Legislative Research Council
South Dakota

Issue Memorandum 2014-04

# Liquidated Costs and Surcharges Collected by the Unified Judicial System

## Background

Liquidated costs and the Court Automation Surcharge have provided an ongoing revenue source for state government, the courts, and local governments for many years. This memorandum examines the history, purpose, and revenue generated by liquidated court costs and court automation surcharges.

## Overview

Tables 1 and 2 show the schedules for criminal and civil court charges. Liquidated costs and court automation surcharges are not the only charges collected by UJS personnel. Depending upon the type of case, a victim's compensation surcharge, law library fee, or crime of domestic violence or abuse surcharge may also be collected. The clerks of court in county courthouses throughout the state are responsible for collecting these various costs and surcharges.

**TABLE 1 - Schedule of Court Charges**
Unified Judicial System

| | Liquidated Costs | Court Automation Surcharge | Victim's Compensation Surcharge | Total Court Costs |
|---|---|---|---|---|
| ***CRIMINAL*** **COURT COSTS FOR CIRCUIT COURTS** | | | | |
| All Felonies | $40.00 | $61.50 | $2.50 | $104.00 |
| All Class 1 Misdemeanors | $40.00 | $41.50 | $2.50 | $84.00 |
| Class 2 Misdemeanors (violation of state law) | $40.00 | $23.50 | $2.50 | $66.00 |
| All Violations of County or Municipal Ordinances | $40.00 | $17.50 | $2.50 | $60.00 |
| All Violations of Administrative Rules with Criminal Penalties | $40.00 | $17.50 | $2.50 | $60.00 |
| Petty Offenses | $0.00 | $0.00 | $0.00 | $0.00 |

** As per SDCL 25-10-17.1, effective July 1, 2011, any person convicted of a crime of domestic violence or domestic abuse, the court shall order additional court costs of $25 to be paid to the clerk of courts.*

**TABLE 2 - Schedule of Filing Fees and Court Costs**

Civil Filings Only

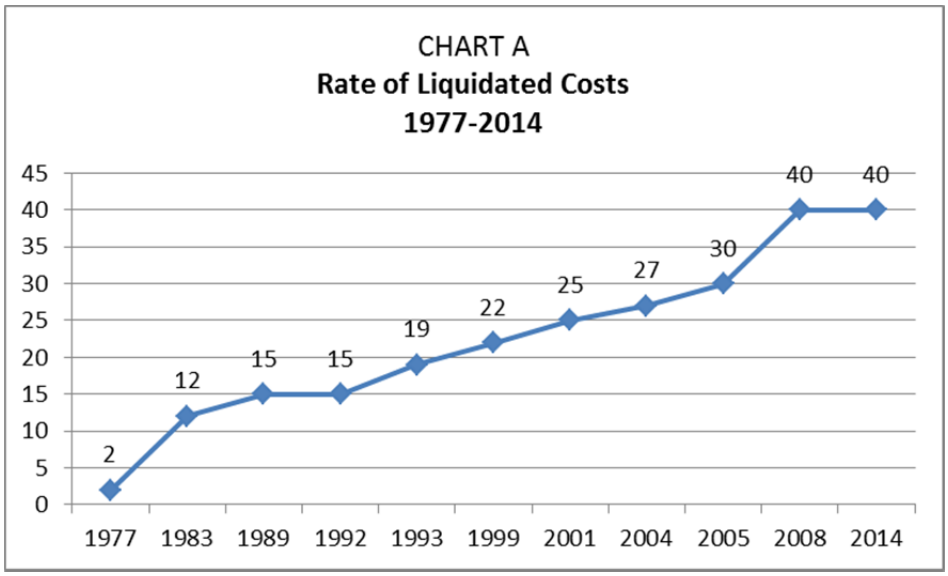
| | Filing Fee | Court Automation Surcharge | Law Library Fee | Total Court Costs |
|---|---|---|---|---|
| ***CIVIL* COURT COSTS** | | | | |
| Probate | | | | |
| Estate | $75.00 | $40.00 | $5.00 | $120.00 |
| Summary Disposition | $25.00 | $40.00 | $5.00 | $70.00 |
| Termination | $25.00 | $40.00 | $5.00 | $70.00 |
| Special Administration | $25.00 | $40.00 | $5.00 | $70.00 |
| Determination of Inheritance Tax | $25.00 | $40.00 | $5.00 | $70.00 |
| Guardianships (includes all subsequent papers) | $25.00 | $40.00 | $5.00 | $70.00 |
| Safekeeping and Filing of Wills | $2.00 | $0.00 | $0.00 | $2.00 |
| Civil | | | | |
| Divorce | $50.00 | $40.00 | $5.00 | $95.00 |
| Child Support Modification | $50.00 | $0.00 | $0.00 | $50.00 |
| Civil cases filed for jury or court trial | $25.00 | $40.00 | $5.00 | $70.00 |
| Default Judgment | $25.00 | $40.00 | $5.00 | $70.00 |
| Default with Garnishment | $25.00 | $40.00 | $5.00 | $70.00 |
| Dissolution of Corporation | $25.00 | $40.00 | $5.00 | $70.00 |
| Foreclosure | $25.00 | $40.00 | $5.00 | $70.00 |
| Quiet Title | $25.00 | $40.00 | $5.00 | $70.00 |
| Appeals from an Administrative Agency | $25.00 | $40.00 | $5.00 | $70.00 |
| Adoptions | $25.00 | $40.00 | $5.00 | $70.00 |
| Name Change | $25.00 | $40.00 | $5.00 | $70.00 |
| Issuing the following: | | | | |
| Transcript of Judgment | $5.00 | $0.00 | $0.00 | $5.00 |
| Execution | $5.00 | $0.00 | $0.00 | $5.00 |
| Special Execution | $5.00 | $0.00 | $0.00 | $5.00 |
| Writ or Commission | $5.00 | $0.00 | $0.00 | $5.00 |
| Filing and/or Docketing a Transcript of Judgment | $5.00 | $0.00 | $0.00 | $5.00 |
| Renewing a Judgment | $5.00 | $0.00 | $0.00 | $5.00 |
| Miscellaneous | | | | |
| Record Searches (each name) | $20.00 | $0.00 | $0.00 | $20.00 |
| Subpoenas (civil) | $2.00 | $0.00 | $0.00 | $2.00 |
| Authenticated Copies | $2.00 | $0.00 | $0.00 | $2.00 |
| Certified Copies | $2.00 | $0.00 | $0.00 | $2.00 |
| Small Claims | | | | |
| Where the amount in controversy is: | | | | |
| $100 or less | $10.57 | $12.00 | $2.00 | $24.57 |
| $100.01 to $1,000.00 | $16.57 | $12.00 | $2.00 | $30.57 |
| $1,000.01 to $3,999.99 | $26.57 | $12.00 | $2.00 | $40.57 |
| $4,000.00 to $12,000.00 | $26.57 | $16.00 | $2.00 | $44.57 |
| * each additional defendant add: | $6.57 | $0.00 | $0.00 | $6.57 |
| Supreme Court Appeals | | | | |
| To Clerk of Circuit Court | $50.00 | $0.00 | $0.00 | $50.00 |
| To Clerk of Supreme Court | $50.00 | $50.00 | $0.00 | $100.00 |

** Court automation fee may not be collected in any civil action or proceeding for judicial remedy commenced by the state, a county, a municipality, or a school district.*

*** Court automation fee may not be collected in any proceeding commenced in the Supreme Court by the state, a county, a municipality, or a school district.*

## Liquidated Costs

South Dakota began collecting penalty assessments in 1977. Originally the assessment was two dollars and deposited solely into the Law Enforcement Officers Training Fund (LEOTF). In 1982, the Legislature increased the rate and allocated a portion to the court appointed attorney and public defender fund. It was at that time the Legislature created the term "liquidated costs". The current rate, as established in SDCL 23-3-52, is forty dollars. The purpose and the distribution of revenue from liquidated costs have changed over time. Because of these changes and due to the decline in the number of filings in recent years, revenues collected from liquidated costs are having a difficult time keeping up with the demands put on them. The historical trend of the rate of liquidated costs is shown in Chart A below.



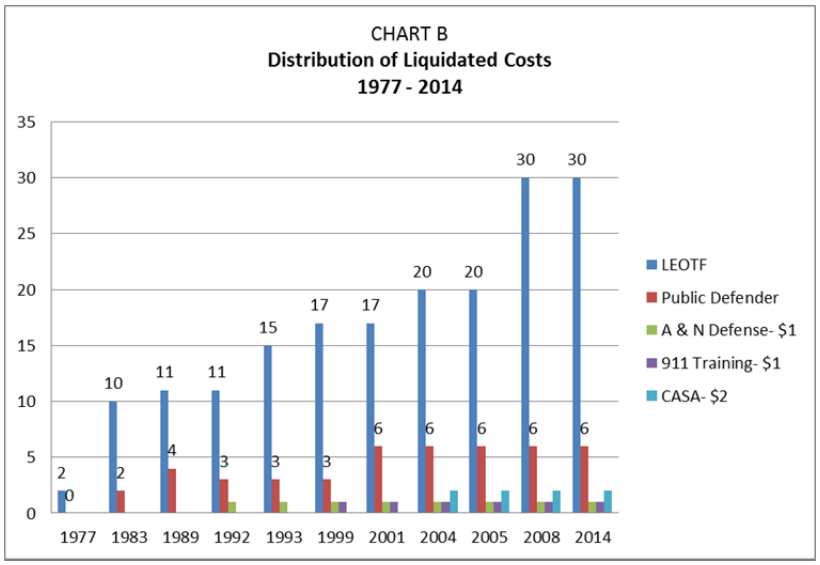

Since its creation, the rate has increased numerous times, including twice in 1998. The rate of the fee has not been the only thing that has changed over time however; the violations covered by the fee have expanded too. Table 3 shows the history of rate increases and the types of violations that liquidated costs were charged against.

