



2005

UTAH COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

Third Annual DUI Report to the Utah Legislature

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Acknowledgements

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Executive Summary

DUI in Utah FY 2005

Law Enforcement: Arrests

- There were 13,675 DUI arrests, 786 fewer than in FY 2004. The majority of the arrests, 73 percent, were for violation of the .08 per se statute.
- Over half of all arrests for DUI were made by local law enforcement agencies.
- Eighty-one percent of DUI drivers were male.
- Almost 16 percent of arrestees were under the legal drinking age of 21. DUI drivers between the ages of 21 and 36 accounted for over half (57%) of all arrests.
- The majority of DUI arrests occurred along the Wasatch Front, with Weber, Davis, Salt Lake and Utah Counties accounting for 65 percent of the total arrests.
- The average BAC was .14, with the highest at .45, nearly *six times* the legal limit!

Courts: Adjudications and Sanctions

- District Courts handled 2,256 DUI cases; Justice Courts handled 9,898 DUI cases.
- Ninety-six percent of Utah's Justice Courts are reporting DUI data electronically.

- District Court judges ordered 57% of offenders into substance abuse treatment, a two percent increase over last year; and ordered ignition interlock devices for 359 offenders, 78 fewer than last year.
- The average jail sentence for DUI offenders was 147.5 days; the average time served was 16.9 days.

Driver License Control

- The Driver License Division conducted 4,578 hearings during FY 2005 to determine if there was sufficient information to warrant the suspension or revocation of an individual's driver license.
- In 1,318 cases, either the arresting officer or the DUI offender used the telephonic option to call in for the driver license hearing; in 860 cases, the Driver License Division was unable to take any action because the officer did not appear.

Assessment, Education and Treatment

- From September 2003 to September 2004, 4,316 DUI offenders participated in the *PRIME for Life* educational course. Of the 3,623 who completed the course pre- and post-tests, nearly two-thirds reported it was their first DUI offense, while one-fifth reported it was not their first offense.
- DUI Courts that utilize a drug court model of "therapeutic jurisprudence" are effective in addressing the underlying causes of DUI and reducing recidivism. A CCJJ study found that almost 96 percent of DUI offenders served in the Taylorsville Justice Court successfully completed the treatment ordered by the court.

Recommended Action

- Enact legislation to extend the sunset date on the use of pleas in abeyance in DUI cases.
- Enact legislation to increase the use of the ignition interlock device (IID) as an effective tool for preventing and reducing DUI.

Introduction

Driving under the influence remains one of Utah's most serious violent crimes. During fiscal year 2005, there were 13,675 arrests for DUI throughout the state. In calendar year 2004, 72 Utahns lost their lives because someone chose to drink and drive. Despite the considerable progress being made to more effectively address DUI in Utah, there are still areas that can be strengthened in our response to DUI. This year's report provides an update of DUI-related data for the state, as well as recommended action that will hopefully help in preventing and reducing the incidence of DUI in the future.

Purpose of the Report

The *Third Annual Driving Under the Influence Report to the Utah Legislature* was prepared in accordance with §41-6a-511 of the Utah Code. The statute requires the Utah Commission on Criminal and Juvenile Justice to prepare an annual report of DUI related data, including the following:

- Data collected by the state courts to allow sentencing and enhancement decisions to be made in accordance with violations involving driving under the influence of alcohol and/or other drugs;
- Data collected by the justice courts (same DUI related data elements collected by the state courts);
- Any measures for which data are available to evaluate the profile and impacts of DUI recidivism and to evaluate the DUI related process of:
 - Law enforcement;
 - Adjudication;
 - Sanctions;
 - Drivers' license control; and
 - Alcohol education, assessment, and treatment.

2005 DUI Legislation

S.B. 42 Alcohol Restricted Drivers
Senator Carlene M. Walker

Changes the restricted blood alcohol content for certain persons and changes the violation from a driving under the influence violation to an alcohol restricted driver violation;

Defines certain persons convicted of driving under the influence, refusal to submit to a chemical test, alcohol-related reckless driving, and automobile homicide as “alcohol restricted drivers”;

Provides that it is a class B misdemeanor for an alcohol restricted driver to drive a vehicle with any measurable or detectable amount of alcohol in the person’s body;

Requires a peace officer to warn a person that has been placed under arrest for refusing to submit to a chemical test for alcohol or drugs that a refusal to submit to a chemical test for alcohol or drugs may result in a five or ten-year prohibition of the person driving with any measurable or detectable amount of alcohol in the person’s body;

Provides that a peace officer may impound a vehicle for certain violations;

Prohibits the Driver License Division from issuing, reinstating, or renewing a driver license in the form of a no alcohol conditional license beginning on July 1, 2005; and

Repeals provisions regarding no alcohol conditional licenses beginning on July 1, 2015; and coded licenses beginning July 1, 2005.

