

## Public Library Income from Distribution of Penal Fines, Delta County

Superiorland Library Cooperative is a local government unit with a local governing board, not a state agency. 26 public libraries in the central and western UP are members. Our purpose is to provide economy of scale services that even the largest library would be unable to afford on its own, such as technology & library automation. Cooperatives are also advocates at the state level for increased library funding.

The State Constitution of 1835 earmarked penal fines for public libraries. Libraries receive income from fines assessed for firearms violations, hunting & fishing violations, dog laws, traffic violations - majority of fine income is from traffic citations.

Most people who pay traffic citation fines assume their money goes to pay the costs for traffic law enforcement and road patrol. Intent behind the complex distribution schedule is that those who enforce the laws do not directly benefit. In fact, only a portion of traffic fines goes to the Highway Safety Fund for additional state police road patrol. The vast majority of traffic fine revenue is statutorily dedicated to a wide range of other state agencies and programs. Revenue is distributed to county law and public libraries, the local court-funding unit (in Delta, the County funds the District Court), to local municipalities that have parallel traffic ordinances, two retirement systems, and a wide variety of other state programs.

Penal fines are a major source of revenue for Michigan public libraries, second only to voted millages and local government appropriations. A Public Library Funding Initiative study published in 2001 showed that public libraries are becoming increasingly dependent on penal fines for their existence, as other sources of revenue decline. State Aid to Public Libraries has declined 28% over the past 6 years. As of 2000, 50% of libraries in Michigan depended on penal fines for at least 25% of their income.

In order to qualify as a legal library, the library has to have minimum local income equal to 3/10 mill based on the taxable value of its legal and contract area. Without penal fines, most of the small rural UP public libraries could not meet the 3/10 mill local income requirement. Penal fines are critically important to libraries in Delta County. In 2004/2005 – last audited fiscal year – Escanaba PL penal fine income was 32% of Total Operating Income; Gladstone SPL penal fine income was 45% of Total Operating Income. That same year, the County appropriations added another 10% to Escanaba library income and 13% to Gladstone library income.

EPL's Total Income in 04/05 was \$17.07 per capita compared to \$40.46 per capita, the average Total Income for Michigan libraries serving a similar population. GSPL Total Income in 04/05 was \$12.11 per capita compared to \$25.82 per capita, the average for other Michigan libraries of similar size.

Penal fines are not an ideal way to fund libraries. Penal fine revenue is unstable; it varies from year to year, depending on the type & number of violations, fines imposed, and fines collected. Penal fine income is inequitable: it varies from county to county. A 6-

year average income from penal fines across all 15 UP counties shows a range from \$1.02 per capita to \$15.13 per capita – the highest per capita being the library at the Mac Bridge. The 6-year average in 4 western UP counties (Delta, Dickinson, Menominee, Iron) is a narrower range from \$5.09 to \$6.81. The 6-year avg across those 4 counties through 2005 was \$5.82 per capita. In 2006, Delta County libraries received \$5.42 per capita. If you look at the handout, page 2, “94<sup>th</sup> District Court Collection 2002-2005” you’ll see library penal fine income decreased in 2003 and 2004, but the trend seems to be up – based on the 2.3% increase in 2005 and the 94<sup>th</sup> District Court’s projections for 2006.

Note: The numbers in my report are from District Court annual transmittal forms. The information from the District Court is based on collections from Jan – Dec. Library actual income figures are based on an annual distribution in August We are looking at trends

One other thing to mention. The 94<sup>th</sup> District Court transfers payments / collections on a daily basis to the County Treasurer. This is the only Court I’ve found that does this in our area, and it should help the County’s cash flow and increased the earned interest.

There are many reasons library income from penal fines varies from year to year and county to county: Amount of local funding for sheriff’s road patrols; competitive grants to enforcement agencies for training and added personnel; # of motor carrier division officers who issue tickets for overweight trucks or serious safety violations; another very important reason is the Economy. In tough economic times people may not have the money to pay high fines and may choose a jail sentence. A court concerned about overcrowding, the cost of incarceration, loss of employment with a jail term, may offer community service. Penal fines usually decrease during periods of high unemployment. Use of library goes up during those same periods.

There are three types of revenue from traffic citations: court costs, fines, and assessments. Court costs: All court expenses that directly relate to prosecution up to the point of entry of judgment. Revenue to court funding unit: County.  
Fines: Penalties for violation of state statute or local ordinance  
Assessments: Additional charges added by the State and statutorily earmarked for specific state programs: Highway Safety Fund, Court Equity Fund, State Court Fund, Jail Reimbursement Program, the Forensic Lab Fund, Drug Treatment program, etc. long list Revenue to State

In 1996, Dept Treasury surveyed District Courts and found only 80% of fines were collected. In cases where people don’t make full payment, State Statute assigns a priority for collections. Prior to October 2003 priority for traffic fines: 1. Court costs highest priority for partial payments; 2. Fines; 3. Assessments. PA 102, 2003 established state minimum costs as 1<sup>st</sup> priority for payments of state law & local ordinance violations. Some payments take 2-3 years. The uncollected portion of fines can lead to differences in totals of each type of revenue and can impact the split between Library Penal Fines & Court Costs.