**TABLE 3 - History of Rates and Covered Violations**

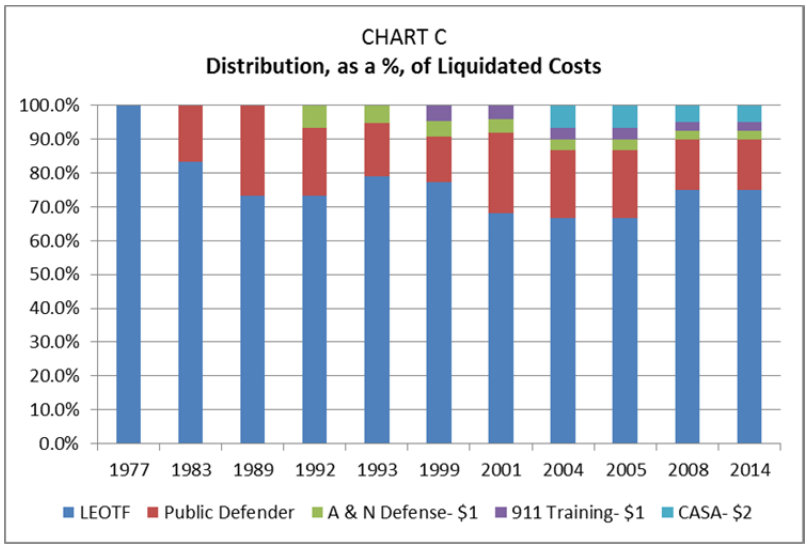
| Year | Fee | Violations |
|---|---|---|
| 1977 | $2 or 5% of fines and penalties, whichever is greater | Criminal and petty offenses, including state or local motor vehicle violations or for violation of hunting and fishing statutes |
| 1982 | $12 | Violation of state statutes or regulations that have criminal penalties<br>Violation of county or municipal ordinances regulating moving traffic violations |
| 1987 | $15 | Same as Above |
| 1991 | $15 | Violation of state statutes or regulations that have criminal penalties<br>Violation of county or municipal ordinances |
| 1992 | $19 | Same as Above |
| 1998 | $20 | Same as Above |
| 1998 | $21 | Same as Above |
| 2000 | $25 | Same as Above |
| 2003 | $27 | Same as Above |
| 2004 | $30 | Same as Above |
| 2007 | $40 | Same as Above |

If a fine is suspended or reduced, liquidated costs are not to be reduced unless the judge waives the payment if they would impose a hardship upon a convicted person or the person's immediate family.

Currently the proceeds of liquidated costs are deposited into five statutorily created funds: the LEOTF (established in 1977), the Court Appointed Attorney and Public Defender Fund (1982), the Abused and Neglected Child Defense Fund (1991), the 911 Telecommunicator Fund (1998), and the Court Appointed Special Advocates (CASA) Fund (2003). Chart B shows the distribution of liquidated costs.




For every criminal conviction, a violator is currently charged $40. Of that amount, $30 goes to the LEOTF, $6 goes to the Court Appointed Attorney and Public Defender Fund, $2 goes to the CASA Fund, $1 goes to the 911 Telecommunicator Training Fund, and $1 goes to the Abused and Neglected Child Defense Fund. The distribution of liquidated cost revenue, as a percentage, has also fluctuated over time. Chart C shows the proportional distribution.




Since 1982 the LEOTF, the original recipient of liquidated cost revenue, has continued to receive a smaller share. In 1982 the LEOTF received 83.3 percent of liquidated cost revenue and in 2004 it received 66.7 percent. However, the 2008 increase in liquidated costs did increase the LEOTF share to 75.0 percent. Over time the Court Appointed Attorney and Public Defender's Fund has received a larger share of revenue. In 1982 it received 16.7 percent, and in 2004 it received 20.0 percent. It currently receives 15.0 percent of the revenue. The revenue shares for the Abused and Neglected Child Defense Fund, the 911 Telecommunicator Training Fund, and the CASA Fund have slowly declined over the course of their existence, and are currently receiving 2.5 percent, 2.5 percent, and 5.0 percent, respectively.

## Law Enforcement Officers Training Fund

The Legislature created the Law Enforcement Officers Training Fund in 1977 (SDCL 23-3-51). The original purpose of the fund was to "pay necessary cost of law enforcement training and to pay expense for the operation of the law enforcement training and to pay expenses for the operation of the law enforcement officers standards commission [sic]." (SL 1977, ch 194, §2) Over the thirty-seven years that the fund has existed, the Legislature has modified its purpose four times. Currently, the fund may be used "to pay necessary costs of law enforcement, law enforcement training, and judicial training and to pay expenses for the operation of the Law Enforcement Officers Standards Commission." The fund is also to be used for "highway safety law enforcement training; the operation of a statewide drug enforcement unit; state law enforcement equipment; the State Forensic Laboratory; the training of prosecutors and Unified Judicial System (UJS) personnel; and other law enforcement and training purposes." (SDCL 23-3-55) Table 4 shows the financial condition of the LEOTF for FYs 2012 – 2015.

**TABLE 4 - Law Enforcement Officers Training Fund**

| | ACTUAL FY 2012 | ACTUAL FY 2013 | ACTUAL FY 2014 | ESTIMATED FY 2015 |
|---|---|---|---|---|
| **Beginning Balance** | **57,630** | **(324,034)** | **(257,236)** | **(549,356)** |
| Receipts: | | | | |
| Licenses, Permits, and Fees | 525 | 2,200 | 750 | - |
| Fines, Forfeits and Penalties | 3,118,902 | 2,956,367 | 2,922,079 | 2,900,000 |
| Use of Money and Property | 7,254 | - | 3,689 | - |
| Sales and Services | 450 | - | - | - |
| Other Revenue | 25,235 | 12,229 | 15,607 | - |
| Total Receipts | 3,152,367 | 2,970,796 | 2,942,125 | 2,900,000 |
| **Total Available** | **3,209,997** | **2,646,763** | **2,684,889** | **2,350,644** |
| Expenditures | | | | |
| Attorney General | 2,952,395 | 2,906,388 | 3,234,245 | 3,153,516 |
| Department of Corrections | 143,075 | - | - | - |
| Unified Judicial System | 438,561 | - | - | 337,396 |
| Total Expenditures | 3,534,030 | 2,906,388 | 3,234,245 | 3,490,912 |
| **Ending Balance** | **(321,645)** | **(257,236)** | **(549,356)** | **(1,140,268)** |
| Ending Balance as % of Expenditures | -9.1% | -8.9% | -17.0% | -32.7% |

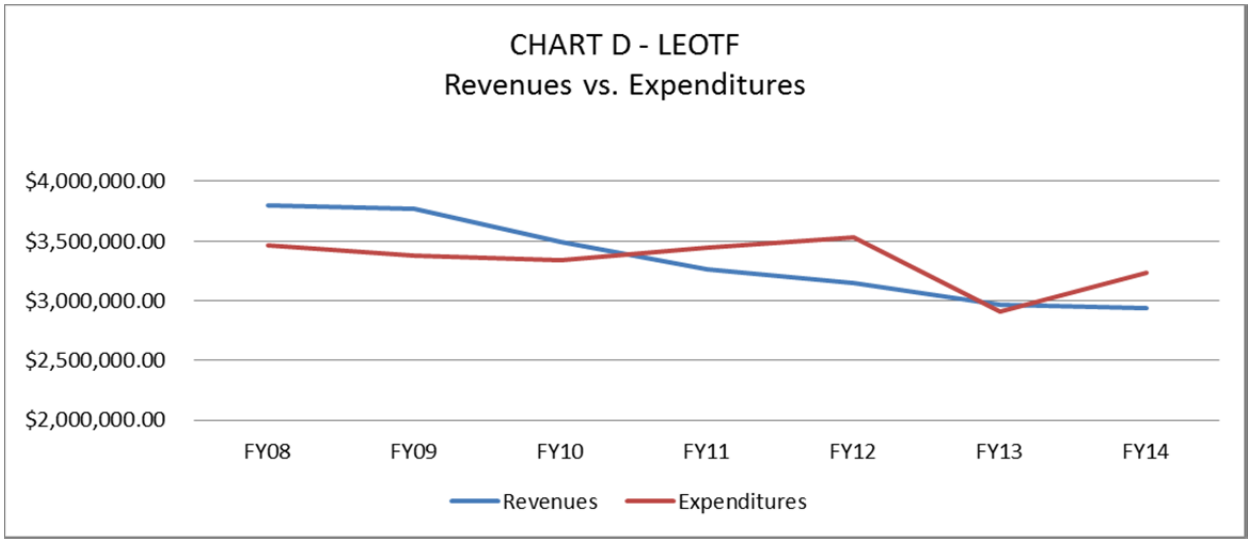
Notes: Actual FY 2012, FY 2013, and FY 2014 data provided by the Department of Legislative Audit.
Revenue and expenditure estimates for FY 2015 provided by the Attorney General's Office.

Revenue deposited into the LEOTF has been declining since 2008. In August of 2013, the Auditor General performed a comparison and analysis for FY2008 and FY2012 to determine possible reasons for the decline. The initial comparison found a significant drop in the number of offenses when comparing the two fiscal years coinciding with a drop in LEOTF revenues. A risk assessment was performed and it identified five possible reasons for a drop in offenses and corresponding LEOTF revenues:

- less law enforcement and/or a more law abiding citizenry;
- tickets being written and collected locally rather than through the UJS system;
- significant backlog of tickets not yet processed through UJS system;
- costs being waived by judges; and
- systemic problems within the UJS system or related to the implementation of the new Odyssey system.

After reviewing each of the possible reasons, the Auditor General concluded that the most likely reason for the drop in LEOTF revenue was simply that law enforcement is writing fewer tickets and/or the is citizenry is more law abiding. See Appendix A for the full report.

Expenses on the other hand rose only marginally between FY2008 and FY2012. In FYs 2013 and 2014, the Unified Judicial System utilized General Funds and Court Automation Funds in lieu of their allotted LEOTF funds in order to reduce the impact on the fund which already had a negative ending balance. In addition, the Department of Corrections used General Funds in lieu of LEOTF funds for the same reason.




The LEOTF has experienced negative cash balances for the past three fiscal years. In an effort to address an ongoing problem, the Government Operations and Audit Committee met several times during the 2014 Legislative Interim to discuss this issue. The committee continues to work in cooperation with the Office of the Attorney General, the Unified Judicial System, the Bureau of Finance and Management, and the entire Legislature to find both short-term and long-term solutions to address the negative cash balance issue.

## Court Appointed Attorney and Public Defender's Fund

The Legislature created the Court Appointed Attorney and Public Defender's Fund in 1982 (SDCL 23A-40-17). Its purpose, set forth in SDCL 23A-40-20, is to partially reimburse the counties for the costs of legal counsel for indigents. Within sixty days after the end of a fiscal year, the state treasurer determines the counties' total cost for court appointed attorneys and public defender offices. The state treasurer then prorates and distributes the money in the fund to the counties. For example, if a county spends 2 percent of the total spent within the state, that county would receive 2 percent of the money within the fund. This fund is continuously appropriated. The following Table 5 shows the financial condition of the Court Appointed Attorney and Public Defender's Fund for FYs 2012 – 2015.

**TABLE 5 - Court Appointed Attorney & Public Defender's Fund**

| | ACTUAL FY 2012 | ACTUAL FY 2013 | ACTUAL FY 2014 | ESTIMATED FY 2015 |
|---|---|---|---|---|
| **Beginning Balance** | **646,045** | **624,013** | **591,611** | **585,216** |
| Receipts: | | | | |
| Fines, Forfeits and Penalties | 624,013 | 591,611 | 585,216 | 585,000 |
| **Total Available** | **1,270,058** | **1,215,624** | **1,176,827** | **1,170,216** |
| Expenditures: | | | | |
| Distributed to Counties | 646,045 | 624,013 | 591,611 | 585,216 |
| **Ending Balance** | **624,013** | **591,611** | **585,216** | **585,000** |
| Ending Balance as % of Expenditures | 96.6% | 94.8% | 98.9% | 100.0% |
| Counties' Total Costs | 9,747,593 | 9,890,154 | 11,477,088 | 11,500,000 |
| % of Counties' Costs Covered by State | 6.6% | 6.3% | 5.2% | 5.1% |

Notes: Actual FY 2012, FY 2013, and FY 2014 data provided by the Department of Legislative Audit.
Revenue and expenditure estimates for FY 2015 provided by the State Treasurer's Office.

