

**Program Summary
Judiciary
DUI Fines, Surcharges and Assessments**

Program Overview

Driving Under the Influence (DUI) fines and assessments are levied against all individuals convicted of operating motorized vehicles (automobiles, watercraft and aircraft) under the influence of alcohol. These fines and assessments range in severity, depending on the number of prior convictions and level of intoxication, with additional convictions and higher blood-alcohol concentrations (BAC) leading to larger monetary penalties.

A first-time conviction for regular DUI, in which the offender's BAC is at least 0.08% but less than 0.15%, brings an initial fine of \$250. A second will result in a \$500 fine.

A third offense can result in a conviction of "aggravated" DUI and will result in a \$750 fine.

A third category of DUI, called "extreme DUI," occurs when an individual is convicted with a BAC of 0.15% or higher. This will result in a \$250 fine for first convictions and a \$500 fine for second convictions. An additional "extreme DUI" category also was created in FY 2007 that increased penalties to \$500 for the first convictions and \$1,000 for second convictions for those whose BAC is 0.20% or higher.

First and second convictions for DUI are misdemeanors, which mean that these cases are handled within local Justice or Municipal Courts. Third DUI convictions are felonies, which means that these cases may be tried in Superior Court.

Program Funding

Monetary penalties for DUI convictions start with a base fine of \$250 to \$750 and increase with additional assessments of up to \$1,500, with the amount varying by the type of charge on which the offender is convicted, the offender's past conviction history, and the level of intoxication.

Monies collected through these penalties consist of a base fine, surcharges, and up to 3 additional assessments. Base fines are retained by the city or county in the court's jurisdiction and are not transferred to the state. In addition to the base fines, surcharges that equal 84% of the base fine are levied for each DUI conviction. A probation surcharge is also added. These surcharges are disbursed by the State Treasurer to the funds as outlined in *Table 1*.

The additional assessments also are sent to the state and are deposited into 1 of 3 funds: the General Fund, the DUI Abatement Fund, or the Prison Construction and Operations Fund (PCOF). The DUI Abatement Fund, created in 1998 (Laws 1998, Chapter 302) and administered by the Oversight Council on DUI Abatement, provides grants to cities, counties, and tribal governments to conduct enforcement, judicial, treatment, and educational activities designed to deter drinking and driving. Monies in PCOF, established in 2003 (Laws 2003, Chapter 5) and administered by the Arizona Department of Corrections, are to be used to cover costs related to prison overcrowding, as well as departmental support and maintenance.

An extra assessment of \$250 is also levied on first and second convictions for extreme DUI and aggravated DUI when the offender is operating an automobile. *Table 2* gives a comprehensive overview of the various monetary penalties for DUI.

Base fines remain with the county and totals were unavailable. However, in FY 2008, \$13,890,200 was deposited into the Prison Construction and Operations Fund, a 1% increase above FY 2007. The FY 2006 and FY 2007 totals for the DUI Abatement Fund were not available; however, in FY 2008, \$1,996,100 was deposited into the DUI Abatement Fund. *Table 3* lists these totals.

Table 1		
Court Surcharges		
Sample Distribution of a \$250 DUI Fine		
<u>Base Fine and Surcharges</u>	<u>Surcharge</u>	<u>Amount</u>
Base fine (retained by County/City)	NA	\$250.00
Criminal Justice Enhancement Fund (CJEF)	47%	117.50
Medical Services Enhancement Fund (MSEF)	13%	32.50
Clean Elections Fund (CEF)	10%	25.00
Fill the Gap (FTG)	7%	17.50
Deoxyribonucleic Acid Identification Fund (DNA)	7%	17.50
Probation Surcharge	\$10.00	10.00

