Richardson (2004)** examined prevailing theories of deterrence and found that not only have mandatory-incarceration policies failed to exert anticipated deterrent effects, but for some offenders (i.e., those with relatively weak bonds of relationship to the larger social community but who also drink and drive frequently) these policies have led to negative outcomes, such as heightened indifference to social norms. Thus, while frequent drinking drivers are more likely than other drivers to judge jail-time and other deterrents as very severe, they also intuit that their chances of being apprehended are very slight (see Ferguson, below). Furthermore, they ‘assign little weight to societal costs;...it is also unlikely that punishment costs ‘can effectively modify their behavior’. These researchers also found that the ‘behavioral assumptions’ behind such deterrent-based approaches are faulty with regard to drivers who are alcohol-dependent. They concluded that ‘policies based on deterrence theory are likely to be least effective for the main target of these policies (frequent drink-drivers) and are likely to be unnecessary for non-drink-drivers’.
- **In a longitudinal study, Lapham and England-Kennedy (2012)** interviewed 82 DUI offenders to record their experiences during arrest and imprisonment, and during and after related court processing (including sentencing). They were able to find only weak effects resulting from mandatory jail-time in spite of the *nearly-universal negative reactions* to the experience of incarceration among offenders. The authors concluded, ‘Research has not conclusively demonstrated the usefulness of jail time in preventing alcohol-related motor vehicle crashes beyond the temporary benefit of keeping offenders off the roads while they are jailed’.
- **Wagenaar et al (2007)** studied 26 states who implemented mandatory fines and 18 states who implemented mandatory incarceration for DUI offenders (some implemented both strategies), and found weak safety effects from mandatory fines but no reduction in alcohol-involved crashes resulting from mandatory jail time: ‘[O]ur results suggest that mandatory fine and jail penalties...do not have clearly demonstrable general deterrent or preventive effects’. It should be noted that the study found a 6% reduction in nighttime single-vehicle fatal crashes, but the authors stress that the use of this ‘proxy variable’ to represent alcohol-related fatal crashes weakens the finding for one simple reason: A ‘fraction of SVN crashes are not alcohol-related, introducing a clear source of measurement error, and therefore reducing statistical power’.

- Ferguson (2012) surveyed estimates DUI-interdiction data and concluded that ‘an alcohol-impaired driver can drive about 80 times without the threat of being caught’. It is likely that the awareness on the part of these drivers regarding the low-risk/high-cost threat of apprehension drives the behaviors leading to Ferguson’s conclusion: ‘Research has shown that being sentenced to a period of incarceration does not effectively deter offenders from reoffending’.
- Briscoe (2004) found ‘statistically significant *increases* in injury accident rates, single-vehicle night-time accident rates and multiple-vehicle day-time accident rates after more severe penalties for drink-driving offences were introduced. The increase observed in single-vehicle night-time accidents, the accident category most likely to be alcohol-related, was not expected and runs contrary to the anticipated deterrent effect of the new laws’.
- Helander (2002), in a review of DUI countermeasures for the California Legislature, reported that ‘Traditional DUI sanctions of fines and jail are shown to be among the least effective DUI countermeasures’.

INCREASED FINES

- **Wagenaar et al. (2007)** found weak safety effects resulting from the imposition of mandatory fines. The state-specific results were very mixed: ‘Only six states experienced a significant decline in SVN [single-vehicle nighttime] fatal crash involvement after mandatory fines were implemented’ but these observed benefits ‘are balanced by three states that showed significant increases in SVN crash involvement and 17 states that showed no significant change’. Pooled results across states that did not implement any additional anti-DUI measures during the study period yielded an average reduction of 8% per year in fatal crashes involving drivers with BACs of .08 or above.

PRICE OF ALCOHOL

Although the evidence for fines as an effective deterrent was not ‘demonstrable’, the intriguing deterrent effects of alcohol *price increases* as a surrogate ‘fine’ will be considered here. The evidence indicates government would be likely to deter both excessive alcohol consumption and impaired driving through the use of tax policies to boost the prices of alcohol. An important assumption here is that such tax increases would be passed on to consumers:

- In a review of alcohol-price studies, **Chaloupka, et al. (1998)** cited a paper by Kenkel (1993), whose analysis found that a 10% increase in the price of alcohol predicted a 5%-10% reduction in traffic deaths.
- In another study, **Chaloupka, et al. (1992)** reported their finding that ‘a permanent 10% increase in the price of alcoholic beverages would lead to a long-term reduction of 8.3% to 12.8% in addictive consumption’.
- Likewise, in a systematic review of studies examining the relationship between (a) alcohol prices and consumption and/or (b) alcohol prices and traffic crashes, **Elder, et al. (2010)** found that a 10% increase in price led to a 3% to 10% drop in alcohol consumption. In addition, the same 10% price increase resulted in a 5% to 8% decrease in self-reported alcohol-impaired driving.

A2.2 Penalties and Fines—Reference List

Briscoe (2004). Raising the Bar: Can Increased Statutory Penalties Deter Drunk-Drivers? *Accident Analysis & Prevention*. 36(5). Available upon request with restrictions.

Elder, Lawrence, Ferguson, Naimi, Brewer, Chattopadhyay, Toomey, & Fielding, (2010). The Effectiveness of Tax Policy Interventions for Reducing Excessive Alcohol Consumption and Related Harms. *American Journal of Preventive Medicine*. 38(2).

<http://www.thecommunityguide.org/alcohol/effectivenessstaxpolicyinterventionsreducingexcessivealcoholconsumptionrelatedharms.pdf>

Ferguson (2012). Alcohol-Impaired Driving in the United States: Contributors to the Problem and Effective Countermeasures. *Traffic Injury Prevention*. 13(5). Available upon request with restrictions.

Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, 7th Edition, Chapter 1 (National Highway Traffic Safety Administration),

<http://www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf>

Helander (2002). *DUI Countermeasures in California: What Works and What Doesn't, With Recommendations for Legislative Reform – Final Report*. Sacramento: California Department of Motor Vehicles. CAL-DMV-RSS-02-197. http://apps.dmv.ca.gov/about/profile/rd/r_d_report/Section_5/S5-197.pdf

Houston & Richardson (2004.) Drinking-and-Driving in America: A Test of Behavioral Assumptions Underlying Public Policy. *Political Research Quarterly*. 57(1). <http://prq.sagepub.com/content/57/1/53>

Lapham & England-Kennedy (2012). Convicted driving-while-impaired offenders' views on effectiveness of sanctions and treatment. *Qualitative Health Research*. 22(1): 17-30.

<http://www.ncbi.nlm.nih.gov/pubmed/21490294>

Wagenaar, Maldonado-Molina, Erickson, M, Tobler, & Komro (2007). General deterrence effect of U.S. statutory DUI fine and jail penalties: Long-term follow-up in 32 states. *Accident Analysis & Prevention*. 39(5). Available upon request with restrictions.

Whetten-Goldstein, Sloan, Stout, & Liang (2000). Civil Liability, Criminal Law, and Other Policies and Alcohol-Related Motor Vehicle Fatalities in the United States: 1984-1995. *Accident Analysis & Prevention*. 32(6). Available upon request with restrictions.

A2.3 Penalties and Fines—Work Group Survey Comments

The background introductory paragraph for this question, provided as an integrated part of the survey, is in [Appendix D](#).

(Dawn Williams, WA State Dept. of Corrections) *A multi-pronged approach should be utilized. DUI offenders will be released at some point from custody. Ensuring that adequate treatment to include residential services is available. Jail time is primarily to ensure the safety of the community and that appropriate sanctions are applied. While Problem Solving courts can be helpful, again, there must be a systematic approach across the State whereby each jurisdiction must practice same standards and principles and not have the latitude to apply whatever they think works. The approaches must be based in research.*

(Ken Alberg, 2 Watch Monitoring) *Every first time misdemeanor offender should be required to serve a combined sentence of community service and EHM along with any jail time the judge so imposes. The second offense would be longer community service and EHM along with Assessment and Treatment along with jail time. As an EHM agency, we see a reduction in recidivism but since EHM is not a regulated industry, the data from any one EHM agency may not qualify as desirable data. It's interesting that all of WA State's interlock agencies are regulated but find it interesting that EHM agencies are not even though they are an equal partner in the state's 24/7 program.*

(Ken Bancroft, Sheriff, Asotin County Sheriff's Office) *I agree with the studies.*

(Bruce Bjork, WA Assoc. of Sheriffs and Police Chiefs) *I believe increasing mandatory minimum penalties and fines may have a behavior effect on offenders; however, many other jurisdictions have found that mandatory use of 24/7 sobriety monitoring statistically reduces recidivism.*

(Frank Blair, Sheena's dad) *I believe that anyone who drinks can make a mistake and I also believe that in most cases the first time offender does not re-offend. But those who have multiple DUIs at the very LEAST need real jail time followed by community supervision and treatment. And if they cannot abide by those terms they must face real jail time or they have no reason to follow the terms the court imposes. We as a state are VERY accommodating to drunk drivers right up until they kill us.*

(Dick Doane, WA Traffic Safety Commission) *Please see my comments for the previous strategy.*

(Beth Ebel, Harborview Injury Prevention & Research Center) *We need a swift and sure penalty for the first offense, with NO WIGGLE ROOM. Should come together with the offer of treatment, + mandatory ignition interlock and if no car (or no reported car), intensive supervision. Long jail times and fines are unlikely to be highly effective. More important is intensive supervision to keep the individual from driving drunk. VERY important that SOME of the assigned incarceration time be used for supervised parole so that the individual can develop skills for living in the community without drunk driving. This important point was discussed at the last meeting.*

(Amy Lea Ezzo, MADD) *Similar to lowering the number of offenses to make a DUI a felony, this measure could send a message to the public that we take DUI's seriously. We recommend that any increase in penalties go toward drunk driving prevention and/or services for survivors.*

(Matt Fick, Brother of Morgan Fick Williams) *I am in favor of increasing penalties and fines for repeat offenders.*

A2.3 Penalties and Fines—Work Group Survey Comments Continued

(Brad Fralick, Consumer Safety Technology) *Severe, mandatory minimum fines have a general deterrent effect only if highly publicized. Otherwise it is just a rude surprise after the fact.*

(Susan Fraser, City of Bellevue, Probation) *Increased mandatory minimums may be effective for some but not all. Intense supervision paired with swift jail sentences could be more effective because the cause and effect occurs together. Electronic Home Detention has options for alcohol monitoring restricting offender movement.*

(Amy Freedheim, King County Prosecutor's Office) *Neutral*

(Patricia Fulton, WA Defenders Assoc. OR WA Assoc. of Criminal Defense Lawyers) *WACDL and WDA oppose increasing mandatory minimum jail and fines. We support efforts and resources directed at strategies with proven effectiveness.*

(Darrin T. Grondel, WA Traffic Safety Commission) *This strategy doesn't support the bills intent of identifying the most effective strategies for reducing DUIs. Raising fines doesn't seem to change behavior, especially if defendant is determined to be indigent where fines are waived, negating the impacts of the fines on behavior.*

(Richard B. Hume, Seattle Municipal Court Probation Services Division DUI/Jail Unit) *I don't think that addresses the behavior for all folks. It's like early education and nutrition for a child. If you address the "social" problem early on you are likely to not have that problem down the road. Capital investments at the front end vs. the crisis point.*

(Captain Rob Huss, WA State Patrol) *Consider allowing a choice between an increased fine and incarceration. Increased supervision and/or treatment may be a more productive tool to prevent recidivism.*

(Steve Johnson, WA State Liquor Control Board) *I'm repeating myself here. The large first offense penalties do act as a deterrent for those who have never been arrested. Once a person is arrested, they lose their fear of the unknown or the consequences. Especially if they didn't receive any real sanctions the first time or the time between the action and the sanction was extended. Studies also show that with the delay, offenders do not link the activity to the response. However, I would also argue for a complete and unconventional change. I would like to explore the option of making the 1st DUI and infraction that still required all of the interlock and licensing sanctions in addition to a significant fine of around \$5,000 to \$10,000 (or a percentage of the individual's annual income). The only thing we would be giving up would be the 24 hours in jail. We would also be able to move forward with a sanction in a timelier manner and reduce the ability for some of the court related issues. Failure to complete the sanctions or pay the fine would be a criminal offence. The second DUI would be a Gross Misdemeanor with a large monetary penalty and up to a year in jail. However, the monetary penalty and confinement time can be significantly mitigated by participating in an approved, in patient treatment program. If an individual chooses this route, failure to complete the program and/or pay the fine would result in a maximum sentence. Finally, the 3rd DUI would be a felony resulting in a lifetime revocation of the driver's license and significant prison time (18 to 24 months). The biggest hurdles would be using the first offense, an infraction, as a first offense.*

A2.3 Penalties and Fines—Work Group Survey Comments Continued

(Janene Johnstone, Misdemeanant Corrections Association / City of Kent) *This wasn't one of the proven effective strategies, and quite frankly, when you increase the mandatory minimums, you are decreasing the amount of jail the Court has available to impose for violations later on. I certainly don't think the fines need to be increased. In my jurisdiction, the majority of offenders are indigent and are unable to pay the fines anyway, and as a Probation Supervisor, I would much rather see their limited resources go towards paying for a treatment program than towards an increase in their fines.*

(Julie Knittle, WA State Dept. of Licensing) *I think it makes sense for first time offenders but not repeat offenders.*

(Tom McBride, WA Association of Prosecuting Attorneys) *I think penalties should be focused upon repeat DUI offenders. I would remove license suspension from first time offenders and increase the fines greatly.*

(John McGowan, 2 Watch Monitoring) *Don't agree with increasing penalties and fines. In most cases you are also dealing with husband and wife along with children. What affect will that have on them? Who takes care of them? Treatment and monitoring is what is needed.*

(Evan McLaughlin, Seattle University Sociologist) *I believe this topic has been addressed in my responses both before this question and after it but in a brief summation statement I would say that increasing mandatory minimum penalties and fines for repeat offenders doesn't do anything but generate revenue for the courts. It's not a deterrent in any way at all. In my particular case as a first time offender I can say that the serious fines I have had to pay have been a HUGE deterrent for me in getting another DUI. Just to pay for my court costs, the court fines and all the other associated costs with a DUI offense I have had to literally sell my personal belongings, lost my financial independence and had to move back in with my parents. Also consider that in addition to your laws take into account your audience as well. Many adults in my age demographic of 25-35 have substantial amounts of college debt and this further creates stress when getting a DUI. I've had other friends lose houses because of DUI's. They literally couldn't pay the mortgage because of how expensive it was to get their DUI handled. So, no I don't believe that increasing minimum penalties and fines will do anything. In fact, it so hard now for most people to comply with the current prices of getting a DUI that many of them are so frustrated they figure screw the system. What I would stress is the ability of the system to actually enforce the minimum penalties and fines. So many cases are plea-bargained for lesser fines and penalties. Don't allow that kind of flexibility through plea-bargaining and you will find you don't need to increase mandatory minimum penalties. Also, please consider that if you look statistically at who is causing the worst DUI related fatalities it is people with multiple offenses that somehow find access to cars when they shouldn't even be driving on the roads. These people need to get targeted and removed from the roads. Not first time DUI offenders.*

(John Milton, WA State Dept. of Transportation) *Reducing the potential for first time offenders has the added benefit of changing the culture norms of the offenders. While it is recognized that the habitual offender may less effected, this still seems to be a worthwhile approach. It also has limited cost and resource implications from a budget point of view.*

(Karen Minahan, Victim Impact Panel Coalition) *I am not a fan of the jail system, I am a proponent of treatment facilities, probation, counseling etc, true people who do not have addiction problems and are first time offenders, of the offenders that I talk with on a weekly basis, who have had to spend even 5 hours or even one night in jail, will usually not ever do it again, repeat offenders need to be mandated to*

A2.3 Penalties and Fines—Work Group Survey Comments Continued

be in treatment, home monitoring, have IID in their cars, maybe some of them in their cars for life, probation, counseling, etc.

(Corrie J. Moore, AutoSafe) *I don't think the local jurisdictions could enforce these changes due to budget issues & the stats show it doesn't modify behavior or deter it. Increased support using drug courts & rehab in addition to interlock for more successful monitoring of the desired behavioral changes is more effective. Real-time accountability is the key. As long as repeat offenders are required to have monitoring and interlock, stats show there is lower recidivism & better opportunity for intervention with treatment & corrective action associated with addiction treatment.*

(Al Rose, WA State Association of Counties) *Increasing jail time for serial drunk drivers is all about; a) holding serial drunk drivers accountable, b) sending a message to the citizens of WA State that the state is serious about prosecuting DWIs, c) letting offenders know that the state will deal harshly with serial drunk drivers. If punishment is longer than at least during those times of incarceration, that individual will not be out driving drunk. Increasing fines is pointless because most to the serial drunk drivers already have few resources. I think most first time offenders go through the court process and as a result of what they already go through, they change their conduct. It is the repeat offenders we are not reaching.*

(Dan Schulte, Family member of victims) *The research leading to the conclusion above was VERY loose. There was no solid research saying such a correlation did not exist, as discussed many times in our meetings. I'm not sure why that is not mentioned here, as it came up often in our discussions. My recommendation regarding this item is as follows: 1 - Without more relative research findings, I believe lowering the minimum number of previous impaired driving convictions it takes to be considered a felony to at least 3 -- if it actually means more jail time for these same offenders -- will mean these dangerous impaired drivers are in jail and not on the streets. Research correlation or not, if these people are in jail they aren't running over innocent people. This lowering of minimum number of previous convictions, of course, should coincide with "intensive supervision, combined with frequent meetings with the judge and close monitoring of compliance with the offender's sanctions (DUI courts)" whenever these DUI offenders are out of prison. 2 - I believe more primary research on this specific correlation (DUI-related felonies) is warranted. My second recommendation would be to conduct a primary research project with a DUI focus rather than the research discussed in the meetings. It would make sense to also include research on other countries since many other countries have stricter felony laws (as I understand). We did not hear about any studies that specific enough to this exact topic. I don't believe the statement about "majority of studies" and "repeat DUI offenders" is worded very well since there were no relative studies and the studies that were discussed were not about repeat DUI offenders specifically.*

(Jerry Stanton, Ignition Interlock Providers) *I have no expertise in this area, but it seems to me that by any definition of "under the influence" we should not count on people who are under the influence to exercise rational judgment. Based on that layman's way of thinking, I don't think that someone already under the influence will base his or her decision to drive after drinking on the amount of the fine or jail time he or she might face, so I do not see that raising fines or extending jail times will move the needle far in a positive direction. A huge cost DUI offenders face that I believe prevents some offenders from getting an ignition interlock license and thus lessening the chances of re-offending is the huge insurance premiums for mandatory minimum coverage that offer pathetic levels of compensation for potential victims. I am not suggesting that insurance companies be 'forced' to provide bad drivers standard insurance at standard rates. Nor am I suggesting that DUI offenders be allowed to register and drive*

A2.3 Penalties and Fines—Work Group Survey Comments Continued

vehicles with no proof of financial responsibility. What I am suggesting is to get the state Insurance Commissioner involved with this issue to perhaps encourage insurers to undertake a pilot program of lower premiums for DUI offenders while they maintain a functioning, certified IID on the vehicles they drive. This will likely not be an easy path to follow to 'solve' an unproven problem, but I feel it is one that legislative leaders and the Administration would do well to convene a "working group" to explore.

(Brian Ursino, MADD) *Without knowing the specific penalty/fine increases the Legislature may contemplate, it is difficult to say whether I would support or not.*

(Sern Watt, Concerned Citizen) *Increasing jail time and fines will be largely ineffective, beyond keeping the offender off the road for the period of his incarceration. Fines are generally not paid, so are not useful. What we need to do is deny access to vehicles for people whose licenses have been suspended or revoked. There are three basic steps towards this end. First, if a license has been suspended or revoked all vehicles that belong to the offender must be placed in pre-paid storage, or sold, before the offender is released from custody. Second, we need to tighten up the title transfer process so that it is not possible to buy a used car with valid plates and continue to drive it without changing the title. Third, anyone (including spouses and other relatives) who loans a vehicle to a person who does not have a valid driver's license should be held criminally and civilly responsible for the use of the vehicle.*

A3. Promoting and Monitoring the Use of Mandatory Ignition Interlocks

A3.1 Interlocks—Synopsis of Available Research

- Preliminary results from an evaluation of Washington’s 2009 Ignition Interlock License (ILL) laws revealed significant reductions in recidivism among repeat DUI offenders. Second-time offenders showed 26% lower recidivism rates and third-time offenders had a 28% lower rate. The evaluation found no reductions in recidivism among first-time offenders compared to DUI offenders who did not get an ILL in the same year. This finding showing no reduction among first-time offenders is contrary to other research that does show a positive effect, however may be explained by the fact the first-time offenders had interlocks installed for a shorter time (a mean of 10 months with 28% having them removed within 4 months). [For more information contact the Washington Traffic Safety Commission, Phil Salzberg, PhD or Staci Hoff, PhD]
- **McCartt, et al. (2013)** conducted an independent evaluation of Washington’s 2004 ignition interlock law changes (requiring all DUI offenders to have ignition interlocks) found a 11% reduction in 2-year DUI recidivism rates among first-time simple DUI offenders (9.1%). Based on these data, the researchers estimated a 0.06 percentage point decrease in recidivism rates for each percentage point increase in the proportion of first simple DUI offenders with ignition interlocks. At the time of this evaluation, only 34% of first-time simple DUI offenders had ignition interlocks installed, and 24% of all first-time DUI offenders.
 - If ignition interlocks had been installed in 100% of first-time DUI offender’s vehicles and reductions in recidivism followed the linear relationship described above, the recidivism rate would have fallen from 9.1% to 3.2%.
 - The researchers concluded that the 2004 law change was associated with an 8.3% reduction in single-vehicle late-night crash risk.
 - The researchers also reported an increased proportion of negligent driving conviction, possibly due to plea bargains to evade the ignition interlock requirements.
- A Cochrane meta-review (**Willis, Lybrand, & Bellamy, 2004**) of ignition interlock research concluded that interlock programs are effective while the device is installed, supported by controlled trials representing a general trend among both first-time and repeat DUI offenders towards lower recidivism rates. However, none of the research reviewed provided any evidence for the effectiveness of the programs continuing once the device is removed.
- **Countermeasures That Work (NHTSA, 2013)** has identified ignition interlocks as a proven strategy for reducing DUI recidivism. A review of 15 studies of interlock effectiveness revealed DUI recidivism rates that were 75% lower than for offenders who did not have interlocks installed, with similar findings for both first-time and repeat offenders. However, once interlocks are removed, there is limited research suggesting the effects dissipate. There is also limited but promising research suggesting that ignition interlocks reduce alcohol-related crashes.
- **NCHRP (2006)** has identified requiring ignition interlocks as a condition for license reinstatement as a strategy proven to be effective. More recently, several technological improvements have made circumventing the installed ignition interlock more difficult. Ignition interlocks are less intrusive approach than impounding vehicles and has been shown more effective than license suspension or

revocations. In order to motivate DUI offenders to install ignition interlocks, it is necessary to make alternatives to interlocks even more inconvenient to the offender, such as jail time or electronically monitored home confinement.

- Roth, Marques, and Voas (2009) evaluated the effectiveness of a 2-year pilot program in New Mexico imposing home confinement (via electronic monitoring bracelets) on DUI offenders who claimed to have no car or no intention to drive, and therefore would not install ignition interlocks. During the 2-year program, 70% of DUI offenders installed interlocks, compared to only 17% in other counties. The installation rate fell to 51.2% two years after the pilot program was terminated. The researchers concluded that mandating alternative house arrest sanctions increased installation of ignition interlocks among DUI offenders claiming to have no car or no intention to drive.
- Zador, et al. (2011) evaluated the effects of closer monitoring on driver compliance with interlock restrictions. The researchers found that closer monitoring of interlock compliance among DUI offenders resulted in reductions in the frequency of initial breath test failures, the BAC level in initial breath test failures, non-compliance rates (including initial breath test failures, interlock disconnects, retest refusals/failures, and other startup violations), however only declines in initial breath test failures was statistically significant. Nonetheless, the researchers concluded that closer monitoring substantially increases compliance with ignition interlocks, but effective monitoring depends on the availability of human and financial resources.

A3.2 Interlocks—Reference List

Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, 7th Edition, Chapter 1 (National Highway Traffic Safety Administration),

<http://www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf>

McCartt, Leaf, Farmer, & Eichelberger. (2013). Washington State's Alcohol Ignition Interlock Law: Effects on Recidivism Among First-Time DUI Offenders. *Traffic Injury Prevention*. 14(3). Available upon request with restrictions.

National Cooperative Highway Research Program (NCHRP) Report 500. (2005). Volume 16: A Guide for Reducing Alcohol-Related Collisions. http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_500v16.pdf

National Highway Traffic Safety Administration (NHTSA). (2012). Case Studies of Ignition Interlock Programs. DOT HS 811 594. <http://www.nhtsa.gov/staticfiles/nti/pdf/811594.pdf>

Roth, Marques, & Voas. (2009). A Note on the Effectiveness of the House-Arrest Alternative for Motivating DWI Offenders to Install Ignition Interlocks. *Journal of Safety Research*. 40(6).

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2793078/>

Willis, Lybrand, & Bellamy. (2004). Alcohol Ignition Interlock Programmes for Reducing Drink Driving Recidivism. *The Cochrane Library 2009*, Issue 1.

http://www.thecochranelibrary.com/userfiles/ccoch/file/Safety_on_the_road/CD004168.pdf

Zador, Ahlin, Rauch, Howard, & Duncan. (2011). The Effects of Closer Monitoring of Driver Compliance with Interlock Restrictions. *Accident, Analysis, and Prevention*. 43(6).

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3153731/>

A3.3 Interlocks—Work Group Survey Comments

The background introductory paragraph for this question, provided as an integrated part of the survey, is in [Appendix D](#).