2005 DUI Committee

Utah Substance Abuse and Anti-Violence (USAAV) Coordinating Council
 During FY 2005, the USAAV DUI Committee met regularly to continue its work to identify ways to improve Utah's response to DUI. The Committee formed an Ignition Interlock Workgroup to prepare legislation that will increase the use of ignition interlock devices. The Committee also worked with researchers on the CCJJ study that examined the effectiveness of pleas in abeyance in DUI cases. The members of the DUI Committee are listed below.

	Anna Kay Waddoups Citizen Member <i>Chair, USAAV DUI Committee</i>
David Beach	Director, Highway Safety Office <i>Department of Public Safety</i>
Bart Blackstock	Citizen Member
Paul Boyden	Executive Director <i>Statewide Association of Public Attorneys</i>
Neil Cohen	Compliance Officer <i>Department of Alcoholic Beverage Control</i>
Victoria Delheimer	Administrator, Substance Abuse Treatment <i>Division of Substance Abuse and Mental Health</i>
Kim Gibb	Bureau Chief, Driver License Division <i>Department of Public Safety</i>
Chief Wayne Hansen	Farmington Police Department <i>Utah Chiefs of Police Association</i>
Gail Johnson	Education Specialist <i>Utah State Office of Education</i>
Teri Pectol	Program Manager, Highway Safety Office <i>Department of Public Safety</i>
Major Neil Porter	Utah Highway Patrol <i>Department of Public Safety</i>
Richard Schwermer	Assistant State Court Administrator <i>Administrative Office of the Courts</i>
Sheriff Kirk Smith	Washington County Sheriff's Office <i>Utah Sheriff's Association</i>
Carlene M. Walker	Senator <i>Utah State Senate</i>
	Mary Lou Emerson <i>Director, USAAV Council</i>

Ignition Interlock Workgroup

An ignition interlock device (IID) is a public safety measure designed to prevent drivers with elevated blood alcohol levels from operating motor vehicles. In its *DUI Best Sentencing Practices Guidebook*, the Utah Sentencing Commission states that “ignition interlock can be an effective DUI control mechanism to be used while other interventions, such as education and treatment, are taking place”.¹

Current Utah law provides that judges may order an ignition interlock device for a first DUI offense, and shall order the device for a second or subsequent offense within 10 years of a prior conviction and for offenders under the age of 21. In order to better understand judges’ perceptions regarding ignition interlock devices, as well as the circumstances surrounding their use, the DUI Committee asked the Commission on Criminal and Juvenile Justice to study the issue. In September of 2004, CCJJ released a Utah Justice Research Brief entitled *Ignition Interlock and DUI Offenses: A Survey of Utah Judges*.² When asked how often they sentenced DUI offenders to an IID as a condition of probation, Utah judges responded as illustrated in the following table:

Question to Judges: How often do you sentence DUI offenders to an ignition interlock as a condition of probation?						
Judges	Misdemeanor DUI Offenders			Felony DUI Offenders		
	Always/Regularly	Sometimes	Never	Always/Regularly	Sometimes	Never
District Court	59.6%	38.3%	2.1%	73.3%	20.0%	6.7%
Justice Court	39.1%	41.4%	19.5%	Justice Court judges do not sentence felony DUI offenders.		

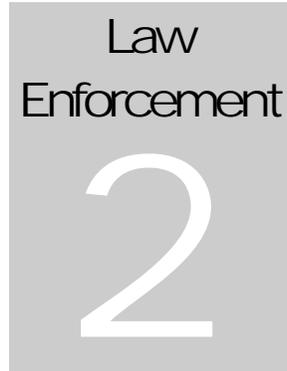
Source: Utah Commission on Criminal and Juvenile Justice

Judges were also asked their reasons for not ordering the IID as a condition of probation, which included: 1) not recommended by the prosecution (37.2%); 2) offender’s license suspended/revoked (25.6%); 3) IIDs not available in their area (24.0%); 4) no mechanism to ensure compliance (20.7%); 5) IIDs too costly for offenders (16.5%); 6) inadequate clarity in the DUI statutes (6.6%); 7) unfamiliar with interlocks/how they work (4.1%); and 8) low compliance with interlock orders (4.1%).

