

35/90 Surcharge: Policy Issues and Recommendations

Bagels & Briefings presentation to the Legislature
January 31, 2017

If you are sentenced to pay a fine in Utah Court...

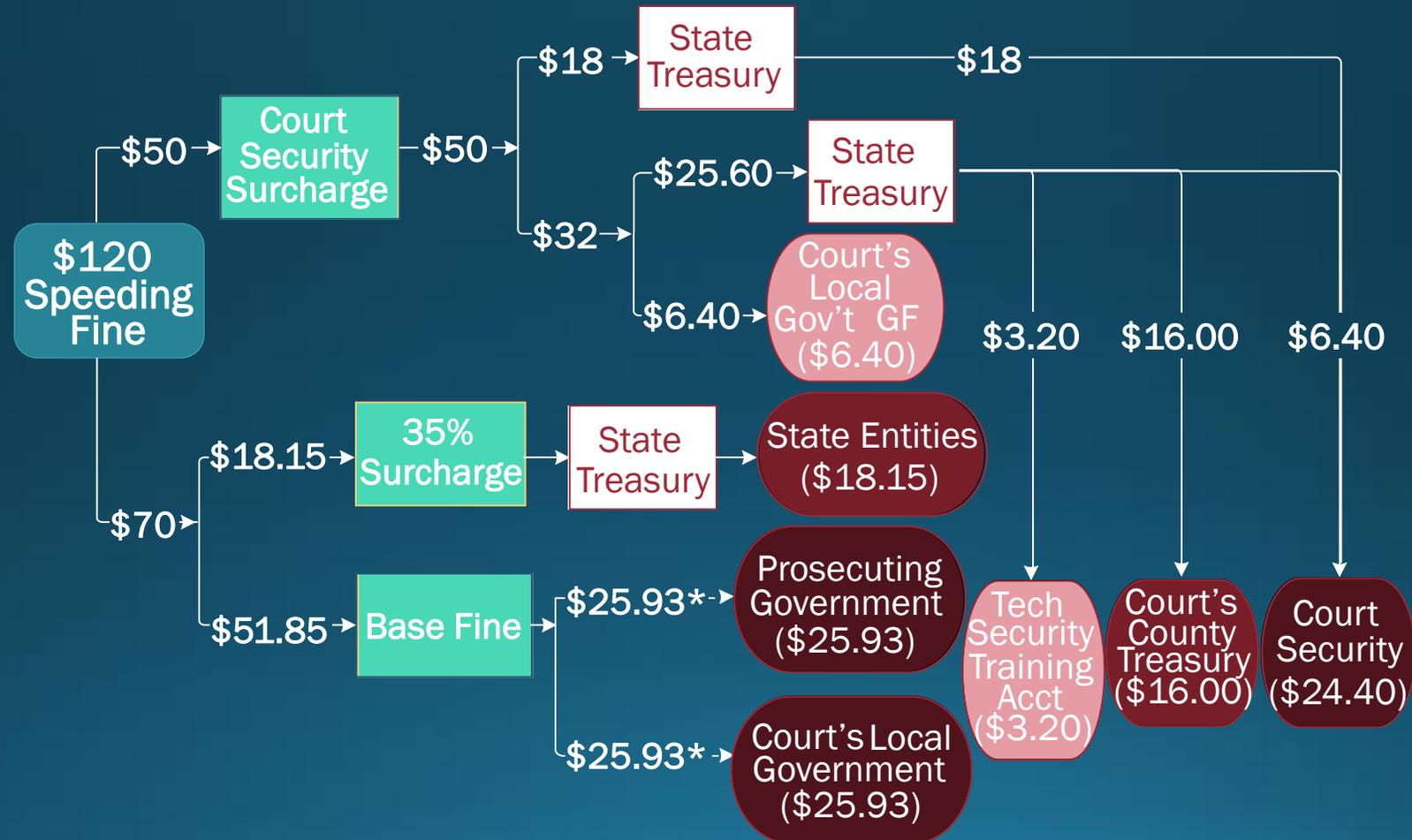


...this is the fine you see:

\$120 for speeding 60 mph in a 50 mph zone

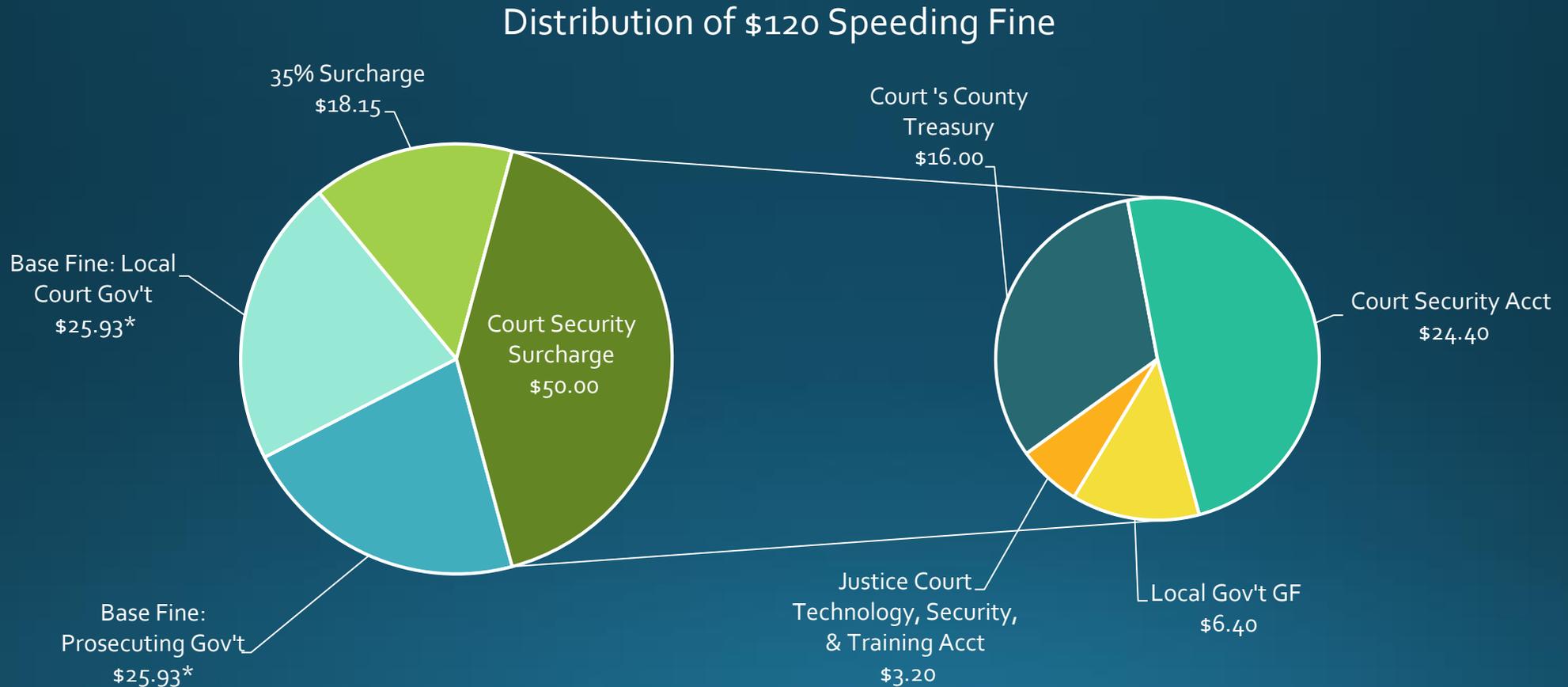
But behind the \$120 is this:

Justice Court Fine Distribution



*Note: Total may not add to \$120 due to rounding.

Justice Court Fine Distribution (cont.)