(Sern Watt, Concerned Citizen) *I am in favor of ignition interlock devices for offenders who have completed their term of license suspension. I think a first offender should have a one year suspension followed by five years of IID use. A second time offender should have a five year suspension, followed by a ten year requirement for an IID. These steps, in conjunction with denying offenders who have not gotten their licenses back access to vehicles, would greatly reduce re-offending behaviors.*

(Dawn Williams, WA State Dept. of Corrections) *Not convinced this works. This seems more of a business decision. I was surprised by all the special interest business people at these meetings.*

(Ken AlMBERG, 2 Watch Monitoring) *I don't know what the current laws are for the interlock time imposed on DUI offenders but I would think that anyone who has had more than 2 DUI's in the same number of years should have be required to have the same number of years on interlock. For example, 2 DUI's, 2 years on interlock, 3 DUI's 3 years on interlock, etc. ... But again, interlock is only part of the solution. These repeat offenders need additional monitoring besides when driving their cars.*

(Ken Bancroft, Sheriff, Asotin County Sheriff's Office) *This is already in place by statue.*

(Bruce Bjork, WA Assoc. of Sheriffs and Police Chiefs) *Ignition interlocks are a good tool to assist in reducing the number of impaired drivers on our roadways but they have their limitations. Monitoring frequency varies, and the swiftness of dealing with violations varies. Compliance to the program is not high.*

(Frank Blair, Sheena's dad) *Frankly I think there is WAY too much emphasis placed on the efficacy of IIDs. Drunk drivers will use other vehicles or just claim they won't drive and then drive suspended. IF these devices are going to hold SO much weight then there HAS to be a HUGE effort to enforce their installation and if an offender is caught driving without a device installed there HAS to be VERY harsh jail time as a consequence. Unless there is drastic change to enforce these aspects I believe they are actually a very expensive (and profitable) false panacea.*

(Dick Doane, WA Traffic Safety Commission) *Until automobile manufacturers routinely install passive alcohol-sensing technology in all motor vehicles, I fully support the mandatory use of ignition-interlock devices for DUI offenses.*

(Beth Ebel, Harborview Injury Prevention & Research Center) *HIGHLY SUPPORTIVE. Agree it should be included in comprehensive program and should be tamper resistant. COSTS should be paid for by those who need it, and they should be charged enough to cover low-income offenders who cannot afford the system.*

(Amy Lea Ezzo, MADD) *IID are one of the three prongs of MADD's Campaign to Eliminate Drunk Driving and we fully support a strong IID program. While WA has led the nation in the IID program we know that there are some gaps in ensuring that the program is working at maximum effectiveness. MADD recommends the use of the IID program along with other prevention methods such as sobriety checkpoints to increase the impact that both measures can have on the safety of our roads.*

A3.3 Interlocks—Work Group Survey Comments

(Matt Fick, Brother of Morgan Fick Williams) *I am in favor of this. If treatment programs are not effective at keeping a person from drinking, the logical thing to do is to make sure that, even if they drink, they can't drive.*

(Brad Fralick, Consumer Safety Technology) *Interlocks are effective but their effectiveness after deinstallation is highly dependent upon the time the person was on the device. If the device was on for six months or less the recidivism rate for offenders three years after deinstallation is 85%. If the device was on for 18 months or longer the research shows that the recidivism rate is 15%.*

(Amy Freedheim, King County Prosecutor's Office) *Strongly support. Alcohol impaired driving continues to be the #1 impairing substance used. IID is a specific way to prevent an alcohol impaired person from driving.*

(Patricia Fulton, WA Defenders Assoc. OR WA Assoc. of Criminal Defense Lawyers) *WACDL and WDA support programs that increase access to and funding for ignition interlock use.*

(Darrin T. Grondel, WA Traffic Safety Commission) *WA State is a national leader in implementing and utilizing ignition interlocks and we need to continue with identifying additional improvements with ignition interlock laws, especially following the first offense as a pre-trial condition. The program needs additional resources to ensure defendants get the IID installed and follow up when drivers are providing positive tests, especially those who are under court orders prohibiting possession and consumption of alcohol. Could a monitoring system be set up so the courts could have notifications of individuals providing positive tests who have sanctions precluding alcohol use? Or is there a way the industry could create monitoring systems and alert authorities with violations.*

(Richard B. Hume, Seattle Municipal Court Probation Services Division DUI/Jail Unit) *SCRAM, Soberlink, electronic home monitoring with breathalyzer, random urinalysis testing, and Interlock device all have exhibited positive results. Investment in Probation Services to provided monitoring of these tools as well as the therapeutic treatment program is key.*

(Corrie J. Moore, AutoSafe) *Interlock compliance is the number one, most cost-effective action we can take. All of the changes we make to the Impaired Driving Law doesn't address the fact we know over 10,000 (check with DOL for the exact number) impaired driving offenders who have been ordered to have interlocks are driving around without them right now. Meaning we are just waiting for them to reoffend or worse. All the hard work has already been done - getting them arrested and/or convicted. We have the data but we need to connect the dots. Interlock is the only public safety tool we have which, even without active monitoring of violations, even if court dates are backed up 120 days or if the prosecutor can't make a case, interlock is saving lives- it is the safety net. Again, the biggest hindrance to interlock doing the best it can to protect WA citizens is the huge gap between those ordered to have interlock & those who comply. One of the most promising projects I've heard about is that the WSP has been working with DOL to check registration of vehicles & cross-reference the offenders who have not complied. As with everything, trying to get all the participants the appropriate information is one of the challenges - many of these illegal drivers never get pulled over so how do we catch them? Perhaps we can look at creative ways to identify non-compliance at other state agencies such as when drivers try to renew their vehicle tabs or purchase a new vehicle or any other official state opportunity to confirm the interlock is where it should be.*

A3.3 Interlocks—Work Group Survey Comments

(Captain Rob Huss, WA State Patrol) *The WA State Patrol currently oversees the ignition interlock program to monitor the devices and regulate the manufacturers. The ignition interlock program is a very effective tool for a DUI involving alcohol and has many safeguards in place to ensure the reliability of the devices. The current law allows for an individual to have a suspended license for eight months and then an interlock for four months before regaining their license. It is suggested to make the interlock mandatory to have installed for the full year (or specific time period: 5-10 year) and clear of violations for the last four months. This helps ensure the person is not driving on a suspended license up until the last four months of their suspension and will engage in the appropriate driving behavior throughout the entire suspension period. Another avenue to increase the effectiveness of the ignition interlock program is to increase the monitoring and consequences for violations of the ignition interlock court orders. Currently, there are many device users that attempt to start their vehicles after having consumed alcohol. Other than the four month compliance requirement, there is no penalty for providing a positive alcohol sample. One possible solution that has been discussed is to require review of all user data, or checks to ensure that the driver has installed the required device in their vehicle. This is currently being done using grant funded overtime when officers are available to do this, and would require additional dedicated FTEs to implement as a statewide program. Another possible solution is to require any one positive test within a month to add an additional month of an interlock requirement. This would likely increase the workload of DOL but may also provide deterrence from violating. While both options would likely require additional resources/FTEs to effectively implement, adding a consequence and additional oversight to the ignition interlock operators would likely aid in creating a change in behavior and further enhance the effectiveness of the program.*

(Steve Johnson, WA State Liquor Control Board) *Strongly support.*

(Janene Johnstone, Misdemeanor Corrections Association / City of Kent) *I believe this is also an extremely useful tool, to the extent that offenders are following through and (1) having the device installed on their vehicle, and (2) driving only that vehicle that has the device installed in it.*

(Julie Knittle, WA State Dept. of Licensing) *I very much agree with this but should include longer IID requirements. The new equipment coming out has lots of benefits with video, cameras etc.*

(Tom McBride, WA Association of Prosecuting Attorneys) *need more information*

(John McGowan, 2 Watch Monitoring) *I agree with mandatory ignition interlock but that only keeps them from driving and does not address the person's addiction to alcohol which is the main issue. Monitoring the person for a period of time by keeping them off alcohol is the first step then treatment and education to go along with interlock.*

(John Milton, WA State Dept. of Transportation) *Regardless of the long term deterrence, there is short term benefit. In addition, requiring the interlock to be in place over the entire sentence would increase its deterrence potential and should be considered with the comprehensive impaired driving prevention program.*

(Karen Minahan, Victim Impact Panel Coalition) *I think that the IID need to become standard equipment in vehicles, just like seatbelts, or in certain cases until that happens, make repeat offenders keep them in their vehicles for life.*

A3.3 Interlocks—Work Group Survey Comments

(Linda Richardson, AutoSafe Ignition Interlock Services) *I agree with promoting and monitoring the use of mandatory ignition interlocks, the key is monitoring IID usage once imposed. As an interlock provider, I have seen many courts that do not monitor these individuals. We report all violations to the courts of those individuals with our IID installed on their vehicle. Some courts have asked us NOT to send reports as they only want the installation and removal reports. Others accept the reports but do nothing about the violations. It is frustrating for us as a provider to be following the law by reporting all violations but to see some courts who do nothing about violations. DOL is only concerned about violations during the final 4 months of installation of the IID.*

(Al Rose, WA State Association of Counties) *How would this be done? Would a state agency increase monitoring? Would this become a responsibility of local law enforcement?*

(Dan Schulte, Family member of victims) *This is important but must be followed through. The installation of the device should be required and securely in place before the offender is released from jail. This is definitely only one component of a more comprehensive program.*

(Tony Sermonti, WA State Dept. of Licensing) *DOL agrees that promoting and monitoring the use of mandatory ignition interlocks for DUI offenders is an essential component of an effective strategy for reducing drinking and driving. In addition to current requirements, we would suggest that RCW 10.21.055 be amended to require that courts notify DOL when a pre-trial ignition interlock device restriction has been imposed as a condition of release after arrest for DUI, physical control, vehicular homicide, or vehicular assault so that the restriction may be added to the driver's record, and that courts be required to notify DOL when they have authorized the removal of the device upon acquittal or dismissal of the charges so that the restriction may be removed from the record. Adding the restriction to the driver's record would ensure that law enforcement officers who may have contact with the driver while the pre-trial restriction is in place will be aware that an ignition interlock device is required. **DOL has provided suggested changes for RCW 10.21.055 and for fixing implied consent for blood in [Appendix C](#).***

(Jerry Stanton, Ignition Interlock Providers) *I travel the country 'selling' the WA IID story to legislators and other stakeholders. WA's simple compliance based removal concept is still quite new, but I believe will work over time to keep interlocks on the vehicles of people who need interlocks to safely make the drive/not drive decision for them. One loophole that must be fixed, is require offenders to keep a functioning IID for the minimum 1, 5, and 10 year time periods (and six months for ALL Neg-1's and Reckless). Offenders now "wait-out" much of the IID required time period and get an IID installed for just the final four months, to qualify for reinstatement under compliance based removal.*

(Rose Torgerson, WA Coalition of Crime Victim Advocates) *The WA Coalition of Crime Victim Advocates supports this strategy when part of a comprehensive impaired driving prevention program. While studies suggest that the effect may dissipate once the device is removed, we also acknowledge that the time that this ignition interlock is mandated to be installed may also be key in allowing an opportunity for the impaired driver to be successful in treatment. We are hopeful that with a comprehensive impaired driving prevention program and enhanced prosecution, that this strategy will be more successful in prevention impaired driving accidents, injuries and deaths.*

(Brian Ursino, MADD) *Absolutely must stay the course with our all offender ignition interlock strategy. Compliance enforcement is the biggest challenge ... something sobriety checkpoints could assist in detecting and overcoming.*

A4. Advantages and Disadvantages of Creating Sobriety Checkpoints

A4.1 Checkpoints—Synopsis of Available Research:

- **NCHRP (2005)** has identified regular and well-publicized sobriety checkpoints as a strategy that has been implemented and evaluated in several locations with proven effectiveness for reducing impaired driving. Checkpoints have been shown to create a strong general deterrent effect and may reduce alcohol-related crashes by 15-30%. Cost benefit studies estimate savings of \$62,000 per checkpoint.
- **Countermeasures That Work (NHTSA, 2013)** has identified checkpoints as proven strategy. A systematic review conducted by the CDC found that checkpoints reduced alcohol-related fatal, injury, and property damage crashes each by about 20%. Similar results have been reported in other meta-studies.
- **NHTSA (2002)**, in collaboration with many federal and non-profit partners, developed a how-to guide for planning and publicizing sobriety checkpoints based on decades of best practices. This guide covers all the considerations identified by the Washington State Supreme Court plus more. In addition NHTSA (2006) released an additional guide for conducting low-staffing sobriety checkpoints, which have been shown to be as effective as more fully staffed checkpoints for maximizing general deterrence. These guides provide a uniform and successful method for planning, operating, and evaluating sobriety checkpoints.

The effectiveness and advantages of implementing sobriety checkpoints is well Documented through individual, independent evaluations as well as several meta-studies. The remainder of this research summary will focus on the challenges and disadvantages of sobriety checkpoints.

- One negative effect of sobriety checkpoints is the resulting inconvenience and intrusion on driver privacy, but which the U.S. Supreme Court has determined justified in the interest of reducing impaired driving (**Shults, et al., 2001**).
- **Fell, Lacey, and Voas (2004)** reported that among the 37 states that can conduct sobriety checkpoints, only about 12 do so on a weekly basis, despite encouragement and funding from the U.S. Department of Transportation. Based on a survey of these states, the main reasons for not conducting sobriety checkpoints included lack of local police resources and funding, lack of support by task forces and citizens activists, and the perception that checkpoints are not productive or cost effective.
- “In my opinion, both as a DUI lawyer in Seattle and a citizen of this State, I do not believe roadside checkpoints will ever be allowed in Washington State. Not because they are not the right thing to do, or the State should not have an interest in preventing DUI related injuries and deaths. But simply because the State Constitution will not allow it.” – **Matthew Leyba, 2013**
- Advocacy groups, such as the National Motorist Association (<http://www.motorists.org/>), contend that traffic blocks, such as those used to create sobriety checkpoints, are a disadvantage because they cause distress to harmless drivers through harassment and inconvenience. The

NMA believes sobriety checkpoints are designed and intended to use fear, intimidation and inconvenience to expedite a government edict or political agenda **(Jones, n.d.)**.

- Checkpoint programs in California and other places have been publicly accused of practicing prejudice and racism in search and seizure protocols at checkpoints, targeting illegal immigrants and minorities (particularly through the practice of detaining vehicles of drivers without licenses). **(DUI Laws, n.d.)**

A4.2 Checkpoints—Reference List

DUI Laws. (n.d.). What are the Legal Oppositions to DUI Checkpoints. <http://dui.laws.com/sobriety-test/sobriety-checkpoints>

Fell, Lacey, & Voas. (2004). Sobriety Checkpoints: Evidence of the Effectiveness is Strong, but Use is Limited. *Traffic Injury Prevention*. 5(3). Available upon request with restrictions.

Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, 7th Edition, Chapter 1 (National Highway Traffic Safety Administration), <http://www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf>

Jones. (n.d.). The Disadvantages of Traffic Blocks. http://www.ehow.com/info_8700346_disadvantages-traffic-blocks.html

National Cooperative Highway Research Program (NCHRP) Report 500. (2005). Volume 16: A Guide for Reducing Alcohol-Related Collisions. http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_500v16.pdf

National Highway Traffic Safety Administration (NHTSA). (2002). Saturation Patrols and Sobriety Checkpoints Guide. DOT HS 809 063. http://www.nhtsa.gov/people/injury/alcohol/saturation_patrols/

NHTSA. (2006). Low-Staffing Sobriety Checkpoints. DOT HS 809 999. http://www.nhtsa.gov/people/injury/enforce/LowStaffing_Checkpoints/

Leyba, Matthew. (2013). Why there aren't Roadside Sobriety Checkpoints in Washington State, April 7, 2013. Retrieved August 18, 2013 from <http://www.leyba-defense.com/why-there-arent-roadside-sobriety-checkpoints-in-washington-state/>

Lingquist, Wendt. (2007). WSDOT – Sobriety Checkpoints: Synthesis of Issues. <http://www.wsdot.wa.gov/NR/rdonlyres/F8594F1C-7A55-4A0A-A8E4-7490CEB65A70/0/SobrietyCheckpoints.pdf>

Shults, Elder, Sleet, Nichols, Alao, Carande-Kulis, et al. (2001). Reviews of Evidence Regarding Interventions to Reduce Alcohol-Impaired Driving. *American Journal of Preventive Medicine*. 21(4s). <http://www.thecommunityguide.org/mvoi/mvoi-AJPM-evrev-alchl-imprd-drvg.pdf>

A4.3 Checkpoints—Work Group Survey Comments

The background introductory paragraph for this question, provided as an integrated part of the survey, is in [Appendix D](#).

(Brian Ursino, MADD) *This is the single most important strategy because it focuses on crash avoidance as opposed to post-arrest or post-crash penalties ... WA has a Target Zero Goal of zero traffic fatalities by 2030. Although our fatalities are trending down, we are NOT on course to meet the 2030 goal. That means we have to do more than we are doing today. The number one gap strategy is sobriety checkpoints - research (meta study completed by the CDC as one prime example) indicates we could expect fatality reductions of at least 20% if this policy were approved and implemented.*

(Sern Watt, Concerned Citizen) *I think they have some merit, especially in terms of supporting a culture of unimpaired driving.*

(Dawn Williams, WA State Dept. of Corrections) *YES!!!!*

(Ken Almberg, 2 Watch Monitoring) *I think this is a must do for our state.*

(Ken Bancroft, Sheriff, Asotin County Sheriff's Office) *This is worth giving a try. The WA State Constitution may be a limiting factor though.*

(Bruce Bjork, WA Assoc. of Sheriffs and Police Chiefs) *I support sobriety checkpoints and believe they are an excellent tool to assist in deterring DUI. They are used in a number of states and other countries and the statistics support their deterrence effect.*

(Frank Blair, Sheena's dad) *Although I think these checkpoints would be very effective, the bar is SO high to put them into effect that time and activism would be better placed elsewhere.*

(Dick Doane, WA Traffic Safety Commission) *I fully support not only the legal implementation of sobriety checkpoints throughout WA State but also their widespread deployment in order to hugely increase the general deterrence of impaired driving; this intervention has been shown to be an extremely effective method for combatting DUI.*

(Beth Ebel, Harborview Injury Prevention & Research Center) *This is a critical and proven intervention strategy. ONE OF MY HIGHEST PRIORITIES. Should be adopted by law. Absolutely. Please confer with Attorney General on strategies for ensuring an enforceable law in WA. We should not be deterred by concerns about constitutionality, especially given the US federal rulings that this IS constitutional. Adopt it now. If need be, consider what modifications need to be made to WA law, indicating that the privilege of driving includes willingness to comply with sobriety checkpoints.*

(Amy Lea Ezzo, MADD) *Sobriety checkpoints are part of MADD's three-prong Campaign to Eliminate Drunk Driving and the lack of sobriety checkpoints here in WA is our largest area for growth in our impaired driving prevention work in our state. For reasons stated in the meetings as well as in our letter to the group, we would like this particular measure to be given the greatest consideration. With a 20% or more reduction in drunk driving, sobriety checkpoints will save many, many lives and it is imperative that this be included to get to our target of zero traffic deaths and serious injuries. We urge you to take this opportunity to revisit the state constitution on this issue and see how it truly is for the safety of our community. MADD will support our heroes in law enforcement when sobriety checkpoints become instituted.*

A4.3 Checkpoints—Work Group Survey Comments

(Steve Johnson, WA State Liquor Control Board) *Strongly support.*

(Matt Fick, Brother of Morgan Fick Williams) *I am concerned about sobriety checkpoints. On the one hand, I don't agree with members of our group who assert that they are necessarily unconstitutional in WA State. The WA State Supreme Court ruled in an earlier case that it violated the WA constitution to stop people in similar circumstances, but that case was decided by judges (including Justice Utter, who was an advocate for interpreting our constitution's protections more strictly than the U.S. constitution) who are no longer on the bench; more importantly, the court based its opinion in part on the fact that the police were not acting pursuant to "color of law". I think it could be the case that, if the WA Legislature adopted a law that expressly permitted sobriety checkpoints, the WA Supreme Court might not find that it is unconstitutional. On the other hand, I do worry that sobriety checkpoints could result in disproportionate treatment of members of minority groups. I don't want to cast aspersions on law enforcement in WA, but based on experiences of other states this seems to be a valid concern. One idea might be to require that sobriety checkpoints could only be conducted by the WA State Patrol and only by officers who have received special training to be sensitive to the risk of violating peoples' civil rights.*

(Brad Fralick, Consumer Safety Technology) *Highly publicized sobriety checkpoints have an immediate term deterrence effect (for the night or weekend that they take place), but are highly ineffective as an enforcement measure.*

(Amy Freedheim, King County Prosecutor's Office) *I support these although caution that I believe we may very well require a WA constitutional Amendment to implement. These are evidence-based very effective means of decreasing impaired driving fatalities (studies are 15-30%). These numbers cannot be over looked. No other evidenced-based means is as effective. We are about to launch into a great experiment making available for sale an impairing substance that an IID cannot stop. Additionally, we are seeing more drugs, other than alcohol, in impaired driving cases. Sobriety checkpoints deter all impaired drivers, not merely alcohol impaired drivers.*

(Patricia Fulton, WA Defenders Assoc. OR WA Assoc. of Criminal Defense Lawyers) *WACDL and WDA oppose sobriety checkpoints as a violation of the WA State Constitution, Art. I, Sect. 7.*

(Darrin T. Grondel, WA Traffic Safety Commission) *Sobriety checkpoints are the most effective strategy discussed by the IDWG for reducing DUI fatality and serious injury collisions. Nationwide sobriety checkpoints are not intended to make a lot of DUI arrests but make them strong deterrent instrument. Individuals who know checkpoints are up and running self-monitor their alcohol consumption or they find other alternatives for getting home. In the 39 states and provinces which have implemented checkpoints they have seen a 15-33% reduction in fatality collisions. In a 10 year span WA State has only had a 2% reduction in DUI related fatalities. Washington has implemented effective strategies and countermeasures for reducing DUIs but the one strategy that has the most impact needs to be considered. Sobriety checkpoints can be implemented at low costs compared to other strategies. This has a prevention component built in and provides a significant layer of protection to the public. NHTSA utilizes WA State law precluding sobriety checkpoints in their best practices guide for states to ensure they are establishing checkpoints accordingly. Since the original Supreme Court decision many things have changed and there are now 39 other state examples to evaluate to develop policy to legalize checkpoints to ensure protection of rights but most importantly protection for the public. Personal rights should never*

A4.3 Checkpoints—Work Group Survey Comments

over shadow personal responsibility or protection to the public. In order for WA State to make significant reductions to impaired driving, especially in light of privatization of alcohol and legalization of marijuana, checkpoints are a natural evolution to protect our citizens from impaired drivers. California conducts over 200 checkpoints a year. Strong support.

(Richard B. Hume, Seattle Municipal Court Probation Services Division DUI/Jail Unit) *Scary... where does this slippery slope lead to?*

(Captain Rob Huss, WA State Patrol) *The ongoing argument for checkpoints is whether or not it would be considered constitutional in WA State. Sobriety checkpoints have been shown to reduce DUI fatalities by more than 20%, but WA is one of only 12 states that do not currently use sobriety checkpoints. While opponents would argue that checkpoints have been tried and were found to be unconstitutional, it is important to note that since the WA State case is often referenced, there have been many advances in technology and law that could cause a change in interpretation regarding sobriety checkpoints. One key component of the previous ruling was the lack of state authority under the statute. The only way to definitively determine if sobriety checkpoints are constitutional is to carefully craft legislation which requires data driven analysis that show specific problem areas to obtain a warrant and provide high visibility and public awareness/messaging, to allow for the state to fully vet the issue through the court system to determine whether the argument regarding constitutionality is valid. A key component of getting legislation through is the support and acceptance of the public. In addition, if legislation were to pass, strict operational guidelines and officer training would be necessary in order to protect the citizen's rights and to maintain the integrity of the process.*

(Janene Johnstone, Misdemeanor Corrections Association / City of Kent) *This seems to be a very popular strategy among our Work Group. I think that the publicity and visibility of the checkpoints sounds like a great deterrent to drunk drivers, but am not sure it would change their behavior overall. (Would they just choose not to drink and drive on that particular night? Or in that particular area of town?). I don't know I know quite enough about how sobriety checkpoints are effective.*

(Julie Knittle, WA State Dept. of Licensing) *I very much support this idea.*

(Tom McBride, WA Association of Prosecuting Attorneys) *I like them - but do not see how they survive state constitutional privacy protections.*

(John McGowan, 2 Watch Monitoring) *Don't agree with sobriety checkpoints.*

(John Milton, WA State Dept. of Transportation) *Sobriety checkpoints are highly effective and should be considered in the effort to reduce impaired driving. The legal and constitutional issues should be assessed in developing a strategy that is workable.*

(Karen Minahan, Victim Impact Panel Coalition) *I have been involved in this process regarding sobriety checkpoints for many years. I think we should have them, apparently it is not going to fly in WA State, we need to move on, let's focus more of our energy and resources on Emphasis Patrols - they seem to be effective.*

A4.3 Checkpoints—Work Group Survey Comments

(Corrie J. Moore, AutoSafe) *I'm all for it. If you can get it passed, it is proven to be highly effective. Doubtful we can get it past the ACLU. Perhaps if the Feds had a stronger position, we might have a stronger case. It doesn't seem to matter how effective it is in other states. Any idea where public opinion is on this issue? If the citizens of WA voted to permit these in a referendum - not sure if that is even an option?*

(Linda Richardson, AutoSafe Ignition Interlock Services) *I am in favor of creating sobriety checkpoints.*

(Al Rose, WA State Association of Counties) *The WA State Constitution does not presently allow for this.*

(Dan Schulte, Family member of victims) *These are great. I think the research has shown that this should be a priority.*

(Jerry Stanton, Ignition Interlock Providers) *The statistics are hard to refute. Let's find a constitutional way to conduct whatever such enforcement we can constitutionally conduct.*

A5. Requiring Mandatory Arrests for a First Offense for an Impaired Driving Offense

A5.1 Mandatory Booking—Synopsis of Available Research

- **Wagenaar *et al* (2007)** studied 26 states who implemented mandatory fines and 18 states who implemented mandatory incarceration for DUI offenders (some implemented both strategies), and found weak safety effects from mandatory fines but no reduction in alcohol-involved crashes resulting from mandatory jail time: ‘[O]ur results suggest that mandatory fine and jail penalties...do not have clearly demonstrable general deterrent or preventive effects’. It should be noted that the study found a 6% reduction in nighttime single-vehicle fatal crashes, but the authors stress that the use of this ‘proxy variable’ to represent alcohol-related fatal crashes weakens the finding for one simple reason: A ‘fraction of SVN crashes are not alcohol-related, introducing a clear source of measurement error, and therefore reducing statistical power’.
- **Whetten-Goldstein *et al* (2000)** also found that mandatory jail-time for first offenders did not add any measurable deterrent effect: ‘To deter drinking and driving, many states have adopted mandatory criminal sanctions, such as minimum jail terms, sentences, fines, and license revocations/suspensions for first offense DUIs. Many of these penalties have become stricter over time. The rationale of these sanctions is to increase certainty of punishment, thereby deterring driving under the influence’. Part of the reason for the ineffectiveness of deterrent effects from these policies is the inconsistency of their application, since ‘most states allow judges considerable discretion in sentencing’.
- **Houston and Richardson (2004)** examined prevailing theories of deterrence and found that not only have mandatory arrest policies failed to exert anticipated deterrent effects, but for some offenders (i.e., those with relatively weak bonds of relationship to the larger social community but who also drink and drive frequently) these policies have led to negative outcomes, such as increased indifference to social norms. Thus, while frequent drinking-drivers are more likely than other drivers to judge jail-time and other deterrents as very severe, they know that their chances of being apprehended are low. Furthermore, they ‘assign little weight to societal costs;...it is also unlikely that punishment costs can effectively modify their behavior’. These authors find that the ‘behavioral assumptions’ behind such deterrent-based approaches are faulty. They concluded that ‘policies based on deterrence theory are likely to be least effective for the main target of these policies (frequent drink-drivers) and are likely to be unnecessary for non-drink-drivers’.
- **In a longitudinal study, Lapham and England-Kennedy (2012)** interviewed 82 DUI offenders to record their experiences during arrest, while imprisoned, and during and after related court procedures (including sentencing). They were able to find only weak effects resulting from mandatory jail-time in spite of the *nearly-universal negative reactions to the experience of incarceration among offenders*. The authors conclude, ‘Research has not conclusively demonstrated the usefulness of jail time in preventing alcohol-related motor vehicle crashes beyond the temporary benefit of keeping offenders off the roads while they are jailed’.
- **Ferguson (2012)** surveyed estimates DUI-interdiction data and concluded that ‘an alcohol-impaired driver can drive about 80 times without the threat of being caught’ (p. 428). It is likely that awareness of the low-risk/high-cost threat of apprehension is responsible for Ferguson’s conclusion: ‘Research

has shown that being sentenced to a period of incarceration does not effectively deter offenders from reoffending’.

- **Briscoe (2004)** found ‘statistically significant increases in injury accident rates, single-vehicle night-time accident rates and multiple-vehicle day-time accident rates after more severe penalties for drink-driving offences were introduced. The increase observed in single-vehicle night-time accidents, the accident category most likely to be alcohol-related, was not expected and runs contrary to the anticipated deterrent effect of the new laws’.
- **Helander (2002)**, in a review of DUI countermeasures for the California Legislature, reported that ‘Traditional DUI sanctions of fines and jail are shown to be among the least effective DUI countermeasures’.

A5.2 Mandatory Booking –Reference List

Briscoe (2004). Raising the Bar: Can Increased Statutory Penalties Deter Drunk-Drivers? *Accident Analysis & Prevention*. 36(5). Available upon request with restrictions.

Ferguson (2012). Alcohol-Impaired Driving in the United States: Contributors to the Problem and Effective Countermeasures. *Traffic Injury Prevention*. 13(5). Available upon request with restrictions.

Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, 7th Edition, Chapter 1 (National Highway Traffic Safety Administration), <http://www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf>

Helander (2002). *DUI Countermeasures in California: What Works and What Doesn’t, With Recommendations for Legislative Reform – Final Report*. Sacramento: California Department of Motor Vehicles. CAL-DMV-RSS-02-197. http://apps.dmv.ca.gov/about/profile/rd/r_d_report/Section_5/S5-197.pdf

Houston & Richardson. (2004.) Drinking-and-Driving in America: A Test of Behavioral Assumptions Underlying Public Policy. *Political Research Quarterly*. 57(1). <http://prq.sagepub.com/content/57/1/53>.

Lapham & England-Kennedy. (2012). Convicted driving-while-impaired offenders’ views on effectiveness of sanctions and treatment. *Qualitative Health Research*. 22(1). <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3137706/>

Wagenaar, Maldonado-Molina, Erickson, M, Tobler, & Komro. (2007). General deterrence effect of U.S. statutory DUI fine and jail penalties: Long-term follow-up in 32 states. *Accident Analysis & Prevention*. 39(5). Available upon request with restrictions.

Whetten-Goldstein, Sloan, Stout, & Liang (2000). Civil Liability, Criminal Law, and Other Policies and Alcohol-Related Motor Vehicle Fatalities in the United States: 1984-1995. *Accident Analysis & Prevention*. 32(6). Available upon request with restrictions.

A5.3 Mandatory Booking—Work Group Survey Comments

The background introductory paragraph for this question, provided as an integrated part of the survey, is in [Appendix D](#).

(Rose Torgerson, WA Coalition of Crime Victim Advocates) *The WA Coalition of Crime Victim Advocates supports this strategy. Through discussions in the Work Group and independent review, it is clear that the combination of treatment, ignition interlocks and meaningful legal consequences act as a motivator to curb impaired driving and reduce further harm to WA's communities.*

(Brian Ursino, MADD) *I favor mandatory arrest for first offense.*

(Sern Watt, Concerned Citizen) *First time offenders should serve a short jail sentence, between 2 and 7 days. This will make a point without giving the person time to acclimate to a jail setting. This needs to be done along with greater certainty of consequences. We should increase funding for DUI courts with a goal of having 90+% of DUI citations resulting in convictions in a timely manner.*

(Dawn Williams, WA State Dept. of Corrections) *I think this is a good strategy for protection of the community. Oftentimes individuals will be arrested, let go only to get back in the car and drive again. A cooling off period or "coming to" period may help the individual make a right choice once they are sober and no longer under the influence.*

(Ken Almborg, 2 Watch Monitoring) *You mention treatment and ignition interlocks, but monitoring, with EHM, is also a very viable tool. All three of the components complement each other. One thing to think about, treatment and interlock doesn't monitor someone for drinking, and as we all know, drunk drivers don't necessarily drive their own cars. Alcohol EHM is the best way to determine if someone isn't drinking period. It's my opinion that more attention is given to what we mean by monitoring and what role this important component plays in the state's overall plans.*

(Ken Bancroft, Sheriff, Asotin County Sheriff's Office) *I don't understand the question. Of the law enforcement agencies I deal with, mandatory arrests of impaired drivers regardless of their impaired driving history is the practice. This is especially so with current case history involving taking an impaired driver home after processing rather than booking. The impaired driver went out in another vehicle and was involved in a fatal collision.*

(Bruce Bjork, WA Assoc. of Sheriffs and Police Chiefs) *I believe mandatory booking and incarceration until arraignment would have an effect on the number of DUI arrests and keep the public safer. This practice comes with jail overcrowding and cost issues. Officers would be more prone to make DUI arrests if they knew that the defendant would stay in jail until arraignment. Mandatory condition of release 24/7 sobriety testing would start the behavior modification early and also be a deterrent to defendants to re-offend.*

(Frank Blair, Sheena's dad) *Swift and sure is a term I hear a lot in hearings and working groups. BUT when I read about people bailing out after a second alcohol related offense such as the DPA in Kitsap County it makes me doubt our commitment to holding DUIs accountable in a serious manner. I believe that a first time offender would take our laws more seriously if they see the inside of a jail cell if only for a few hours.*

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(Dick Doane, WA Traffic Safety Commission) *I concur with the general remarks above, although I also support temporary incarceration to ensure that offenders are either charged or dismissed in a timely fashion and also to ensure that they pose no DUI risk to the public until they are able to outfit their vehicles with ignition interlock devices.*

(Beth Ebel, Harborview Injury Prevention & Research Center) *I think mandatory arrest is important, facilitates blood testing/ignition interlock, and threat of jail time. Gets interventions started and may motivate treatment, especially for a startled first time offender. Keep in mind that the "first time" offender is almost NEVER a "first time" drunk driver. This is absolutely NOT a "youthful indiscretion."*

(Amy Lea Ezzo, MADD) *MADD supports this measure as it does remove offenders from the road and allows time to put other compliance measures in place. Additionally, we understand the importance of taking additional steps for ensuring that court sanctions are adhered to which all too often an issue.*

(Matt Fick, Brother of Morgan Fick Williams) *I am not opposed to this idea but I am more focused on addressing the problem of repeat offenders.*

(Brad Fralick, Consumer Safety Technology) *If such mandatory arrests fill the jails then pressure is often applied to not enforce the statutes (i.e. concentrate on things other than DUI) so as not to create an overcrowding crisis and the budgetary implications that follow.*

(Susan Fraser, City of Bellevue, Probation) *It is a severe change in how tolerant the system has been. If not now, increasing legislation in that direction would be positive.*

(Amy Freedheim, King County Prosecutor's Office) *I do not support mandatory arrests unless the police can under certain circumstances I&R. For instance, if a person requires hospitalization, the police ought to be able to Identify and Release the person. The key is the police getting their reports to the prosecutor's office to file charges in a timely fashion.*

(Patricia Fulton, WA Defenders Assoc. OR WA Assoc. of Criminal Defense Lawyers) *All drivers stopped for driving under the influence are arrested -- this question is really asking about mandatory booking into jail following arrest (instead of being administratively booked and release). WACDL and WDA oppose requiring a mandatory booking for people arrested for a first time in an impaired driving related offense. We believe that this is better left to the discretion of arresting officers and specific jurisdictions who can better assess the jail resources available in the community. We support encouraging prosecuting authorities to promptly file impaired driving related charges, but this policy does not necessarily require mandatory booking.*

(Darrin T. Grondel, WA Traffic Safety Commission) *Officers have a duty and obligation to arrest a driver under the influence, regardless of the number of prior offenses. The language in the Bill stated "mandatory arrest" and adding language to the statute addressing mandatory arrests, like DV should be considered. However, the belief is this was intended to be "mandatory booking". Mandatory arrest and booking should be done for every DUI regardless of the number of offenses. Many jails cannot handle the increase in population and the public has the perception if you are arrested and you are cooperative you*

A5.3 Mandatory Booking—Work Group Survey Comments

will be released on your own recognizance. The research shows behavioral change comes from swift and sure punishment. Booking a DUI for 12 -24-hours followed by an appearance before a judge imposing specific court ordered sanctions like treatment, ignition interlock, etc., is an effective strategy for changing behavior and recidivism.

(Richard B. Hume, Seattle Municipal Court Probation Services Division DUI/Jail Unit) *Absolutely, it sends a no nonsense message vs. a citation and sleeping it off at home.*

(Captain Rob Huss, WA State Patrol) *Mandatory arrest will help speed up the swiftness and possibly the certainty of a conviction, as many offenders who are not booked into jail on the date of the offense are more inclined to contest the DUI conviction, as they do not want to spend a day in jail. There are often situations resulting from collisions or high levels of impairment that hospitalizes the offender for extended periods of time (hours or perhaps day(s), and as a result of the mandatory arrest requirement officers would be required to stay with the offender at the hospital until their discharge. Officers cannot rely on or expect the hospital to contact the officer/agency prior to discharge or release of the offender. Concerns arise regarding increased staff time and removal from availability to respond to calls for service or emergencies, increased agency cost to wait for the offender's discharge, and/or liability if the officer depended on the hospital to provide notification and that does occur and ultimately the offender is discharged and not remanded back into the officer's custody for jail booking. In those cases involving extended offender hospitalization alternative allowances need to be in place for officer's to assign a timely, mandatory court appearance for the offender beyond mandatory jail booking. However, it would seem that this approach might be less likely to have a case become stale for the officer or defendant since facts may be more easily recalled independently from the report. Having a long and draw out process may increase the defendant's anxiety and lead them to abuse drugs and alcohol to help cope with the event. It is also important to note that when coupled with an interlock device, a potential loophole exists under the existing law for the employer owned exemption because an individual can register as a self-employed business and be exempt. This could be fixed by not allowing a self-employed business to qualify for the exemption. Some states require a person to disclose all registered vehicles and/or a bill of sale.*

(Steve Johnson, WA State Liquor Control Board) *Under my proposal, the jail time is for not complying with court sanctions, not the DUI. Let people get the help they need if they do in fact have a problem but don't burden the court and the jail without cause. If you arrest a DUI and book them that night, they often beat you home never to go back to jail for their actions or making the link between their action and the jail. They blame the arresting officer. It was his/her actions that resulted in the jail time, not the offender's.*

(Janene Johnstone, Misdemeanor Corrections Association / City of Kent) *I think that mandatory arrests for first-time DUI offenders would certainly have a strong impact at the time of the arrest. I have seen many 2nd-time DUI offenders who didn't seem to think their first DUI was a very big deal, and who commented on how eye-opening it was to have to spend the night in jail. I am also sympathetic, however, to the many jurisdictions whose jails would not be able to accommodate the increase in inmates as a result, or for those law enforcement agencies who do not have enough officers on duty at any given point to be able to spare an officer for the length of time it would take to arrest and book someone. I don't think that this option would be wise to implement without first giving a lot of consideration to the corrections and law enforcement staff it would impact.*

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(Julie Knittle, WA State Dept. of Licensing) *I agree with this when combined with court imposed compliance.*

(Tom McBride, WA Association of Prosecuting Attorneys) *I think this question is really about mandatory booking for first time offenders – I think a mandatory booking is good policy.*

(John McGowan, 2 Watch Monitoring) *I agree with mandatory arrests. Treatment and interlock are great but getting the person off alcohol is a must and can be done by various forms of home monitoring and should be done on their first day out of jail until they are sentenced by the judge.*

(Evan McLaughlin, Seattle University Sociologist) *I think that requiring mandatory arrests for a first time impaired driving offense is effective in getting the seriousness of the crime through to the offender. I think initial jail time is also effective because people realize the seriousness of what they have done as well. I know as an offender, being taken to county and put in reds certainly gave me a wakeup call. As unpleasant as it was, I did understand the seriousness of what I had done. I also agree that jail time as a stand-alone measure is not effective. As discussed in previous answers, it may temporarily remove an offender or person who has the intent to drive under the influence off the street for the time they are in jail but it does not ensure that the offender will not continue to drive under the influence when they get out of jail. Now let's talk about your court imposed compliance process such as treatment and the installation of ignition interlock devices. I also don't believe a court-imposed compliance process works any more effectively when combined with the threat of jail time. What I have found after being around offenders for the last 3 years because I have been in the system is that most people go through the system and the minute they no longer have requirements they resort back to their old ways. Addiction to drugs and alcohol is way more powerful than the threat of jail time. I understand this is why you go for a multi-layered attack and the reason for implementing jail time in combination with treatment and Ignition Interlock devices but you also need to consider the system in which you are implementing them as well. The treatment assessments are a complete joke and they are a money maker for private entities that do the assessments because they want to enroll people in treatment programs that cost 1000s of dollars so they can gain revenue. I had several different assessments and one counselor specifically said he didn't think I had any kind of addiction problems or issues but he recommended an outpatient treatment program and the cost of that program was \$2000. He then tried to sell me into making monthly payments. I quote the counselor, "It's only \$200 per month" and you can do the treatment program. My question here is: where is the oversight for people such as these people? I ended up going to another counselor to receive a 2nd assessment and they said all I had to do was a victims' panel class. I did the class and completed all the paperwork. Everything was turned into the courts and then 2 years later I pulled my own Motor Vehicle Report only to find that my license had been re-suspended by the DOL. After I personally did an investigation that took over a month because no one wanted to help me and once again every single person treated me like a criminal because I had a DUI, I was finally able to identify the issue and why my license had been re-suspended. Lo and behold, despite having my permission to report everything, the drug and alcohol counselor I had consulted never turned in their paperwork to the DOL. They only turned it into the court. Also, I never received any kind of notification letter from the DOL stating they were missing anything. So much to my surprise after pulling my own MVR just by chance I found I had 3 days to comply with treatment and DOL requirements I had completed a year prior. I think it's also important to mention here that my conviction was in a Superior Court and I was able to reinstate my driver's license after my 90 day suspension because the Superior Court never gave the DOL the*

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paperwork they needed to identify that I had to have a probationary license. In fact I reinstated my driver's license and drove for over a year and a half without an interlock device in my car at all simply because one government agency didn't talk to the other one. There's so much more I could say about your compliance programs and how flawed they are but I could literally write several hundred pages of where you fail and why. The system is a complete joke and it seriously needs direction from people like me that understand it the way that I do because the lawmakers, lawyers and DOL personnel go to work every day and don't understand what they are actually doing. They don't understand how one little thing in one place causes a chain reaction that affects all the other government agencies. I work as a customs broker and I do this every single day to make a living. I can tell you where the problems are in the system because I have experienced all of them first hand and had little to no help from the very government agencies that are supposed to be helping people such as myself. How is that? Also, this whole pre-installation of ignition interlocks before releasing a person from jail is set up to be a complete failure as well. When this law was written did the lawmakers even bother consulting with any of the big five company that are licensed to install devices in WA State? As it stands now the company I'm currently using is LifeSafer. Several of the other big companies are Smart Start and Intoxilock. What I find interesting is that as it is right now LifeSafer's business hours are Monday through Friday from 8 AM to 5 PM and waiting times to try and even get an appointment for an install of a device or maintenance is usually a 3 week wait. Did I mention that you have to drive to their facility or get your car towed to their facility in order to be serviced? Granted this is only Life Safer and not Smart Start or Intoxilock but still. Recently I had the privilege of going through getting a different car due to transmission problems with my Honda and I had to have both cars present for a swap. That said, I was able to get an appointment in a week but I had to drive from Redmond to Olympia and have my dad follow me in the new car because current law states that both cars must be present at the swap of the Interlock Unit from one car to another. What if I didn't have a close family member to follow me the 60 plus miles from Redmond to Olympia to get the Interlock Device installed in my car? Furthermore, what happens if I were to have my transmission go out and take my car to the shop? What if the mechanic or dealership had given me a temporary car to drive without an interlock so I could I get back and forth to work during the time it takes for the shop to repair my car. Technically, I would be driving illegally because the rental car I would be using to commute back and forth to work wouldn't have an interlock unit in it either. That means that I could want to be in compliance with having a unit but because of a circumstance (in this case a car repair) I risk getting pulled over, arrested, thrown in jail and then of course that causes an entire chain reaction to occur. Depending on how long I'm in jail I can't call my work to report that I'm in jail so once I reach the threshold for missed days at work with no medical reason I get fired from my job and this whole entire process spins my life out of control once again. The reason behind it...because my transmission went out, I went to a mechanic to get it repaired and decided to drive a rental car to work because WA State doesn't require mechanics shops to have Ignition Interlock devices in their rental cars. This is one example of literally dozens that can occur and where the system can literally create permanent career repeat offenders and violators all because of the inflexibility of the system itself and current holes that exist. Why aren't people talking about the problems in compliance that this is causing? Again, this is the reason why you have repeat offenders. Because even when they try to follow your system it is so fundamentally flawed it becomes impossible in certain circumstances to actually follow the law. In going through having my ignition interlock unit in my car I have spoken with scores of people. Both techs who work in the Ignition Interlock industry for Life Safer as well as people who have the devices in their cars. I told the techs about the new law requiring

A5.3 Mandatory Booking—Work Group Survey Comments

offenders to get an ignition interlock as a requirement of release after being thrown in jail for a DUI related offense and they literally laughed in my face and asked if that law was real. When I said it had just been passed I had techs asking me how this is even possible. These are technicians who have been working in the industry for years. Some of them 10 years and longer. Do I believe interlock devices are useful... absolutely. Do I believe they significantly reduce the risk of drivers who are under the influence from driving on the roads...absolutely. But why are they so hard to get installed, why are they so expensive and why aren't they required to be installed in every single car a person with a DUI conviction owns? Furthermore, some of the worst fatalities are caused by drivers who have multiple DUI convictions, shouldn't even be driving at all and somehow find their way behind the wheel of a car without a device. These are the offenders that are killing people and ending up on the 7 o'clock news. Where loopholes exist, people will find them and they will break the law.

(John Milton, WA State Dept. of Transportation) *Recognizing the challenges and cost associated with jail time, and the limited benefit in recidivism, this may be a lesser priority. However, keeping this option for repeat offenders and non-compliance issues seems to be valuable.*

(Karen Minahan, Victim Impact Panel Coalition) *This is what I think for first time offenders, must get an assessment, do ADIS, do the Victim Impact Panel, pay a fine, do community service in a hospital setting in the Physical Therapy Department, just observing a PT, who is trying to piece back someone's life that has been maimed or injured by an impaired driver, or some other form of community service, we need to become more creative. Treatment, IID, the threat of jail for noncompliance is a great idea.*

(Corrie J. Moore, AutoSafe) *Again, I think in concept, the idea of arrests for first offenders is a good idea. Unfortunately, the smaller, local jurisdictions would be severely impacted financially due to not having enough jail space & other financial considerations. I think a cheaper & more effective option would be to ensure all first time offenders are required to comply with interlock orders. Many courts defer to DOL instead of ordering interlocks as part of pre-release or deferral requirements. If there is no conviction or if there is a pre-trial agreement or reduced charges which extend over a 2-3 year period often there is only a 90 day DOL requirement which doesn't protect the public during the interim period while the courts give someone a chance to pull it together & not reoffend. At this point, we know more than half of the offenders who are supposed to have interlock on their vehicle (including the repeat offender who killed that family in Seattle) do not comply. The cost for verifying compliance with the interlock is much lower & with much greater impact. The DOL already has the data for which offenders are required versus which do not comply. Even without close court supervision, once the interlock is in place, the public is protected.*

(Linda Richardson, AutoSafe Ignition Interlock Services) *I agree with requiring mandatory arrests for first offense for an impaired driving offense.*

(Al Rose, WA State Association of Counties) *I think this proposed policy would be counterproductive. The biggest impact would be that it would take law enforcement off the street while they have to transport arrestees to the municipal or county jail. Currently, for the greatest number of offenders, they are released to responsible, sober individuals and that allows law enforcement to get back out on the roads quicker to catch more drunk drivers.*

A5.3 Mandatory Booking—Work Group Survey Comments

(Dan Schulte, Family member of victims) *This is a great idea but it should not be stand-alone.*

(Jerry Stanton, Ignition Interlock Providers) *I suspect that the fiscal impact on cities and counties will make this a nonstarter, but the court required proof of IID installation in SB 5912 will be a good test of this concept.*

A6. Increasing Treatment and Rehabilitation for Repeat DUI Offenders

A6.1 Treatment—Synopsis of Available Research

- **Madras, et al. (2009)** evaluated the effectiveness of Screening, Brief Interventions, and Referral to Treatment (SBIRT) on alcohol and illicit drug use among a random sample of patients from multiple healthcare sites in 2007. The healthcare sites all used “universal screening”, screening every admitted patient, and represent a diverse patient mix. Of the 459,599 persons screened, 104,505 (22.7%) screened positive for heavy alcohol use and/or illicit drug use. Of these patients, 70% were recommended for brief intervention, 14% needed a brief treatment, and 16% were referred to specialty treatment.
- Among those reporting illicit drug use, a six-month follow up revealed that drug use significantly declined by 67.7% and heavy alcohol use by 38.6%.
- Among persons receiving brief treatment and specialty referral, they self-reported significant improvements in general health, mental health, employment, housing status, and criminal behavior. These results contribute to the Documented effectiveness of SBIRT for reducing heavy alcohol use.
- **Countermeasures That Work (NHTSA, 2013)** identifies alcohol screening, assessment, brief intervention, and treatment and as a proven strategy for reducing alcohol-related crashes. It is strongly recommended however that treatment should not be provided in lieu of other lesser sanctions through plea bargains or diversion programs that eliminate the record of a DUI offense.
- **NCHRP (2006)** has identified screening all convicted DWI offenders for alcohol [and drug] problems and require treatment when appropriate as a strategy that has been proven effective. Particularly among repeat DUI offenders, this strategy addresses the common underlying issue among drinking drivers, substance abuse and dependency. If an offender’s substance problem is not addressed, it is highly likely that that person will continue to drive under the influence despite threats of punishments. NCHRP further recommends the employment of screening and brief interventions in healthcare settings to treat at-risk drinkers.
- An older meta-analysis (**1995, as cited in Jones & Lacey, 2000**) of 215 independent evaluations of treatment and rehabilitation suggested that on average DUI recidivism was reduced by 8-9% for offenders receiving treatment and rehabilitation with similar reductions in alcohol-involved crashes. Confirmed in this research and others, combinations of treatment modalities are more effective than individual strategies for reducing DUI recidivism.
- **Lapham, et al. (2001)** screened 612 women and 493 men for psychiatric disorders after being convicted of impaired driving in New Mexico 1994-1997. The majority of all respondents reported a lifetime alcohol-use disorder (85% of women and 91% of men), compared to 22% and 44% respectively as reported in the National Comorbidity Survey sample. Among these offenders with alcohol-use disorders, 50% of women and 33% of men had at least one additional psychiatric disorder other than substance abuse/dependence, mainly posttraumatic stress disorder or major depression. Drug use disorders were reported among 32% of females and 38% of males, compared to 16% and 21% respectively. Impaired driving is a symptom of a larger substance abuse and possibly mental

health issue. The researchers concluded that assessment and treatment for drug use and alcohol is needed in combination with treatment for psychiatric disorders that commonly accompany substance related problems. Similar results are also presented in Shaffer, et al. (2007) which found more than 60% of DUI repeat offenders have other psychiatric disorders.

- **McMillan, et al. (2008)** found that rates of under-diagnosis for psychiatric disorders is very high among repeat DUI offenders. Furthermore, in their study sample, 24.6% of defendants were over-diagnosed with drug-use disorders. These offenders suffering from psychiatric conditions, such as severe depression and bi-polar disorder, plus alcohol use disorders are not being appropriately screened and identified. This results in treatment protocols that are not sensitive to these other conditions and tailored for lesser or even non-existent issues such as drug use. These missed opportunities may result in increased rates of relapse and recidivism due to poor treatment compliance, reduced assimilation of psycho-social skills imparted during treatment, and increased need to take sedatives, such as alcohol, to self-medicate symptoms of their psychiatric conditions.

A6.2 Treatment—Reference List

Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, 7th Edition, Chapter 1 (National Highway Traffic Safety Administration),

<http://www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf>

Jones & Lacey. (2000). State of Knowledge of Alcohol-Impaired Driving: Research on Repeat DWI Offenders. Final Report prepared for NHTSA DTNH22-98-C-05109.

<http://ntl.bts.gov/lib/7000/7900/7901/dwioffend.pdf> cited Wells-Parker, Bangert-Drowns, & Williams. (1995). Final Results from a Meta-analysis of remedial interventions with drink/driver offenders. *Addiction*. 90(12).

Lapham, Smith, C’de Baca, Chang, Skipper, Baum, et al. (2001). Prevalence of Psychiatric Disorders Among Persons Convicted of Driving While Impaired. *JAMA Psychiatry*. 58(10).

<http://archpsyc.jamanetwork.com/article.aspx?articleid=481831>

Madras, Compton, Avula, Stegbauer, Stein, & Clark. (2009). Screening, Brief Interventions, Referral to Treatment (SBIRT) for Illicit Drug and Alcohol Use at Multiple Healthcare Sites: Comparison at Intake and Six Months. *Drug and Alcohol Dependence*. 99(1-3).

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2760304/>

McMillan, Timken, Lapidus, C’de Baca, & Lapham. (2008). Under-diagnosis of comorbid mental illness in repeated DUI offenders mandated to treatment. *Journal of Substance Abuse Treatment*. 34(3).

<http://www.ncbi.nlm.nih.gov/pubmed/17614243>

National Cooperative Highway Research Program (NCHRP) Report 500. (2005). Volume 16: A Guide for Reducing Alcohol-Related Collisions. http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_500v16.pdf

Shaffer, Nelson, LaPlante, LaBrie, Albanese, & Gabriel. (2007). The Epidemiology of Psychiatric Disorders Among Repeat DUI Offenders Accepting a Treatment-Sentencing Options. *Journal of Consulting and Clinical Psychology*. 75(5).

http://www.divisiononaddiction.org/html/reprints/ShafferNelsonetalJCCP_epi.pdf

A6.3 Treatment—Work Group Survey Comments

The background introductory paragraph for this question, provided as an integrated part of the survey, is in [Appendix D](#).