In response to the survey, the USAAV DUI Committee formed an Ignition Interlock Workgroup in December of 2004 to address IID issues and to make recommendations to improve use of the devices. The Workgroup’s efforts resulted in proposed legislation that will be presented to the 2006 Utah Legislature.

¹ Utah Sentencing Commission, *DUI Best Sentencing Practices Guidebook*, 2003.

² Utah Commission on Criminal and Juvenile Justice, *Ignition Interlock and DUI Offenses: A Survey of Utah Judges*, September 2004.



Law Enforcement

The Utah Department of Public Safety, through its Driver License Division and Highway Safety Office, collects information on all DUI arrests. In FY 05, Utah law enforcement officers made 13,675 DUI arrests, 786 fewer than in the previous year.

DUI Arrests

DUI Arrests by Type

As illustrated in the following table, the distribution of DUI arrests by type of violation in FY 05 was very similar to previous years. The majority of the arrests, 73 percent, were for violations of the per se law, for driving at or above the legal blood alcohol level of .08. Thirteen percent of arrests were for refusal to submit to a chemical test. Under Utah law, any person who operates a motor vehicle is considered to have given consent to tests of breath, blood, urine or oral fluids for the purpose of determining whether they are driving in violation of Utah's DUI law, with refusal resulting in revocation of the driver license. It is also illegal to drive with any measurable controlled substance or metabolite of a controlled substance in one's body, which accounted for 7.6 percent of arrests in FY 05. Violations of the Not a Drop statute, by persons under the age of 21 who drove with any measurable alcohol concentration in their body, were responsible for 5.6 percent of the arrests. The fewest arrests were of commercial drivers exceeding the .04 limit, which accounted for only 0.3 percent of the total; however, arrests of commercial drivers nearly doubled from FY 03 to FY 05.

DUI Arrests by Type	FY 2003		FY 2004		FY 2005	
	Number	Percent	Number	Percent	Number	Percent
Not a Drop (Under 21)	859	5.9%	818	5.6%	767	5.6%
Refusal of BAC Test	1,850	12.8%	1,865	12.9%	1,807	13.2%
Drug or Metabolite	1,039	7.2%	1,050	7.3%	1,038	7.6%
Commercial Driver (.04)	24	0.2%	30	0.2%	44	0.3%
Regular Alcohol (per se)	10,719	73.9%	10,698	74.0%	10,019	73.3%
TOTAL	14,491	100.0%	14,461	100.0%	13,675	100.0%

Source: Utah Department of Public Safety, Driver License Division

DUI Sweeps

Many of the arrests made in FY 05 occurred as a result of specialized DUI enforcement events or “sweeps” that specifically targeted and removed drivers under the influence of alcohol and/or other drugs from Utah’s roads. DUI impound fees (\$354,600 in FY 2005) were used to fund these sweeps.

The following table shows that all measures associated with DUI sweeps increased from FY 2004 to FY 2005. The number of shifts worked increased by over 17 percent; DUI arrests increased by nearly 12 percent; alcohol-related arrests, including open container and Not a Drop violations, increased by 65 percent; and drug related arrests increased by an overwhelming 174 percent!

Statewide DUI Sweeps	FY 2004	FY 2005	Percent Change FY 04 – FY 05
Shifts Worked	2,010	2,364	17.6%
DUI Arrests	1,334	1,493	11.9%
Vehicles Impounded	1,150	1,269	10.3%
Vehicles Stopped	11,673	18,612	59.4%
Alcohol Related Arrests	531	879	65.5%
Drug Related Arrests	250	685	174.0%
Warrants Served	154	375	143.5%
All Other Contacts	12,341	18,477	49.7%

Source: Utah Department of Public Safety, Highway Safety Office

The following tables detail the arresting agency, the gender and age of the driver, the month and county of arrest, and the driver’s blood alcohol content (BAC) at time of arrest. Overall, the FY 05 data are very similar to those collected in FY 03 and FY 04.

DUI Arrests by Agency Type

More than half of all arrests in FY 05 were made by local law enforcement agencies (55%), with the Utah Highway Patrol responsible for 27 percent of arrests, and Sheriffs’ Offices responsible for just over 18 percent of DUI arrests.