Table 2

DUI Fines and Assessments

Offense	Base Fine	Surcharges (84% Base)	Probation Surcharge	PCOF	General Fund	DUI Abatement Fund	Total
DUI (.08%)							
1 st conviction	\$250	\$210	\$10	\$ 500	\$ 500		\$1,470
2 nd conviction	500	420	10	1,250	1,250		3,430
Aggravated DUI							
3 rd conviction	\$750	\$630	\$10	\$1,500	\$1,500		\$4,390
(automobile)	750	630	10	1,500	1,500	\$250	4,640
Extreme DUI (.15%)							
1 st conviction	\$250	\$210	\$10	\$1,000	\$1,000		\$2,470
(automobile)	250	210	10	1,000	1,000	\$250	2,720
2 nd conviction	500	420	10	1,250	1,250		3,430
(automobile)	500	420	10	1,250	1,250	\$250	3,680
Extreme DUI (.20%) (effective Sept. 2007)							
1 st conviction	\$ 500	\$420	\$10	\$1,000	\$1,000		\$2,580
(automobile)	500	420	10	1,000	1,000	\$250	3,180
2 nd conviction	1000	840	10	1,250	1,250		4,350
(automobile)	1000	840	10	1,250	1,250	\$250	4,600

Table 3

Fund Totals

Fund	FY 2006	FY 2007	FY 2008
PCOF	\$11,307,600	\$13,807,500	\$13,890,200
DUI Abatement	NA	NA	1,996,100

Totals for the additional General Fund assessment are not included because these monies are not tracked separately from other General Fund deposits.

Recent Programmatic Changes

Laws 2003, Chapter 5, updated the DUI statutes, creating and establishing a source of revenue for the PCOF. Laws 2005, Chapter 307, further increased DUI penalties and deposited these additional assessments in the General Fund. These latest changes also included an appropriation of \$6,897,000 for the Department of Public Safety (DPS) for safety equipment and the Gang Intelligence Team Enforcement Mission. Chapter 307 includes intent language stating that the latest DUI assessments would offset the costs of the DPS appropriation.

Two changes were made in FY 2007 that increased the penalties for driving under the influence. Laws 2007, Chapter 219 added another “extreme DUI” category, one in which a convicted individual’s BAC is 0.20% or higher, along with increased penalties. Also, Laws 2007, Chapter 261 increased the DNA Identification Fund surcharge from 3% to 7%, bringing the total surcharge level to 84% of the total fine. This percentage will decrease to 6% in FY 2012.

Performance Measures

Few existing performance measures could be found for DUI assessments, but a measure that may be useful is the collection rate of DUI fines and assessments, or how successful the courts have been in collecting these monies. The Administrative Office of the Courts (AOC) measures collection rates as a percentage of total fines issued. As of FY 2007, the most recent available data, courts had collected 69.4% of total fines levied. The time period during which this collection took place, however, was unavailable. This measure may allow us to determine what impact additional assessments may have on collection rates.

AOC also measures recidivism, to a degree. Of those arrested for DUI in 2 counties – Cochise and Gila – 1% had another DUI charge pending in court. This statistic is limited, however, by the fact that only 2 counties were surveyed. No statewide data were available.

AOC also conducted a study in FY 2007 that measured the speed at which DUI cases are processed through local court systems. The study, intended to improve the effectiveness of DUI case processing, was conducted in 11 limited jurisdiction courts. Results show that, in these courts, 76.9% of DUI cases were adjudicated within 4 months and 88.6% within 6 months. These results showed improvement over a similar FY 2005 study.

Performance Measures

<u>Performance Measure</u>	<u>FY 2005 Actual</u>	<u>FY 2007 Actual</u>	<u>FY 2008 Estimate</u> ^{1/}
DUI adjudication rate within 4 months, 6 months	66.8%, 81.6%	76.9%, 88.6%	NA
Collection rate (all fines – not DUI-specific)	68.5%	69.4%	NA
Percent of DUI arrestees with DUI charges pending	1%	1%	NA
Number DUI arrests per 1,000	3.04 (FY 2003)	2.95 (FY 2004)	NA

^{1/} In FY 2008, AOC did not report any of the previously identified performance measures as past performance measure data was retrieved through studies conducted on an intermittent basis and no studies were performed in FY 2008.