(Dan Schulte, Family member of victims) *Always a good idea to be proactive and treat offenders, not just repeat offenders though. When these people are getting pulled over or causing accidents for the first time, we know it's not the first time they've been drinking and driving.*

(Jerry Stanton, Ignition Interlock Providers) *Absolutely. However imperfect, treatment provides the best hope for solving the problem, at least on a case by case basis.*

(Brian Ursino, MADD) *I support treatment and rehabilitation IN ADDITION to penalties and sanctions, not in lieu of.*

(Sern Watt, Concerned Citizen) *I agree with treatment and rehabilitation services for first time offenders, but they should pay for them. I suggest a one year license suspension for a first time offense, followed by five years of use of an ignition interlock device. Some treatment could also be a condition for re-issuance of a license. In general, a second offense, and certainly a third, are indicators of a serious personality disorder along with addictive behavior. I am much less concerned with treatment and rehabilitation for 2nd and 3rd time offenders. I doubt very much that it will work. I just want to keep them off the streets*

(Dawn Williams, WA State Dept. of Corrections) *Mandatory. Must be done. The treatment needs to be GOOD treatment. Most of the treatment delivered to low income individuals is substandard. Truly substandard. Protocols must be developed and urinalysis testing must be maximized and monitored by DBHR or the paying authority.*

(Ken Almberg, 2 Watch Monitoring) *I agree but I also have witnessed this type of solutions has better results when you can monitor the offenders travel and consumption through EHM.*

(Ken Bancroft, Sheriff, Asotin County Sheriff's Office) *Again, who foots the bill? We don't have enough treatment facilities. Those facilities already operating often don't have the bed space available for long periods of time. Remember, the treatment is only as good as the attitude of the attendee.*

(Bruce Bjork, WA Assoc. of Sheriffs and Police Chiefs) *I support increasing treatment and monitoring for repeat DUI offenders. Alcohol and drug assessments, continuous alcohol and drug monitoring, and offender accountability have all shown to reduce recidivism and enhance public safety.*

(Frank Blair, Sheena's dad) *Alcoholism can NOT be "cured" by treatment. That being said, IF an offender shows that they are truly amenable to treatment, they should have that option available. If, however a reluctant offender is sentenced to treatment and has no desire to change their behavior, sitting through outpatient sessions is a waste of time and resources.*

(Dick Doane, WA Traffic Safety Commission) *I fully support this strategy for dealing with repeat DUI offenders. I would also support enhanced evaluation, where feasible, to determine whether an offender also suffers from mental health problems. McMillan et al (2008) found a quarter of their sample offender population were 'over-diagnosed' with substance-abuse problems when their core underlying issues often consisted of psychiatric conditions.*

A6.3 Treatment—Work Group Survey Comments

(Beth Ebel, Harborview Injury Prevention & Research Center) *Critical piece, and an important partner to increased enforcement. With better ascertainment of alcohol problems (through breath tests, better enforcement), treatment lets us provide some hope for perpetrators who are actually interested to change. Treatment is effective, and important for this often lethal but "unintended" offense. SBIRT is highly effective, and actually SAVES money. However it needs to have a reimbursable payment code to make sure hospitals are able to provide this service and commit the personnel needed to do so. At present it is often NOT offered because hospitals lose money on the provision of a highly effective service. See, for example: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1357055/pdf/20050400s00001p541.pdf>*

(Amy Lea Ezzo, MADD) *While MADD supports integrating alcohol and drug treatment into the justice system, it should not be done in lieu of penalties or jail time.*

(Matt Fick, Brother of Morgan Fick Williams) *I am very much in favor of this idea. As I mentioned in previous comments, I think the focus ought to be on stopping repeat offenders from drinking and driving. The strategy of increasing treatment and rehabilitation focuses on stopping alcohol abuse and I am therefore in favor of it.*

(Brad Fralick, Consumer Safety Technology) *Statistically a person going through treatment has an 11% chance of "going clean" for a single course of treatment. The single biggest predictor of success for treatment is the commitment/cooperation of the participant. Mandatory (forced) treatment does not give you this and is likely to be expensively futile. Treatment should be readily available but not involuntary.*

(Amy Freedheim, King County Prosecutor's Office) *I support treatment for repeat DUI offenders.*

(Patricia Fulton, WA Defenders Assoc. OR WA Assoc. of Criminal Defense Lawyers) *WACDL and WDA strongly support increasing access to and support with treatment.*

(Darrin T. Grondel, WA Traffic Safety Commission) *Based on the data from NHTSA which shows a DUI has driven 87 times before being apprehended, all drivers would be considered a repeat offender. Each DUI conviction regardless of number should be required to go through the SBIRT process, since even a first offense could be in greater need than a second. The penalties should be severe on the first offense to deter a second, plus the support and treatment needs to be in place to reduce recidivism rates. Several strategies focus on post arrest and conviction requirements, this approach addresses the personal issues and assisting in prevention.*

(Richard B. Hume, Seattle Municipal Court Probation Services Division DUI/Jail Unit) *Absolutely support this approach*

(Captain Rob Huss, WA State Patrol) *While studies have shown that treatment and rehabilitation are important components for changing the behavior of an individual, screening programs should be strictly controlled and safeguards put in place to ensure individuals are being properly diagnosed as individuals may attempt to show they have an addiction problem just to qualify for a deferred prosecution.*

(Steve Johnson, WA State Liquor Control Board) *See my first response: I would also argue for a complete and unconventional change. I would like to explore the option of making the 1st DUI and infraction that still required all of the interlock and licensing sanctions in addition to a significant fine of around \$5,000 to \$10,000 (or a percentage of the individual's annual income). The only thing we would*

A6.3 Treatment—Work Group Survey Comments

be giving up would be the 24 hours in jail. We would also be able to move forward with a sanction in a timelier manner and reduce the ability for some of the court related issues. Fail to complete the sanctions or pay the fine would be a criminal offense. The second DUI would be a Gross Misdemeanor with a large monetary penalty and up to a year in jail. However, the monetary penalty and confinement time can be significantly mitigated by participating in an approved, in patient treatment program. If an individual chooses this route, failure to complete the program and/or pay the fine would result in a maximum sentence. Finally, the 3rd DUI would be a felony resulting in a lifetime revocation of the driver's license and significant prison time (18 to 24 months). This process builds in the treatment element at the offender's expense. If you get arrested once, you may have just made a mistake. It should be costly because of the risk to everyone else. If arrested a second time, you have a problem and it needs to be addressed. A third arrest means you don't accept the responsibility for your actions or are not able to address the problem on your own and you need to be removed from society to reduce the risk and then get a handle on your problem.

(Janene Johnstone, Misdemeanant Corrections Association / City of Kent) *Again, I think this is a great idea. I was particularly alarmed by a statement made by Julie Mitchell of Lakeside-Milam at one of our meetings, who stated that they are seeing more and more DUI offenders come in for assessments who are being told by their attorneys to "save the deferred prosecution for their next DUI." I think we are already losing the battle if first- and second-time offenders are starting treatment with the mindset that they will be there again sometime in the future. I have seen many offenders make amazing changes in their lives and their behavior throughout the course of a really good treatment program. Conversely, I have seen many offenders return on new DUI charges because the treatment they received the first time was inadequate. The offenders that I see who have the most DUI's, however, are the ones who either have never been through treatment at all, or the ones who have never managed to successfully complete any course of treatment.*

(Julie Knittle, WA State Dept. of Licensing) *I completely agree and this should be utilized more than it currently is.*

(Tom McBride, WA Association of Prosecuting Attorneys) *I think most first time DUI offenders do NOT have a treatment need - and use treatment as a ploy to avoid license consequences of DUI convictions. I would fine them heavily and leave their license in place. I would reserve treatment for alcoholics.*

(John McGowan, 2 Watch Monitoring) *It is a must to increase treatment and rehabilitation along with monitoring of repeat dui offenders.*

(John Milton, WA State Dept. of Transportation) *This seems to be another highly effective strategy and one that should be considered as a high priority. Lack of treatment and rehabilitation will result in higher recidivism for first time and repeat offenders.*

(Karen Minahan, Victim Impact Panel Coalition) *Treatment, probation, home monitoring, IID if that is what it takes.*

(Julie Mitchell, Association of Alcoholism and Addiction Programs) *Treatment for repeat offenders will have the best outcomes with the increased level of structure, monitoring and accountability offered through DUI courts. Early intervention and treatment for the first time offender who has the disease of addiction or a mental health problem will have the greatest impact on reducing recidivism. In 1975, the*

A6.3 Treatment—Work Group Survey Comments

WA State Legislature insightfully recognized that for offenders whose criminal offense was a result of their disease, if treated, the illegal behavior would stop. We have had Deferred Prosecution in place since. Some of the changes over the years have decreased the number of offenders opting for a Deferred Prosecution, who would benefit from the program. Several studies referred to below have clearly proven Deferred Prosecution is an effective program to decrease recidivism. The AAP recommends that we increase access to Deferred Prosecution. Reducing Recidivism through Chemical Dependency Treatment: There have been studies over the years that have indicated Chemical Dependency treatment is a significant factor in reducing recidivism for the alcoholic/drug addicted defendant. Treatment along with accountability measures has shown the best results. Under the direction on the WA State Traffic Commission, in 2006, Dick Van Wagenen prepared an extensive report titled "WA's Impaired Driving Laws: Complexities and Challenges", and in 2007, the WA State Institute for Public Policy conducted their second study evaluating Deferred Prosecution and the program's impact on recidivism (the first study was completed in 1993). All three of these reports point to treatment, specifically Deferred Prosecution, as an effective tool to decrease recidivism. Both Deferred Prosecution studies indicated that WA State's Deferred Prosecution program decreased recidivism to a greater degree than treatment for a group with similar characteristics who plead guilty or were convicted of a DUI. Included in the 2007 Deferred Prosecution report Summary of Findings over a three year period: 1) a 22.6 percent DUI recidivism rate for deferred prosecution cases compared with 29.7 percent for the comparison group – a 7.1 percentage point difference; and 2) a 35.5 percent overall recidivism rate (DUI, criminal traffic or alcohol-related offense) for deferred prosecution cases compared with 52.0 percent for the comparison group – a 16.5 percentage point difference. The studies also recommended increasing access to the treatment through the intervention of a DUI."

(Corrie J. Moore, AutoSafe) *Accountability is key here. Treatment only works if the offender is working it. I am an advocate with monitoring of compliance with the program. I understand the screening tools have improved & there are some newer panels which help identify addiction issues even if the patient is trying to fool the test. It doesn't help to throw resources at offenders who are not "ready" to change. The mental health professionals are the best at assessments. I might advocate to confirm all the state-approved providers are using the most current, effective & consistent panels for assessing if treatment is needed or not.*

(Linda Richardson, AutoSafe Ignition Interlock Services) *I agree with increasing treatment and rehab for repeat DUI offenders.*

(Al Rose, WA State Association of Counties) *This is not a bad strategy if the State is willing to step up to the plate on a permanent basis and pay for this. Additionally, the State should require DWI offenders in state custody to take part in treatment while incarcerated.*

A7. Penalties for Refusing to Take a Breath/Blood Test for Determining Alcohol Concentration or Presence of Drugs

A7.1 Breath/Blood Test Penalties—Synopsis of Available Research

- **Countermeasures That Work (NHTSA, 2013)** has identified BAC test refusal penalties as a strategy that is likely to be effective based on balance of evidence from high-quality evaluations or other sources. ‘Reduced test refusal rates may increase DUI and high-BAC DUI convictions, increase the likelihood that prior DUI offenses will be properly identified, and provide the courts with better evidence for offender alcohol assessment’.
 - Test refusal rates appear to be lower in States where the consequences of test refusal are greater than the consequences of test failure. No study has examined whether this strategy is associated with reduced driver impaired crashes.
 - Several states issue warrants for drivers who refuse to provide a breath or blood sample. Research shows that using warrants reduces test refusals and result in more pleas, fewer trials, and more convictions.
- **NCHRP (2005)** has identified establishing stronger penalties for BAC test refusal than for test failure as ‘Tried’, or a strategy that has been implemented in a number of locations and that may be accepted as best practice, but for which there have not been valid evaluations. This strategy is designed to increase the certainty of punishment. Repeat offenders tend to have high refusal rates in states where the penalties for test refusal are weak.
 - In States where offenders with high BACs receive more severe penalties (such is the case in Washington), the penalties for test refusal should be at least as strong as the penalties for a high BAC offense. In at least 15 states, test refusal is considered a criminal offense.
- Several states have implemented “No Refusal” initiatives to inform the public that refusing a breath test is not a way to evade a drunk driving charge. Several jurisdictions in Texas have implemented such initiatives since 2005. During a typical No Refusal Weekend in Montgomery County, warrants were obtained for 12 DUI suspects refusing a test. The average BAC among these suspects was more than twice the legal limit. In Montgomery County, refusal rates have dropped from 50% prior to the program to lower than 10% in 2010. Conviction rates also increased and dismissals decreased. **(Traffic Safety Marketing, n.d.)**
- Spokane County implemented a No Refusal Weekend program in 2013 for the annual outdoor event Hoopfest, which draws over 200,000 players, fans, and volunteers to the area. The program was implemented using a toolkit provided by the National Highway Traffic Safety Administration (<http://www.nhtsa.gov/no-refusal>). A media release and outreach to defense bar ensured the high visibility of this effort. As a result, only one suspect refused a breath test, in which a warrant was then obtained for blood.
- **Voas, et al. (2009)** conducted a review of state’s implied consent laws and the impact on test refusal rates. The researchers identified policies implemented by states that were designed to discourage or prevent refusals, including:
 - Ensuring that the administrative license revocation (ALR) period for refusal is substantially longer than for providing an over-the-limit test
 - Criminalization of test refusal

- Enhanced penalties for refusal if convicted
- Refusal admissible in court
- Refusal not permitted

A7.2 Breath/Blood Test Penalties—Reference List

Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, 7th Edition, Chapter 1 (National Highway Traffic Safety Administration), <http://www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf>

National Cooperative Highway Research Program (NCHRP) Report 500. (2005). Volume 16: A Guide for Reducing Alcohol-Related Collisions. http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_500v16.pdf

Traffic Safety Marketing. (n.d.). No Refusal Initiative Facts. <http://www.trafficsafetymarketing.gov/newtsm/tk-norefusal/norefusalfacts.pdf>

Voas, Kelley-Baker, Romano, & Vishnuvajjala. (2009). Implied-Consent Laws: A Review of the Literature and Examination of Current Problems and Related Statutes. *Journal of Safety Research*. 40(2). <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2760408/>

A7.3 Breath/Blood Test Penalties—Work Group Survey Comments

The background introductory paragraph for this question, provided as an integrated part of the survey, is in [Appendix D](#).

(Al Rose, WA State Association of Counties) *If increasing penalties for refusing breath/blood test should be done in combination with lengthening the period of suspension for refusal. At the time of the refusal, offenders are thinking about what affect it may have on their license. Punishment seems far away at the point and the offender is hoping that the absence of the test will aid them in avoiding conviction.*

(Dan Schulte, Family member of victims) *Evidence is VERY important and is especially tricky given the passage of the new Supreme Court law. As long as the evidence is used in a proactive way, I believe increasing these penalties for refusals would be a positive thing.*

(Jerry Stanton, Ignition Interlock Providers) *This concept is being increasingly used in other states. It is probably worth testing in WA.*

(Brian Ursino, MADD) *Definitely support this strategy. More and more, offenders are being "advised" to refuse everything from conducting field sobriety tests, to breath and blood. Increasing sanctions for these refusals will improve prosecution rates, reduce plea bargains, and provide better alcohol and treatment information for the courts.*

(Sern Watt, Concerned Citizen) *I agree. Refusing a test should simply not be an option.*

(Dawn Williams, WA State Dept. of Corrections) *This is imperative! If the individual refuses, it should be a mandatory 10 year loss of license. One year can be done standing on your head.*

(Ken Almborg, 2 Watch Monitoring) *I don't know why we let anyone refuse to take the test. This is serious business, and the only way we're meet the states goal of zero DUI vehicular homicides, we need to take the games away from the offenders.*

A7.3 Breath/Blood Test Penalties—Work Group Survey Comments

(Ken Bancroft, Sheriff, Asotin County Sheriff's Office) *This will only work if refusing the breath test is criminalized instead of it being a DOL function. However, I am not sure such laws will meet constitutional standards. As it stands now a person can refuse a blood test and can have their blood taken only if there is a search warrant issued. Refusal of a test is not evidence.*

(Bruce Bjork, WA Assoc. of Sheriffs and Police Chiefs) *I support increasing penalties, especially civil sanctions and higher fines. Fine money collected should go to Prosecutors to increase their capacity to prosecute DUI cases.*

(Frank Blair, Sheena's dad) *Implied consent means just that. IF someone refuses to follow the directions of a police officer there SHOULD be more consequences than there are now. A driver who refuses to comply with a BAC should have their driving privileges suspended on the spot for a minimum of two years. I learned that prosecutors have better success with a jury who hears the testimony of a qualified DRE than per se numbers.*

(Dick Doane, WA Traffic Safety Commission) *I generally support any strategies shown to be effective for motivating DUI offenders to submit to BAC, not only to enhance the prosecution of DUI offenders but also to reduce DUI recidivism generally; several studies have determined that offenders who refuse to provide a BAC sample are more likely to reoffend than those who do not (Ross et al, 1995; Sadler, 1986).*

(Beth Ebel, Harborview Injury Prevention & Research Center) *THIS IS A VERY IMPORTANT LOOPHOLE TO CLOSE. VERY HIGH PRIORITY. Will be extremely cost saving, lifesaving, and will limit wasted prosecutorial time.*

(Matt Fick, Brother of Morgan Fick Williams) *I am in favor of this idea.*

(Brad Fralick, Consumer Safety Technology) *A better alternative is to create an expedited warrant system for blood draws. Blood tests are crucial for states that have legalized cannabis like WA.*

(Amy Freedheim, King County Prosecutor's Office) *Support with caution given recent case law and untested arguments in our State.*

(Patricia Fulton, WA Defenders Assoc. OR WA Assoc. of Criminal Defense Lawyers) *WACDL and WDA oppose increasing penalties for a refusal to submit to a breath or blood test. A breath or blood test is a search and by increasing penalties for a driver who invokes their constitutional right to refuse to submit to a search could cause WA's implied consent statutory scheme to be found unconstitutional under WA State Constitution Article 1, Sect. 7.*

(Darrin T. Grondel, WA Traffic Safety Commission) *The implied consent warnings have been in place for nearly 30 years. E2SSB 5912, removed Blood from the implied consent warnings crippling the officer's ability to handle DUID cases, where they have probable cause to arrest and request blood. In addition it is allowing the most dangerous drivers on our roadways to forgo administrative sanctions without implied consent warnings. We need to have Implied Consent for blood again. Drivers agree to be tested when they receive their driver's license. Driving is a privilege, not a right. Therefore, the penalties for refusing breath and/or blood should carry higher fines than we currently have. The refusal should be allowed as evidence. Failing to submit is an obstruction of justice in a criminal investigation.*

A7.3 Breath/Blood Test Penalties—Work Group Survey Comments

A7.3 Breath/Blood Test Penalties—Work Group Survey Comments

(Captain Rob Huss, WA State Patrol) *This issue is currently complicated by the recent US Supreme Court decision of Missouri v. McNeely. It presently could not be applied to a blood case due to the recent removal of our implied consent warning for blood. In addition to blood cases, breath warnings are currently being argued as also being coercive and intrusive in the same manner as in McNeely. While implied consent leads to administrative sanctions for driving a vehicle in WA, some states do make a refusal a crime. In addition, it is important to point out that there is also the issue of an individual who does not have a driver's license or claims to have a driver's license. Search warrants for all refusal cases would help ensure evidence was obtained however it could take up to two hours for an officer to receive a search warrant in some cases. The ability for an officer to obtain a search warrant for blood has become burdensome for both the officer and the judges. A system to simplify and expedite the processing of warrants is needed. On call judges are being overwhelmed with warrants and availability has been challenging for officers. A statewide electronic warrant review and approval system could be beneficial.*

(Steve Johnson, WA State Liquor Control Board) *Strong support. Driving is a privilege, not a right. If you don't want to provide breath/blood when requested in exchange for keeping that privilege, you should lose it for an extended period of time or forever.*

(Janene Johnstone, Misdemeanor Corrections Association / City of Kent) *I believe that this would be a good way to strengthen the police officer's report and would give the prosecutor additional information with which to prosecute the case.*

(Julie Knittle, WA State Dept. of Licensing) *I agree but make sure the administrative course of action is clearly addressed as well. The current law has many loop holes with the administrative side (hearings at DOL) and this can and is resulting in drivers on the road who would previously been suspended.*

(Tom McBride, WA Association of Prosecuting Attorneys) *I don't believe we should force individuals to waive specific constitutional protections absent consent or exigency.*

(John McGowan, 2 Watch Monitoring) *I agree if they refuse the test increase the penalties.*

(Evan McLaughlin, Seattle University Sociologist) *This is a tricky question. On one hand I believe in increasing the penalties, on the other hand, I don't think that when people sign their license they understand that they are allowing those tests to be given as a condition of having that license in their hand. In fact I think ignorance plays a huge role in the refusal of these tests as well as many problems that persist in this system of justice. People just don't know as much as police, lawmakers and judges think they should know. A phrase I particularly enjoy is that common sense isn't so common. Not to mention if someone is impaired they may not be thinking rationally and that adds a whole other layer to their understanding of taking tests and etc. I know this for a fact because in doing work crew for over 6 months I've had the chance to talk to many people who have gone through the DUI process. I have met several dozen people who have refused those tests just because people either told them to refuse and they listened or they were so freaked out in getting pulled over by the police they weren't thinking clearly and etc. I have heard pretty much every single excuse you can hear for not obeying the law as it pertains to giving a breath/ blood sample to determine the presence of drugs or alcohol. The absence of a BAC or drug test not only makes it more difficult to convict an impaired driver, this is exactly what defense attorney's look for a place where they can squeeze to get leverage in a DUI case. Either leverage to get the case dropped, or leverage to get the prosecutor to accept a plea bargain. Thus perpetuating the entire circle you are trying to eliminate or downsize that allows multiple offenders to get back out on the streets*

A7.3 Breath/Blood Test Penalties—Work Group Survey Comments

and hurt other people. All of this said, I believe the proper action is twofold. 1: increase awareness of what is required for people, do a campaign that is funny and yet also informational but positive in nature to educate people about their obligations if they decide to drive in the state of WA. IE Did they know that when they sign their driver's license they are agreeing to a blood/breath test for alcohol and drugs? Doing 1 advertisement with that single question could increase efficiency 10% in getting people to accept blood/breath tests. 2: With the implementation of more knowledge and more understanding using positive enforcement the penalties for refusing to take a breath/ blood test should increase. I do believe this course of action will lead to increased DUI and high BAC DUI convictions but be careful what you wish for and remember the system you are throwing a growing number of people into is overloaded, inefficient, broken and downright flawed as it is now. You must ask yourself if you increase DUI convictions by 10% or even 20% what that is going to do to the system. I would argue you could streamline your current system of DUI processing by a minimum of 10% a very reachable goal of 20% and with aggressive actions/ professional consultation and getting people to actually share the flaws they see every day without fear of losing their jobs I believe you could increase efficiency up to 30%. That would do several things. 1- Make processing DUI's more efficient, less prone to errors and give the people in the industry training to identify how pieces in the process interact with one another. That in turn would give the people in the industry the ability to problem solve and trouble shoot thus increasing the total number of people the system can process error free and while providing the best customer service/ support possible. Instead of offenders dreading the system they would be met with knowledgeable, helpful people and this would further encourage offenders to be compliant. If you make compliance easy, convenient and dare I say pleasant, you will reach compliance levels and efficiency levels you have never before seen. Did I mention all of this can be done without passing a single law that makes DUI offenses more harsh. Did I mention that the result of this compliance would be lower rates of DUI offenses, less recidivism and an increased faith in the system itself? I believe this is the correct direction. Negative reinforcement, fear tactics and forceful compliance only make people push back harder. Positive reinforcement, knowledge and education will also serve you better in the end. This is not a new concept, just one that I believe has been all too often forgotten about.

(John Milton, WA State Dept. of Transportation) *This should be a key strategy moving forward, since it will have limited costs and a reasonable potential to increase convictions and court sanctions.*

(Karen Minahan, Victim Impact Panel Coalition) *It depends if it is first time offenders or not*

(Julie Mitchell, Association of Alcoholism and Addiction Programs) *As treatment providers, having the breath or blood test results from the time of arrest lends itself to more accurate assessments and treatment recommendations.*

(Corrie J. Moore, AutoSafe) *Absolutely. This is a no-brainer. The easier we could make this for the prosecutors, the better. Many DUI attorneys tell clients not to consent to the field sobriety test & to ask for their lawyer to be present before consenting to the test. If more convictions result from the same number of arrests, we are ahead of the game.*

(Linda Richardson, AutoSafe Ignition Interlock Services) *I would be in favor of increasing penalties for refusing a breath/blood test to determine the concentration or presence of drugs. I do, however, believe there is a need for our police force to be properly educated as to their responsibility by law to inform/educate those being asked to take a breath/blood test about the consequences of refusing to take said test. I frequently hear from our ignition interlock customers that they were NOT informed at the time*

of the request. Because I have heard it so many times, I tend to believe there must be at least a thread of truth to it.

A8. Prohibiting the Sale of Alcohol to Offenders Convicted of Repeat Impaired Driving Offenses

A8.1 Sale of Alcohol—Synopsis of Available Research

- New Mexico attempted to pass a bill in the 2013 regular legislative session that would have banned alcohol sales to persons with an ignition interlock license. Although the bill passed through the House with a 59-5 vote, the bill died in the Senate ([New Mexico HB 87](#)). Approximately half of all DUI offenders in New Mexico do not have ignition interlocks installed because they claim to not have a car, that they will not drive, or they just disobey the court order (Frosch, 2013).
- Alaska passed a law in the 2007-2008 legislative session that established alcohol restriction licenses ([AS 04.16.160](#)) when ordered by the court for certain crimes, including but not limited to DUI offenses. The initiation of this type of restriction is based on judge's discretion so is not used broadly and uniformly (currently less than 500 restricted licenses in Alaska). No evaluations on the effectiveness of these sanctions in reducing DUI recidivism have been conducted.
- Utah has an alcohol restricted law ([USL 41.6a.530](#)) that prohibits DUI offenders from operating a motor vehicle with any measurable amounts of alcohol, punishable as a Class B misdemeanor and installation of an ignition interlock. In 2005, this law replaced the 'alcohol restricted license' law. Under this new law, a person is not required to get a specially issued restricted license, rather the restriction is placed on the driving record, searchable by police. No evaluation has been conducted.
- RAND (Kilmer, et al., 2012) conducted an evaluation of the South Dakota's 24/7 Sobriety program. By the end of 2010, more than 17,000 DUI offenders had participated in the program. Among the 3.7 million breathalyzer tests required between 2005 and 2010, less than 1% were 'dirty' or no shows. These results strongly suggest that the sobriety program successfully reduced alcohol use among problem drinkers, an effect that also shows promise in regard to sustainability. The evaluation showed no effect on the number of first-time DUIs. While a reduction in crashes overall was not observed, evidence suggested that the program may lead to modest reductions in traffic crashes for male drivers age 18-40. The researchers reported a 12% reduction in repeat DUI arrests and a 9% reduction in domestic violence arrests.
- Loudenburg, Drube, and Leonardson (n.d.) conducted an evaluation of the South Dakota's 24/7 sobriety program for DUI offenders that revealed 54.5% of the 4,009 participants did not fail any PBTx2 tests (confirming sobriety) and participants displayed a general pattern of lower 3-year recidivism rates (7.4%) compared with control groups (13.7%). The results suggest that the 24/7 program will have a lasting effect on recidivism rates even after program completion.

A8.2 Sale of Alcohol—Reference List

Frosch. (2013). New Mexico Confronts Drunken Driving. *New York Times*. March 8, 2013. <http://www.nytimes.com/2013/03/09/us/new-mexico-alcohol-sales-dwi-convicts.html>

Kilmer, Nicosia, Heaton, & Midgette. (2012). Efficacy of Frequent Monitoring with Swift, Certain, and Modest Sanctions for Violations: Insights from South Dakota's 24/7 Sobriety Project. *American Journal of Public Health*. 103(1). <http://ajph.aphapublications.org/doi/full/10.2105/AJPH.2012.300989>

Loudenburg, Drube, & Leonardson. (n.d.). South Dakota 24/7 Sobriety Program: Evaluation Findings Report. Mountain Plains Evaluation, LLC.

<http://www.centurycouncil.org/sites/default/files/reports/South-Dakota-Evaluation-1.pdf>

A8.3 Sale of Alcohol—Work Group Survey Comments

The background introductory paragraph for this question, provided as an integrated part of the survey, is in [Appendix D](#).