DUI Arrests by Agency Type	FY 2003		FY 2004		FY 2005	
	Number	Percent	Number	Percent	Number	Percent
Sheriffs’ Offices	2,189	15.1%	2,433	16.8%	2,529	18.5%
City Police/Other	7,892	54.5%	7,601	52.6%	7,464	54.6%
Highway Patrol	4,410	30.4%	4,427	30.6%	3,682	26.9%
TOTAL	14,491	100.0%	14,461	100.0%	13,675	100.0%

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by Gender

The table on the following page shows the proportions of male and female arrestees have remained consistent over the past three years: 81 percent were male and 19 percent were female.

DUI Arrests by Gender	FY 2003		FY 2004		FY 2005	
	Number	Percent	Number	Percent	Number	Percent
Male	11,740	81.0%	11,587	80.1%	11,017	80.6%
Female	2,688	18.6%	2,832	19.6%	2,625	19.2%
Unspecified	63	0.4%	42	0.3%	33	0.2%
TOTAL	14,491	100.0%	14,461	100.0%	13,675	100.0%

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by Age

The youngest DUI driver in FY 05 was 15 years old; the oldest was in the 94-96 age range. Almost 16 percent of arrestees were under the legal drinking age of 21. Drivers between the ages of 21 and 36 accounted for over half (57%) of all arrests.

DUI Arrests by Age	FY 2003		FY 2004		FY 2005	
	Number	Percent	Number	Percent	Number	Percent
Unknown	5	0.0%	4	0.0%	2	0.0%
15-20	1,625	11.2%	1,651	11.4%	2,163	15.8%
21-24	2,952	20.4%	2,780	19.2%	3,716	27.2%
25-36	5,032	34.7%	5,182	35.8%	4,105	30.0%
37-48	3,444	23.8%	3,364	23.3%	2,718	19.9%
49+	1,433	9.9%	1,480	10.3%	971	7.1%
TOTAL	14,491	100.0%	14,461	100.0%	13,675	100.0%

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by Month

DUI arrests remained consistent throughout FY 05, with an average arrest rate of 1,140 per month. The largest number of arrests occurred in January (1,221), with the smallest number of arrests in April (1,049).

DUI Arrests by Month	FY 2003		FY 2004		FY 2005	
	Number	Percent	Number	Percent	Number	Percent
July	1,137	7.9%	1,171	8.1%	1,196	8.7%
August	1,256	8.7%	1,318	9.1%	1,125	8.2%
September	1,151	7.9%	1,174	8.1%	1,099	8.0%
October	1,231	8.5%	1,179	8.1%	1,102	8.1%
November	1,257	8.7%	1,184	8.2%	1,109	8.1%
December	1,279	8.8%	1,136	7.9%	1,173	8.6%
January	1,276	8.8%	1,211	8.4%	1,221	8.9%
February	1,119	7.7%	1,200	8.3%	1,106	8.1%
March	1,279	8.8%	1,295	9.0%	1,188	8.7%
April	1,150	7.9%	1,213	8.4%	1,049	7.7%
May	1,285	8.9%	1,309	9.0%	1,174	8.6%
June	1,071	7.4%	1,071	7.4%	1,133	8.3%
TOTAL	14,491	100.0%	14,461	100.0%	13,675	100.0%

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by County

Consistent with past years, the majority of DUI arrests during FY 05 occurred along the Wasatch Front with Weber, Davis, Salt Lake and Utah Counties accounting for 65 percent (8,933) of the total. Salt Lake County had the highest number of arrests with 4,686 (34%); Wayne County had the fewest arrests with five (0.04%).