The Court Appointed Attorney and Public Defender Fund faces a similar situation as the Law Enforcement Officers Training Fund due the decline in the number of tickets being issued. Table 5 shows a decline in the revenue collected in this fund and a corresponding decline in the percentage of counties' costs covered by the state.

## Abused and Neglected Child Defense Fund

The Legislature created the Abused and Neglected Child Defense Fund in 1991. (SDCL 26-8A-19) Its purpose, similar to the previously discussed fund, is to partially reimburse the counties for the costs of guardian ad litems (special advocates) for children that have been adjudicated as being abused or neglected. A guardian ad litem, as defined by SDCL 26-8A-20, is an officer of the court who has the responsibility to represent the best interests of the child and to assist the child's attorney.

Within sixty days after the end of a fiscal year, the state treasurer determines the total cost within the state for the representation of abused and neglected children. The state treasurer then prorates and distributes the money in the fund to the counties. For example, if a county spends 2 percent of the total spent within the state, that county would receive 2 percent of the money within the fund. This fund is continuously appropriated. Table 6 shows the financial condition of the Abused and Neglected Child Defense Fund for FYs 2012 – 2015.

**TABLE 6 - Abused and Neglected Child Defense Fund**

| | ACTUAL FY 2012 | ACTUAL FY 2013 | ACTUAL FY 2014 | ESTIMATED FY 2015 |
|---|---|---|---|---|
| **Beginning Balance** | **107,517** | **103,956** | **98,597** | **97,307** |
| Receipts: | | | | |
| Fines, Forfeits and Penalties | 103,956 | 98,597 | 97,307 | 96,500 |
| **Total Available** | **211,472** | **202,553** | **195,904** | **193,807** |
| Expenditures: | | | | |
| Distributed to Counties | 107,517 | 103,956 | 98,597 | 97,307 |
| **Ending Balance** | **103,956** | **98,597** | **97,307** | **96,500** |
| Ending Balance as % of Expenditures | 96.7% | 94.8% | 98.7% | 99.2% |
| Counties' Total Costs | 1,096,956 | 1,339,241 | 1,344,403 | 1,350,000 |
| % of Counties' Costs Covered by State | 9.8% | 7.8% | 7.3% | 7.2% |

Notes: Actual FY 2012, FY 2013, and FY 2014 data provided by the Department of Legislative Audit.
Revenue and expenditure estimates for FY 2015 provided by the State Treasurer's Office.

For similar reasons to those mentioned before, the Abused and Neglected Child Defense fund is experiencing a similar decline in revenue and corresponding decline in the percentage of counties' costs covered by the state.

**911 Telecommunicator Training Fund**

The Legislature created the 911 Telecommunicator Training Fund in 1998 (SDCL 34-45-31). Its purpose is to train and certify 911 telecommunicators. The Law Enforcement Officers Standards Commission establishes the employment qualifications and training standards. The Division of Criminal Investigation is responsible for authorizing disbursements from the fund which is continuously appropriated. Table 7 below shows the financial condition of the 911 Telecommunicator Training Fund for FYs 2012 – 2015.

**TABLE 7 - 911 Telecommuticator Training Fund**

| | ACTUAL FY 2012 | ACTUAL FY 2013 | ACTUAL FY 2014 | ESTIMATED FY 2015 |
|---|---|---|---|---|
| **Beginning Balance** | **1,803** | **(93,197)** | **(170,989)** | **(290,257)** |
| Revenues: | | | | |
| Fines, Forfeits and Penalties | 103,996 | 98,596 | 97,461 | 95,000 |
| Other Revenue | - | 10,026 | 43 | - |
| Total Receipts | 103,996 | 108,622 | 97,504 | 95,000 |
| **Total Available** | **105,799** | **15,425** | **(73,485)** | **(195,257)** |
| Expenditures: | | | | |
| Total 911 Training Expenditures | 198,996 | 186,415 | 216,772 | 220,061 |
| **Ending Balance** | **(93,197)** | **(170,989)** | **(290,257)** | **(415,318)** |
| Ending Balance as % of Expenditures | -46.8% | -91.7% | -133.9% | -188.7% |

Notes: Actual FY 2012, FY 2013, and FY 2014 data provided by the Department of Legislative Audit.
Revenue and expenditure estimates for FY 2015 provided by the Attorney General's Office.

The 911 Telecommuticator Training Fund has reported a negative cash balance for the past three fiscal years due to declining revenues and higher expenses for training and certification of 911 telecommunicators. This trend is likely to continue barring a rate increase or another funding source becoming available for training and certification.

## Court Appointed Special Advocates Fund

The Legislature created the Court Appointed Special Advocates Fund in 2003 (SDCL 16-2-51). Its purpose is to finance grants awarded to nonprofit CASA programs which provide volunteers for abused and neglected children. A CASA volunteer is a lay advocate for a child who assists the child's attorney and the court by making recommendations about the welfare of the child. The CASA Commission establishes the applications procedures and awards the grants. State law does not specify the quantity or the size of grants. In FY 2014, $190,000 was awarded to six CASA programs across the state.

The commission is composed of five members with three-year terms. The Governor appoints three people: a person who has experience with the investigation of child abuse and neglect, either a former or current legislator, and a person who has experience with child abuse and neglect issues in a tribal setting. The Chief Justice appoints two people: a person with experience with providing treatment services to children that are victims of abuse and neglect and a person with a judicial or legal service background who has experience and knowledge of abuse and neglect proceedings. The CASA Commission is staffed by UJS personnel. Table 8 shows the financial status of the CASA Fund for FYs 2012 – 2015.

**TABLE 8 - Court Appointed Special Advocates Fund**

| | ACTUAL FY 2012 | ACTUAL FY 2013 | ACTUAL FY 2014 | ESTIMATED FY 2015 |
|---|---|---|---|---|
| **Beginning Balance** | **11,015** | **21,941** | **20,951** | **26,458** |
| Revenues: | | | | |
| CASA Revenue (Liquidated Costs) | 207,981 | 197,104 | 194,854 | 193,000 |
| Interest Earned | 4,013 | 2,480 | 1,573 | 1,500 |
| Total Receipts | 211,994 | 199,584 | 196,426 | 194,500 |
| **Total Available** | **223,009** | **221,525** | **217,378** | **220,958** |
| Expenditures: | | | | |
| Administration | 1,069 | 573 | 920 | 1,066 |
| CASA Grants | 200,000 | 200,000 | 190,000 | 190,000 |
| Total Expenditures | 201,069 | 200,573 | 190,920 | 191,066 |
| **Ending Balance** | **21,941** | **20,951** | **26,458** | **29,892** |
| Ending Balance as % of Expenditures | 10.9% | 10.4% | 13.9% | 15.6% |

Notes: Actual FY 2012, FY 2013, and FY 2014 data provided by the Department of Legislative Audit.
Revenue and expenditure estimates for FY 2015 provided by the Unified Judicial System.

The CASA fund is also experiencing a similar decline in revenue and corresponding reduction in the amount available for grants.

## Court Automation Surcharge

South Dakota has collected court automation surcharges since 1990. The original $2.50 surcharge generated revenue to fund the operation of a new criminal justice information system and other information and accounting systems. Changes to the court automation surcharge have occurred four times since 1990. Table 9 shows the history of rates and the type of cases from which surcharges were collected.

**TABLE 9 - Court Automation Surcharges since 1990**

| Year | Civil Actions | Rate | Criminal Actions | Rate |
|---|---|---|---|---|
| 1990 | Civil cases, excluding small claims | $2.50 | Violation of state statutes or regulations that have criminal penalties<br>Violation of county or municipal traffic ordinances | $2.50 |
| 1991 | Civil cases, excluding small claims | $5 | Violation of state statutes or regulations that have criminal penalties<br>Violation of any county or municipal ordinances | $5 |
| 1999 | Civil cases | $15 | All felonies | $25.50 |
| | Small claims: | | Class 1 misdemeanor | $15.50 |
| | < $4,000 | $3 | Class 2 misdemeanor | $8.50 |
| | ≥ $4,000 | $5 | | |
| | | | Violation of any county or municipal ordinances or administrative rules having criminal penalties | $5.50 |
| | Cases filed with Supreme Court | | | $20 |
| 2004 | Civil cases | $20 | All felonies | $30.50 |
| | Small claims: | | Class 1 misdemeanor | $20.50 |
| | < $4,000 | $6 | Class 2 misdemeanor | $11.50 |
| | ≥ $4,000 | $8 | | |
| | | | Violation of any county or municipal ordinances or administrative rules having criminal penalties | $8.50 |
| | Cases filed with Supreme Court | | | $20 |
| 2010 | Civil cases | $40 | All felonies | $61.50 |
| | Small claims: | | Class 1 misdemeanor | $41.50 |
| | < $4,000 | $12 | Class 2 misdemeanor | $23.50 |
| | ≥ $4,000 | $16 | | |
| | | | Violation of any county or municipal ordinances or administrative rules having criminal penalties | $17.50 |
| | Cases filed with Supreme Court | | | $50 |

Like the liquidated costs charge, if a fine is suspended or reduced, automation surcharges are not to be reduced unless the judge waives the payment if they would impose a hardship upon a convicted person or the person's family.

## Court Automation Fund

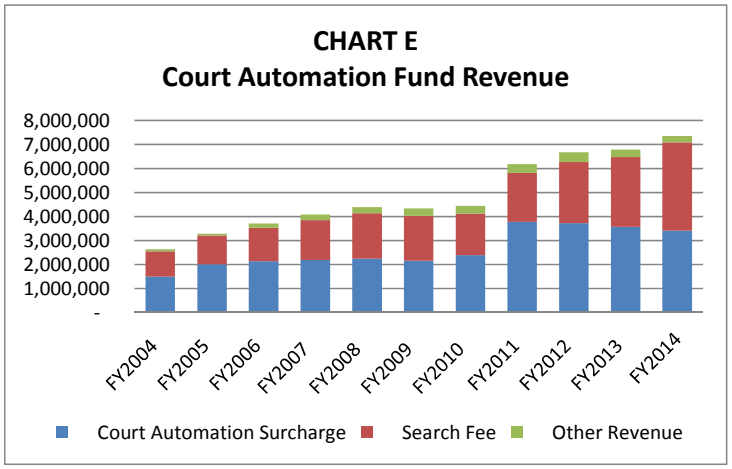
The Court Automation Fund's purpose is "to pay necessary costs for court automation projects to improve information or case management systems or the administration of justice." (SDCL 16-2-44) In addition to UJS personnel, the Court's information systems are utilized, to varying degrees, by several separate state, federal, or nongovernmental agencies or programs. UJS also shares data with various units of local government and the public. Table 10 shows the financial status of the Court Automation Fund for FYs 2012 – 2015.