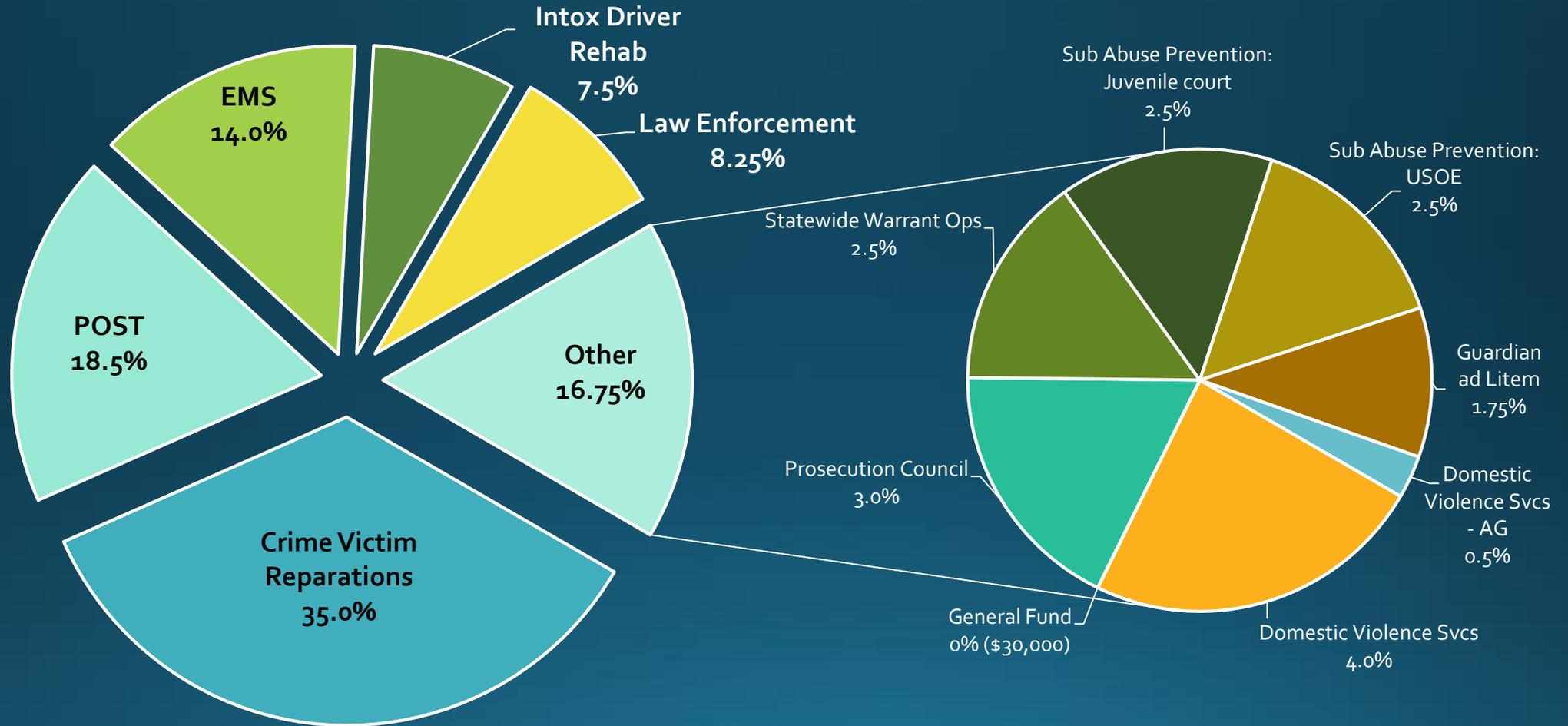
*Note: Total may not add to \$120 due to rounding.

State Entities funded by 35/90 Surcharge

Surcharge accounts	% allocated
Crime Victim Reparations and Assistance Fund	35.00%
Public Safety Support Fund for POST	18.50%
Emergency Medical Services	14.00%
Law Enforcement Services	~8.25%
Intoxicated Driver Rehabilitation	7.50%
Domestic Violence Support Services	4.00%
Public Safety Support Fund for Prosecution Council	3.00%
Statewide Warrant Operations	2.50%
Substance Abuse Prevention for Juvenile Courts	2.50%
Substance Abuse Prevention for USOE	2.50%
Guardian ad Litem	1.75%
Domestic Violence Services for AG's Office	0.50%

Allocation of surcharge determined by Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation

State Entity Surcharge Allocation



Note: Actual percentages may slightly vary depending on the total amount of surcharges collected and appropriations from the Legislature.