DUI Arrests by County	FY 2003		FY 2004		FY 2005	
	Number	Percent	Number	Percent	Number	Percent
Beaver	58	0.4%	110	0.8%	139	1.0%
Box Elder	186	1.3%	221	1.5%	186	1.4%
Cache	385	2.7%	396	2.7%	434	3.2%
Carbon	169	1.2%	152	1.0%	149	1.1%
Daggett	11	0.1%	13	0.1%	14	0.1%
Davis	1,452	10.0%	1,569	10.9%	1,548	11.3%
Duchesne	195	1.3%	130	0.9%	127	0.9%
Emery	133	0.9%	93	0.6%	60	0.4%
Garfield	54	0.4%	50	0.4%	34	0.3%
Grand	212	1.5%	149	1.0%	184	1.4%
Iron	295	2.0%	286	2.0%	303	2.2%
Juab	166	1.1%	177	1.2%	188	1.4%
Kane	125	0.9%	98	0.7%	83	0.6%
Millard	110	0.8%	106	0.7%	108	0.8%
Morgan	34	0.2%	33	0.2%	40	0.3%
Piute	10	0.1%	4	0.0%	7	0.0%
Rich	16	0.1%	17	0.1%	20	0.1%
Salt Lake	5,167	35.6%	5,360	37.1%	4,686	34.3%
San Juan	123	0.8%	125	0.9%	108	0.8%
Sanpete	125	0.9%	116	0.8%	126	0.9%
Sevier	187	1.3%	185	1.3%	181	1.3%
Summit	239	1.6%	334	2.3%	441	3.2%
Tooele	564	3.9%	541	3.7%	622	4.6%
Uintah	374	2.6%	446	3.1%	380	2.8%
Utah	1,560	10.8%	1,447	10.0%	1,575	11.5%
Wasatch	217	1.5%	254	1.8%	193	1.4%
Washington	654	4.5%	649	4.5%	610	4.5%
Wayne	15	0.1%	16	0.1%	5	0.0%
Weber	1,655	11.4%	1,384	9.6%	1,124	8.2%
TOTAL	14,491	100.0%	14,461	100.0%	13,675	100.0%

Source: Utah Department of Public Safety, Driver License Division

DUI Arrests by Blood Alcohol Content (BAC)

The average BAC remained at .14 during FY 05, with the highest BAC recorded at .45, nearly six times the legal limit!

DUI Arrests by Blood Alcohol Content	FY 2003		FY 2004		FY 2005	
	Number	Percent	Number	Percent	Number	Percent
BAC Results Not Yet Submitted	2,757	19.0%	3,909	27.0%	3,389	24.8%
.01 - .07	1,017	7.0%	813	5.6%	810	6.0%
.08 - .10	1,609	11.1%	1,425	9.8%	1,342	9.8%
.11 - .15	2,864	19.8%	2,589	17.9%	2,404	17.6%
.16 - .20	1,914	13.2%	1,788	12.4%	1,820	13.3%
.21 - .25	740	5.1%	683	4.7%	769	5.6%
.26+	281	2.0%	286	2.0%	309	2.3%
Refused BAC Test	2,483	17.1%	1,865	12.9%	1,824	13.3%
No Test/Unknown	N/A	N/A	831	5.7%	650	4.7%
Drug Only	826	5.7%	272	2.0%	358	2.6%
TOTAL	14,491	100.0%	14,461	100.0%	13,675	100.0%

Source: Utah Department of Public Safety, Driver License Division

Alcohol Related Fatalities

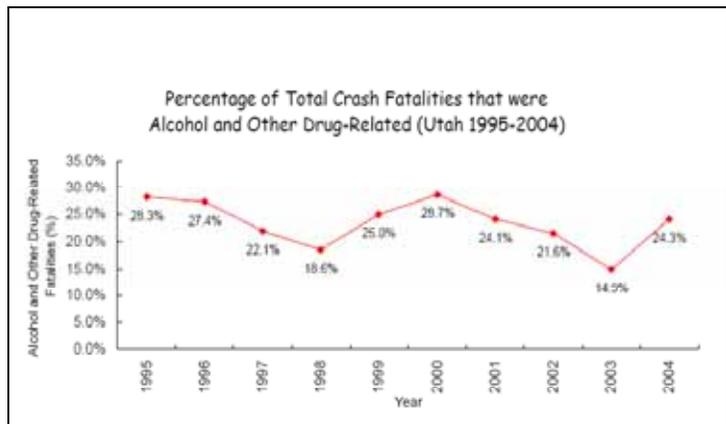
In 2003, Utah experienced a ten-year low in the percentage of total crash fatalities that were alcohol and other drug related. Despite an increase in 2004, Utah still maintained the lowest rate of alcohol/other drug related traffic fatalities in the nation, at 24 percent. The average nationwide was 39 percent.

Utah Alcohol Related Traffic Fatalities	2002 Calendar Year	2003 Calendar Year	2004 Calendar Year
Total Traffic Fatalities	328	309	296
Alcohol Related Fatalities	71	47	72
Percent Alcohol Related	22%	15%	24%
Blood Alcohol Content = .08+	66	39	70
Percent BAC = .08+	20%	13%	24%

Source: National Highway Traffic Safety Administration

The figure at the right provides a graphic presentation of the percentage of alcohol and other drug related traffic fatalities in Utah, from 1995 to 2004.