(Tony Sermonti, WA State Dept. of Licensing) *DOL believes that the marking of a driver license or state Identicard to prohibit repeat DUI offenders from purchasing alcohol would not be an effective solution. Persons have the ability to obtain a variety of documents that are acceptable for identification purposes that DOL has no administrative oversight of, or ability to “mark.” These documents include a U.S. Passport or Passport Card that is available to anyone, merchant mariner ID card, military ID card and some tribal ID cards. If a marking was to be required on Washington state Documents, a redesign of the driver license to add space for the marking and associated computer and reporting mechanism programming would be necessary, and can become costly.*

(Jerry Stanton, Ignition Interlock Providers) *Not a workable solution.*

(Rose Torgerson, WA Coalition of Crime Victim Advocates) *The WA Coalition of Crime Victim Advocates withholds comments in consideration of the lack of evaluations on the long-term outcomes.*

(Brian Ursino, MADD) *Yes ... Even though no empirical research yet exists, it is still viewed as a “promising practice” ... one that we should consider implementing.*

(Sern Watt, Concerned Citizen) *Not a good or useful idea. It relies on compliance by offenders and their associates. It would create a nuisance for non-offenders and there are simply too many ways to get around it.*

(Dawn Williams, WA State Dept. of Corrections) *YES!!!!*

(Ken Almberg, 2 Watch Monitoring) *I agree. Anyone receiving two DUI's should be restricted from purchasing alcohol. The state could simple restrict these individual by embedding the restriction on the bar code of their state ID or drivers license. I know there are military ID's, Passports and probably a number of other ID's that would need to be included. Not sure how feasible this would be but I sure like the idea.*

(Ken Bancroft, Sheriff, Asotin County Sheriff's Office) *How are you going to monitor this? Not a good idea. The law is violated when driving under the influence not purchasing or possessing unless sanctioned by a court.*

(Bruce Bjork, WA Assoc. of Sheriffs and Police Chiefs) *Probably a good measure to try but difficult to enforce. Both at the retail level and having others buy alcohol for them.*

(Frank Blair, Sheena's dad) *I think this idea is a total waste of time. Period.*

A8.3 Sale of Alcohol—Work Group Survey Comments

(Dick Doane, WA Traffic Safety Commission) *I do not support prohibiting the sale of alcohol to repeat offenders. I believe the example of Prohibition in the U.S. has provided us with sufficient evidence for not only the general ineffectiveness of such a policy but also the ample risk of unforeseen and unintended consequences.*

(Beth Ebel, Harborview Injury Prevention & Research Center) *Not feasible.*

(Matt Fick, Brother of Morgan Fick Williams) *I am not in favor of this. I think someone who wants to drink will find alcohol, and I worry that making it illegal for them to purchase alcohol will just lead to other crimes. Instead of prohibiting them from purchasing alcohol, I would prefer to make it illegal for repeat offenders to drive. I think it makes sense to revoke the driving privileges of repeat offenders. They can take public transportation or ride a bike or have friends drive them, but repeat offenders should be not permitted to drive.*

(Brad Fralick, Consumer Safety Technology) *This is laughable. Even if you could limit purchasing this does nothing to stop the consumption or driving after consuming.*

(Amy Freedheim, King County Prosecutor's Office) *Neutral. Tough to enforce, expensive to implement, and believe our energy and resources can be better directed at this time.*

(Patricia Fulton, WA Defenders Assoc. OR WA Assoc. of Criminal Defense Lawyers) *WACDL and WDA oppose creating criminal liability for servers or others accused of providing alcohol to repeat DUI offenders. Under the current WA laws, it would require a criminal background check to adequately determine if someone was prohibited from purchasing alcohol as a repeat DUI offender.*

(Richard B. Hume, Seattle Municipal Court Probation Services Division DUI/Jail Unit) *Not realistic. It's like restricting ETOH, weed, or cigarettes from a 17 year old. They are resourceful enough to get it from their 18 or 21 year old acquaintance. The prohibition is ineffective.*

(Captain Rob Huss, WA State Patrol) *There are many challenges associated with the prohibition of sales of alcohol to offenders. Some of these challenges include the fact that individuals are not required to have a WA State driver license or identification card in the state of WA. Other forms of identity such as a passport card/book or out of state/military/tribal ID may also be used. In addition, it is important to also point out that individuals can find ways to obtain alcohol without having to purchase it themselves. Whether through a friend or supply already available to them, if an individual wants to drink, it is likely that they will find a way to obtain alcohol. An alternative that may be considered in lieu of prohibiting sales is to place the focus on the choice of the restricted individual to drink (regardless of how it is obtained). Criminalizing the purchase and/or possession of alcohol/marijuana by the repeat offender would focus the attention on their actions and responsibility. This restriction has a side effect of reducing the incidence of alcohol influenced domestic violence and other crimes. The entry of the restriction could be made into WASIS and available to all law enforcement. The Liquor Control Board could use this information during bar checks if their authority allows. Alternatives would need to be considered for those individuals who, as a function of their employment (food service, restaurateur, entertainment) are in regular possession and/or serving of alcoholic beverages to customers.*

A8.3 Sale of Alcohol—Work Group Survey Comments

(Steve Johnson, WA State Liquor Control Board) *I support this in theory but it would be very difficult to enforce without requiring 100% ID checks and marking IDs. Who becomes the violator? The person who bought the alcohol or the person who sold it? If it's the person who sold, how are they going to know? If it's the person who purchases how are you going to catch them if you don't know them or contact/arrest them for something else? Under WA's Constitution I see some right to privacy issues.*

(Janene Johnstone, Misdemeanant Corrections Association / City of Kent) *I think that this is problematic for all the reasons discussed at our meetings. There are various forms of ID that are acceptable, it puts restaurant or liquor store staff in the position of having to enforce it, and people who want alcohol could just have someone else buy it for them.*

(Julie Knittle, WA State Dept. of Licensing) *I disagree because they will just have someone else purchase the alcohol and many groups could argue this is profiling.*

(Tom McBride, WA Association of Prosecuting Attorneys) *Unworkable.*

(John McGowan, 2 Watch Monitoring) *Don't agree - impossible to enforce.*

(John Milton, WA State Dept. of Transportation) *This would be a very difficult policy to carry out, as we have seen with underage drinking and driving with a suspended license. The resources necessary to carry out this approach may be detrimental to other potential strategies.*

(Karen Minahan, Victim Impact Panel Coalition) *No, it is just like guns and other stuff, people are going to get it somewhere, let's drop this and move on.*

(Corrie J. Moore, AutoSafe) *In theory it sounds plausible but highly challenging to enforce. Too many types of ID are acceptable & now that the state is out of the alcohol selling business, it presents implementation problems. I think there are too many ways around it & we would end up chasing our tails. While prevention is the goal, the proof is in monitoring if there has been consumption or not. Unfortunately, that happens after the fact. However, if the offender is actively involved in treatment & monitoring, even reactive deterrence can work with their program.*

(Linda Richardson, AutoSafe Ignition Interlock Services) *I am not in favor of this approach of prohibiting the sale of alcohol to offenders convicted of repeat impaired driving. It would be very costly, put the responsibility for compliance on alcohol vendors and the offenders could merely get someone else to purchase their alcohol.*

(Al Rose, WA State Association of Counties) *This is an idea worth trying.*

(Dan Schulte, Family member of victims) *That would be great, but I don't think it's practical. It's too easy to get alcohol. If 14-year-old kids can get it, couldn't a 55-year-old experienced drunk find a way?*

A9. Improving Prosecution and Encouraging Prosecutors to Aggressively Enforce Impaired Driving Laws

A9.1 Prosecution—Synopsis of Available Research

- *Countermeasures That Work* (NHTSA, 2013) states that ‘DWI cases can be highly complex and difficult to prosecute, yet they are often assigned to the least experienced prosecutors’, thus heightening the tendency to ‘resolve’ DUI charges through the use of diversions and plea agreements under which defendants are meant to seek treatment for their alcohol problems. In Washington State, prosecutorial diversions (other than deferrals under RCW 10.05) have increased in recent years, though little is known about the provisions in those agreements or whether offender requirements (e.g., for treatment) are actually carried out or monitored.
- Tashima & Masten (2011) evaluated data on numerous factors affecting DUI conviction rates, by county, in California between 2000 and 2006. The following factors were associated with higher conviction rates:
 - A higher percentage of cases with actual BAC results;
 - Higher DUI arrest rates (presumably leading to ‘case overload’ and thus diminished effectiveness of stretched prosecutors and staff;
 - Lower incidence of cases where DUI charges were ‘pled down’ to a lesser charge, e.g., negligent driving;
 - Shorter average intervals between arrest and conviction, perhaps because lengthy delays can result in loss of witness participation or deterioration in witness memories;
 - Moderate prosecutor caseloads, often resulting from a systemic resistance to granting ‘continuances’ and thereby preventing ‘case overload’;
 - A higher percentage of convictions at lower BAC levels;
 - A higher proportion of BACs resulting from blood tests (as opposed to other test types);
 - Higher standards of prosecutorial practice in DUI cases, including more experienced and knowledgeable prosecutors and staff, policies discouraging reduced or amended charges and diversions, and lower BAC ‘threshold’ for prosecuting cases.
- Shinar (1992) reported that court-monitored cases in Maine resulted in higher DUI conviction rates. In the presence of court monitors, DUI offenders were more likely to be convicted and case dismissal rates were lower. Furthermore, the likelihood of receiving a jail sentence was higher and lengths of jail sentences were longer. This impact was most significant among first time offenders and among those refusing a BAC test.
- A study conducted in Rhode Island (Biffi, et al., 2004), reported an alarming lack of prosecution among impaired drivers involved in motor vehicle accidents admitted to trauma centers. Among 113 state residents with BACs over the legal limit, only 19% were charged with an offense related to the crash. Alarmingly, only 12 were charged with DUI, of which 10 were convicted (overall conviction rate of 9%). Seven of those convicted of DUI had prior or subsequent charges. Out of the 91 patients not charged for the crash event related to the trauma admission, 31 (34%) had prior or subsequent DUI charges.
- NCHRP (2005) has identified the elimination of diversion programs and plea bargains to non-alcohol offenses as a strategy that has been implemented in a variety of locations, and may even be accepted

as a standard, but which valid evaluation of effectiveness is lacking. Dismissals and plea bargains enable offenders to escape prescribed sanctions for impaired driving and, more importantly, avoid alcohol-related offenses from appearing on their record. Dismissals and plea bargains severely undermine other strategies that are implemented to treat repeat offenders more comprehensively than first time offenders.

A9.2 Prosecution—Reference List

Biffi, Schiffman, Harrington, Sullivan, Tracy, & Cioffi. (2004). Legal Prosecution of Alcohol-Impaired Drivers Admitted to a Level 1 Trauma Center in Rhode Island. *Journal of Trauma Injury, Infection, and Critical Care*. 56(1). Available upon request with restrictions.

Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, 7th Edition, Chapter 1 (National Highway Traffic Safety Administration), <http://www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf>

National Cooperative Highway Research Program (NCHRP) Report 500. (2005). Volume 16: A Guide for Reducing Alcohol-Related Collisions. http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_500v16.pdf

Shinar. (1992). Impact of Court Monitoring on the Adjudication of Driving While Intoxicated (DWI). *American Journal of Preventive Medicine*. 24(2). Available upon request with restrictions.

Tashima & Masten (2011). An Evaluation of Factors Associated With Variation in DUI Conviction Rates among California Counties. California Department of Motor Vehicles RSS-11-235. http://apps.dmv.ca.gov/about/profile/rd/r_d_report/Section_3/S3-235.pdf

A9.3 Prosecution—Work Group Survey Comments

The background introductory paragraph for this question, provided as an integrated part of the survey, is in [Appendix D](#).

(Linda Richardson, AutoSafe Ignition Interlock Services) *I agree with improving prosecution and encouraging prosecutors to aggressively enforce impaired driving laws.*

(Al Rose, WA State Association of Counties) *Currently, WAPA does a very good job of training deputy prosecutors and most counties do aggressively enforce (with the help of the WA State Patrol) impaired driving laws. With respect to smaller jurisdictions, they have very real financial limitations. Smaller cities typically contract for prosecution services and these contracts usually go to the lowest bidder. Additionally, smaller cities have concerns about the cost of mandatory jail time. That is one of the reasons why there are so many creative plea agreements in the cities. If you wish to improve prosecution of DWIs, then reduce the number of the felony DWI threshold to three as 21 other states have done.*

(Dan Schulte, Family member of victims) *I think this gets to the heart of the issue. The manner in which we prosecute DUI offenders needs to be simplified and consistent. It seems that there is too much uncertainty and wiggle room. Whatever can be done to make sanctions more swift and sure should be done.*

A9.3 Prosecution—Work Group Survey Comments

(Jerry Stanton, Ignition Interlock Providers) *This one is almost a no brainer. Yes! But, I think the last sentence of the background for this question raises an important point - requiring IID's in the interest of public safety for a minimum of six months on all DUI's pled to Neg-1 and Reckless is a previously discussed and dismissed idea that I believe is worthy of further discussion. The person's license is suspended by DOL for 90 days if he/she failed the test or 1 year if he/she refused the test. Offenders are immediately eligible for an IIL if they do not request a hearing on the arrest or on the refusal. IIL use during the Admin or post-conviction suspension is credited on a day for day basis toward any mandatory IID requirement. So a first offender who failed the chemical test, who gets an IIL 'immediately' after arrest, and whose DUI charge is reduced to Neg-1 (conditioned on a six month IID requirement), gets up to 90 days credit for the IIL during the ALR time, and could end up with only a 90 day post-conviction IID requirement. If the first offender refused the test, and gets an IIL, he/she will need it for one year anyway, so the six month requirement for the Neg-1 is moot. If convicted for DUI, as well as the other additional penalties (jail, fines, exponentially increased insurance costs) the first offender will need an IID for one year. Even providing WA families the protection of an IID for six months following a DUI arrest pled to Neg-1, provides HUGE benefits to the offender and still a HUGE Win for his or her attorney. I don't think the Defense Bar would carry out any threat to shut down the courts over a 90 day IID requirement.*

(Rose Torgerson, WA Coalition of Crime Victim Advocates) *The WA Coalition of Crime Victim Advocates strongly supports this strategy. The information provided by the WA Association of Prosecuting Attorneys and other members of the legal community clearly demonstrated a need for dedicated prosecutors and a commitment to aggressively enforcing impaired driving laws.*

(Brian Ursino, MADD) *Definitely support improving prosecution by providing counties dedicated and experienced prosecutorial resources to focus on impaired driving crimes - with safeguards to ensure these resources do not supplant existing resources or are diverted from their intended focus.*

(Sern Watt, Concerned Citizen) *I agree with this idea. See previous comments. Certainty of consequences is very important. This is a very good place to spend money, far better than felony charges.*

(Dawn Williams, WA State Dept. of Corrections) *I think that is an excellent idea. There should be some limits to the plea bargaining rather than going to trial aspect that was expressed during the meetings.*

(Ken Almborg, 2 Watch Monitoring) *I think that is a very good idea.*

(Ken Bancroft, Sheriff, Asotin County Sheriff's Office) *I encourage better training of prosecutors assigned impaired drivers cases. Constant monitoring of drivers convicted of DUI will not stop them driving if the convicted person wants to drive. My experience is that court and DOL sanctions deter only those who get the message the first time and have little impact on those with multiple convictions.*

(Bruce Bjork, WA Assoc. of Sheriffs and Police Chiefs) *I support DUI courts and swift DUI filings and prosecutions. Dedicated DUI Prosecutors whose primary role is to prosecute DUI offenders should enhance public safety and the judicial system.*

(Frank Blair, Sheena's dad) *It was chilling to hear a DPA say that she ALWAYS allows plea downs to everything that crosses her desk. There has to be more thought as to what happens once DUIs are arrested. Jails are also bursting at the seams with little or no resources.*

A9.3 Prosecution—Work Group Survey Comments

(Dick Doane, WA Traffic Safety Commission) *I agree with strategies to improve and encourage the prosecution of DUI offenders.*

(Beth Ebel, Harborview Injury Prevention & Research Center) *I feel we have taken some good steps to strengthen prosecutorial resources. Support the comments in that the "new" FTE be devoted to a more junior person, freeing up a more senior person who will be the DUI specialist. Also, the only reason it takes so much time is because of loopholes which are allowing defense attorneys to suppress important evidence (such as BAC and breathalyzer data), and defense attorney track record at "plea bargaining" these cases with the threat to go to court. When this threat is countered by a commitment to go to court and closing loopholes, there will be less prosecutorial time required.*

(Amy Lea Ezzo, MADD) *MADD supports providing resources to our partners in prosecution and allowing them to present the best possible case and take steps to ensure compliance with any sanction or order handed down from the court.*

(Matt Fick, Brother of Morgan Fick Williams) *From what I can tell, the prosecutors I know are doing a great job with limited resources. I thought some of the discussion in our Work Group sounded as if people thought the prosecutors were too soft or too inexperienced and that it was somehow the prosecutors' fault that they were getting more convictions. I don't agree with that view. As long as a first-time DUI is a misdemeanor, the more junior prosecutors will be assigned to those cases. And the fact that so many cases are resolved by plea agreement is not a reflection of poorly-run prosecutions, it is simple a reflection of the lack of resources. We don't have enough prosecutors, courtrooms, or judges to take every DUI case to trial. Having said that, I am in favor of devoting more resources to hiring and training prosecutors to prosecute DUI cases.*

(Brad Fralick, Consumer Safety Technology) *Advanced technology interlocks can solve the monitoring issues, just force the interlock companies to provide real-time interlock data reporting with immediate violation notices to the monitoring authorities so that overworked court personnel only have to deal with violations not time wasting searching for violations (on data logs) or worse trying to deal with violations that are weeks old and just coming to their attention because the data has to be physically downloaded and then sent to them.*

(Susan Fraser, City of Bellevue, Probation) *Yes, however not just for District Courts, include municipalities at all levels. Support misdemeanant probation supervision. It's what we work on every day.*

(Amy Freedheim, King County Prosecutor's Office) *Support this. Prosecutors need appropriate resources. The will is generally there, it's the way that is often wanting. The DUI defense bar has a substantial machine in place to fight DUI prosecution. It is extremely well-funded and organized.*

(Patricia Fulton, WA Defenders Assoc. OR WA Assoc. of Criminal Defense Lawyers) *WACDL and WDA support adequate funding and resources to the criminal justice system; including prosecution, public defenders, and courts - so that all participants are assured of a fair and effective process.*

A9.3 Prosecution—Work Group Survey Comments

(Darrin T. Grondel, WA Traffic Safety Commission) *ESSSB 5912 provided funding to add 11 prosecutors to courts with the heaviest case load. These prosecutors will be more experienced to handle the complex cases. In addition to adding prosecutors you need to add judges to handle the case load. The limitation of judges burdens the courts and many cases get dealt with reduced charges, negating the impact of the penalties and fees. This strategy can be highly effective in creating swift and sure sanctions, but needs to consider the whole system (judges, clerks, probation officers, etc.) and impacts to be effective. This would include providing resources to the courts for DUI courts, treatment, and other court imposed sanctions.*

(Richard B. Hume, Seattle Municipal Court Probation Services Division DUI/Jail Unit) *It's another case of the folks with resources can buy themselves a lesser charge and the folks with little or no- resources take a plea to get out of custody so they can move on with their lives. The process should be fair across the board there is no degree of harm reduction in a DUI offense by someone with resources vs. someone without. If you don't invest in the integrity of the DUI process from arrest, conviction, chemical dependency assessment and treatment compliance to post sentencing supervision than it shows the offender the lack of system commitment.*

(Captain Rob Huss, WA State Patrol) *Having established and dedicated prosecutors for impaired driving cases is ideal. This should be coupled with the necessary follow-up to diversions and plea agreements. An individual should face swift and certain sanctions for violations of an agreement. Training for prosecutors can be increased but is often wasted due to the aggressive turnover of the positions and large number of cases in some counties. The Traffic Safety Prosecutor Bootcamp seems to be a best practice for prosecutors working on DUI cases and should continue to be used as a tool.*

(Steve Johnson, WA State Liquor Control Board) *Prosecutors do need more resources and should be more aggressive when enforcing impaired driving laws. I still support DUI courts.*

(Janene Johnstone, Misdemeanant Corrections Association / City of Kent) *I certainly think this would be an effective strategy, but again, it has a ripple effect in other areas. Additional resources would have to be directed at prosecution staff so that they could spend more time on DUI cases, at court staff who have to process the cases, at Judges who have to hear the cases, public defender costs to defend the cases, etc. The statements of the Seattle Municipal Prosecutor at our first meeting still resonate with me - she explained why so many DUI cases get pled down to Negligent or Reckless Driving charges: because there aren't enough Judges to hear the cases, there aren't enough courtrooms in which to hear the cases, and because of the likelihood that mandatory minimums will be imposed at sentencing, she has no leverage with a plea agreement unless it involves reducing the charges.*

(Julie Knittle, WA State Dept. of Licensing) *I agree, many offenders know this is a challenge and go with the odds.*

(Tom McBride, WA Association of Prosecuting Attorneys) *I think investment of resources in prosecution is the most cost effective way to obtain results.*

(John McGowan, 2 Watch Monitoring) *You need to increase electronic home monitoring. With the equipment out there defendants can be monitored 24/7 with BAC and transdermal monitoring. Reporting can be sent to the courts within minutes of testing positive for alcohol.*

A9.3 Prosecution—Work Group Survey Comments

(Evan McLaughlin, Seattle University Sociologist) *I think that encouraging prosecutors to aggressively enforce impaired driving laws would be very beneficial. While I am not a prosecutor it is a well-known fact that prosecutors often have several factors working against them and defense attorney's know exactly where to squeeze to get their clients the most benefit. As it is now the system is overwhelmed with offenders and there is a huge number of offenders and only a small number of prosecutors. Take into account prosecutors that are actually good at managing DUI cases and you have an even smaller number of them. When I was waiting to get sentenced I remember talking to other offenders in the hall way and criminals know that prosecutors simply don't have time to prosecute all criminal cases to the fullness of their ability. That said, criminals know that prosecutors will have to flat out either drop a case due to a lack of evidence or accept plea bargains because they simple can't handle the kinds of caseloads they are given effectively. If a criminal is prosecuted they also know that if they continue to appeal and appeal causing more time, more work and more stress to a prosecutor, the prosecutor will likely offer a lesser sentence, accept a plea bargain or even dismiss the case all together due to a lack of evidence. This should not be a surprise to people in the justice system, particularly prosecutors in the legal system that work with prosecuting DUI offenders. This is a well-known fact and I do believe that if the DUI process can be streamlined a little bit and prosecutors can be given more resources in combination with more training and most importantly better pay, they will be able to prosecute much more effectively. Plea Bargains should not be a go to option for these prosecutors and I do believe there should be some kind of cap on what can be used to the offender's benefit, particularly with multiple DUI offenders. Also, on a side note the lack of monitoring of defendants after plea agreements and diversions is a huge problem. In fact, one of the biggest problems I see with this entire DUI process and all of the departments involved from the Prosecutors office, to the courts, the DOL and DSHS is the lack of efficiency, lack of enforcement and lack of available resources. DUI offenders both wanting to follow the rules and those that want to deliberately break the law fall through the cracks all the time. Several recent articles I have read put the number of people with DUI convictions somewhere around 44,000 people and that is according to a DOL database. Only around 60% of those people or 27,000 actually have interlock devices installed in the vehicles. Granted, not everybody chooses to drive after a DUI conviction when they are eligible to reinstate their driver's license but how many of those unaccounted people are driving illegally? Just because you have to have an ignition interlock in the car you drive that doesn't stop a person from registering a vehicle or having a car without an ignition interlock in it. Allowing someone to have vehicle access but trusting them not to drive it because they don't have a valid driver's license or an ignition interlock in their car doesn't mean they are going to be honorable and obey the rules. Ignorance is never an excuse, especially from the state and people who are responsible for helping to pass laws trying to fix a problem and protect public safety. In fact, I have found that when given an opportunity to obey the rules this not the case at all. Most people when they have to drive somewhere drive anyway. Either in a car registered to them or someone else, either under the influence or not but they still do it. The question you should be asking as the committee is why and how? I can tell you from personal experience that when the system fails a person trying to follow the rules over and over again, they reach a point where they simply don't care to follow rules because even when they try to do the right thing, no one is helping them anyway. This kind of mindset due to the lack of efficiency of the system and lack of oversight is absolutely devastating to the success of any system you put in place. What is happening is laws are being passed and the current systems strength is not being accessed at all. Get the current system working well and analyze its flaws before passing newer, stricter and more complex laws. It's like putting the cart before the horse.*

A9.3 Prosecution—Work Group Survey Comments

(John Milton, WA State Dept. of Transportation) *One can hope for improved prosecution and enforcement, but when resources are not provided to deal with these issues there is little chance of improvement.*

(Karen Minahan, Victim Impact Panel Coalition) *These cases should be given to seasoned prosecutors and seasoned public defenders, if there is a person in training that's great but it should be with a seasoned person.*

(Corrie J. Moore, AutoSafe) *Yes! Hopefully, the increased funding which added prosecutors will help. Per the Work Group discussion, it is understandable plea deals must sometimes be considered for reasons which are out of the prosecutor's hands. However, they should make deals which protect the public. I can't think of a reason why a prosecutor would release a first time impaired driving offender (minor) without requiring at least a year of interlock, especially if the jurisdiction doesn't have probation resources to actively follow the offender for the 2-3 years of probation. While to totally understand the need for us to give folks a second chance, I don't understand why the "chance" would not require an interlock, just in case the offender slips up again. Now that subsidy funding is readily available for interlocks, I'm not sure of the reason the courts would not want to "check the box" on the court required interlock. Could be the prosecutors believe the DOL minimums cover the interlock requirement but that is how many first-time offenders are slipping through the cracks to go on to reoffend.*

A10. Increasing the Number of Driving Under the Influence (DUI) Courts and Court-Related Services

A10.1 DUI Courts—Synopsis of Available Research

- An evaluation of three DUI courts in Georgia (NHTSA, 2011) showed a significant reduction in recidivism among participants. DUI court graduates had a 9% recidivism rate. When DUI court graduates were combined with DUI court terminated offenders (exposed to DUI court but was terminated from the program), 4-year recidivism rates were 38% lower than offenders in similar counties without DUI courts and 65% lower than retrospective offenders who would have been eligible for DUI courts had they been available.
 - DUI court graduates and terminated offenders had a 15% 4-year recidivism rate, versus a 24% recidivism rate among offenders in similar counties and a 36% recidivism rate among retrospective offenders. The researchers estimated that DUI courts prevented between 47 and 112 repeat DUI arrests during the four year period due to the reduced recidivism.
- In 1998, practitioners from seven DUI/Drug court jurisdictions formed an advisory panel to explore and compare the needs of DUI and drug offenders and assess the applicability of the drug court model to repeat DUI offenders. The advisory panel made the following recommendations for defining a national strategy for DUI/Drug courts:
 - Establish DUI courts that are based on the drug court model, or widen the focus of existing drug courts to include DUI cases, and
 - Develop a National DUI/Drug Court Strategy that makes provision for: national standards of practice and an advisory board; practitioner education, publications, and an information repository; DUI/Drug court mentor sites; and the establishment of one clear public voice to speak on behalf of DUI/Drug Courts. (Freeman-Wilson & Huddleston, 1999)
- NCHRP (2005) has identified monitoring all convicted DUI offenders closely as a proven strategy for reducing impaired driving, particularly among repeat offenders. Specific to DUI courts, when modeled after the drug court model, this strategy shows promise for increasing compliance with sentences and reducing repeat DUI offenses. However,
 - Not all offenders are appropriate for this intervention: DUI courts are designed to promote recovery and change to offender's lifestyle.
 - DUI courts require substantial resources; monthly meeting with offenders include the judge and often also requires the attendance of the probation officer and treatment provider. Nonetheless, DUI courts are still more cost effective than the alternative, incarceration.
- *Countermeasures That Work* (NHTSA, 2013) identifies DUI courts as demonstrated to be effective in certain situations. This designation is largely due to the lack of evaluation published around this fairly new concept. DUI courts can be more efficient and effective than regular courts and sanctions because judges and prosecutors closely supervise the offenders and are familiar with the complex DUI laws, evidentiary issues, sentencing options, and the offenders.
 - According to the National Drug Courts Institute, DUI courts are growing rapidly, with 208 designated DUI courts in 33 states and 401 hybrid DUI/Drug courts as of June 2012. In 2011 alone, 29 new DUI courts were added.

- A systematic review of five evaluations of DUI courts with methodological ratings of ‘good’ and ‘marginally acceptable’ was conducted (Marlowe, et al., 2011). Among evaluations reporting significant results, DUI court graduates had on average a 50% lower recidivism rate than non-DUI court offenders.

A10.2 DUI Courts—Reference List

Freeman-Wilson & Huddleston. (1999). *DWI/Drug Courts: Defining a National Strategy*.
http://www.ndcrcdev.tempuslabs.com/sites/default/files/mono1.dwi_.pdf

Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, 7th Edition, Chapter 1 (National Highway Traffic Safety Administration),
<http://www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf>

Marlowe, Festinger, Arabia, Croft, Patapis, & Dugosh. (2009). A Systematic Review of DWI Court Program Evaluations. *Drug Court Review*. 6(2).
http://d20j7ie7dvmqo0.cloudfront.net/sites/default/files/ndci/DCRVolume6_Issue2.pdf

National Cooperative Highway Research Program (NCHRP) Report 500. (2005). Volume 16: A Guide for Reducing Alcohol-Related Collisions. http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_500v16.pdf

National Highway Traffic Safety Administration (NHTSA). (2011). An Evaluation of Three Driving-Under-the-Influence Courts in Georgia. DOT HS 811 450. <https://www.nhtsa.gov/staticfiles/nti/pdf/811450.pdf>

A10.3 DUI Courts—Work Group Survey Comments

The background introductory paragraph for this question, provided as an integrated part of the survey, is in [Appendix D](#).