**TABLE 10 - UJS Court Automation Fund**

| | ACTUAL FY 2012 | ACTUAL FY 2013 | ACTUAL FY 2014 | ESTIMATED FY 2015 |
|---|---|---|---|---|
| **Beginning Balance** | **5,442,578** | **6,618,301** | **4,993,796** | **5,498,426** |
| Receipts: | | | | |
| Circuit Court Surcharge Fee | 3,716,558 | 3,569,966 | 3,409,572 | 3,273,189 |
| Fax Filing Fees | 10,780 | 7,811 | 5,362 | 5,000 |
| Victims Compensation 3% Admin. | 8,015 | 7,735 | 7,348 | 7,208 |
| Interest Earned | 165,655 | 138,227 | 89,765 | 54,984 |
| Information Request | 21,279 | 16,766 | 13,904 | 15,000 |
| Nonresident Attorney | 55,440 | 13,500 | 10,900 | 13,000 |
| Search Fees | 2,557,074 | 2,903,724 | 3,678,725 | 3,862,661 |
| Judgement Searches | 137,426 | 124,458 | 133,648 | 130,000 |
| Supreme Court Surcharge Fee | 6,550 | 6,600 | 6,800 | 6,600 |
| CD-Transcripts | 15 | 15 | 25 | 15 |
| Refund of Prior Year Expense | - | 3,798 | 2,229 | - |
| Miscellaneous Income | 105 | 500 | 198 | - |
| Total Receipts | 6,678,896 | 6,793,099 | 7,358,475 | 7,367,657 |
| **Total Available** | **12,121,474** | **13,411,400** | **12,352,271** | **12,866,083** |
| Expenditures: | | | | |
| Personal Services | 984,291 | 1,551,324 | 1,829,855 | 1,906,130 |
| Employee Benefits | 260,156 | 432,842 | 569,186 | 552,811 |
| Travel | 60,013 | 106,994 | 39,878 | 82,242 |
| Contractual Services | 3,475,924 | 5,279,731 | 3,573,864 | 3,829,262 |
| Supplies and Materials | 60,087 | 78,977 | 72,755 | 80,099 |
| Grants and Subsidies | 3,597 | 5,434 | 619 | - |
| Capital Assets | 582,427 | 888,939 | 669,134 | 1,115,822 |
| Prior Period Adjustments | - | - | 72 | - |
| Prior FY Carryover Expenditure | 76,679 | 73,362 | 98,482 | 98,944 |
| Total Expenditures | 5,503,173 | 8,417,604 | 6,853,846 | 7,665,310 |
| **Ending Balance** | **6,618,301** | **4,993,796** | **5,498,426** | **5,200,773** |
| Ending Balance as % of Expenditures | 120.3% | 59.3% | 80.2% | 67.8% |

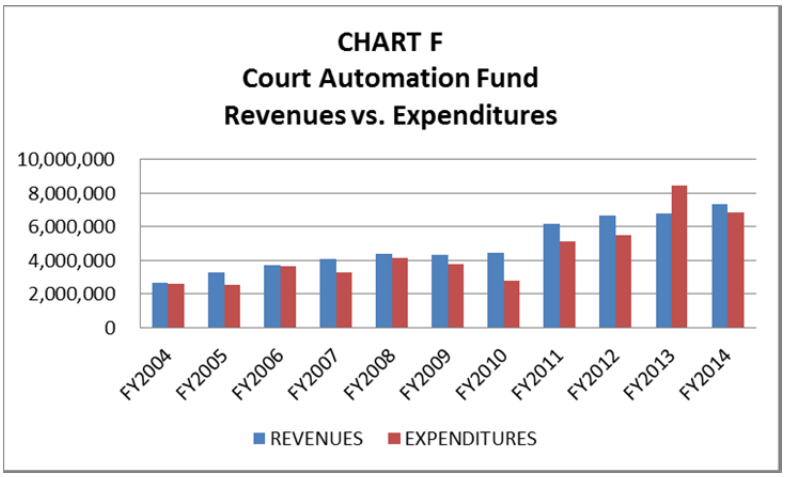
Data Source: South Dakota Unified Judicial System

The Court Automation Surcharge is $40 for civil cases and the proceeds are deposited solely in the Court Automation Fund (SDCL 16-2-39). The rate for small claims actions is currently set at $12 for claims less than $4,000 and $16 for claims more than $4,000. However, beginning on July 1, 2015, the rate for small claims actions reverts back to $6 and $8, respectively. The fund also receives fee revenue from records searches (SDCL 16-2-29.5). The rate is $5 per searched name when it is done in conjunction with a pending state or federal cause of action; otherwise, the rate is $20 per searched name. However, beginning on July 1, 2017, the rate reverts back to $15 per searched name. Chart E shows the revenue collected in the Court Automation fund for FYs 2004 – 2014.




Due to an increase in the court automation surcharge and search fees in 2010, the amount of revenue collected in this fund has increased. However, the rate increases for small claims and search fees will sunset in FY2016 and FY2018, respectively. In addition, due to the fewer amount of tickets being issued, revenue into this fund may decline in the future similar to the other funds discussed in this memorandum.

Expenditures out of the Court Automation Fund have increased as well. Due to budget cuts in FY2012, the Court Automation Fund began to absorb over $2 million in expenses previously paid for by general funds. In addition, the implementation of a new Odyssey case management system also contributed to increased expenditures. Chart F compares the Court Automation Fund revenues and expenditures for FYs 2004-2014.




Notwithstanding the added expenditures in recent years, the Court Automation Fund remains in relatively good shape. The FY2014 ending cash balance was $5,498,426 which is 80.2% of expenditures. However, with certain fee increases scheduled to sunset in FY2016 and FY2018 and additional expenditures added in recent years, the fund should continue to be monitored closely.

## Victims' Compensation Surcharge

The 1991 Legislature created the Victims' Compensation surcharge for the purpose of paying compensation awards and administering the crime victims' compensation program (SDCL 23A-28B-40). The amount of the surcharge is two dollars and fifty cents and is collected on each Class 2 misdemeanor, Class 1 misdemeanor, or felony conviction. However, the surcharge does not apply to violations relating to parking of vehicles. The surcharge is collected by the county clerk of courts and is remitted to the State Treasurer monthly to be deposited into the Crime Victims' Compensation Fund.

For administration of surcharge collection, three percent is to be returned to the Unified Judicial System and deposited into the Court Automation Fund. Twenty-seven percent of the surcharge is to go to the Department of Social Services to provide costs associated with administering claims and administrative services for the Crime Victims' Compensation Commission. The remainder of the surcharge is to be used for benefits paid to the victims' of violent crimes. Table 11 shows the financial status of the Crime Victims' Compensation Fund for FYs 2012 – 2015.

A Crime Victims' Compensation Commission is appointed to hear and determine claims for compensation. The commission consists of five members appointed by the Governor, the Chief Justice, and the Attorney General for a term of three years.

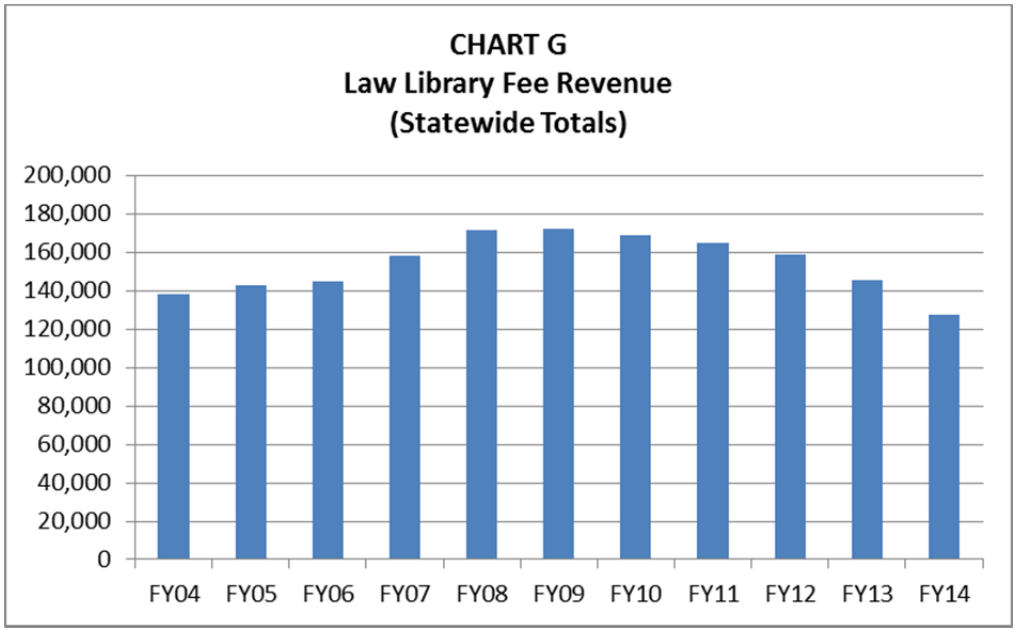
**TABLE 11 - Crime Victims' Compensation Fund**

| | ACTUAL FY 2012 | ACTUAL FY 2013 | ACTUAL FY 2014 | ESTIMATED FY 2015 |
|---|---|---|---|---|
| **Beginning Balance** | **5,559** | **1,259** | **10,361** | **147,331** |
| Revenues: | | | | |
| Licenses, Permits and Fees | 420,491 | 422,238 | 371,124 | 402,519 |
| Use of Money and Property | 2,027 | - | - | - |
| Other Revenue | 1,728 | 696 | 5,741 | - |
| Total Receipts | 424,246 | 422,934 | 376,865 | 402,519 |
| **Total Available** | **429,805** | **424,193** | **387,226** | **549,850** |
| Expenditures: | | | | |
| Total Expenditures | 420,530 | 406,097 | 232,547 | 714,280 |
| Transfers Out | (8,015) | (7,735) | (7,348) | (7,500) |
| **Ending Balance** | **1,259** | **10,361** | **147,331** | **(171,930)** |
| Ending Balance as % of Expenditures | 0.3% | 2.6% | 63.4% | -24.1% |

Notes: Actual FY 2012, FY 2013, and FY 2014 data provided by the Department of Legislative Audit.
Revenue and expenditure estimates for FY 2015 provided by the Department of Social Services.