Source: Utah Department of Public Safety, Highway Safety Office



Use of State Beer Tax Funds for DUI Law Enforcement

The state’s beer tax funds are used to support DUI enforcement, as well as other alcohol-related enforcement, education/prevention and treatment activities. In FY 05, \$3,133,700 was distributed to municipalities and counties statewide on a formula basis.³ Funds can be spent in one or more of six general categories: (1) DUI law enforcement, (2) general alcohol-related law enforcement, (3) prosecution/court costs for alcohol-related cases, (4) treatment of alcohol problems, (5) alcohol-related education/prevention, and (6) confinement of alcohol law offenders.

Communities that receive more than \$1,000 in beer tax revenues are required to submit an Annual Report to the Utah Substance Abuse and Anti-Violence Coordinating Council by October 1st of each year, outlining how funds were utilized and certifying that they were used in accordance with the law. The following table shows how FY 05 funds were expended, as outlined in the Alcohol Funds Annual Reports received to date.

FY 2005 Alcohol Funds Reports How Funds Were Used - As of 10/17/05	Number of Communities (N=86)	Percent⁴
DUI Law Enforcement	54	62.8%
General Alcohol-Related Law Enforcement	46	53.5%
Prosecution/Court Costs for Alcohol-Related Cases	7	8.1%
Treatment of Alcohol Problems	3	3.5%
Alcohol-Related Education/Prevention	40	46.5%
Confinement of Alcohol Law Offenders	4	4.6%
Source: Utah Substance Abuse and Anti-Violence Coordinating Council, FY 2005 Alcohol Funds Annual Reports		

³ The State Tax Commission distributes funds to municipalities and counties in December of each year based upon the following formula: percentage of state population (25%); percentage of statewide convictions for all alcohol-related offenses (30%); percentage of all state stores, package agencies, liquor licensees, and beer licensees (20%); and for confinement and treatment purposes (for alcohol-related offenses) based upon the percentage of the state population (25%).

⁴ Communities may use alcohol funds for more than one of the six categories outlined in the statute.

Adjudications
& Sanctions

3

Adjudications and Sanctions

DUI offenses are classified either as misdemeanors or felonies, depending on the type of offense and whether it is a repeat offense. Misdemeanors are handled in local Justice Courts, which are managed and funded by local governments. Felonies are handled in state District Courts. While the number of cases in both District and Justice Courts increased from FY 03 to FY 04, there was a 10.9 percent decrease in District Court cases and a four percent decrease in Justice Court cases from FY 04 to FY 05.

DUI Cases in Utah's Courts	FY 2003	FY 2004	FY 2005	% Change FY 04 – FY 05
District Court Cases Disposed	2,293	2,533	2,256	-10.9%
Justice Court Charges	9,450	10,316	9,898	-4.0%

Source: Utah Administrative Office of the Courts

Justice Court Electronic Reporting Capability

In order to prevent repeat offenders from slipping through the system, state law required all Justice Courts to develop the capability to electronically report DUI data to the state by February 2004. In FY 03, only 30 Justice Courts had met this requirement. By the end of FY 04, 80 Justice Courts were compliant, with another 20 in the testing phase.

The following table shows the growth of Justice Court compliance from FY 03 to FY 05. As of October 1, 2005, 96 percent of Utah's 133 Justice Courts were in compliance with the electronic reporting requirements. Courts that are not reporting electronically must still submit their reports to the Bureau of Criminal Identification (BCI) in a hard copy format.

Justice Court DUI Electronic Data Reporting Capability	FY 2003	FY 2004	FY 2005
Reporting Electronically	30	80	128
In the Testing Phase	N/A	20	1
Not Reporting Electronically	N/A	37	4

Source: Utah Department of Public Safety, Bureau of Criminal Identification

Justice Court DUI Charges and Outcomes

During FY 05, Utah's Justice Courts handled 9,898 DUI cases, 418 fewer than in FY 04. The following table details the DUI cases filed in Justice Courts and their outcomes. This table does not accurately represent the DUI conviction rate for the Justice Courts, however, as it includes cases filed in FY 04 that were not resolved until FY 05. The table also shows that 1,281 cases were still pending resolution at the end of the fiscal year.