(Julie Mitchell, Association of Alcoholism and Addiction Programs) *AAP supports increasing DUI courts for repeat offenders.*

(Corrie J. Moore, AutoSafe) *Great idea. The DUI Courts we have in the state are having great success & shown to be among the most effective at reducing repeats. Perhaps we could come up with a way to incentivize participation in the smaller jurisdictions would be good? I see the main deterrent being resources. However, if the success goes up, there would be fewer offenders to monitor over the long-term once recidivism is curtailed. Perhaps earlier intervention with first-time offenders would prevent repeat offenses. Because we are sometimes more lenient on the first time, folks who need treatment might slide by until the second time around. If they get plugged in earlier, with a closer look at the true pathology, they might get well before they ever reoffend. Not all first-timers are addicts but some who are can "work the system" & figure out how to do the bare minimum which does show up in our recidivism statistics.*

(Linda Richardson, AutoSafe Ignition Interlock Services) *I agree with increasing the number of DUI courts and court-related services.*

A10.3 DUI Courts—Work Group Survey Comments

(Al Rose, WA State Association of Counties) *How will the counties and cities pay for this? most small cities do not even have probation departments. The City of Tacoma does not have a probation dept. Courts of limited jurisdiction in WA State already handle a great number of matters. Mandating more intensive services with many more court hearings will present problems for courts of limited jurisdiction. Counties and cities should be allowed to come up with their own solutions on how to deal with this issue.*

(Dan Schulte, Family member of victims) *DUI offenders, especially repeat offenders, need to be prosecuted more effectively and monitored more closely. DUI courts seem to me to be an important piece of this so I support increasing their numbers.*

(Jerry Stanton, Ignition Interlock Providers) *DUI courts have great track records, but are expensive to operate. Providing additional state funding for community supervision may provide enhanced monitoring of greater numbers of likely re-offenders at lower costs.*

(Rose Torgerson, WA Coalition of Crime Victim Advocates) *The WA Coalition of Crime Victim Advocates supports this strategy as it has proven to be effective for reducing repeat DUI offenses and therefore reducing the number of those harmed by impaired driving. This strategy, again, incorporates a multi-faceted approach to reducing the number of potential victims and is acknowledged as a successful strategy.*

(Brian Ursino, MADD) *I support increasing the number of DUI courts with the caveat that they be accompanied with dedicated/experienced prosecutors.*

(Sern Watt, Concerned Citizen) *I agree with this. See previous concepts. If consequences are going to influence an offenders behavior, they are much more likely to do so if they are timely, certain and consistent.*

(Dawn Williams, WA State Dept. of Corrections) *If the courts would adopt the same components, use evidenced based treatment, and test vigorously for alcohol (which very few do because of the costs), and undergo rigorous cost benefit "research" true research, I would support the move. The court needs to adopt separate dockets i.e. not treat these offenders in the felony drug courts but have specialty courts designed to only address this population. Many of the drug courts today in WA do not have separate dockets and treat the DUI offenders in the other felony courts. They are completely different populations.*

(Ken Bancroft, Sheriff, Asotin County Sheriff's Office) *This is a good idea but, who is going to pay for it? Large communities may be able to have such a system but it is not functional in smaller communities.*

(Bruce Bjork, WA Assoc. of Sheriffs and Police Chiefs) *I support increasing the number of DUI courts and court-related services.*

(Frank Blair, Sheena's dad) *A DUI court should be used ONLY for a repeat offender as a last chance. They have been proven effective. They can only be effective if adequately funded.*

(Dick Doane, WA Traffic Safety Commission) *I fully support any effort to increase the number of DUI courts in WA. They reduce recidivism not through the police apprehension of DUI drivers but through close supervision and effective substance-abuse treatment.*

A10.3 DUI Courts—Work Group Survey Comments

(Beth Ebel, Harborview Injury Prevention & Research Center) *Specialized DUI courts are highly effective and avoid wasted resources, as defenders can't wiggle out as easily.*

(Amy Lea Ezzo, MADD) *MADD Supports the use of post-adjudicated DUI courts that employ strategies of close supervision, frequent testing and ongoing judicial interaction to integrate alcohol and other drug treatment services with the judicial system. DUI courts should not be used to avoid the record of a conviction and/or license sanctions.*

(Matt Fick, Brother of Morgan Fick Williams) *I am very much in favor of this idea.*

(Brad Fralick, Consumer Safety Technology) *DUI Courts make sense, but if these offenders are placed in regular drug courts this is counterproductive because these court are much more expensive than either DUI or regular courts. Draining limited resources leads to decreased enforcement.*

(Amy Freedheim, King County Prosecutor's Office) *Support alternatives to incarceration.*

(Patricia Fulton, WA Defenders Assoc. OR WA Assoc. of Criminal Defense Lawyers) *WACDL and WDA support the use of therapeutic courts that increase access to and encourage compliance with treatment.*

(Darrin T. Grondel, WA Traffic Safety Commission) *DUI courts have been shown to be effective at reducing recidivism rates and helping with alcohol problems. The legalization of Marijuana and the increase in drivers using licit and illicit drugs, DUI/DUID courts need to be expanded to assist the courts in monitoring defendants for compliance and treatment, to reduce recidivism rates.*

(Richard B. Hume, Seattle Municipal Court Probation Services Division DUI/Jail Unit) *Certainly a wise investment.*

(Captain Rob Huss, WA State Patrol) *DUI courts may be seen as effective when those that enroll are doing so voluntarily because this means that individual wants to be there and is more likely to be successful. Making a DUI court compulsory should be evaluated as a means to engage an individual that isn't as committed to change. Monitoring/treatment are more successful if there is the ability to provide consequences for a violation. This requires supervision either by the courts or a probationary officer in order to ensure that there are swift and certain consequences for a violation. The 24/7 program has shown in other states to be a successful tool for this and so as WA starts its 24/7 pilot program it should continue to be evaluated as a tool to monitor these individuals and their court mandated monitoring/treatment. Whether using the 24/7 program or other means to monitor the offender, monitoring and consequences for violations of court orders should always remain in place in order for the program to be most effective. As well, it will be important to have established and dedicated prosecutors in place for these impaired driving violations.*

(Steve Johnson, WA State Liquor Control Board) *I strongly support the use and increase in DUI courts.*

A10.3 DUI Courts—Work Group Survey Comments

(Janene Johnstone, Misdemeanant Corrections Association / City of Kent) *Please see my answer to the first question about lowering the felony threshold -- I touched on this topic there as well. I cannot stress strongly enough how important this particular strategy is. It's been proven to be an effective one -- it keeps our jails from getting clogged with DUI offenders, gets them involved in treatment services (chemical dependency, mental health, social services) that target the underlying thoughts and behaviors that lead to drinking and driving in the first place, and provides a system (probation, court) that holds them accountable and in which sanctions are imposed for violating the terms of their suspended sentence in a manner that supports the positive changes in their behavior. Any Court that includes probation services is going to have increased success with their offenders. Probation serves as the point-of-contact for all of these various components -- prosecution, defense, police, social services, treatment agencies, the Judge and the offender -- and effectively compiles and reports information on the offender's compliance for the Judge. In addition, I believe that targeting the DUI offenders who are on their first or second DUI and really intensifying their treatment and supervision will go a long way towards preventing future DUI's. I would also like to point out the fact that many County and City Courts are already doing this without having the label of a "DUI Court." Unfortunately, not every County and City Court in WA has a probation department, which explains the inconsistencies statewide in the supervision of our gross misdemeanor offenders. I believe that not only would increasing the number of DUI Courts be effective, but so would increasing the number of County and City/Municipal probation departments in general.*

(Julie Knittle, WA State Dept. of Licensing) *I agree with having more services but the funding is an issue.*

(Tom McBride, WA Association of Prosecuting Attorneys) *I like DUI courts, but they are an expensive option.*

(John McGowan, 2 Watch Monitoring) *I agree with increasing dui courts along with home monitoring for drugs and alcohol along with a treatment plan.*

(Evan McLaughlin, Seattle University Sociologist) *I think that increasing the number of these drug courts and how they handle the DUI process is a great idea but keep in mind that not all DUI offenders go through the same courts. Drug Courts, Municipal Courts and Superior Courts are all possible places a DUI offender can end up. However, how these courts interact with the many other governmental agencies that make up the system is quite a different story. I think that having a kind of fast track court system that expedites DUI cases and that has specially trained people who can support drug addicted people and know what they are doing is a concept that should have been embraced years ago. My question is what happens to the offenders in the other courts? My next question is: how are you going to collectively educate each and every person in the system so they have an understanding how the system works as a whole? What exactly are the requirements that will land someone in a DUI court verses a Municipal court or a Superior Court? In my particular case when I was convicted of my first DUI offense I ended up in a Superior Court because I was also speeding at the time of my arrest. Having my case tried in a Superior Court caused all kinds of paperwork problems and I believe it is the reason why it took the Superior Court of King Count over 2 years to transfer my court paperwork stating my restricted/ probationary license requirements to the DOL. This in turn allowed me to reinstate my driver's license after my 90 day temporary suspension and I drove for 1 and a half years without an interlock device. I would even call the DOL quarterly to confirm if they had received any kind of paperwork from the court specifically outlining any additional or restrictive requirements that I needed to be in compliance with. After multiple conversations with multiple DOL people, I was told that when that paperwork was received it would trigger a letter to be sent out by the DOL that would notify me of any outstanding restrictions or requirements I would be responsible for meeting to keep my driver's license. In my particular instance, I also never received*

A10.3 DUI Courts—Work Group Survey Comments

that letter and that is also another huge issue I would like to discuss as well. How can a government agency, type certified on a letter they are sending to someone and then not send it certified mail that requires proof of delivery? We are talking about a letter that if not received by the person expecting it, that person may not know they are driving on a suspended driver's license and can be arrested and detained until trial for driving without a valid license. This can cause that person to miss work, lose their job and once again fall into a complete black hole in which they can't get out all because of a lack of communication because the DOL isn't actually required to confirm that the person they are sending a letter actually receives the letter. This concept is not only a joke to me but a complete failure and downright gross negligence on the part of the DOL. If something as simple as a letter has the potential to impact an individual person to the point where they lose their ability to be a productive member in society it should at least be confirmed that the letter was delivered to the person. Come on. All official court Documents are required to be served and the person being served has to have contact with the party serving the paperwork. Even as a customs broker in logistics, whenever we send checks or official Documents to customs and border protection we have to send certified mail and verify signatures. All we have at stake here is whether a check gets delivered and we are taking it more seriously than the DOL takes the well-being of an individual's life? Really? I understand it costs more money but I gladly would have agreed to pay \$5 in my court/ DUI paperwork that gave me a guarantee I would be notified of any and all changes the DOL would be imposing on my driver's license. All of this said, yes, I do believe drug courts would be helpful but the most important thing is not losing sight of DUI offenders that get thrown into courts with everyone else. If you can come up with some kind of systematic understanding, education and training for all parties involved in the DUI process that can collectively and efficiently redistribute all DUI offenders through one system specifically designed to handle their case, there is no doubt it will be successful. My question is how are you going to implement this collective understanding and how are you going to route people in other courts though this system of drug courts? If you can't then what becomes of those other DUI offenders in those other courts? Are they just screwed like I was with no one to help because they happened to end up in the wrong place by chance? That sounds like a terrible thing to have in such an important and complex system. Do you think about things like this at all and what the cause and effect will be for implementation of such systems or we are a shotgun government here? Do we just keep blasting away until something works? The problem with that kind of mentality are the casualties that mindset creates. I was one of them and that is the reason I'm here because my story needs to get told and I believe it can ultimately help in making our communities a safer place.

(John Milton, WA State Dept. of Transportation) *I strongly encourage this consideration of DUI courts given the coordinated strategy among the various players. The cost to carry out these courts should be considered in implementation and sustaining them over time.*

(Karen Minahan, Victim Impact Panel Coalition) *I like that idea as long as we can make sure that people get into treatment, if that is what they need, probation and help and be able to continue to work and support their families.*

A11 Creating State and Local Impaired Driving Enforcement Task Forces to Increase the Visibility of Enforcement

A11.1 High Visibility Enforcement—Synopsis of Available Research

- **The National Transportation Safety Board (2013)** has adopted the vision of zero alcohol impaired driving-related traffic deaths. Based on research and a diverse participatory forum in 2012, the NTSB released a report identifying four highly effective countermeasures to address alcohol impaired driving, including high-visibility enforcement of DWI laws, which has been associated with both specific and general deterrence. In addition to effectively reducing the incidence of impaired driving related crashes and fatalities, high visibility enforcement has also been shown to be effective in other safety efforts, such as encouraging seat belt use and discouraging distracted driving. The NTSB has formally concluded that high visibility enforcement is an effective countermeasure to deter alcohol-impaired driving.
- **NCHRP (2006)** has identified enhancing DWI detection through special DWI patrols and related traffic enforcement as a strategy that has been implemented in a number of locations and may even be accepted as standard, but is lacking valid evaluation. Most impaired drivers are detected and arrested in regular traffic enforcement activities and through DWI patrols, not at checkpoints. However, similar to checkpoints, the effectiveness of high visibility saturation patrols comes in the form of general deterrence, not overall arrests. ‘The public needs to hear the message that the police are always on the road, looking for impaired drivers – 24 hours every day, 7 days every week.’
- **Countermeasures That Work (NHTSA, 2013)** has identified high-visibility saturation DUI patrols as a strategy that has been demonstrated to be effective in certain situations. As of 2008, 44 states are *using saturation patrols*. *Particular to states that do not conduct sobriety checkpoints, saturation patrols are an effective alternative producing similar general deterrence but requiring equal, if not more, publicity which can be costly, especially if paid media is used (as is the case in Washington State).*
- An early, independent evaluation of the first year of Washington’s Target Zero Teams project conducted in Snohomish, King, and Pierce counties have shown very promising results (**NHTSA, 2012**).
 - Impaired driving fatalities in those three counties decreased 34.4% during the first ten months of the project compared to the same 10-month period over the previous five years. This decline was statistically significant when compared to the control counties (Spokane and Clark) which experienced a 28.4% *increase* during the same time period and when compared to the state as a whole (8.5% decrease).
 - Furthermore, speeding involved fatalities declined by 43.7% (compared to a 3.7% increase in control counties and a 13.6% decrease experienced statewide) and overall traffic fatalities declined by 28.2% (compared to a 0.5% decrease in control counties and a 13.4% decrease statewide).
 - A full and formal evaluation of the two-year project is expected later this year. In response to the success of Target Zero Teams in Snohomish, King, and Pierce counties, the project was extended to Spokane and Yakima counties on July 1, 2013.

- Based on the promising evaluation of effectiveness specific to high visibility DUI enforcement in Washington, coupled with our statutory limitations for conducting sobriety checkpoints, this strategy has been designated MOST EFFECTIVE for Washington State.

A11.2 High Visibility Enforcement—Reference List

Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, 7th Edition, Chapter 1 (National Highway Traffic Safety Administration), <http://www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf>

National Cooperative Highway Research Program (NCHRP) Report 500. (2005). Volume 16: A Guide for Reducing Alcohol-Related Collisions. http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_500v16.pdf

National Highway Traffic Safety Administration (NHTSA). (2012). Traffic Safety Facts Research Note – Washington’s Target Zero Teams Project: Reduction in Fatalities During Year One. DOT HS 811 687. <http://www.nhtsa.gov/staticfiles/nti/pdf/811687.pdf>

National Transportation Safety Board (NTSB). (2013). Reaching Zero: Actions to Eliminate Alcohol-Impaired Driving. PB2013-106566. <http://www.nts.gov/WA State Dept. of Correctionslib/reports/2013/SR1301.pdf>

A11.3 High Visibility Enforcement—Work Group Survey Comments

The background introductory paragraph for this question, provided as an integrated part of the survey, is in [Appendix D](#).

(Captain Rob Huss, WA State Patrol) *The Target Zero Team model has been proven to be effective at reducing serious injury and fatal collisions and is the closest thing WA State has to sobriety check points. This strategy couples enforcement and messaging to inform offenders that they will be caught and that the behavior is unacceptable. Messages should target the financial consequences that the offender would experience. The messaging should also be directed toward the diversity of cultures in each location. This includes messages in the native language and from their cultural perspective. Even with the ongoing expansion of this successful program, there is not enough enforcement to catch all intoxicated/impaired drivers. The only other tool that has shown to be as effective if not more effective is sobriety checkpoints. The primary goal of sobriety check points is to deter people from driving intoxicated/impaired and not necessarily arresting people. When you look at the statistics that an individual may drive 80 times before being caught driving under the influence, increased deterrents are necessary to assist law enforcement in doing their job and letting society know that they will be caught.*

(Steve Johnson, WA State Liquor Control Board) *Strongly support.*

(Janene Johnstone, Misdemeanant Corrections Association / City of Kent) *I think that if people know there is a greater likelihood that they're going to get caught, they may think twice about making the choice to drink and drive. I believe that this strategy combined with sobriety checkpoints would be really effective.*

(Julie Knittle, WA State Dept. of Licensing) *Completely agree.*

(Tom McBride, WA Association of Prosecuting Attorneys) *Too much process, not enough actual work being done.*

A11.3 High Visibility Enforcement—Work Group Survey Comments

(John McGowan, 2 Watch Monitoring) *I agree with impaired driving enforcement task forces.*

(John Milton, WA State Dept. of Transportation) *This is also an effective strategy and should continue to be used. It may have limited long term effects, but has the potential to highlight the public concern for drunk driving. It seems that these enforcement patrols could also provide factual information about drinking and driving and its impacts to society.*

(Karen Minahan, Victim Impact Panel Coalition) *I love the fact that we have emphasis patrols, and it is announced in the media on the freeway signs.*

(Corrie J. Moore, AutoSafe) *Yes! Perhaps we can combine with other campaigns like seatbelt & school zone / work zone enforcement? The new stats showed a new peak time in the afternoons for impaired driving.*

(Linda Richardson, AutoSafe Ignition Interlock Services) *I am in favor of creating state and local impaired driving enforcement task forces to increase the visibility of enforcement.*

(Al Rose, WA State Association of Counties) *I believe this is already being done.*

(Dan Schulte, Family member of victims) *This kind of messaging can probably lead to behavior change in some people.*

(Jerry Stanton, Ignition Interlock Providers) *Good idea, worth funding.*

(Rose Torgerson, WA Coalition of Crime Victim Advocates) *The WA Coalition of Crime Victim Advocates believes this is a relevant and necessary facet to reduce impaired driving. Enforcement and prosecution are key, as well as highly visible enforcement messaging and increased media presence. It is our belief that highly visible messaging will communicate that impaired driving is not deemed acceptable and will not be tolerated in WA.*

(Brian Ursino, MADD) *Yes ... A proven strategy that works, but would be made more effective if coupled with sobriety checkpoints.*

(Sern Watt, Concerned Citizen) *I agree that this is a useful strategy and supports a culture of unimpaired driving.*

(Dawn Williams, WA State Dept. of Corrections) *YES!!!*

(Ken Alberg, 2 Watch Monitoring) *On the surface this sounds great but I'd need to understand the ROI and more of the details of how this may function.*

(Ken Bancroft, Sheriff, Asotin County Sheriff's Office) *I am not all that sold on task forces. Looking for impaired drivers is an everyday, all day function of each patrol officer while on duty. Increased media coverage works well. Word of mouth of zero tolerance is passed along when people see daily strong enforcement actions taken against the impaired driver.*

A10.3 DUI Courts—Work Group Survey Comments

(Bruce Bjork, WA Assoc. of Sheriffs and Police Chiefs) *I support increased targeted law enforcement presence to help deter DUI violations. With targeted enforcement or emphasis patrols officers are able to saturate an area that has a high level of prior DUI arrests and alcohol/drug involved collisions. Increased enforcement equates in increased DUI filings and the rest of the judicial system must have the resources to support it.*

(Frank Blair, Sheena's dad) *I know that those who have TZT taskforces have seen a dramatic decrease in DUI deaths. I feel that they are one step below DUI checkpoints in efficacy. They are data-driven mobile checkpoints in effect and should be present in every county in the state.*

(Dick Doane, WA Traffic Safety Commission) *I would be in favor of state support for the creation of local task forces.*

(Beth Ebel, Harborview Injury Prevention & Research Center) *This has worked well in WA so far. Great idea and hopefully not too expensive. I think all the strategies should fund themselves where possible (e.g. ignition interlocks), or through increased revenue raising on alcohol (basically, drinkers should pay the social cost of their drinking, just as tobacco users should pay the cost of smoking, and should not force these costs onto others who have to pay for their bad behavior and risk to the public. A side benefit higher alcohol taxes is a reduction in underage youth drinking, which remains a significant problem and is THE GATEWAY into adult alcoholism and binge drinking.*

(Amy Lea Ezzo, MADD) *High visibility law enforcement is a prong of MADD's Campaign to Eliminate Drunk Driving and we fully support efforts in this area. While saturation patrols and messaging have an impact, sobriety checkpoints are lacking from our state's current enforcement visibility efforts are needed.*

(Matt Fick, Brother of Morgan Fick Williams) *I think this is a good idea. I am in favor of it.*

(Brad Fralick, Consumer Safety Technology) *Saturation Patrols are highly effective and should be encouraged wherever possible.*

(Amy Freedheim, King County Prosecutor's Office) *Support. These are far more costly than Sobriety checkpoints, but constitutionally valid in WA.*

(Patricia Fulton, WA Defenders Assoc. OR WA Assoc. of Criminal Defense Lawyers) *WDA and WACDL support increasing visibility of enforcement.*

(Darrin T. Grondel, WA Traffic Safety Commission) *There are currently five task forces in the top five fatality counties in the state. They are a proven strategy for impaired driving and adding additional task forces in prioritized counties between state, local, and tribal police agencies will be a force multiplier in reducing DUI related fatality and serious injury collisions. Strongly support.*

(Richard B. Hume, Seattle Municipal Court Probation Services Division DUI/Jail Unit) *Yup!*

A12. Effective Strategies for Reducing MV-related Deaths and Serious Injuries Due to Impaired Driving

A12.1 Effective Strategy Components—Overview of Comprehensive Impaired Driving Programs

The following strategic components should be employed with any strategy to improve the effectiveness of a strategy in reducing overall fatal and injury collisions:

- **Problem Assessment**: When determining which strategies to implement in a given area, an important first step is to conduct a careful assessment of the nature of the problem and how the current strategy system is functioning. For example, Washington motorcyclists in fatal and injury collisions are more likely to be impaired by drugs than alcohol, which will require specific impaired driving strategies.
- **Visibility and Publicity of Efforts**: Although mostly applicable to enforcement efforts, high visibility and publicity of all strategies implemented to deter impaired driving communicates a zero tolerance from a sanctions standpoint, influences the general social disapproval of high risk behaviors, and affects general and specific deterrence by increasing certainty of consequence (requiring that the consequence is in fact certain).
- **Certainty Versus Severity of Punishments**: Criminology research over several decades, including both independent and meta-studies, across various countries generally concludes that enhancing the certainty of punishment, rather than the severity of punishments, produces a stronger deterrent effect. 'Increasing drivers perception of the risk of being detected is the most effective means of deterring drinking and driving'. –World Health Organization
- **Alternative Sanctions and Substance Abuse Treatment**: Impaired driving is one behavior among several that define risky drinking and substance abuse-related problems. Problem substance abuse occurs when a substance is used in a way that may be harmful to self or others, causing injury or disease. Impaired driving is a symptom of the bigger issue, substance abuse. Analysis of over 360 research studies found that Screening and Brief Intervention (SBI) is the most cost-effective strategy to reduce risky behaviors related to substance abuse. Alternative sanctions offering substance abuse treatment and rehabilitation, such as DUI courts and 24/7 sobriety programs, should be considered in lieu of incarceration.
- **Monitoring and Evaluating Progress**: Monitoring and evaluation of any program is vital to determine whether or not it is having the intended effect, to identify any potentially harmful unintended effects, and to justify continued support. Evaluation not only provides information about the effectiveness of any implemented strategy, but will also determine target audience appropriateness, problems with implementation and support, and any ongoing concerns that need to be resolved.
- **Appropriate Funding for Strategy Implementation, Sustainability, and Evaluation**: Any implemented impaired driving strategy requires adequate financial and human resources. Both mass media campaigns and enforcement (key components to any successful comprehensive DUI system) are likely to be expensive. In addition, consideration needs to be given to human resource needs, including necessary training, individual implementation and sustainability costs for each component

and activity of the implemented strategy, and all potential sources of funding from private, state, national, and international sources.

- **Prevention and Education – Specific and General Deterrence:** Education has been the cornerstone of many public health prevention campaigns. In addition to improving knowledge about rules of the road and safer practices, informing and educating road users can foster a climate of concern and develop support towards effective interventions, creating shared social norms for traffic safety. Changing social norms leads to a general deterrence effect of undesirable behavior. This is an essential component of an effective impaired driving program. However, prevention through education as a stand-alone strategy has not been shown to be effective in reducing traffic crashes and has little effect on specific deterrence.
- **Encouraging Multi-disciplinary Public, Private, Non-profit, and Civilian Sector Collaboration:** The effectiveness of community mobilization can only be generalized to carefully planned, well executed programs. Poorly implemented strategies make it difficult to assess the potential utility of that strategy, however in an environment of resource constraints, it is difficult to meet all the requirements and implement all components of program maximum effectiveness. As is the case with impaired driver programs, these multicomponent programs require substantial resources and collaboration to fully implement the combination of effective components and specific strategies.

A12.2 Effective Strategy Components—Reference List

Center for Problem-Oriented Policing (POP). Drunk Driving, Guide No. 36. (2006).

http://www.popcenter.org/problems/drunk_driving

Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, 7th Edition, Chapter 1 (National Highway Traffic Safety Administration),

<http://www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf>

National Cooperative Highway Research Program (NCHRP) Report 500. (2005). Volume 16: A Guide for Reducing Alcohol-Related Collisions. http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_500v16.pdf

National Highway Traffic Safety Administration (NHTSA). The Nation's Top Strategies to Stop Impaired Driving. (2007). <http://www.nhtsa.gov/people/injury/alcohol/StrategiesStopID/>

National Transportation Safety Board (NTSB). (2013). Reaching Zero: Actions to Eliminate Alcohol-Impaired Driving. <http://www.nts.gov/WA State Dept. of Correctionslib/reports/2013/SR1301.pdf>

The Sentencing Project (Valerie Wright, PhD). Deterrence in Criminal Justice: Evaluating Certainty vs. Severity of Punishment. (2010). <http://1.www.sentencingproject.org/WA State Dept. of Corrections/Deterrence%20Briefing%20.pdf>

World Health Organization (WHO). (2004). Drinking and Driving: A Road Safety Manual for Decision-Makers and Practitioners.

http://www.who.int/roadsafety/projects/manuals/alcohol/drinking_driving.pdf

World Health Organization (WHO). (2004). World Report on Road Traffic Injury Prevention.
http://www.who.int/violence_injury_prevention/publications/road_traffic/world_report/en/index.html

A13 Increase Funding for Prevention, Intervention, Suppression, and Prosecution of Impaired Driving Offenses

A13.1 Prevention—Synopsis of Available Research

- Per the National Highway Traffic Safety Administration’s (NHTSA) Highway Safety Guidelines, ‘states should allocate funding to impaired-driving programs that is adequate for program needs, steady (from dedicated sources), and, to the extent possible, paid by the impaired drivers themselves’.
- Under the new Moving Ahead for Progress in the 21st Century (MAP-21) Act, state eligibility for certain MAP-21 grant funds for impaired driving countermeasures depends on the state’s average impaired driving fatality rates based on the three most recent years average. States are classified as low-range, mid-range, and high-range. From 2008-2010, Washington’s impaired driving fatality rate was 0.33 per 100 million Vehicle Miles Traveled (VMT), classifying us as a mid-range state (low range is less than or equal to 0.30).
 - As a mid-range state, we are required to convene an impaired driving task force (in our state referred to as the Washington Impaired Driving Advisory Council or WIDAC) to develop a statewide impaired driving prevention plan. WIDAC was first convened in 2009 with a purpose of developing a statewide impaired driving strategic plan. This was done prior to any federal direction to do so. With this plan in place, Washington State is allowed to use MAP-21 funds for the following efforts without any additional federal approval:
 - Providing **high visibility enforcement** (HVE) programs;
 - Hiring an impaired driving **program coordinator**;
 - Providing support for HVE programs, such as **court support** and training of criminal justice professionals (prosecutors, judges, probation officers, law enforcement);
 - Establishing **DUI courts**;
 - Implementing **Ignition Interlock** programs;
 - Improving **BAC testing** and reporting;
 - Providing **media** for HVE efforts and providing **impaired driver training and equipment** for law enforcement officers and drug recognition experts;
 - Provide training for conducting **substance abuse screening and brief interventions**;
 - Developing **impaired driving information systems**; and
 - Defraying costs associated with **24/7 sobriety** programs.
- Under-funded impaired driving efforts restrict the effectiveness of any countermeasure and makes it difficult to measure the full potential impact the countermeasure could have on a specific community. According to a statement from The Honorable Clavin L. Scovel III, Inspector General of the U.S. Department of Transportation in 2007, commonly reported challenges in implementing and sustaining the most effective strategies (which are often also the most expensive) are related mostly to funding;
 - Inability to fund all requests for police patrols, which either produced gaps in enforcement or decreased the state’s ability to target enforcement;
 - Lengthy arrest procedures that increase the cost of making arrests and acts as a disincentive for police to make impaired driving arrests; and
 - State budget cuts or resource availability limiting traffic safety funding choices and restricting the number of grant requests for local funding.