**Law Library Fee**

The 1968 Legislature created the Law Library fee as part of a broader bill to authorize the establishment of county law libraries. The money collected was to be placed in a revolving county law book and library fund to be dispersed under the direction of circuit court judges for the purchase of law books and the equipping and maintaining a county law library. SDCL 14-6-1 authorizes the clerk of courts in each county to collect the law library fee and remit the funds monthly to the county treasurer in which the fee is collected. The current fee is two dollars for actions related to small claims and five dollars for all other civil actions, proceedings for judicial remedy, and probate proceedings. However, no fee may be collected for any petition or motion to modify final orders for child support, child custody, child visitation, or spousal support, or any action or proceeding for judicial remedy commenced by the state, a county, a municipality, or a school district. Chart G shows the amounts collected statewide for the Law Library fee.



## The Applicability of User Charges

Terms such as "liquidated cost" and "surcharge" are used frequently in the statutory sections cited in this memorandum. But are a liquidated cost and a surcharge the same thing? A user charge is similar to a price found in the private economy because the government can either deny service to nonpayers or prohibit certain activities by nonpayers. User charges can be grouped into four classes[1]:

1. User Fees, payments for goods or services that are sold or rented by the state. When people voluntarily purchase these good or services, they are generally not shared. Examples would include leases and rentals, the sale of state resources, admission to state parks, tuition, and licenses not associated with regulation.

2. Regulatory Fees, payments based upon either government authority to regulate particular businesses or government activities that stem from the sovereign powers of the state. A user is compelled to pay. Examples would include charges for testing and inspecting, licenses associated with regulation, and judiciary charges.

3. Beneficiary Fees, payments based upon a correlation between a certain behavior and consumption with a particular public good. An example would be taxes on fuel being closely related to the highway system.

4. Liability Fees, payments used to discourage damaging activities, reduce negative externalities, and compensate for injuries. An example of this would be the Petroleum Release Compensation Fund which is used to help cover the cost of fuel clean-ups.

These classifications, while not necessarily exclusive of each other, can be useful to help understand the nature of user charges. Relying upon this classification system, liquidated costs could be considered regulatory fees. Once a person either admits to a criminal offense or is found guilty, that person—by law—is obligated to pay $40 for each violation. The automation surcharge has elements of both a regulatory fee and a user fee. Similar to the liquidated cost, once a person either admits to a criminal offense or is found guilty, that person—by law—is obligated to pay a surcharge that increases with the severity of the criminal violation. The surcharge also has the quality of a user fee when it comes to civil actions and appeals because these actions are voluntary in nature.

User charges are a viable finance method when identifiable individuals, not the community as a whole, benefit from the service provided. There are several advantages to user charges. User charges can document the public's use for a specific service. A user charge can improve the financing equity for selected services. A program that covers its costs through user charges is not likely to be eliminated nor should it burden other government activities. User charges may improve operating efficiency because public personnel must respond to the clients' demands. Finally, a user charge can cause individuals to internalize the social cost of their actions.

There are also limitations upon the use of user charges. Activities that substantially benefit the general public and not identifiable individuals are not likely candidates for user-charge financing. Some user charges may also be too expensive to collect; an agency's effort to collect certain charges may outweigh the financial gain. Finally, there may be public resentment to the user charge based upon the view that, having already paid taxes, a person is entitled to the service without any additional payment.

[1] The classifications utilized in this section were developed by the Congressional Budget Office. See *The Growth of Federal User Charges* (Washington, DC: Government Printing Office, 1993).

Revenue from liquidated costs is estimated to collect $2.9 million in FY 2015. This money will be deposited into five different funds which are used for: (1) training or operation of law enforcement or judicial personnel, (2) legal service for indigents, (3) legal service for abused and neglected children, (4) 911 telecommunications training and standards, and (5) child advocacy. In FY 2015 the court automation surcharge is estimated to collect $7.4 million, which is deposited into the Court Automation Fund that is used for the judiciary's information systems and various support services, telecommunications expenses, and contractual services. When considering user charges there are several questions that could be considered:

- Does a user charge cover all of the costs associated with providing the service?
- What is the relationship between a user charge and the service being provided?
- Does the person paying a user charge receive the service?
- Can nonpayers be excluded from receiving the service?
- To what extent does the general public benefit from the service?
- Could the user charge be reduced or eliminated based upon a person's ability to pay?
- Will public personnel respond to the clients' service demands?
- Will the public feel that they have already paid for the service by the taxes paid to the state?
- What mechanisms help ensure that the user charge will cover the intended share of costs over time?

There is no "right" or "wrong" answer to these questions. Rather, questions such as these can focus attention as to the applicability of user charges to finance certain government activities.

**Conclusion**

As the number of offenses declines, so does the amount of revenue collected to fund various functions of state government, the courts, and local governments. The Legislature will need to continually monitor if user chargers are prudent but still sufficient to fund these services.

This issue memorandum was written by Reed Holwegner, Chief Fiscal Analyst for the Legislative Research Council. It was updated on 10/31/2014 by Aaron Olson, Principal Fiscal Analyst. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.

**Talking points for meeting with Attorney General Jackley regarding LEOT Fund – August 27, 2013**
**Prepared by Marty Guindon – Legislative Audit**

Disclaimer: The comments contained in this document are not the result of an audit conducted in accordance with generally accepted auditing standards and have not been subjected to Legislative Audit's quality control system.

During the 2013 legislative session I heard presentations from the Attorney General and the Highway Patrol that seemed to tell different stories. The Attorney General reported that LEOT revenues were falling, but the Highway Patrol reported that they had written more tickets than the previous year. Thus, I decided I would look into the matter if time permitted.

This spring I asked staff to get a copy of the UJS offenses database for analysis. I chose to compare FY12 with FY08. The database contains a record for each offense for which a sentence was imposed. Each record contains the offense, fine amount, liquidated costs assessed and various other data points for each offense.

I need to point out that the comparison and analysis that follows is based just on the two years FY08 and FY12. I did not look at the data for the years in between. Revenue in the LEOT fund over this period suggests a steady decline in offenses and related liquidated costs over this period.

The initial comparison found a significant drop in offenses on the database when comparing FY12 with FY08 coinciding with the drop in LEOT revenues. As we drilled down into the data, the drop in speeding offenses seemed particularly anomalous especially in certain counties. The reduction in speeding offenses accounts for 43% of the difference in liquidated costs between FY12 and FY08. See Exhibits A, B and C.

From discussions with staff, we performed a risk assessment that identified possible reasons for the drop in offenses/LEOT revenues as follows:

1. less enforcement and/or a more law abiding citizenry,
2. tickets being written and collected locally rather than through the UJS system,
3. significant backlog of tickets not yet processed through the UJS system,
4. costs being waived by the judges and,
5. systemic problems within the UJS system or related to the implementation of the new Odyssey system.

Relating to risk 5., only a handful of counties were using the Odyssey system for half of FY12 so the Odyssey system is not a significant risk to the data being compared. In addition, we compared actual revenues to the LEOT with what revenue should have been based on the UJS offense database for FY12. This comparison did not identify a material variance and thus I believe that if a ticket gets to the UJS system the revenue is properly getting to the LEOT.

Regarding risk 4., we queried the offense database for instances where costs were set at less than $40 at sentencing or where the costs were suspended. This query yielded a potential loss in revenue of approximately $28,000 for FY12 which seems to indicate there is not excessive waiving of costs by the judges. See Exhibit D.

Relating to risk 3., to look for anomalies in the pattern of offenses, we compared the count and dollars for offenses by month for FY12 vs. FY08. The only significant pattern deviation was in July and is likely due to the phase in of the $40 liquidated cost charge. See Exhibit E.

To address risks 1 and 2, we compared General Fund court fines and costs revenue for municipalities (65% of municipal ordinance violations) for the period CY08 through CY12. This data is reported to DLA annually on annual report forms prescribed by DLA. For the cities for which we have a complete set of data, the data show that local revenues are down approximately 16% for CY12 compared with CY08 which compares favorably with the 17% drop in liquidated cost revenues as contained in the UJS offense database and the 17.6% drop in cash basis revenue to the LEOT fund. There are CY versus FY timing differences and other factors affecting this comparison, but the result is consistent with the other analyses performed. See Exhibit F.

Thus, unless localities are collecting fines revenue locally (and not remitting liquidated costs as we found no deposits to the LEOT fund from other than the UJS) and accounting for it in a way that does not comply with the DLA prescribed accounting manual and annual report form, it appears the most likely reasons for the drop in LEOTF revenue are simply that law enforcement is writing fewer tickets and/or the citizenry is more law abiding.