Justice Court DUI Charges and Outcomes	FY 2004		FY 2005		% Change FY 04 – FY 05
	Number	Percent	Number	Percent	
Total DUI Charges Filed	10,316	100.0%	9,898	100.0%	-4.0%
Guilty	6,212	60.0%	5,937	60.0%	-4.4%
Dismissed or Not Guilty	2,071	20.0%	2,680	27.0%	29.4%
Cases Pending	2,033	20.0%	1,281	13.0%	-37.0%

Source: Utah Administrative Office of the Courts

District Court DUI Case Outcomes

During FY 05, Utah's eight District Courts handled 2,256 DUI cases. Of the cases processed through the District Court, 76 percent resulted in a guilty plea or verdict. The defendant was found not guilty in only four cases. In another 17 percent of the cases, the case was either dismissed or declined for prosecution. The following table identifies how cases were handled by Judicial District. It should be noted that this table is not an accurate depiction of the District Courts' DUI conviction rates, as it only examined cases that were disposed of during FY 05. Pending cases were not included in the data analysis.

FY 2005 District Court DUI Case Outcomes										
DUI Case Outcomes	Judicial District								Total	Percent
	1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th		
Bail Forfeiture			1						1	0.0%
Deceased		1		4				1	6	0.3%
Declined		1						1	2	0.1%
Dismissed	44	93	117	55	21	26	8	15	379	16.9%
Diversion								1	1	0.0%
Guilty	76	504	364	424	135	58	65	96	1,722	76.3%
Guilty/Mentally Ill									0	0.0%
No Contest	1	9	5	26	5				46	2.0%
Not Guilty		2	1					1	4	0.2%
Plea in Abeyance	3	13	6	22	2	1		4	51	2.3%
Remanded			20	1					21	0.9%
Transferred	3	2	13	4	1				23	1.0%
TOTAL	127	625	527	536	164	85	73	119	2,256	100.0%

Source: Utah Administrative Office of the Courts

Repeat Offenders

The District Courts also track how repeat DUI offenders are handled. In the following table, the first column shows if the offender was charged as a first-time offender or a repeat offender. The second column indicates how many of those in the first column actually met that criterion. The last column shows how the offender was sentenced.

The table shows that of the 535 DUI offenders charged with a first offense, only 435 were actually first-time offenders. There were, however, 585 who were sentenced as first-time offenders. Discrepancies between charges and sentencing are not unusual. An offender's sentence is dependent upon the conviction, which may or may not be the same as the offense charged due to plea bargains or court procedural issues.

FY 2005 District Court Repeat Offender Data⁵			
Offense	Offense Was Charged As	Offense Was Actually	Offense Was Sentenced As
1 st Offense	535	435	585
2 nd Offense	131	139	163
3 rd Offense	178	151	140
4 th Offense	17	24	12
5 th Offense	8	11	7
6 th Offense	4	9	3
7 th Offense	1	4	1
8 th Offense	--	--	--
9 th Offense	--	--	--
10 th Offense	2	2	1
Unknown	944	1,045	908
TOTAL	1,820	1,820	1,820
Source: Utah Administrative Office of the Courts			

Court Sanctions

The District Courts also track other DUI related case information such as blood alcohol content (BAC) reported, screening and assessment ordered, and ignition interlock ordered.

The following table shows that in 797 cases the blood alcohol content was known. The table also shows that judges ordered offenders to participate in an educational series in 45 percent of cases, substance abuse treatment in 57 percent of cases, and that ignition interlock devices were ordered in 359 cases. DUI offenders were also notified in 100 percent of the cases that they may be subject to enhancements.

⁵ The table does not add up to the 2,256 cases disposed because the following cases were not included: bail forfeiture, deceased, declined, dismissed, not guilty, remanded, and transferred.

District Court DUI Data	FY 2004	FY 2005
Blood Alcohol Content Known	774	797
Substance Abuse Screening and Assessment Ordered	60.0%	61.0%
Substance Abuse Treatment Ordered	55.0%	57.0%
Educational Series Ordered	51.0%	45.0%
Ignition Interlock Ordered	437	359
Supervised (Non-Court) Probation	797	670
Electronic Monitoring	148	162
Enhancement Notification	100.0%	100.0%
Source: Utah Administrative Office of the Courts		

The Driver License Division tracks other DUI sanctions. The following table lists the average sanctions applied against DUI offenders. Not all offenders are ordered to serve a jail sentence or perform community service hours. All convicted DUI offenders, however, are assessed a fine and a surcharge. For a first offense, the minimum fine is \$700; for a second offense within 10 years, the minimum fine is \$800; and, for a third or subsequent offense, the minimum fine is \$1,500.