- Although dated, NHTSA (2002) provided impaired driving cost analysis for every state based on 1996 data. NHTSA estimated that in Washington State:
 - The average alcohol-related fatality costs \$3.7 million (\$1.2 million in direct monetary costs)
 - The average alcohol-related traffic injury costs \$110,000 (\$56,000 in direct monetary costs)
 - Alcohol-related crashes accounted for 21% of auto insurance payments. A 10% reduction in alcohol-related crashes would save \$63 million in claims payments and loss adjustments
 - Implementing sobriety checkpoints would reduce alcohol-related fatalities by at least 15% and save society \$72,900 per checkpoint, costing on average only \$10,300 per checkpoint.
 - Ignition interlocks could save \$9,300 per vehicle equipped, costing \$1,120 per vehicle.
 - Electronically monitored house arrest, including sobriety monitoring, would cost \$1,600 per person, but is estimated to save \$6,100 in crash costs and \$2,900 in incarceration costs
 - Intensive supervised probation with substance abuse treatment is estimated to cost \$1,400 per person, but could avoid \$6,300 in crash costs and \$6,800 in incarceration costs

A13.2 Prevention—Reference List

Governors Highway Safety Association (GHSA). (2013). Impaired Driving. <http://www.ghsa.org/html/issues/impaireddriving/index.html>

National Highway Traffic Safety Administration (NHTSA). (2004). Impaired Driving Program Assessments: A Summary of Recommendations (1991-2003). DOT HS 809 815. <http://www.nhtsa.gov/cars/rules/regrev/evaluate/809815.html>

NHTSA. (2002). Impaired Driving in Washington. <http://icsw.nhtsa.gov/people/injury/alcohol/impaired-drivingusa/WA.pdf>, State Cost Fact Sheets User’s Guide. <http://icsw.nhtsa.gov/people/injury/alcohol/impaired-drivingusa/Guide.pdf>

NHTSA. (1995). Financial Self-Sufficiency Study and Guidelines; Volume 1: Guidelines Manual. <http://isddc.dot.gov/OLPFiles/NHTSA/007828.pdf>

Sovel III, Calvin. (2007). Effectiveness of Federal Drunk Driving Programs: Before the Committee on Environment and Public Works, Subcommittee on Transportation Safety, Infrastructure Security, and Water Quality, United States Senate. [http://www.oig.dot.gov/sites/dot/files/pdfWA State Dept. of Corrections/EPWTestimonyonEffectivenessofFederalDrunkDrivingPrograms.pdf](http://www.oig.dot.gov/sites/dot/files/pdfWA%20State%20Dept.%20of%20Corrections/EPWTestimonyonEffectivenessofFederalDrunkDrivingPrograms.pdf)

A14 Promoting Education and Prevention Strategies

A14.1 Education—Synopsis of Available Research

- According to Williams (2007), increasing social knowledge of a health or safety issue results in a more informed public and shapes societal attitudes. This in turn can help set a public agenda, establish the problem as one of societal concern, and provide support and impetus for law change.
 - Many public information and education traffic safety campaigns have been of poor quality; mass media campaigns that are short-term and too simplistic (exhorting people into recommended action) and education programs not based on any behavioral theory model. Such programs may reinforce social values, but are unlikely to affect individual behavior.
 - Characteristics of **unsuccessful, ineffective** programs include:
 - Passive messaging communicated through signs, pamphlets, brochures, etc.
 - Slogans with simple instigation for people to behave in certain ways
 - Lecture-oriented, information only education campaigns
 - Short-term programs that have low-intensity messages
 - Use of extreme fear or scare techniques
 - Characteristics of **successful, effective** programs include:
 - Careful pre-testing of messages, delineation of target groups, and making sure the messages reach the target group
 - Longer-term programs with sufficient intensity
 - Communicate knowledge that was not previously well known
 - Implemented in conjunction with other ongoing prevention activities and longer-term community programs
 - Education programs based on behavior change models
 - Fear messages combined with concrete steps people can take to avoid the danger
- Yanovitzky (2002) attempted to estimate the secondary effects of impaired driving media coverage in response to literature that has shown only a negligible association between news coverage of impaired driving and the decline in this behavior over several decades. The researcher found that news coverage of drunk driving behavior had a bigger contribution to the decline, but not directly. News coverage of drinking driving behavior between 1978 and 1995 prompted changes in related policy attention and actions, results of which are closely associated with the declines in drunk driving behavior and well Documented.
- According to the *Guide to Community Preventative Services* rules of evidence, mass media campaigns that are carefully planned, well executed, attain adequate audience exposure, and were implemented in conjunction with other ongoing prevention activities are supported by strong evidence to be effective in reducing alcohol-related crashes. (Elder, et al., 2004)
- Social marketing, which includes the application of commercial marketing techniques and the supply of a ‘product’ that is easily available with minimum barriers to support the desired behavior, have been suggested as an effective model for impaired driving programs. Rothschild, Mastin, and Miller (2006) applied a social marketing model to a project offering rides to and from drinking establishments in a rural community. After one year, the researchers reported a significant shift in riding/drinking behavior, particularly among 21-34 year olds, and projected a 17% decline in alcohol-related crashes. Social marketing in the context of impaired driving is lacking evaluation, however has

been shown to provide an effective framework in a range of other health-related behaviors (ICAP, 2013).

A14.2 Education—Reference List

Elder, Shults, Sleet, Nichols, Thompson, & Rajab. (2004). Effectiveness of Mass Media Campaigns for Reducing Drinking and Driving and Alcohol-Involved Crashes, a systematic review. *American Journal of Preventive Medicine*. 27(1). http://www.thecommunityguide.org/mvoi/massmedia_ajpm.pdf

International Center for Alcohol Policies (ICAP). (2013). Social Marketing and Alcohol. <http://www.icap.org/LinkClick.aspx?fileticket=Tt%2BVveIQ0vM%3D&tabid=243>

Rothschild, Mastin, & Miller. (2006). Reducing Alcohol-Impaired Driving Crashes through the Use of Social Marketing. *Accident Analysis and Prevention*. 38(6). Available upon request with restrictions.

Williams. (2007). Research Results Digest 322, Public Information and Education in the Promotion of Highway Safety. http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rrd_322.pdf

Yanovitzky. (2002). Effect of News Coverage on the Prevalence of Drunk-Driving Behavior: Evidence from a Longitudinal Study. *Journal of Studies on Alcohol*. 63(3). Available upon request with restrictions.

A15. Encouraging Private Sector Collaboration

A15.1 Private Sector—Synopsis of Available Research

- Shults, et al. (2006) conducted a systematic review of six studies to determine the effectiveness and economic efficiency of multicomponent programs with community mobilization for reducing alcohol-impaired driving. According to *Community Guide* rules of evidence, the studies reviewed provided strong evidence that community mobilization efforts are an effective component of strategies aimed at reducing alcohol-related crashes.
 - Community mobilization has other positive effects. In addition to reducing alcohol-related crashes, programs implemented with community mobilization components have the potential to reduce other community alcohol-related harms, such as underage drinking and alcohol-related injuries and violence. Furthermore, community mobilization promotes individual and community empowerment and problem-solving capacity that can be transferred to other local problems.
 - A potential barrier to private sector collaboration is concerns about potential loss of profits. Resistance from drinking establishments in community mobilization efforts centered on this concern has been documented in the literature.
 - Innovative components of community mobilization include:
 - The concept of “gatekeepers”; strategies targeted primarily at police and alcohol servers, rather than directly targeting drinkers. This has also been shown to be an effective technique for gaining the support of influential civic and political leaders.
 - Media advocacy; high visibility enforcement mobilization coverage included updated outcomes of each mobilization, such as number of arrests. ‘Media events included a police spokesman as well as key constituents such as parents, young people, or city officials to reinforce the perception that the program has strong community support.’
 - Challenges in community mobilization are well documented. The most consistent and serious concern is ‘tendency for coalitions to gravitate to less effective interventions, such as public education [a single component of effective strategies], in part because they cause less disruption to social and economic interests in the community’. Other documented challenges include gaining and maintaining consensus, inefficiencies in decision-making and program implementations, ideological conflicts, competition over resources, power imbalances, and existing social-cultural tensions. Examples to overcome these challenges and forming effective coalitions are also well documented.
- The Community Preventative Services Task Force (2005) recommends the use of multicomponent interventions with community mobilization based on a systematic review of interventions that included (and therefore effectiveness is only applicable to):
 - Implementation of multiple programs and/or policies in multiple settings to effect the community environment to reduce alcohol-impaired driving, and
 - Included participation of active community coalitions or task forces in their design or execution (community mobilization efforts).
- Several studies showed that multicomponent projects initiated through community mobilization, with focus on changing the drinking environment in a community, is effective at reducing alcohol-involved crashes. Other positive outcomes reported include lower alcohol sales to minors, increased

responsible beverage service, declines in binge drinking, and increased community support and awareness of alcohol-related problems. (Holder, 2000; Wagenaar, et al., 2000; Holder, et al., 2000)

A15.2 Private Sector—Reference List

Guide to Community Preventive Services. (2005). Reducing alcohol-impaired driving: multicomponent interventions with community mobilization.

<http://www.thecommunityguide.org/mvoi/aid/multicomponent.html>

Holder. (2000). Community Prevention of Alcohol Problems. *Addictive Behaviors*. 25(6).

[http://www.ihra.net/files/2011/07/21/04.4_Holder_-_Community_Prevention_of_Alcohol_Problems_\(US\).pdf](http://www.ihra.net/files/2011/07/21/04.4_Holder_-_Community_Prevention_of_Alcohol_Problems_(US).pdf)

Holder, Gruenewald, Ponicki, Treno, Grube, Saltz, et al. (2000). Effect of Community-Based Interventions on High-Risk Drinking and Alcohol-Related Injuries. *Journal of the American Medical Association*. 284(18).

<http://jama.jamanetwork.com/article.aspx?articleid=193252>

Mothers Against Drunk Driving (MADD). DUI Felony Laws. (2013). http://www.madd.org/laws/law-overview/DUI_Felony_Overview.pdf

Shults, Elder, Nichols, Sleet, Compton, & Chattopadhyay. (2009). Effectiveness of Multicomponent Programs with Community Mobilization for Reducing Alcohol-impaired Driving. *American Journal of Preventative Medicine*. 37(4).

<http://www.thecommunityguide.org/mvoi/aid/EffectivenessMulticomponentProgramsCommunityMobilizationReducingAlcohol-ImpairedDriving.pdf>

Wagenaar, Murray, Gehan, Wolfson, Forster, Toomey, et al. (2000). Communities Mobilizing for Change on Alcohol: Outcomes from a Randomized Community Trial. *Journal of Studies on Alcohol and Drugs*. 61(1). Available upon request with restrictions.

World Health Organization (WHO). (2006). Howard-Grabman & Snetro, 2003. How to Mobilize Communities for Health and Social Change. Baltimore, MD: Health Communication Partnership. Cited in *Community Mobilization: Improving Reproductive Health Outcomes*.

<http://www.who.int/management/community/overall/CommunityMobilization2pgs.pdf>

A16. Other Comments Related to Multiple Strategies or Issues Not Previously Addressed

A16.1 Other Strategies—Work Group Survey Comments

The background introductory paragraph for this question, provided as an integrated part of the survey, is in [Appendix D](#).

(Beth Ebel, Harborview Injury Prevention & Research Center) 1. REVENUE TO SUPPORT THESE GOOD IDEAS. I think all the strategies should fund themselves where possible (e.g. ignition interlocks), or through increased revenue raising on alcohol (basically, drinkers should pay the social cost of their drinking, just as tobacco users should pay the cost of smoking, and should not force these costs onto others who have to pay for their bad behavior and risk to the public. A side benefit higher alcohol taxes is a reduction in underage youth drinking, which remains a significant problem and is THE GATEWAY into adult alcoholism and binge drinking. Consider the cost savings for avoiding death and injury and wasted court resources for plea bargaining for guilty offenders.... Of the ideas above, I like the following: •Support efforts to simplify and streamline the DUI arrest process including developing an electronic DUI arrest package, utilizing the mobile impaired driving unit and BAC processors for high-visibility campaigns. •Implement the corridor safety model in high-crash locations where data suggests a high rate of impaired driving. •Enhance law enforcement DUI training with Standard Field Sobriety Test (SFST) training and refresher training. •Enhance law enforcement DUI training with Advance Roadside Impaired Driving Enforcement (ARIDE) training. •Suspend driver license administratively upon arrest [support ONLY if effective... I doubt it]. •Establish method for conducting home compliance checks on DUI offenders. •Expand the Drug Evaluation, Recognition, and Classification Program. •Enforce and publicize zero tolerance laws for drivers under age 21. Decal law would help with this, because otherwise it is simply not enforced. •Conduct well-publicized compliance checks of alcohol retailers to reduce sales to underage persons. •Conduct well-publicized enforcement aimed at underage drinking parties. •Explore the implications to WA for lowering the per se BAC limit from .08 to .05.

(Amy Lea Ezzo, MADD) •Enforce and publicize zero tolerance laws for drivers under age 21. •Monitor DUI offenders closely. •Any and all support for law enforcement training.

(Matt Fick, Brother of Morgan Fick Williams) I would be in favor of the following: 1. Revoking driving privileges for repeat offenders, and making it a SERIOUS crime for them to drive. If someone is unable to control their drinking, they should not be permitted to drive. 2. Requiring that interlock devices (or similar technology) be installed on ALL vehicles. I think this is akin to requiring seatbelts or airbags. It should be viewed as a basic safety feature that a car cannot be operated -- meaning it simply won't start - if the person trying to start the car is under the influence of alcohol. 3. Promoting public transportation. I have been to Norway several times, and my impression is that even though Norwegians very much enjoy alcohol, they do not have nearly the problems we do with drinking and driving. Two of the reasons for that appear to be (a) it is widely regarded as a very, very bad thing to drink and drive (as opposed to in the U.S., where people routinely do so and joke about it), and (b) public transportation is widely available and widely used, even by the wealthiest people. Making it easier and safer and more convenient to use public transportation to get home from a bar can't help but reduce the amount of drinking and driving.

A16.1 Other Strategies—Work Group Survey Comments

(Amy Freedheim, King County Prosecutor's Office) *I would recommend elevating felony-DUI to a Class B felony. Currently, defendants are "maxing out" fairly early and therefore not eligible for any Community Custody. This defeats the purpose of providing WA State Dept. of Corrections supervision for a crime that defines recidivism. It would additionally send a message to the community about how seriously the legislature views these crimes.*

(Steve Johnson, WA State Liquor Control Board) *Nothing further to add.*

(Janene Johnstone, Misdemeanor Corrections Association / City of Kent) *Increase the number of gross misdemeanor probation departments at the County and City/Municipal Court level. I firmly believe that if we put a strong focus on supervision and treatment for first- and second-time DUI offenders, we will have far fewer offenders who are multiple repeat-offenders. That cannot be accomplished, however, in jurisdictions that do not have probation departments.*

(Julie Knittle, WA State Dept. of Licensing) *Suspend license administratively. Additionally there are many loop holes in the current law (unintended consequences) that need fixing around blood and refusals. These need immediate attention as there are drivers who would normally be suspended and off the road but now are driving on the road because DOL cannot take action.*

(Tom McBride, WA Association of Prosecuting Attorneys) *I think LE officers should be trained to draw blood, i.e. officer phlebotomists.*

(John McGowan, 2 Watch Monitoring) *Monitor DUI offenders closely. Establish 24/7 Sobriety Program. Establish method for conducting home compliance checks on DUI offenders.*

(John Milton, WA State Dept. of Transportation) *Increased fines and license revocation for repeat over serving at bars and restaurants. Mandatory and increased insurance minimums for repeat offenders.*

(Karen Minahan, Victim Impact Panel Coalition) *Education, Prevention, Awareness, I have been volunteering at High Schools, Colleges, Work Place Environments, Military Bases, WA State Dept. of Corrections, Churches, and Victim Impact Panels for 15.5 years, I think that this type of education should be in the Drivers Training Schools, or High Schools or before anyone is allowed to get a driver's license in the State of WA, having people do tours in Harborview ER after a horrific crash might make some people stop and think, I was raised in the White Center Project houses most of my young life, in an alcoholic environment my entire childhood, it is a horrible thing, the lady who almost killed me was an alcoholic, for 40 years, I did not want her to go to jail, I wanted her to be in treatment to get her life turned around, she did, I forgave her, people who have addictions do not do these things on purpose, they need help, most people do not get the help they need when they are in jail, it is sometimes just a revolving door, my mother was an alcoholic, she stopped drinking 25 years ago, I do not drink because it makes me very sick, I also realize that I do not have an addictive personality, I am very blessed for that, I have the gene, as everyone on both sides of my mom and real dad were all alcoholics. I think our resources would be better spent by giving people the help they need instead of having them in jail. I love the fact that Roger Goodman has been so on top of this matter for so many sessions, I think we need to continue, I think we have a good core group of people in the meetings. Thank you all for all of your time and efforts. Please feel free to call or email me if you have any questions. Karen Minahan 425-945-6155 karen8944@aol.com*

A16.1 Other Strategies—Work Group Survey Comments

(Corrie J. Moore, AutoSafe) 1) Increase Interlock Compliance - A cheaper way to motivate action may be to generate a compliance letter from DOL/WSP notifying non-installed interlock required offenders they must have an interlock installed or risk penalties. Some just need to know the authorities are watching & they will take action. The same letter could notify interlock required offenders there is funding available for them to comply with the requirement. Many still don't know about Subsidy available through DOL. 2) Perhaps a fine for interlock non-compliance could both fund compliance monitoring efforts & motivate offenders to comply with the interlock orders? If we offered amnesty to those who have been out of compliance to have install done by a specific date? Right now, there are no consequences for not complying. 3) Tie annual tab renewals, vehicle sales / purchases & other state processes to verifying interlock requirement & confirming proof of compliance prior to completing the transaction. Interlock clients can sell vehicles with interlocks in them without notifying the interlock company - this would prevent that scenario. 4) Provide support / education to prosecutors, probation & judges regarding interlock. Identify the reasons some courts don't order interlock but instead defer to DOL & the risks. Improve interlock reporting support relative to needs of courts / probation for compliance support & recognizing problem data versus compliant data. 5) Prevent prosecutors / courts from allowing pre-trial agreements without mandatory interlock for the full term of the agreement. If a conviction is not filed but rather suspended for 2-3 years (often without active probation), the only peace of mind the public has during the interim is knowing the non-monitored, sometimes non-treated offender has an interlock installed to prevent them from drinking & driving again. Without a conviction filed on a first offense, the DOL often has only a 90 day interlock requirement. We are taking a great risk by letting these offenders walk away on their promise to not do it again. Especially considering many stats indicate offenders arrested for impaired driving the first time have, on average, driven impaired previously more than 100 times & just didn't get caught. (Check these stats - the WTSC provided some loose numbers.)

(Linda Richardson, AutoSafe Ignition Interlock Services) Incarcerate offenders who fail to comply with court-ordered alternative sanctions. Suspend driver license administratively upon arrest. Enhance law enforcement DUI training with Advance Roadside Impaired Driving Enforcement (ARIDE) training. Monitor DUI offenders closely. Explore the implications to WA for lowering the per se BAC limit from .08 to .05.

(Al Rose, WA State Association of Counties) Lowering the per se BAC limit has real merit; however, at this time, I do not think that the political will exists to make this change.

(Dan Schulte, Family member of victims) I like these three: •Incarcerate offenders who fail to comply with court-ordered alternative sanctions. •Suspend driver license administratively upon arrest. •Establish 24/7 Sobriety Program.

(Tony Sermonti, WA State Dept. of Licensing) E2SSB 5912 amended RCW 46.20.308, the implied consent law, to require that an arresting officer must obtain a warrant or that exigent circumstances must exist in order for a blood test to be given and deleted the requirement that the driver be warned that refusal to consent to a blood test will result in the driver's license revocation and that the fact of the refusal may be used in court. However, the amendments to RCW 46.20.308 did not add a mechanism for the officer to report the blood test result to DOL in most cases or amend the hearing provisions of the statute to permit DOL to take administrative action against the driver's license absent the implied consent warnings. E2SSB 5912 also amended RCW 46.25.120, the implied consent law for operators of

A16.1 Other Strategies—Work Group Survey Comments

Commercial Motor Vehicles (CMVs), to prohibit the operation of a CMV with the presence of any amount of THC concentration, but the amendment did not include conforming amendments to account for the deletion of the implied consent warnings for blood tests in RCW 46.20.308. Without the driver being advised of the implied consent warnings, DOL is unable to disqualify a driver from operating a CMV as the result of a blood test as required by federal regulations. To remedy these issues, DOL would suggest that RCW 46.20.308 and 46.25.120 be amended to authorize the suspension or revocation of a driver's license, or the disqualification of a driver from operating a CMV, based on a report of a blood test administered pursuant to a search warrant, a valid waiver of the warrant requirement, or in the event of exigent circumstances, and to amend the hearing provisions to no longer require the reading of implied consent warnings in the event of a blood test. DOL has drafted proposed legislation addressing these issues and will make copies available upon request. (See [Appendix C](#) for proposed legislation text.)

(Jerry Stanton, Ignition Interlock Providers) *WA is the model for the nation for DUI programs that work (Sobriety Checkpoints are a notable shortfall). The 'working group' continues to make the best, better. Kudos to Representative Goodman, Senator Padden, Governor Inslee and legislative leaders who encourage and support this group's efforts. Thank you to everyone who gives his or her time, expertise and passion to this lifesaving effort!*

(Rose Torgerson, WA Coalition of Crime Victim Advocates) *The WA Coalition of Crime Victim Advocates would strongly support additional initiatives that incorporate prevention and public awareness campaigns.*

(Brian Ursino, MADD) *All of these strategies deserve some level of attention, but it comes down to prioritization so limited resources can be applied most effectively. The only one listed that I am NOT in favor of devoting resources to is lowering the current per se limit from .08 to .05.*

(Sern Watt, Concerned Citizen) *Responses that rely on compliance by offenders will not be effective. I have included related comments in various answers, but my recommendations are all based on these three main ideas: 1. Ensure certainty of consequences through funding of DUI courts. 2. Make the "look back" time life long and increase the consequence for first time offenders to a one year suspension and 5 years of IID use. A second offense should result in a five year revocation, followed by a ten year IID requirement. A third offense should result in a life-long revocation of driving privileges. Make sure that first time offenders know that additional offenses will soon lead to a life-long loss of driving privileges and make sure that they know what that will mean for their lives. (In this context the question of felony convictions becomes moot.) Currently the emphasis of the law and our responses seems to be on finding ways to allow offenders to continue driving with minimal interference in their lives. This is backwards. The emphasis needs to be on public safety. If that means that some number of repeat offenders will never again drive in WA that is fine. Driving is a privilege that requires responsible behavior. 3. We also need to do more to deny offenders access to vehicles. Court orders won't do the job; we must all be committed to doing our part. And frankly, it won't take much. Impound the vehicles owned by offenders for storage or sale prior to their release from custody. Don't loan your car to someone, including a spouse of family member, without a valid driver's license. Complete the transfer of title and the handover of a private sale vehicle at a licensed transfer agency that can confirm the eligibility of the buyer to own a vehicle. Anything less than this is enabling and we need to stop it.*

A16.1 Other Strategies—Work Group Survey Comments

(Ken Alberg, 2 Watch Monitoring) *I deal with DUI offenders every day and know firsthand that the right kind of monitoring is very effective. One problem we have today is that EHM is not a regulated industry although ignition interlock is. The state would see some very encouraging statistics on the effect EHM has on recidivism if the industry was regulated and the data deemed accurate. Regulated EHM would help put teeth into these recommended strategies: •Monitor DUI offenders closely. •Establish 24/7 Sobriety Program. •Establish method for conducting home compliance checks on DUI offenders. But I have a serious question concerning WASPC administrating the 24/7 monitoring program. WASPC has a Full Service Electronic Monitoring business which is in direct competition with other EHM agencies in the state. The group who is assigned to administer 24/7 may not be directly working for their EHM business but I still believe there could be a conflict of interest. Below is a description of their service as it appears on their website. WASPC Correctional Options Services operates two (2) Full Service Electronic Monitoring Programs in WA State. These programs can be customized to meet the needs of an individual agency. WASPC will provide case management to provide offender-funded Electronic Home Detention at no cost to the agency. WASPC Correctional Options Services will assume responsibility for: Case management Offender orientation Equipment installation/removal Fee assessment and collection Compliance monitoring Providing agencies with violation reports Providing agencies with installation/completion reports Equipment inventory control Drug and alcohol testing when ordered by the court Another question comes up when I see that WASPC has recommended the so called South Dakota plan that I don't think would be effective for this state. The program would not stop an offender from drinking throughout the day, and it would also pose a risk by having potential drunk drivers driving to a location twice a day for a BAC test. This 24/7 program needs to be vetted out much better for everyone to totally understands what's at stake here. My recommendation is to find an unbiased or neutral company to evaluate this program or at least invite other EHM members to work along with WASPC in administering this program.*

(Frank Blair, Sheena's dad) *Incarcerate offenders who fail to comply with court-ordered alternative sanctions. Re-direct a portion of spirit taxes to programs for adjudication and incarceration. Implement an additional tax on ALL beer and wine specifically earmarked for adjudication and incarceration. NO law that is passed can be effective if not adequately funded with a stable funding source.*

(Dick Doane, WA Traffic Safety Commission) *A 24/7 Sobriety program would be a great addition to our state's 'tool-kit'! The development of passive sensors for detecting the presence of impairing drugs would be an excellent technological development. I strongly support the increased use of compliance checks on alcohol providers. Employing the corridor safety model would essentially amount to the same thing as using sobriety checkpoints. I strongly support home compliance checks and generally closer monitoring of DUI offenders -- as well as using the threat of incarceration to discourage noncompliance with court-ordered sanctions.*

Appendix B: Comparative of Impaired Driving Strategies in E2SSB 5912, and Target Zero Strategic Plan