**Exhibit A**
**Fines and Liquidated Costs - No Petty Offenses**
**FY08 Compared With FY12**

| | FY08 | | FY12 | | FY12 vs. FY08 | | | |
|---|---|---|---|---|---|---|---|---|
| CountyName | FineCount | LiquidatedCost | FineCount | LiquidatedCost | Count Diff | Amount Diff | % Count Inc/(Dec) | % Amount Inc/(Dec) |
| AURORA | 310 | $12,190 | 470 | $18,800 | 160 | $6,610 | 51.61% | 54.22% |
| BEADLE | 2,069 | $80,716 | 2,057 | $82,181 | (12) | $1,465 | -0.58% | 1.82% |
| BENNETT | 404 | $15,676 | 270 | $10,684 | (134) | ($4,992) | -33.17% | -31.84% |
| BON HOMME | 658 | $25,539 | 363 | $14,510 | (295) | ($11,029) | -44.83% | -43.18% |
| BROOKINGS | 4,927 | $193,715 | 3,920 | $156,540 | (1,007) | ($37,175) | -20.44% | -19.19% |
| BROWN | 6,464 | $251,237 | 5,437 | $217,155 | (1,027) | ($34,082) | -15.89% | -13.57% |
| BRULE | 1,015 | $39,454 | 668 | $26,720 | (347) | ($12,734) | -34.19% | -32.28% |
| BUFFALO | 39 | $1,510 | 26 | $1,040 | (13) | ($470) | -33.33% | -31.13% |
| BUTTE | 967 | $37,915 | 1,489 | $59,550 | 522 | $21,635 | 53.98% | 57.06% |
| CAMPBELL | 121 | $4,720 | 93 | $3,760 | (28) | ($960) | -23.14% | -20.34% |
| CHARLES MIX | 1,831 | $70,121 | 990 | $39,489 | (841) | ($30,632) | -45.93% | -43.68% |
| CLARK | 332 | $12,840 | 455 | $18,680 | 123 | $5,840 | 37.05% | 45.48% |
| CLAY | 2,376 | $93,108 | 1,925 | $76,838 | (451) | ($16,270) | -18.98% | -17.47% |
| CODINGTON | 4,688 | $179,976 | 2,932 | $121,541 | (1,756) | ($58,435) | -37.46% | -32.47% |
| CORSON | 69 | $2,740 | 366 | $14,640 | 297 | $11,900 | 430.43% | 434.31% |
| CUSTER | 1,472 | $57,599 | 1,249 | $49,930 | (223) | ($7,669) | -15.15% | -13.31% |
| DAVISON | 3,228 | $126,249 | 2,997 | $119,879 | (231) | ($6,370) | -7.16% | -5.05% |
| DAY | 1,045 | $40,676 | 671 | $26,812 | (374) | ($13,864) | -35.79% | -34.08% |
| DEUEL | 641 | $25,889 | 504 | $21,280 | (137) | ($4,609) | -21.37% | -17.80% |
| DEWEY | 54 | $2,150 | 75 | $3,000 | 21 | $850 | 38.89% | 39.53% |
| DOUGLAS | 311 | $12,210 | 340 | $13,569 | 29 | $1,359 | 9.32% | 11.13% |
| EDMUNDS | 960 | $37,614 | 583 | $23,320 | (377) | ($14,294) | -39.27% | -38.00% |
| FALL RIVER | 1,083 | $42,192 | 888 | $35,485 | (195) | ($6,707) | -18.01% | -15.90% |
| FAULK | 205 | $7,960 | 182 | $7,280 | (23) | ($680) | -11.22% | -8.54% |
| GRANT | 695 | $26,954 | 620 | $24,657 | (75) | ($2,297) | -10.79% | -8.52% |
| GREGORY | 246 | $9,097 | 195 | $7,775 | (51) | ($1,322) | -20.73% | -14.53% |
| HAAKON | 92 | $3,640 | 49 | $1,960 | (43) | ($1,680) | -46.74% | -46.15% |
| HAMLIN | 541 | $20,980 | 492 | $19,680 | (49) | ($1,300) | -9.06% | -6.20% |
| HAND | 389 | $15,300 | 446 | $17,840 | 57 | $2,540 | 14.65% | 16.60% |
| HANSON | 745 | $29,139 | 345 | $13,800 | (400) | ($15,339) | -53.69% | -52.64% |
| HARDING | 120 | $4,740 | 554 | $22,120 | 434 | $17,380 | 361.67% | 366.67% |
| HUGHES | 2,591 | $100,726 | 2,152 | $86,010 | (439) | ($14,716) | -16.94% | -14.61% |
| HUTCHINSON | 524 | $20,188 | 390 | $15,520 | (134) | ($4,668) | -25.57% | -23.12% |
| HYDE | 214 | $8,465 | 511 | $20,440 | 297 | $11,975 | 138.79% | 141.46% |
| JACKSON | 548 | $21,419 | 590 | $23,570 | 42 | $2,151 | 7.66% | 10.04% |
| JERAULD | 175 | $6,682 | 268 | $10,707 | 93 | $4,025 | 53.14% | 60.24% |
| JONES | 202 | $7,751 | 222 | $8,880 | 20 | $1,129 | 9.90% | 14.57% |
| KINGSBURY | 920 | $35,860 | 667 | $26,680 | (253) | ($9,180) | -27.50% | -25.60% |
| LAKE | 1,933 | $75,387 | 1,235 | $49,720 | (698) | ($25,667) | -36.11% | -34.05% |
| LAWRENCE | 4,517 | $175,820 | 3,513 | $140,460 | (1,004) | ($35,360) | -22.23% | -20.11% |
| LINCOLN | 3,717 | $142,886 | 3,018 | $120,805 | (699) | ($22,081) | -18.81% | -15.45% |
| LYMAN | 1,148 | $44,328 | 624 | $24,950 | (524) | ($19,378) | -45.64% | -43.72% |
| MARSHALL | 573 | $22,021 | 394 | $15,589 | (179) | ($6,433) | -31.24% | -29.21% |
| MCCOOK | 1,120 | $43,455 | 594 | $23,695 | (526) | ($19,760) | -46.96% | -45.47% |
| MCPHERSON | 136 | $5,370 | 134 | $5,400 | (2) | $30 | -1.47% | 0.56% |
| MEADE | 3,774 | $147,343 | 4,282 | $171,224 | 508 | $23,881 | 13.46% | 16.21% |
| MELLETTE | 379 | $14,393 | 364 | $14,490 | (15) | $97 | -3.96% | 0.67% |
| MINER | 177 | $6,830 | 192 | $7,680 | 15 | $850 | 8.47% | 12.45% |
| MINNEHAHA | 33,728 | $1,303,721 | 29,876 | $1,191,724 | (3,852) | ($111,997) | -11.42% | -8.59% |
| MOODY | 2,114 | $81,522 | 1,784 | $71,250 | (330) | ($10,272) | -15.61% | -12.60% |
| PENNINGTON | 19,944 | $777,265 | 12,172 | $487,190 | (7,772) | ($290,075) | -38.97% | -37.32% |
| PERKINS | 320 | $12,470 | 311 | $12,452 | (9) | ($18) | -2.81% | -0.14% |
| POTTER | 406 | $15,860 | 292 | $11,665 | (114) | ($4,195) | -28.08% | -26.45% |
| ROBERTS | 2,595 | $99,360 | 2,060 | $82,212 | (535) | ($17,148) | -20.62% | -17.26% |
| SANBORN | 245 | $9,551 | 184 | $7,360 | (61) | ($2,191) | -24.90% | -22.94% |
| SHANNON | 11 | $420 | 4 | $150 | (7) | ($270) | -63.64% | -64.29% |
| SPINK | 962 | $37,152 | 632 | $25,250 | (330) | ($11,902) | -34.30% | -32.04% |
| STANLEY | 1,084 | $42,419 | 899 | $35,775 | (185) | ($6,644) | -17.07% | -15.66% |
| SULLY | 435 | $16,895 | 229 | $9,147 | (206) | ($7,748) | -47.36% | -45.86% |
| TODD | 11 | $430 | 17 | $680 | 6 | $250 | 54.55% | 58.14% |
| TRIPP | 863 | $33,390 | 404 | $16,150 | (459) | ($17,240) | -53.19% | -51.63% |
| TURNER | 951 | $36,705 | 878 | $34,954 | (73) | ($1,751) | -7.68% | -4.77% |
| UNION | 5,542 | $214,028 | 4,341 | $172,488 | (1,201) | ($41,540) | -21.67% | -19.41% |
| WALWORTH | 1,169 | $45,453 | 988 | $39,510 | (181) | ($5,943) | -15.48% | -13.08% |
| YANKTON | 3,804 | $146,968 | 2,768 | $110,467 | (1,036) | ($36,502) | -27.23% | -24.84% |
| ZIEBACH | 26 | $1,010 | 18 | $720 | (8) | ($290) | -30.77% | -28.71% |
| **Totals** | **134,955** | **$5,237,388** | **108,658** | **$4,345,478** | **(26,297)** | **($891,910)** | **-19.49%** | **-17.03%** |
| Per Case | | $38.81 | | $39.99 | | | | |

**Exhibit B**
**All Offenses with "Speed" in the Description**

| OffenseDesc | 2008 | 2012 | Change |
|---|---|---|---|
| BOAT - REASONABLE SPEED/DISTURBANCE Total | $ 280 | $ 160 | $ (120) |
| COUNTY SPEEDING Total | $ 13,050 | $ 6,830 | $ (6,220) |
| ESTABLISHMENT OF SPEED ZONES Total | $ 1,200 | $ 1,108 | $ (92) |
| FAIL TO OBSERVE MINIMUM SPEED Total | $ 160 | $ 200 | $ 40 |
| MUNICIPAL SPEEDING Total | $ 652,714 | $ 343,287 | $ (309,427) |
| MUNICIPAL SPEEDING IN SCHOOL ZONE Total | $ 50,461 | $ 28,841 | $ (21,620) |
| OVERDRIVING ROAD CONDITIONS WITH SPEED LIMITS Total | $ - | $ 80 | $ 80 |
| SPEED LIMIT IN UPOSTED URBAN AREAS Total | $ 40 | $ - | $ (40) |
| SPEED LIMIT INTERSECTIONS WITH OBST Total | $ 40 | $ 80 | $ 40 |
| SPEED LIMITS IN AREAS OF HIGHWAY CO Total | $ 44,995 | $ 5,030 | $ (39,965) |
| SPEED LIMITS IN AREAS OF HIGHWAY CONSTRUCTION Total | $ - | $ 40 | $ 40 |
| SPEED ON FOUR-LANE IN RURAL AREAS Total | $ 22,090 | $ 19,440 | $ (2,650) |
| SPEEDING Total | $ 188 | $ 316 | $ 128 |
| SPEEDING IN CONSTRUCTION ZONE Total | $ - | $ 12,280 | $ 12,280 |
| SPEEDING IN PARK Total | $ 230 | $ 720 | $ 490 |
| SPEEDING IN SCHOOL ZONE Total | $ 9,510 | $ 7,840 | $ (1,670) |
| SPEEDING ON A STATE HIGHWAY Total | $ - | $ 41,080 | $ 41,080 |
| SPEEDING ON INTERSTATE HIGHWAY Total | $ 263,803 | $ 165,387 | $ (98,416) |
| SPEEDING ON OTHER ROADWAYS Total | $ - | $ 45,340 | $ 45,340 |
| SPEEDING ON STATE HIGHWAY Total | $ 492,179 | $ 421,339 | $ (70,840) |
| SPEEDING OTHER ROADWAYS Total | $ 573,037 | $ 650,137 | $ 77,100 |
| SPEEDS IN EXCESS OF THOSE FIXED Total | $ 9,210 | $ 1,640 | $ (7,570) |
| UNREASONABLE SPEED/OVERDRIVE ROAD C Total | $ 1,320 | $ 120 | $ (1,200) |
| UNREASONABLY SLOW SPEED PROHIBITED Total | $ 110 | $ - | $ (110) |
| zl SPEEDS IN EXCESS OF THOSE FIXED Total | $ - | $ - | $ - |
| Grand Total | $ 2,134,617 | $ 1,751,295 | $ (383,322) |