Legislative History of 35/90 Surcharge

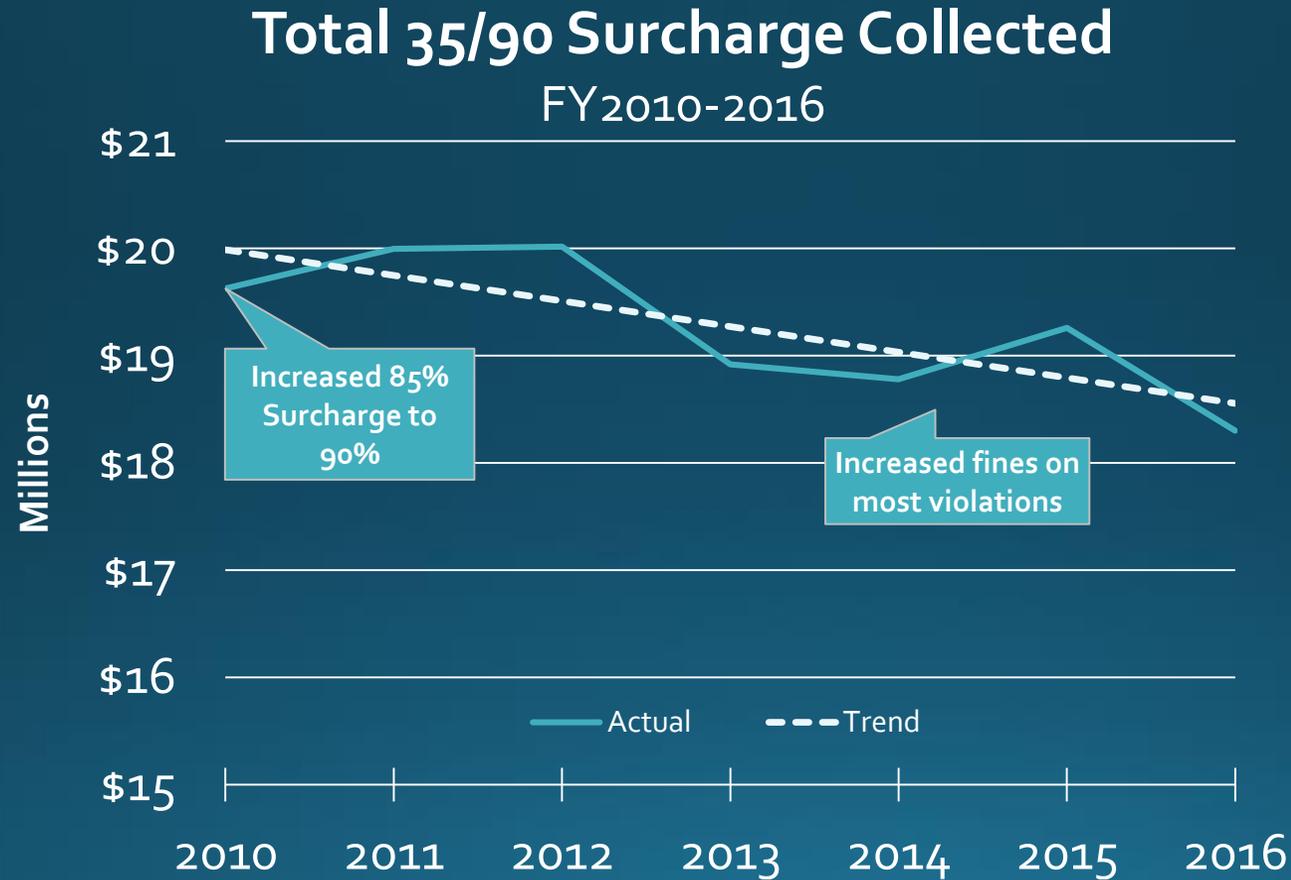
- S.B. 73 (1993):
 - Changed the allocations of the surcharge to several accounts, including the current levels for the Crime Victims Reparations fund (35%), the safety support fund for POST (18.5%), and the EMS Grants program (14.0%)
- H.B. 94 (1997):
 - Added the Guardian ad Litem Services Account to the list of accounts funded by the surcharge
 - Allocates 1.75% of the surcharge to the account
- S.B. 217 (2010):
 - Increased 85% Surcharge to 90%
 - Created the Law Enforcement Services Account, funded exclusively by the 90% surcharge at a rate of about 8.25%

35/90 Surcharge Collection

Surcharges Collected by Percentage FY2010-2016



35/90 Surcharge Collection



Questions to ponder

1. What explains those years when surcharge collection decreases?
2. What explains those years when surcharge collection increases?
3. Is the fluctuation in surcharge collection an issue that the Legislature must address?

Question: What explains those years when surcharge collections decrease?

- To determine possible reasons, we examined the following data:
 1. Collection rates of fines, fees, and restitution in district courts
 2. FY 2015 data of all cases filed in justice and district courts
 3. Bail and Fine Schedules for 2013 and 2014
- Hypotheses:
 1. Changes in collection rates
 2. Decrease in case filings