In 2003, the Legislature passed 19 bills to amend the Michigan Vehicle Code, Revised Judicature Act and several other laws that affect court costs and state assessments. This was in response to state budget cuts to the judicial system. Amendments raised filing and motion fees, state assessments, and other state minimum costs that are added to criminal and civil infractions. State minimum costs were given 1st priority for partial payments.

- Prior to October 2003, the first \$9 of court costs for every traffic fine automatically was sent to the State. The balance of court costs after that first \$9 went to the local court-funding agency, in Delta County that would be the County. PA 95 of 2003 eliminated that \$9 the state took off the top of court costs and replaced it with a \$10 assessment collected separately and paid into the newly created Justice System Fund. Legislative fiscal analysts projected an increase in local revenue if the court costs remained level and weren't reduced by that \$9. In the 94<sup>th</sup> District Court, revenue to the County from Civil Filing Fees went up from \$29,600 in 2002 to \$45,500 in 2005.

- \* PA 73 of 2003 consolidated and increased the state Assessments. Previously \$25 was added to every fine and paid directly to various state entities. After Oct 2003, a single assessment of \$40 per infraction is paid to the Justice System Fund. Revenue is distributed to the same state entities on a percentage basis. House & Senate Fiscal Analysts projected that significant increased revenue would more than replace the State General Fund reductions.

If we look again at the 94<sup>th</sup> District Court collections, we see the Grand Total Collections are going up each year from 2002 to 2005 and fines collected YTD are higher than ever in 2006.

Look at huge increase in state Assessments: Up from \$203,489 in 2002 to 296,649 in 2005. In fact, nondiscretionary allocations (assessments, local ordinances, other) have gone up from 43% to 50% of the Grand Total Collections. Libraries have no share at all in 50% of collections.

The State Court Administrator's Office establishes ranges for fines and court costs; however, each district court establishes its own individual schedule of fines and costs. The district court does have some discretion in the split between penal fines and court costs. In 1976, the Saginaw Public Library sued the 70<sup>th</sup> District Court claiming the Court was charging day to day operations costs to court costs and diverting income that belonged to the Library into the County general fund. This case was settled out of court and did not set a legal precedent. However, an arbitrary settlement allocated 50% to court costs and 50% to libraries. That 50 : 50 split has become the standard; however, in the district courts we have studied in the Upper Peninsula, the split is not that favorable to libraries. In the 94<sup>th</sup> District Court, the split in 2002 between Library penal fines and court costs was 46% to libraries and 54% to courts. That was a very fair allocation to libraries. However, the % allocated to library penal fines did go down in 2003 and 2004. In 2004, it was down 9% to 37 : 63. However, percentage of library penal fines in 2005 was up to 39 : 61 and we hope it will edge up again in 2006.

Local municipal ordinances are another reason library income from penal fines may decline. A local municipality can adopt its own traffic ordinances that parallel the Michigan Vehicle Code (parallel ordinances). Libraries receive revenue only when citations are written for violation of State law. When a citation is written under a local municipal ordinance, the library loses all revenue associated with that citation. Where the County funds the District Court, revenue from parallel ordinances is split between the municipality whose ordinance was violated and the county -- 1/3 to City and 2/3 to County. Both Escanaba & Gladstone have parallel ordinances. Escanaba's revenue has remained fairly steady from 2002 to 2005; however, Gladstone's revenue has gone up over three times. County revenue from parallel ordinances went up 35% from 2002 to 2005, to a high of \$44,000 in 2005.

Libraries also get revenue from some violations of the Motor Carriers Act. Libraries with weigh stations get major \$ from overweight truck citations. Officers of the Motor Carriers Division are the only state police officers who can issue a citation for a violation under the Motor Carrier Act. Division 8 has 13 posts across the UP and right now there are 13 officers. 6 of the 13 officers, however, are stationed at the International and Mackinaw Bridges. That leaves 7 officers to cover 11 posts and over 16,000 square miles. 94<sup>th</sup> District Court fines for overweight trucks have gone way up in 2006: YTD 18 citations & \$23,321 in judgments. Again, it may take more than a year to collect the full judgment. Libraries and counties have a common cause advocating for more road patrol enforcement officers.

In 2000, the Motor Carrier Act was amended and, in addition to overweight fines, libraries were given revenue from fines for serious safety violations that take a truck off the road. The number of tickets written in the U.P. for safety violations has gone up from 62 in 1999 to 156 in 2004, according to Lt. Ranta Division 8. This number isn't broken down by county; and, we couldn't find enough information to determine if any of the 156 tickets written in 2004 were for 'serious safety defects' or what if any impact there was on fine revenue to libraries.

Municipalities can also pass local ordinances for some motor carrier violations. Unlike other parallel ordinances, libraries do get a share of citations for serious safety defects: 70% of the fine goes to the municipalities and 30% to libraries. Municipalities in Marquette County have not passed local ordinances for Motor Carrier violations. I don't know about Delta County. We talked to the Chief of Police in Marquette and learned that local officers would have to have the same training as Motor Carrier Division officers, initial 12-week road patrol course and the annual training. This may be a source of revenue both for libraries and local municipalities. Of course, it would mean \$ for training and perhaps even increased road patrols. From what I understand, serious safety defects are not usually caught unless the truck is stopped for some other reason.