Green Highlighted = Strategies designated "PROVEN" in Target Zero

Yellow Highlighted = Strategies Evaluated in E2SSB 5912

Objectives & Strategies		
Objectives (What)	Strategies (How)	Implementation Arena(s)
1. Program Management: Foster leadership to facilitate impaired driving system improvements	1.1 Continue to build partnerships designed to reduce impaired driving. (P, NCHRP) – (O Private Sector Collaboration)	Leadership/Policy
	1.2 Implement the corridor safety model in high-crash locations where data suggests a high rate of impaired driving. (P, NCHRP)	Leadership/Policy, Education, Engineering, Enforcement
	1.3 Utilize Target Zero Managers and community-based traffic safety taskforces to address impaired driving issues. (R, WTSC) – (O Private Sector Collaboration)	Leadership/Policy, Education, Engineering, Enforcement
2. Prevention: Prevent excessive drinking, underage drinking, and impaired driving	2.1 Conduct well-publicized compliance checks of alcohol retailers to reduce sales to underage persons. (R, CTW)	Enforcement
	2.2 Conduct well-publicized enforcement aimed at underage drinking parties. (R, CTW)	Enforcement
	2.3 Encourage parents to talk with their children about the risks of alcohol and other drugs. (R, DBHR)	Education
	2.4 Continue mandatory alcohol server training, and explore mandating training for people who sell alcohol in the retail environment. (U)	Education
	2.5 Support alternative transportation services such as transit (especially at night), designated driver programs, and other alternative ride programs to help eliminate need for impaired individuals to drive. (U)	Leadership/Policy
3. Criminal Justice System—Laws: Encourage the enactment of laws when research suggests such laws will result in impaired driving fatality and serious injury reductions.	3.1 Encourage laws that will allow the state to utilize sobriety checkpoints. (P, CTW) – (E Sobriety Checkpoints)	Leadership/Policy
	3.2 Explore the implications to Washington for lowering the per se BAC limit from .08 to .05 (R, META)	Leadership/Policy
	3.3 Place limits on plea agreements. (R, CTW) – (K Improving prosecution and encouraging prosecutors to aggressively enforce impaired driving laws)	Leadership/Policy
	3.4 Increase the state excise tax on beer. (R, NCHRP) – (I Increase funding for impaired driving)	Leadership/Policy
	3.5 Encourage laws that use any money collected from DUI fines in excess of \$101 to support impaired driving efforts. (R, GHSA) – (I Increase funding for impaired driving)	Leadership/Policy
	3.6 Establish 24/7 sobriety program. (R, CTW)	Leadership/Policy
	3.7 Require ignition interlock installation as condition of pre-trial release. (U) – (D Promoting and monitoring the use of mandatory ignition interlocks, F Requiring mandatory arrests for a first offense for a DUI offense)	Leadership/Policy

Objectives & Strategies

Objectives (What)	Strategies (How)	Implementation Arena(s)
4. Criminal Justice System—Laws: Discourage the enactment of laws when research suggests such laws will result in impaired driving fatality and serious injury increases.	4.1 Discourage expansion of access to alcohol, marijuana, and other drugs. (U)	Leadership/Policy
5. Criminal Justice System—Laws: Enforce and publicize DUI laws	5.1 Continue statewide, high-visibility saturation enforcement and media campaigns to reduce impaired driving. (R, CTW) – (M Increase DUI Task Forces and Enforcement Visibility)	Enforcement, Education, Communication
	5.2 Expand full-time DUI squads targeting areas with high numbers of DUI-related crashes. (R, DDACTS) – (M Increase DUI Task Forces and Enforcement Visibility)	Enforcement, Education, Communication
	5.3 Enforce and publicize zero tolerance laws for drivers under age 21. (R, CTW)	Enforcement, Education, Communication
6. Criminal Justice System—DUI Enforcement Training: Enhance law enforcement training in alcohol and drug detection	6.1 Enhance law enforcement DUI training with Standard Field Sobriety Test (SFST) training and refresher training. (P, NHTSA)	Education
	6.2 Enhance law enforcement DUI training with Advance Roadside Impaired Driving Enforcement (ARIDE) training. (P, NHTSA)	Education
	6.3 Expand the Drug Evaluation, Recognition, and Classification Program. (R, CTW)	Education
7. Criminal Justice System—Prosecution: Encourage consistent and vigorous DUI prosecution	7.1 Support DUI training for prosecutors and law enforcement officers. (R, NHTSA) - (M Increase DUI Task Forces and Enforcement Visibility)	Education
	7.2 Provide prosecution of DUIs as part of the Target Zero Teams. (U) – (M Increase DUI Task Forces and Enforcement Visibility)	Education
8. Criminal Justice System—Adjudication: Promote evidence-based and promising court sentencing and supervision practices	8.1 Incarcerate offenders who fail to comply with court-ordered alternative sanctions. (P, NCHRP)	Leadership/Policy
	8.2 Establish and support the Judicial Outreach Liaison program. (R, NHTSA)	Education
	8.3 Support and establish DUI Courts. (R, CTW) – (L Increase DUI Courts)	Leadership/Policy
	8.4 Establish method for conducting home compliance checks on DUI offenders. (R, CTW)	Leadership/Policy
	8.5 Conduct alcohol/drug assessments on all DUI offenders, and enhance treatment and probation when warranted. (R, CTW) – (G Increase treatment and rehab for repeat offenders)	Leadership/Policy
	8.6 Encourage attendance at DUI Victim’s Panels. (U)	Leadership/Policy

Objectives & Strategies

Objectives (What)	Strategies (How)	Implementation Arena(s)
9. Administrative Sanctions and Driver Licensing Programs: Use licensing sanctions shown to be effective at reducing recidivism and protecting the public	9.1 Suspend driver license administratively upon arrest. (P, CTW)	Leadership/Policy
	9.2 Require ignition interlock as a condition for license reinstatement. (P, NCHRP) – (D Promoting and monitoring the use of mandatory ignition interlocks)	Leadership/Policy
10. Administrative Sanctions and Driver Licensing Programs: Expand the use of Ignition Interlocks	10.1 Monitor ignition interlock manufacturers and installers to ensure a continued viability and validity of program. (P, CTW) – (D Promoting and monitoring the use of mandatory ignition interlocks)	Leadership/Policy
	10.2 Monitor reports from ignition interlock manufacturers on alcohol failures on ignition interlocks and conduct compliance checks. (P, CTW) – (D Promoting and monitoring the use of mandatory ignition interlocks)	Leadership/Policy
	10.3 Investigate ignition interlock circumvention attempts. (P, CTW) – (D Promoting and monitoring the use of mandatory ignition interlocks)	Leadership/Policy
11. Alcohol and Other Drug Misuse: Identify, intervene, and refer individuals for appropriate substance abuse treatment	11.1 Continue and expand use of screening, brief intervention and referral to treatment. (P, CTW) – (G Increasing treatment and rehabilitation for repeat offenders)	Emergency Medical Services
12. Alcohol and Other Drug Misuse: Establish and maintain substance abuse treatment program availability	12.1 Match treatment and rehabilitation to the diagnosis. (P, NIH) – (G Increasing treatment and rehabilitation for repeat offenders)	Leadership/Policy
13. Alcohol and Other Drug Misuse: Establish programs to facilitate close monitoring of impaired drivers	13.1 Monitor DUI offenders closely. (R, CTW)	Leadership/Policy
14. Program Evaluation and Data: Provide timely, accurate, integrated, and accessible traffic records data	14.1 Support efforts to simplify and streamline the DUI arrest process including developing an electronic DUI arrest package, utilizing the mobile impaired driving unit and BAC processors for high-visibility campaigns. (R, NHTSA)	Leadership/Policy

P = Proven

R = Recommended

U = Unknown

E2SSB 5912 Identified Strategies NOT listed in Target Zero Strategic Plan:

- (a) Lowering the minimum number of previous impaired driving convictions that must be counted before constituting and being punishable as a felony (INEFFECTIVE)
- (c) Increasing mandatory minimum penalties and fines for repeat offenders (INEFFECTIVE)
- (h) Reviewing the penalties for refusing to take a breath or blood test for the purpose of determining the alcohol concentration or presence of any drugs (EFFECTIVE)
- (j) Prohibiting the sale of alcohol to offenders convicted of repeat DUI offenses (NO RESEARCH)

Appendix C: Draft Legislation from Washington State Department of Licensing Related to Implied Consent for Breath and Blood

Blood Tests

Draft 2.0

Sec. 1. RCW 46.20.308 and 2013 c 35 s 36 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath for the purpose of determining the alcohol concentration (~~(, THC concentration, or presence of any drug)~~) in his or her breath if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503. ~~((Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood.))~~

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol ~~((or THC))~~ in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. Unless the officer seeks to have the test administered pursuant to a search warrant, a valid waiver of the warrant requirement or exigent circumstances as provided in subsection (4), the officer shall inform the person of his or her right to refuse the breath test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if:

(i) The driver is age twenty-one or over and the test indicates either that the alcohol concentration of the driver's breath is 0.08 or more ~~((or that the THC concentration of the driver's blood is 5.00 or more))~~; or

(ii) The driver is under age twenty-one and the test indicates either that the alcohol concentration of the driver's breath is 0.02 or more ~~((or that the THC concentration of the driver's blood is above 0.00))~~; or

(iii) The driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

(d) If the driver's license, permit, or privilege to drive is suspended, revoked, or denied the driver may be eligible to immediately apply for an ignition interlock driver's license.

~~(3) ((Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of felony driving under the influence of intoxicating liquor or drugs under RCW 46.61.502(6), felony physical control of a motor vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6), vehicular homicide as provided in RCW 46.61.520, or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested pursuant to a search warrant, a valid waiver of the warrant requirement, or when exigent circumstances exist.~~

~~(4)) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath, no test shall be given except as authorized by ((a search warrant)) subsection (4) of this section.~~

(4) An arresting officer who at the time of arrest has reasonable grounds to believe that a person arrested for any offense had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503 may require that a breath or blood test be administered pursuant to a search warrant, a valid waiver of the warrant requirement, or when exigent circumstances exist.

(5) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more, or the THC concentration of the person's blood is 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood is 0.02 or more, or the THC concentration of the person's blood is above 0.00, if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by subsection (6) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (7) of this section ~~((and that the person waives the right to a hearing if he or she receives an ignition interlock driver's license));~~

(c) Serve notice in writing that the license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (7) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(d) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by RCW 9A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol or THC concentration in violation of RCW 46.61.503;

(ii) That after receipt of ~~((the))~~ any applicable warnings required by subsection (2) of this section the person refused to submit to a test of his or her breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person is age twenty-one or over, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(6) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (5)(d) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, or denial to be effective beginning sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (7) of this section, whichever occurs first.

(7) A person receiving notification under subsection (5)(b) of this section may, within twenty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of three hundred seventy-five dollars as part of the request. If the request is mailed, it must be postmarked within twenty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required three hundred seventy-five dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required three hundred seventy-five dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license ~~((marked))~~ under subsection (5) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements

of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered (~~without express consent~~) pursuant to a search warrant, a valid waiver of the warrant requirement, or when exigent circumstances exist as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person was age twenty-one or over at the time of the arrest, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(8) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b) that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the

department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

(9)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (6) of this section, other than as a result of a breath test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (6) of this section, or notifies the department of licensing of the intent to seek such a deferred prosecution, then the license suspension or revocation shall be stayed pending entry of the deferred prosecution. The stay shall not be longer than one hundred fifty days after the date charges are filed, or two years after the date of the arrest, whichever time period is shorter. If the court stays the suspension, revocation, or denial, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license under subsection (5) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary (~~marked~~) license or extension of a temporary license issued under this subsection.

(b) A suspension, revocation, or denial imposed under this section, other than as a result of a breath test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or denial do not apply to the suspension, revocation, denial, or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

(10) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

Sec. 2. RCW 46.25.120 and 2013 c 35 s 12 are each amended to read as follows:

(1) A person who drives a commercial motor vehicle within this state is deemed to have given consent, subject to RCW 46.61.506, to take a test or tests of that person's (~~blood or~~) breath for the purpose of determining that person's alcohol concentration (~~or the presence of other drugs~~).

(2) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol in his or her system or while under the influence of any drug.

(3) The law enforcement officer requesting the test under subsection (1) of this section shall warn the person requested to submit to the test that a refusal to submit will result in that person being disqualified from operating a commercial motor vehicle under RCW 46.25.090.

(4) A law enforcement officer who at the time of stopping or detaining a commercial motor vehicle driver has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol in his or her system or while under the influence of any drug may require that a breath or blood test be administered pursuant to a search warrant, a valid waiver of the warrant requirement, or when exigent circumstances exist.

(5) If the person refuses testing, or ~~((submits to))~~ a test is administered that discloses an alcohol concentration of 0.04 or more or any measurable amount of THC concentration, the law enforcement officer shall submit a sworn report to the department certifying that the test was requested pursuant to subsection (1) of this section or a breath or blood test was administered pursuant to subsection (4) of this section and that the person refused to submit to testing, or ~~((submitted to))~~ a test was administered that disclosed an alcohol concentration of 0.04 or more or any measurable amount of THC concentration.

~~((5))~~ (6) Upon receipt of the sworn report of a law enforcement officer under subsection ~~((4))~~ (5) of this section, the department shall disqualify the driver from driving a commercial motor vehicle under RCW 46.25.090, subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle within this state while having alcohol in the person's system or while under the influence of any drug, whether the person refused to submit to the test or tests upon request of the officer after having been informed that the refusal would result in the disqualification of the person from driving a commercial motor vehicle, if applicable, and, if the test was administered, whether the results indicated an alcohol concentration of 0.04 percent or more or any measurable amount of THC concentration. The department shall order that the disqualification of the person either be rescinded or sustained. Any decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during the pendency of the hearing and appeal. If the disqualification of the person is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the county of arrest to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

~~((6))~~ (7) If a motor carrier or employer who is required to have a testing program under 49 C.F.R. Part 382 knows that a commercial driver in his or her employ has refused to submit to testing under this section and has not been disqualified from driving a commercial motor vehicle, the employer may notify law enforcement or his or her medical review officer or breath alcohol technician that the driver has refused to submit to the required testing.

~~((7))~~ (8) The hearing provisions of this section do not apply to those persons disqualified from driving a commercial motor vehicle under RCW 46.25.090(7).

Appendix D: Survey Questions & Respondents

Survey Questions

Impaired Driving Work Group Strategies Survey

Thank you for participating in the Impaired Driving Work Group survey. Your comments will be included in the final report being compiled for the Legislature and Governor. The survey has three sections. We'd like you to...

Section 1: Share your reflections on the strategies

Section 2: Rank the strategies

Section 3: Identify any other strategies or issues you believe need attention

In the final report, you will be identified and your comments will be listed for each of the strategies in Section 1 and Section 3. For Section 2, totals will be presented.

Thank you for your participation.

*** Your comments from this survey will be included in the Impaired Driving Work Group final report presented to the Governor and Legislature.**

Please tell us who you are.

Name:	<input type="text"/>
Organization:	<input type="text"/>
Email Address:	<input type="text"/>

SECTION 1.

In this section we will be briefly reviewing the 11 strategies identified by the legislature for the Impaired Driving Work Group study. We then would like your thoughts on each. If you desire additional information, the email you received with the link to this survey has the Research Summaries booklet attached for reference.

What do you think of...lowering the minimum number of previous impaired driving convictions before constituting and being punishable as a felony?

Share your thoughts in the box below the summary paragraphs.

In our country, Washington State stands alone with the highest number of DUI offenses (five) before felony charges are raised. Eighteen states raise felony charges after the fourth offense, 21 states after the third, four states after the second and some states have no felony DUI laws. States differ in regard to the "look back" period for counting previous DUIs. Some states count all DUI's during an offender's lifetime while others "look back" as few as five years. Washington has a 10-year look-back period.

The effectiveness of lowering the minimum number of DUI convictions before being punishable as a felony has no research supporting a correlating reduction in traffic deaths and serious injuries. Felony conviction presumably equates to increased jail times and fines, both of which are shown in literature to be ineffective at reducing DUI recidivism and crash rates as stand-alone approaches. However, the literature suggests that intensive supervision, combined with frequent meetings with the judge and close monitoring of compliance with the offender's sanctions (DUI courts) are effective at reducing alcohol-related crashes. If intensive supervision and monitoring are increased by imposing felony sanctions, then this strategy may be a piece of a broader effective strategy.

What do you think of...increasing mandatory minimum penalties and fines for repeat DUI offenders?

The majority of studies have found increasing jail time and fines for repeat DUI offenders does not result in the desired deterrent effects or reduction in recidivism. In some literature, severe minimum penalties are shown to have a general deterrent effect, particularly for first time offenders who are already less likely to reoffend.

What do you think of...requiring mandatory arrests for a first offense for an impaired driving offense?

Jail time as a stand-alone measure has not been shown to be effective for preventing DUI offenders from recidivism. However, when included within a court-imposed compliance process (such as treatment and ignition interlocks), the threat of jail time for noncompliance is often useful for motivating adherence to court sanctions. It also offers the temporary benefit of keeping offenders off the roads.

What do you think of...improving prosecution and encouraging prosecutors to aggressively enforce impaired driving laws?

The effectiveness of DUI penalties is maximized when sanctions are swift and sure. A number of problems often inhibit the ability of prosecutors to secure DUI convictions, including a lack of sufficient prosecutorial resources. Cases can be highly complex and difficult to prosecute, yet are often assigned to the least experienced prosecutors. Compounding these issues is the frequent inability of courts to properly monitor defendants who agree to diversions and plea agreements.

What do you think of...increasing penalties for refusing to take a breath/blood test for determining alcohol concentration or presence of drugs?

The absence of a BAC [or drug] test can make it more difficult to convict an impaired driver. Reducing test refusal rates may increase DUI and high-BAC DUI convictions and increase the likelihood of impairment offenses being properly identified. This will provide the courts with better evidence for offender alcohol and drug assessment and appropriate treatment sanctions.

What do you think of...increasing the number of driving under the influence (DUI) courts and court-related services?

Drug courts are a coordinated strategy involving judiciary, prosecution, probation, defense bar, law enforcement, social services, mental health, and treatment communities. They have been shown effective for reducing recidivism. DUI courts are designed to provide constant supervision to offenders by judges and other court officials who administer and closely monitor compliance with court-ordered sanctions, coupled with substance abuse treatment.

What do you think of...increasing treatment and rehabilitation for repeat DUI offenders?

Addressing DUI offenders' underlying issue of substance abuse, in conjunction with appropriate sanctions, has been shown to significantly reduce DUI recidivism rates among both first-time and repeat DUI offenders. Impaired driver involved crash rates are also reduced with offender substance abuse treatment and rehabilitation programs. Screening, Brief Intervention, and Referral to Treatment (SBIRT) has been shown to be an effective approach to addressing substance abuse among both alcohol and drug offenders.

What do you think of...promoting and monitoring the use of mandatory ignition interlocks?

Numerous studies have shown interlock programs reduce recidivism during the time the devices are installed and show promising effects for reducing alcohol-involved crashes. Research suggests that the effect dissipates once the device is removed, with more studies needed to evaluate the effect of ignition interlocks on general deterrence. To be most effective they must be part of a comprehensive impaired driving prevention program.

What do you think of... creating sobriety checkpoints?

Sobriety checkpoints involve law enforcement officers stopping vehicles at predetermined points to evaluate drivers for signs of impairment. Checkpoints may involve random stopping (for example, every third car) or brief screening of every driver passing through. The documented effectiveness of sobriety checkpoints comes from general deterrence of impaired driving, rather than actual arrests. Thirty-eight states, D.C., the Northern Mariana Islands, and Virgin Islands all conduct sobriety checkpoints.

What do you think of...creating state and local impaired driving enforcement task forces to increase the visibility of enforcement?

High visibility enforcement efforts have been evaluated extensively and are widely accepted as effective for reducing impaired driving related crashes and fatalities through deterrence. Whether the enforcement is through sobriety checkpoints or saturation patrols, the effectiveness of this strategy lies in the 'highly visible' enforcement messaging, delivered through a variety of media channels, including paid media.

What do you think of...prohibiting the sale of alcohol to offenders convicted of repeat impaired driving offenders?

Restricting alcohol sales to repeat DUI offenders has been a topic of discussion in several states. However, to date there are few applications (only Alaska and Utah) and no evaluations of the effectiveness, feasibility, or enforceability of selectively prohibiting alcohol sales to DUI offenders.

SECTION 2

As a means to reducing vehicle-related deaths and serious injuries, please indicate your level of support for the following ...

	Strongly Support	Somewhat Support	Somewhat Don't Support	Strongly Don't Support	Undecided
Increasing the penalties for refusing to take a breath or blood test	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Requiring mandatory arrests for an impaired driving first offense	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lowering the minimum number of previous impaired driving convictions before being punishable as a felony offense	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Promoting and monitoring the use of mandatory Ignition Interlocks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increasing the number of DUI courts and court-related services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Creating sobriety check points	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Prohibiting the sale of alcohol to offenders convicted of repeat impaired driving offenses	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increasing treatment and rehabilitation for repeat offenders	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Creating state and local impaired driving enforcement task forces to increase visibility of enforcement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Increasing mandatory minimum penalties and fines for repeat offenders	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Improving prosecution and encouraging aggressive enforcement of impaired driving laws	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Which strategies do you feel would be most effective, in an ideal world without limitations or barriers, on reducing vehicle-related deaths and serious injuries? Rank the strategies, with (1) being the most effective and (11) being the least effective. The answers will automatically shift around (move up and down) as you select #'s for each option.

<input type="text"/>	Improving prosecution and encouraging prosecutors to aggressively enforce impaired driving laws.
<input type="text"/>	Increasing mandatory minimum penalties and fines for repeat offenders.
<input type="text"/>	Creating state and local impaired driving enforcement task forces to increase visibility of enforcement.
<input type="text"/>	Creating sobriety check points.
<input type="text"/>	Prohibiting the sale of alcohol to offenders convicted of repeat impaired driving offenses.
<input type="text"/>	Increasing penalties for refusing to take a breath or blood test for the purpose of determining the alcohol concentration or presence of any drugs.
<input type="text"/>	Promoting and monitoring the use of mandatory ignition interlocks.
<input type="text"/>	Lowering the minimum number of previous impaired driving convictions that must be counted before constituting and being punishable as a felony offense.
<input type="text"/>	Increasing the number of DUI courts and court-related services.
<input type="text"/>	Requiring mandatory arrests for a first offense for an impaired driving offense.
<input type="text"/>	Increasing treatment and rehabilitation for repeat offenders.

SECTION 3

Are there other strategies or issues you believe need attention? Below are some ideas that have been identified as effective. These strategies weren't included in the scope of work outlined by the legislation that created the Impaired Driving Work Group. Do you have other ideas? Tell us about them in the comment box at the end of this page.

THESE STRATEGIES, LISTED IN THE TARGET ZERO PLAN AND THE WASHINGTON IMPAIRED DRIVING ACTION COMMITTEE STRATEGIC PLAN, ARE CONSIDERED PROVEN BASED ON AVAILABLE LITERATURE.

- **Implement the corridor safety model in high-crash locations where data suggests a high rate of impaired driving.**
- **Enhance law enforcement DUI training with Standard Field Sobriety Test (SFST) training and refresher training.**
- **Enhance law enforcement DUI training with Advance Roadside Impaired Driving Enforcement (ARIDE) training.**
- **Incarcerate offenders who fail to comply with court-ordered alternative sanctions.**
- **Suspend driver license administratively upon arrest.**

THESE IDEAS ARE IN THE SAME PLANS AS RECOMMENDED STRATEGIES.

- **Establish method for conducting home compliance checks on DUI offenders.**
- **Establish and support the Judicial Outreach Liaison Program.**
- **Expand the Drug Evaluation, Recognition, and Classification Program.**
- **Establish 24/7 Sobriety Program.**
- **Enforce and publicize zero tolerance laws for drivers under age 21.**

- **Monitor DUI offenders closely.**
- **Support efforts to simplify and streamline the DUI arrest process including developing an electronic DUI arrest package, utilizing the mobile impaired driving unit and BAC processors for high-visibility campaigns.**
- **Conduct well-publicized compliance checks of alcohol retailers to reduce sales to underage persons.**
- **Conduct well-publicized enforcement aimed at underage drinking parties.**
- **Encourage parents to talk with their children about the risks of alcohol and other drugs.**
- **Explore the implications to Washington for lowering the per se BAC limit from .08 to .05.**

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Appendix E: Abbreviations, Acronyms, Terms and Definitions

ARIDE = Advance Roadside Impaired Driving Enforcement
CDP = Chemical Dependency Professional
CTW = Countermeasures That Work
DBHR = Division of Behavioral Health and Recovery
DDACTS = Data Driven Approaches to Crime and Traffic Safety
DRE = Drug Recognition Expert
DUI = Driving Under the Influence
DWI = Driving While Intoxicated (This term is used in some other states, but not in Washington)
IDWG = Impaired Driving Work Group
GHSA = Governor’s Highway Safety Association
META = Meta Study
NCHRP = National Cooperative Highway Research Program
NHTSA = National Highway Traffic Safety Administration
P = Proven
R = Recommended
SFST = Standard Field Sobriety Tests
THC = Tetrahydrocannabinol
U = Unknown
WIDAC = Washington Impaired Driving Advisory Council
WTSC = Washington Traffic Safety Commission
WSP = Washington State Patrol

Washington State has focused on impaired driving for many years and, as a result, there is a great deal of data on impairment. This gives us many ways of looking at the problem. Here is a short list of impairment terms and their definitions as used in many Washington State documents and plans.

Impaired Driver Involved

Fatalities: Any driver with a Blood Alcohol Concentration (BAC) of 0.08 or higher or a positive drug result as confirmed by the state Toxicology Laboratory.

Serious Injuries: Any driver where the investigating officer or Drug Recognition Expert (DRE) indicated that the driver was impaired by drugs or alcohol and recorded in contributing circumstances.

Drug Impaired Driver Involved

Fatalities: Any driver with a positive drug result as confirmed by the state Toxicology Laboratory.

Alcohol Impaired Driver Involved

Fatalities: Any driver with a BAC of 0.08 or higher as confirmed by the state Toxicology Laboratory.

Serious Injuries: Any driver where the investigating officer or DRE indicated that the driver was impaired by alcohol and recorded in contributing circumstances.

Drinking Driver Involved

Fatalities: Any driver with a BAC of any value except zero as confirmed by the state Toxicology Laboratory (also includes alcohol impaired drivers).

Serious Injuries: Any driver where the investigating officer or DRE indicated that the driver was impaired by alcohol and recorded in contributing circumstances or driver sobriety is reported as “Had been drinking.”

RCW 46.61.502 – Driving Under the Influence (legal definition): In Washington State a person is guilty of driving while under the influence – of intoxicating liquor, marijuana, or any drug – if the person drives a vehicle within this state and:

- The person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW [46.61.506](#); or
- The person has, within two hours after driving, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW [46.61.506](#); or
- The person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or
- The person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.

Drug: Any substance that, when taken into the human body, can impair the ability of the person to operate a vehicle safely.

Fatality: A person who died within 30 days of a collision as a result of injuries sustained in the collision.

Per se Alcohol and Marijuana Limit: When a person is found to have, within two hours after driving, an alcohol concentration of .08 or higher or a THC concentration of 5.00 nanograms per milliliter of blood or higher as shown by an analysis of the person's breath or blood, that person is guilty “per se” of driving under the influence. No further proof is needed.

Serious Injury: Any injury other than a fatal injury that prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing before the injury occurred. This definition applies to traffic collision data only. This is not the legal definition or medical definition of serious injury.

Tetrahydrocannabinol (THC): The principal psychoactive constituent of the cannabis plant. Marijuana consists of the dried flowers and leaves of cannabis plants often selectively bred to produce high levels of THC and other psychoactive cannabinoids.

Appendix F: Additional References

Washington State Impaired Driving Strategic Plan, 2013
<http://www.wtsc.wa.gov/programs-priorities/impaired-driving/>

Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, 7th Edition, Chapter 1 (National Highway Traffic Safety Administration),
<http://www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf>

NCHRP Report 500, Volume 16: A Guide for Reducing Alcohol-Related Collisions (National Cooperative Highway Research Program, Transportation Research Board),
http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_500v16.pdf

Washington's Target Zero Teams Project: Reduction in Fatalities During Year One (National Highway Traffic Safety Administration), www.nhtsa.gov/staticfiles/nti/pdf/811687.pdf

NCHRP Report 501: Integrated Safety Management Process (National Cooperative Highway Research Program, Transportation Research Board),
http://onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_501.pdf

The Guiding Principles of DWI Courts (National Center for DWI Courts),
<http://dwicourts.org/learn/about-dwi-courts/-guiding-principles>