Hypothesis #1: changes in collection rates

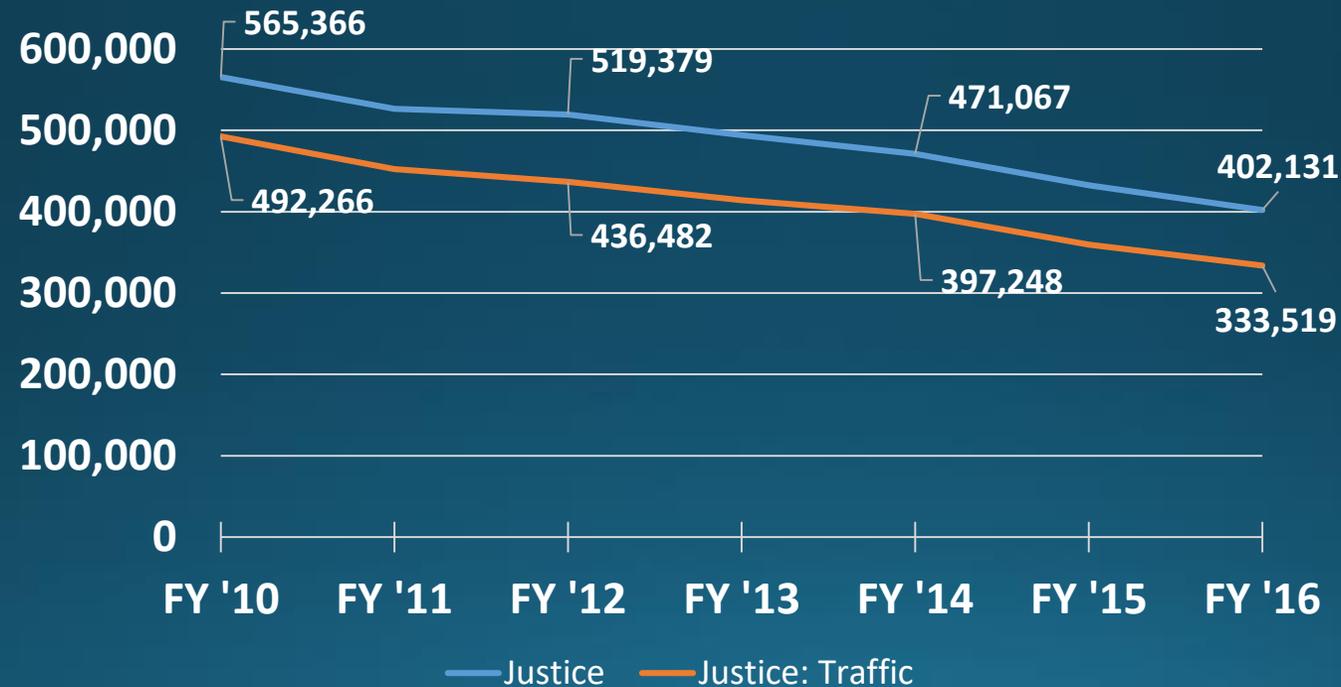
- AOC keeps track of District court collection rates for fines, fees, and restitution
- Though sharp fluctuations have occurred in the past, collection rates are fairly steady from one quarter to the next
- Collection rates improving slightly over last two fiscal years

Hypothesis #2: decrease in case filings

- Case filings, especially in justice courts, have steadily decreased since FY2010
- The decrease has been remarkably steady (see graph on next slide)
- The decrease is matched by a similar decrease in traffic cases
- However, conviction rates (%) have remained stable

Case filing decrease since FY2010

JUSTICE COURTS:
Total case filings vs. traffic case filings



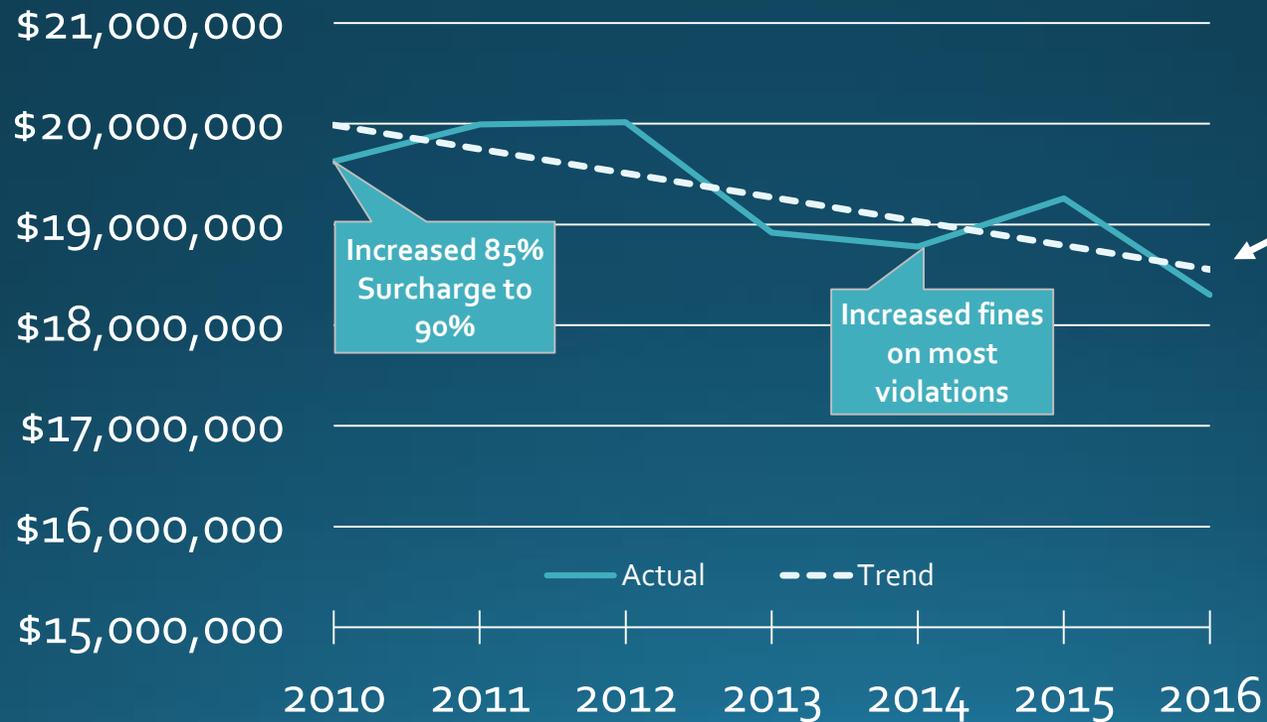
Why the decrease in case filings?