**Exhibit C**
**All Offenses with "Speed" in the Description**

| CountyName | 2008 | 2012 | Change |
|---|---|---|---|
| AURORA Total | $ 5,070 | $ 10,160 | $ 5,090 |
| BEADLE Total | $ 27,760 | $ 28,400 | $ 640 |
| BENNETT Total | $ 4,610 | $ 1,240 | $ (3,370) |
| BON HOMME Total | $ 13,190 | $ 6,430 | $ (6,760) |
| BROOKINGS Total | $ 81,200 | $ 60,780 | $ (20,420) |
| Brown Total | $ 86,520 | $ 65,908 | $ (20,612) |
| BRULE Total | $ 21,040 | $ 11,040 | $ (10,000) |
| BUFFALO Total | $ 590 | $ 600 | $ 10 |
| BUTTE Total | $ 17,230 | $ 34,110 | $ 16,880 |
| Campbell Total | $ 3,400 | $ 2,400 | $ (1,000) |
| CHARLES MIX Total | $ 31,289 | $ 8,880 | $ (22,409) |
| CLARK Total | $ 6,250 | $ 8,800 | $ 2,550 |
| CLAY Total | $ 32,730 | $ 26,055 | $ (6,675) |
| CODINGTON Total | $ 75,535 | $ 32,741 | $ (42,794) |
| CORSON Total | $ 1,230 | $ 9,520 | $ 8,290 |
| CUSTER Total | $ 39,547 | $ 34,880 | $ (4,667) |
| DAVISON Total | $ 44,345 | $ 42,040 | $ (2,305) |
| DAY Total | $ 25,147 | $ 11,400 | $ (13,747) |
| DEUEL Total | $ 11,920 | $ 9,120 | $ (2,800) |
| DEWEY Total | $ 1,240 | $ 1,440 | $ 200 |
| DOUGLAS Total | $ 7,090 | $ 10,120 | $ 3,030 |
| Edmunds Total | $ 23,940 | $ 16,040 | $ (7,900) |
| FALL RIVER Total | $ 22,070 | $ 14,760 | $ (7,310) |
| Faulk Total | $ 3,120 | $ 4,240 | $ 1,120 |
| GRANT Total | $ 7,730 | $ 7,640 | $ (90) |
| GREGORY Total | $ 2,760 | $ 2,225 | $ (535) |
| HAAKON Total | $ 1,420 | $ 800 | $ (620) |
| Hamlin Total | $ 12,340 | $ 12,440 | $ 100 |
| HAND Total | $ 8,220 | $ 12,480 | $ 4,260 |
| HANSON Total | $ 23,410 | $ 9,600 | $ (13,810) |
| HARDING Total | $ 3,770 | $ 14,640 | $ 10,870 |
| HUGHES Total | $ 36,485 | $ 28,200 | $ (8,285) |
| HUTCHINSON Total | $ 8,860 | $ 7,280 | $ (1,580) |
| HYDE Total | $ 6,390 | $ 17,800 | $ 11,410 |
| JACKSON Total | $ 13,900 | $ 12,640 | $ (1,260) |
| Jerauld Total | $ 2,450 | $ 7,107 | $ 4,657 |
| JONES Total | $ 5,170 | $ 5,080 | $ (90) |
| KINGSBURY Total | $ 25,760 | $ 20,320 | $ (5,440) |
| LAKE Total | $ 42,817 | $ 25,240 | $ (17,577) |
| LAWRENCE Total | $ 66,420 | $ 59,210 | $ (7,210) |
| LINCOLN Total | $ 71,709 | $ 64,668 | $ (7,041) |
| LYMAN Total | $ 30,210 | $ 13,440 | $ (16,770) |
| MARSHALL Total | $ 9,350 | $ 4,800 | $ (4,550) |
| MCCOOK Total | $ 28,180 | $ 12,960 | $ (15,220) |
| McPherson Total | $ 2,890 | $ 2,840 | $ (50) |
| MEADE Total | $ 40,674 | $ 57,640 | $ 16,966 |
| MELLETTE Total | $ 7,542 | $ 7,550 | $ 8 |
| Miner Total | $ 3,350 | $ 5,160 | $ 1,810 |
| MINNEHAHA Total | $ 466,905 | $ 444,718 | $ (22,187) |
| MOODY Total | $ 45,045 | $ 41,240 | $ (3,805) |
| PENNINGTON Total | $ 298,116 | $ 184,279 | $ (113,837) |
| PERKINS Total | $ 5,780 | $ 6,920 | $ 1,140 |
| POTTER Total | $ 11,570 | $ 7,960 | $ (3,610) |
| ROBERTS Total | $ 11,597 | $ 15,960 | $ 4,363 |
| SANBORN Total | $ 4,261 | $ 3,720 | $ (541) |
| SPINK Total | $ 20,710 | $ 12,920 | $ (7,790) |
| STANLEY Total | $ 32,030 | $ 24,040 | $ (7,990) |
| SULLY Total | $ 12,620 | $ 6,560 | $ (6,060) |
| TODD Total | $ 40 | $ 200 | $ 160 |
| TRIPP Total | $ 10,430 | $ 3,200 | $ (7,230) |
| TURNER Total | $ 22,770 | $ 23,502 | $ 732 |
| UNION Total | $ 77,618 | $ 62,013 | $ (15,605) |
| WALWORTH Total | $ 17,830 | $ 21,680 | $ 3,850 |
| YANKTON Total | $ 49,025 | $ 29,359 | $ (19,666) |
| ZIEBACH Total | $ 400 | $ 160 | $ (240) |
| Grand Total | $ 2,134,617 | $ 1,751,295 | $ (383,322) |

**Exhibit D**

**Potential Lost Revenue - Suspended Liquidated Costs or Sentenced to Less than Full Liquated Costs - FY12**

| Expr1000 | Lost Revenue |
|---|---|
| BEADLE Total | ($139) |
| BENNETT Total | ($636) |
| BON HOMME Total | ($10) |
| Brookings Total | ($3,280) |
| BROWN Total | ($685) |
| BUTTE Total | ($10) |
| CHARLES MIX Total | ($111) |
| Clark Total | ($440) |
| CLAY Total | ($162) |
| Codington Total | ($5,649) |
| CORSON Total | ($40) |
| CUSTER Total | ($70) |
| DAVISON Total | ($131) |
| DAY Total | ($28) |
| Deuel Total | ($1,520) |
| DOUGLAS Total | ($31) |
| FALL RIVER Total | ($235) |
| GRANT Total | ($143) |
| GREGORY Total | ($25) |
| HAAKON Total | ($40) |
| Hamlin Total | ($360) |
| HARDING Total | ($40) |
| HUGHES Total | ($150) |
| HUTCHINSON Total | ($80) |
| JACKSON Total | ($70) |
| JERAULD Total | ($13) |
| Lake Total | ($1,840) |
| LAWRENCE Total | ($265) |
| LINCOLN Total | ($180) |
| LYMAN Total | ($10) |
| MARSHALL Total | ($35) |
| MCCOOK Total | ($65) |
| MEADE Total | ($176) |
| MELLETTE Total | ($70) |
| MINNEHAHA Total | ($3,460) |
| MOODY Total | ($430) |
| PENNINGTON Total | ($5,012) |
| POTTER Total | ($15) |
| Roberts Total | ($228) |
| SHANNON Total | ($10) |
| SPINK Total | ($30) |
| STANLEY Total | ($465) |
| SULLY Total | ($13) |
| TRIPP Total | ($10) |
| TURNER Total | ($46) |
| UNION Total | ($1,232) |
| WALWORTH Total | ($50) |
| YANKTON Total | ($254) |
| Grand Total | ($27,994) |

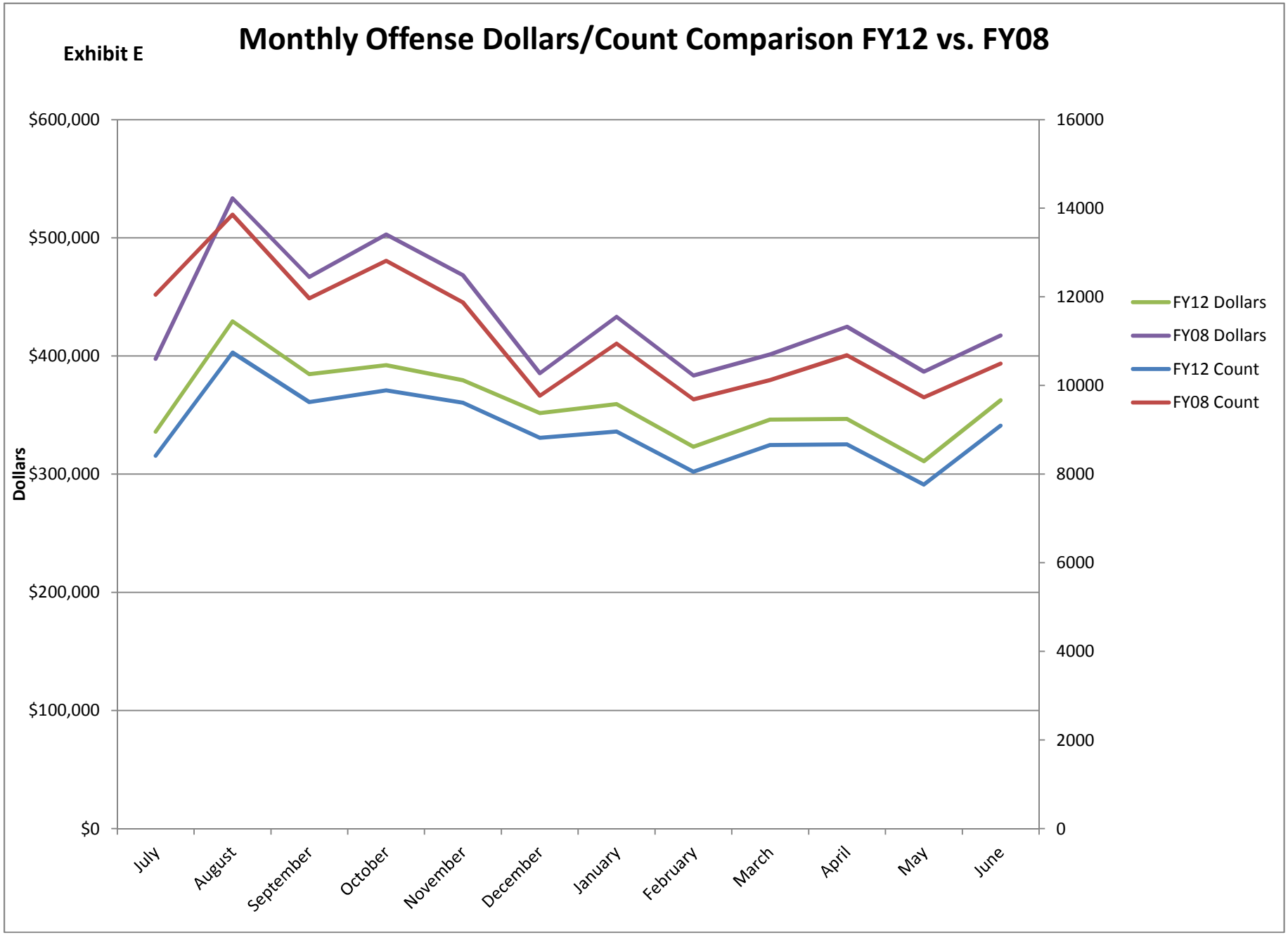


Exhibit E
Monthly Offense Dollars/Count Comparison FY12 vs. FY08
Dollars
$600,000
$500,000
$400,000
$300,000
$200,000
$100,000
$0
16000
14000
12000
10000
8000
6000
4000
2000
0
July
August
September
October
November
December
January
February
March
April
May
June
FY12 Dollars
FY08 Dollars
FY12 Count
FY08 Count