Two possible explanations:

1. Police recruiting and retention efforts are down since 2010
2. Police are prioritizing enforcement of other crimes (i.e., property crimes) over traffic violations

35/90 Surcharge Collection

Total 35/90 Surcharge Collected FY2010-2016



Trend in surcharge collection correlated with declining number of cases

Question: What explains those years when surcharge collections increase?

- Hypotheses:
 1. Increase in fines in 2014
 2. Increase in upper surcharge percentage from 85% → 90% in 2010

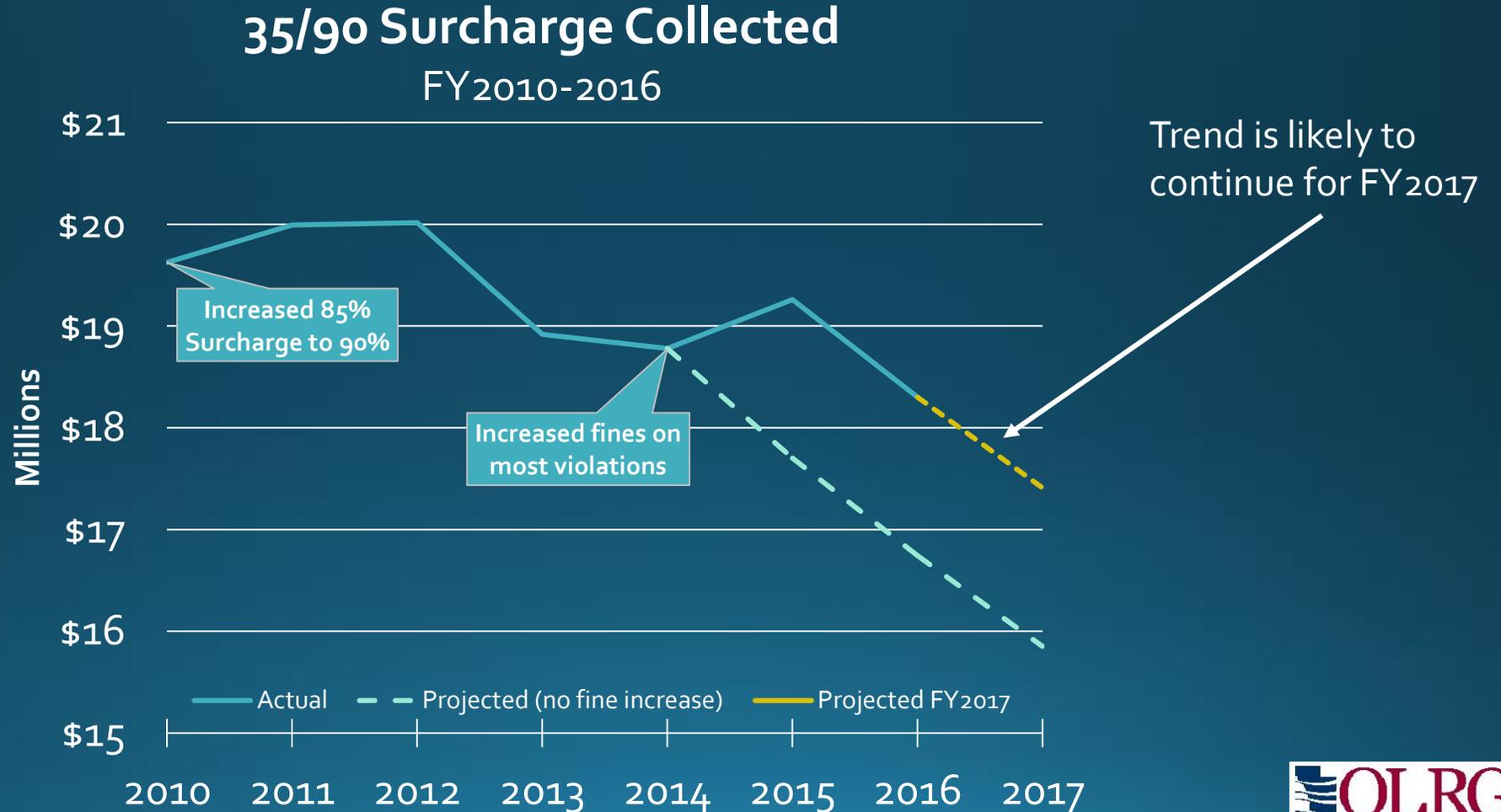
Hypothesis #1: Fines increased in 2014

- Two major changes to criminal conviction fines:
 1. Increase in court security surcharge in justice courts from \$40 to \$50
 2. Increase in overall fine amounts for numerous violations
- Changes were made to the bail and fine schedule by the Judicial Council, NOT by the Legislature

Impact of fine increases

- ~\$1.6 million in total additional surcharge revenue for cases in justice court
- ~\$3.4 million to local government for cases in justice court (money split evenly between justice courts and prosecutors)
- Impact from speeding tickets:
 - Speeding violations alone resulted in more than \$800K additional surcharge revenue for justice court cases
- Also additional revenue to the Division of Parks and Recreation and the Division of Wildlife Services, though amounts are miniscule

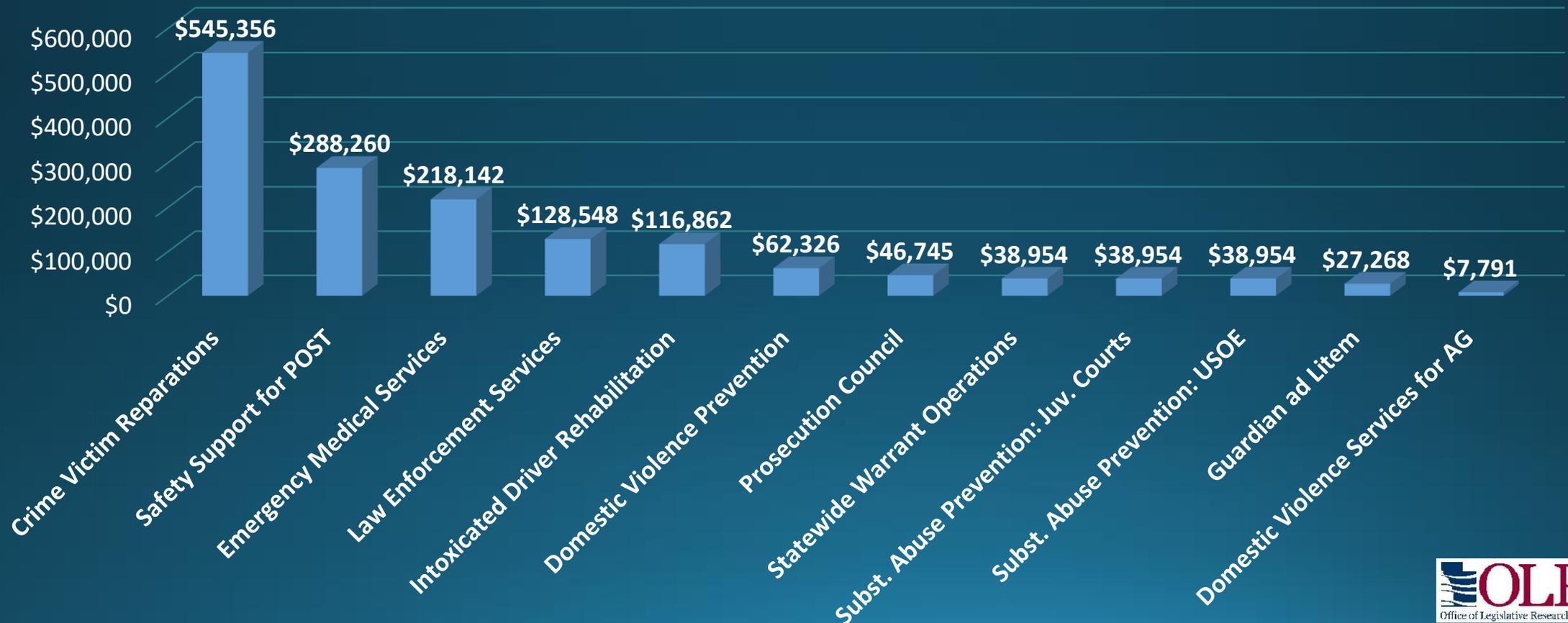
Summary Impact of Fine Increases



Summary Impact of Fine Increases (cont.)

35/90 Surcharge funds lost without fine increase

FY2015



But is this really a problem?