**Exhibit F**
**South Dakota Municipalities**
**Revenue Code 35100-Court Fines and Costs-General Fund (unaudited)**
**(For Municipalities with all five years information available)**

| Entity Name | 2008 | 2009 | 2010 | 2011 | 2012 | CY12 vs. CY08 Dollars | CY12 vs. CY08 % |
|---|---|---|---|---|---|---|---|
| ABERDEEN | $ 22,624.47 | $ 39,517.33 | $ 32,881.59 | $ 33,766.81 | $ 29,353.47 | $6,729.00 | 29.74% |
| ALCESTER | $ 80.20 | $ 480.00 | $ 107.25 | $ 53.15 | $ 520.00 | $439.80 | 548.38% |
| ARLINGTON | $ 2,314.00 | $ 2,827.00 | $ 2,789.00 | $ 363.00 | $ 193.00 | ($2,121.00) | -91.66% |
| BELLE FOURCHE | $ 11,349.14 | $ 6,930.09 | $ 8,873.96 | $ 3,182.85 | $ 4,009.65 | ($7,339.49) | -64.67% |
| BERESFORD | $ 1,082.90 | $ 2,034.20 | $ 1,279.45 | $ 324.85 | $ 117.25 | ($965.65) | -89.17% |
| BIG STONE CITY | $ 615.00 | $ 992.55 | $ 774.15 | $ 218.40 | $ 1,736.80 | $1,121.80 | 182.41% |
| BRANDON | $ 22,908.80 | $ 22,429.70 | $ 14,677.27 | $ 6,954.42 | $ 7,869.05 | ($15,039.75) | -65.65% |
| BROOKINGS | $ 77,926.91 | $ 67,809.64 | $ 61,732.00 | $ 99,502.00 | $ 95,649.00 | $17,722.09 | 22.74% |
| BRYANT | $ 485.00 | $ 420.74 | $ 545.51 | $ 387.94 | $ 190.00 | ($295.00) | -60.82% |
| CANTON | $ 2,378.48 | $ 1,092.04 | $ 528.30 | $ 534.65 | $ 702.89 | ($1,675.59) | -70.45% |
| CASTLEWOOD | $ 51.35 | $ 187.20 | $ 59.80 | $ 42.90 | $ 106.60 | $55.25 | 107.59% |
| CHANCELLOR | $ 2,156.30 | $ 3,423.15 | $ 1,110.04 | $ 37.70 | $ 80.74 | ($2,075.56) | -96.26% |
| CORSICA | $ 1,852.29 | $ 3,275.10 | $ 2,656.00 | $ 619.17 | $ - | ($1,852.29) | -100.00% |
| CRESBARD | $ 173.39 | $ 282.54 | $ 307.65 | $ 148.33 | $ 345.31 | $171.92 | 99.15% |
| CUSTER | $ 2,298.34 | $ 1,017.28 | $ 273.11 | $ 936.12 | $ 1,886.35 | ($411.99) | -17.93% |
| DELL RAPIDS | $ 637.00 | $ 854.10 | $ 1,571.33 | $ 2,529.00 | $ 896.35 | $259.35 | 40.71% |
| ELK POINT | $ 3,559.01 | $ 1,654.53 | $ 1,259.07 | $ 564.55 | $ 1,174.47 | ($2,384.54) | -67.00% |
| FLANDREAU | $ 1,351.60 | $ 1,476.25 | $ 4,294.00 | $ 5,199.00 | $ 2,761.00 | $1,409.40 | 104.28% |
| FORT PIERRE | $ 1,608.09 | $ 1,137.35 | $ 695.97 | $ 361.07 | $ 278.85 | ($1,329.24) | -82.66% |
| GETTYSBURG | $ 23.00 | $ 135.00 | $ 260.00 | $ 224.00 | $ - | ($23.00) | -100.00% |
| GREGORY | $ 569.61 | $ 203.39 | $ 385.64 | $ 166.50 | $ 105.30 | ($464.31) | -81.51% |
| GROTON | $ 4,762.71 | $ 6,080.88 | $ 3,382.11 | $ 1,064.00 | $ 676.58 | ($4,086.13) | -85.79% |
| HARTFORD | $ 1,786.00 | $ 2,004.00 | $ 965.00 | $ 2,209.00 | $ 3,372.00 | $1,586.00 | 88.80% |
| IRENE | $ 456.10 | $ 1,002.57 | $ 1,455.85 | $ 82.42 | $ 121.42 | ($334.68) | -73.38% |
| KADOKA | $ 145.00 | $ 102.38 | $ 1,000.00 | $ 319.50 | $ 256.90 | $111.90 | 77.17% |
| KEYSTONE | $ 3,685.00 | $ 4,710.00 | $ 9,143.08 | $ 6,985.62 | $ 5,736.61 | $2,051.61 | 55.67% |
| LEAD | $ 2,921.00 | $ 1,749.00 | $ 981.00 | $ 721.00 | $ 190.00 | ($2,731.00) | -93.50% |
| LEMMON | $ 510.00 | $ 1,207.00 | $ 799.00 | $ 402.00 | $ 243.00 | ($267.00) | -52.35% |
| LENNOX | $ 1,537.00 | $ 1,541.00 | $ 649.00 | $ 320.00 | $ - | ($1,537.00) | -100.00% |
| MADISON | $ 9,224.94 | $ 7,345.65 | $ 5,432.00 | $ 5,346.00 | $ 2,999.75 | ($6,225.19) | -67.48% |
| MARION | $ 1,677.00 | $ 1,658.45 | $ 404.95 | $ 135.85 | $ 191.10 | ($1,485.90) | -88.60% |
| MILLER | $ 263.90 | $ 146.15 | $ - | $ 284.00 | $ 598.00 | $334.10 | 126.60% |
| MORRISTOWN | $ 80.00 | $ 75.00 | $ 280.00 | $ 1,249.75 | $ 360.00 | $280.00 | 350.00% |
| NEW UNDERWOOD | $ 696.18 | $ 911.00 | $ 876.00 | $ 926.00 | $ 834.00 | $137.82 | 19.80% |
| NORTH SIOUX CITY | $ 9,928.94 | $ 7,982.86 | $ 900.46 | $ 3,803.89 | $ 4,541.96 | ($5,386.98) | -54.26% |
| OACOMA | $ 491.00 | $ 248.00 | $ 30.00 | $ 85.00 | $ 50.00 | ($441.00) | -89.82% |
| PARKER | $ 1,149.95 | $ 1,307.45 | $ 239.20 | $ 171.60 | $ 295.75 | ($854.20) | -74.28% |
| PHILIP | $ 471.29 | $ 1,210.65 | $ 442.75 | $ 191.75 | $ 158.60 | ($312.69) | -66.35% |
| PIERPONT | $ 454.70 | $ 328.82 | $ 595.25 | $ 520.88 | $ 758.56 | $303.86 | 66.83% |
| PIERRE | $ 7,589.15 | $ 9,730.42 | $ 2,051.48 | $ 2,452.97 | $ 4,109.00 | ($3,480.15) | -45.86% |
| PLANKINTON | $ 325.00 | $ 276.26 | $ 259.35 | $ 135.49 | $ 102.00 | ($223.00) | -68.62% |
| PLATTE | $ 473.36 | $ 203.05 | $ 147.20 | $ 123.80 | $ 26.00 | ($447.36) | -94.51% |
| RAPID CITY | $ 65,199.02 | $ 41,545.03 | $ 22,134.20 | $ 18,107.81 | $ 18,107.81 | ($47,091.21) | -72.23% |
| REDFIELD | $ 1,611.53 | $ 2,158.20 | $ 4,041.23 | $ 1,056.92 | $ 1,530.36 | ($81.17) | -5.04% |
| SCOTLAND | $ 1,378.82 | $ 1,166.70 | $ 1,039.90 | $ 382.85 | $ 301.65 | ($1,077.17) | -78.12% |
| SIOUX FALLS | $ 417,400.00 | $ 422,386.00 | $ 421,308.00 | $ 445,659.00 | $ 424,112.00 | $6,712.00 | 1.61% |
| SISSETON | $ 4,030.69 | $ 2,216.20 | $ 94.00 | $ 88.35 | $ 623.00 | ($3,407.69) | -84.54% |
| SPEARFISH | $ 893.00 | $ 20,991.00 | $ 1,079.00 | $ 882.00 | $ 602.00 | ($291.00) | -32.59% |
| STURGIS | $ 3,768.10 | $ 2,623.80 | $ 3,316.30 | $ 1,875.25 | $ 5,719.05 | $1,950.95 | 51.78% |
| TEA | $ 3,258.37 | $ 2,294.65 | $ 1,661.80 | $ 2,458.65 | $ 1,936.68 | ($1,321.69) | -40.56% |
| TURTON | $ 80.96 | $ 39.81 | $ 28.30 | $ 59.24 | $ 32.44 | ($48.52) | -59.93% |
| TYNDALL | $ 122.85 | $ 76.70 | $ 57.85 | $ 107.50 | $ 16.25 | ($106.60) | -86.77% |
| VERMILLION | $ 36,759.00 | $ 37,495.00 | $ 37,399.00 | $ 35,463.00 | $ 33,496.00 | ($3,263.00) | -8.88% |
| VIBORG | $ 186.76 | $ 125.40 | $ 505.05 | $ 83.50 | $ 156.00 | ($30.76) | -16.47% |
| VOLGA | $ 621.60 | $ 449.45 | $ 737.10 | $ 654.50 | $ 403.00 | ($218.60) | -35.17% |
| WAGNER | $ 14,436.31 | $ 8,159.96 | $ 11,389.68 | $ 3,554.93 | $ 1,546.64 | ($12,889.67) | -89.29% |
| WATERTOWN | $ 49,900.00 | $ 41,063.00 | $ 23,998.00 | $ 23,184.00 | $ 24,182.00 | ($25,718.00) | -51.54% |
| WAUBAY | $ 1,000.00 | $ 791.10 | $ 620.00 | $ 576.50 | $ 1,112.00 | $112.00 | 11.20% |
| WEBSTER | $ 1,239.77 | $ 1,131.72 | $ 1,378.33 | $ 1,634.69 | $ 991.35 | ($248.42) | -20.04% |
| WENTWORTH | $ 845.65 | $ 316.40 | $ 265.00 | $ 314.70 | $ 125.00 | ($720.65) | -85.22% |
| WHITE | $ 95.55 | $ 200.45 | $ 403.58 | $ 110.96 | $ 238.00 | $142.45 | 149.08% |
| WILLOW LAKE | $ 367.02 | $ 827.62 | $ 230.15 | $ 2,497.30 | $ 778.26 | $411.24 | 112.05% |
| WINNER | $ 319.97 | $ 32.50 | $ 81.90 | $ 275.70 | $ 108.55 | ($211.42) | -66.07% |
| WORTHING | $ 1,905.75 | $ 970.45 | $ 651.95 | $ 679.90 | $ 445.75 | ($1,460.00) | -76.61% |
| YANKTON | $ 18,160.00 | $ 10,516.00 | $ 12,181.00 | $ 5,371.00 | $ 5,371.00 | ($12,789.00) | -70.42% |
| **Totals** | **$ 828,253.82** | **$ 805,576.91** | **$ 711,696.09** | **$ 728,725.18** | **$ 695,532.10** | ($132,721.72) | -16.02% |

= duplicated CY11 amount as CY12 was not yet available