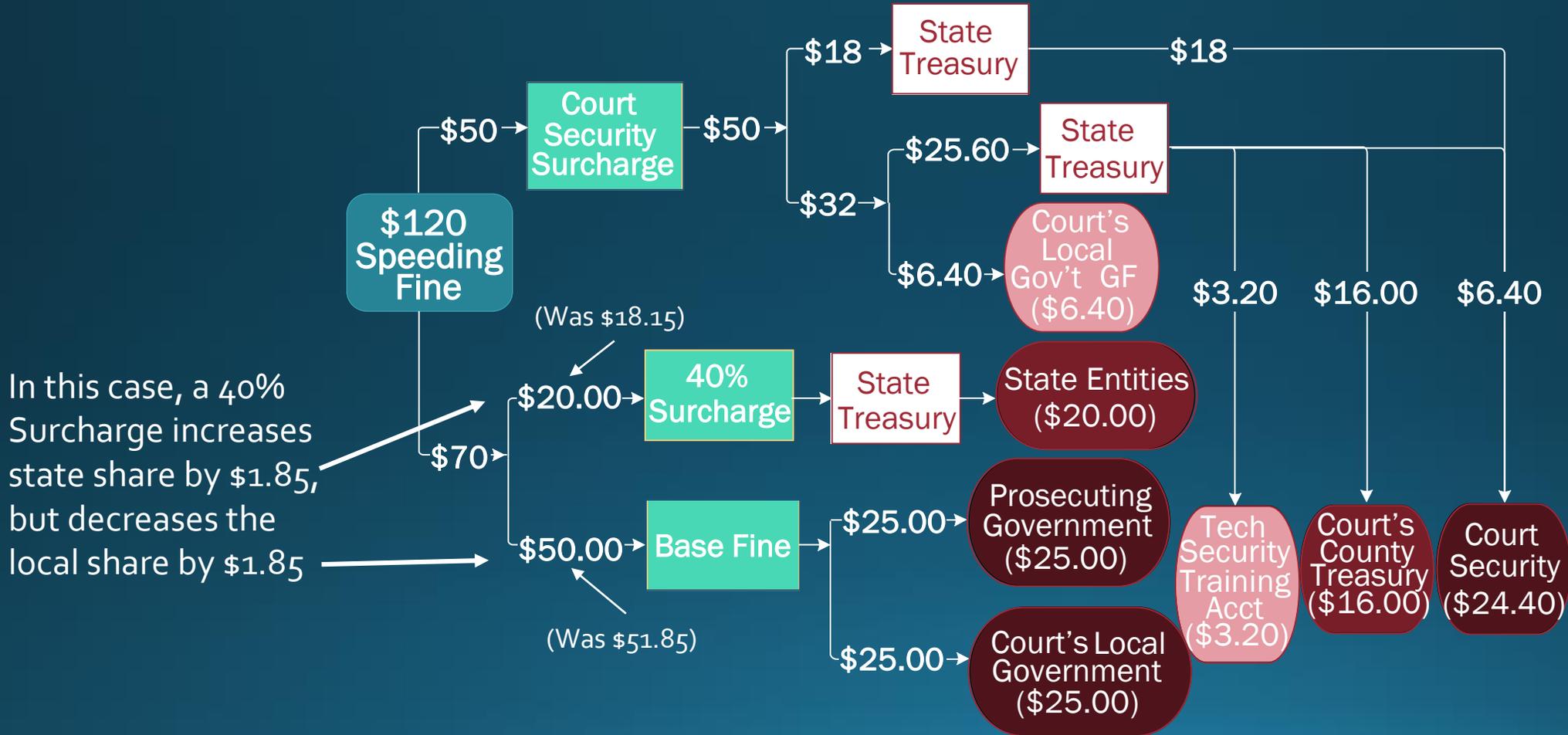
Non-Legislative Solutions

- Raise fines on the bail and fine schedule
- Step up/re-allocate enforcement efforts on traffic violations
- Change court sentencing guidelines
- Apply the Surcharge to more violations

Legislative Solutions

- Increase Surcharge percentage amount
 - Example: Speeding fine subject to 40% Surcharge
 - \$120 fine - \$50 Court Security Surcharge = \$70 base fine
 - \$70 base fine => \$20 Surcharge, \$50 local fine
 - Current Surcharge: \$18.15
- Change funding arrangement:
 - Revenue targets
 - General Fund appropriations
- Levy additional fees in statute

Changing Surcharge Percentage



Key Takeaways

- Funding for state programs reliant on the surcharge has been trending downward due in part to a decrease in case filings since FY2010
- The legislature has several options available to preserve or increase funding to such programs if it believes the drop in revenue is a problem
- The legislature can also wait to see if revenue levels off

Questions?

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