Average Jail Sentence, Community Service Hours and Fines	FY 2004	FY 2005
Average Jail Sentence	133.4 days	147.5 days
Average Time Suspended	128.4 days	146.5 days
Average Time Served	21.6 days	16.9 days
Average Community Service Hours	72.8 hours	80.2 hours
Average Fine for Other Alcohol/Drug Related Convictions	\$1,268.09	\$1,310.85
Average Fine for DUI Convictions	\$1,460.46	\$1,546.35
Source: Utah Department of Public Safety, Driver License Division		

Driver License
Control

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Driver License Control

The Department of Public Safety's Driver License Division is required by statute to suspend or revoke the license of a person that has been convicted or sanctioned for one of the following:

- Driving under the influence
- Driving with any measurable controlled substance or metabolite in the body
- Refusal to submit to a chemical test
- Automobile homicide
- "No-alcohol" conditional license

Alcohol Hearing Statistics

When a driver is arrested for DUI, the license is taken and a 30-day temporary license is issued. Drivers may request a license hearing within 10 days, and the Driver License Division must schedule the hearing within the 30-day period of the temporary license.

As shown in the table below, there were 4,578 alcohol hearings held in FY 2005. The Division is unable to take any action against a driver if the arresting officer does not appear at the hearing. To improve appearance rates, the Division offers a telephonic option, whereby officers or offenders can phone in for the hearing. In 1,318 cases, one of the parties called in for the hearing; however, in 860 cases, no action was taken because the officer did not appear in person or telephonically.

FY 2005 Alcohol Hearing Statistics						
ACD Code	Total # of Hearings	No Officer	No Officer Telephonic	Other No Action	Total No Action	Total Telephonic
Per Se	3,799	711	23	747	1,481	1,081
Not a Drop	177	19	3	31	53	46
Refusal	602	100	4	83	187	191
TOTAL	4,578	830	30	861	1,721	1,318

Source: Utah Department of Public Safety, Driver License Division

Assessment, Education and Treatment

As part of any sentence for a DUI offense, Utah law requires offenders to participate in a screening and, if indicated by the screening, an assessment. A screening involves gathering information that is used to determine if an individual has a problem with alcohol/other drug abuse, and if so, whether an in-depth clinical assessment is appropriate. An assessment is a collection of detailed information concerning the individual's alcohol/other drug abuse, emotional and physical health, social roles, and other relevant areas of the individual's life. The assessment is used to determine the need for substance abuse treatment.⁶

For a first offense and for a second offense within 10 years, the sentence must include participation in an educational series if the court does not order treatment. For a third or subsequent offense within 10 years, the court must order substance abuse treatment.

Education

Utah DUI offenders sentenced to an educational series attend the *PRIME for Life* program developed by the Prevention Research Institute. The 16-hour curriculum presents research-based information about the risks associated with alcohol and other drug use that helps participants identify lifestyle choices to reduce their personal risks⁷.

⁶ Center for Substance Abuse Treatment, *Screening and Assessment for Alcohol and Other Drug Abuse Among Adults in the Criminal Justice System*, Treatment Improvement Protocol (TIP) Series, #7.

⁷ Prevention Research Institute, *PRIME for Life Utah 2004*.

A study of *PRIME for Life* participants from September 2003 through September 2004 indicated that the program had an impact on changing beliefs about alcohol use, increased participants' understanding of the risks associated with alcohol use, and contributed to an increased desire to change personal drinking behavior. The following table shows the findings from this most recent study (2004) are virtually identical to the findings from the previous year's study (2003).

<i>PRIME for Life</i> Participant Characteristics & Outcomes	2003	2004
Number of Participants Included in Analysis⁸	2,678	3,628
Gender		
Male	80.0%	77.9%
Female	20.0%	21.1%
No Answer		1.0%
Race/Ethnicity		
Caucasian	73.7%	73.2%
Hispanic	17.1%	17.8%
African American	1.9%	1.5%
Other/No Answer	7.3%	7.4%
Number of Offenses		
First-Time DUI Offense	64.0%	64.0%
Multiple DUI Offenses	20.0%	20.0%
No Answer	16.0%	16.0%
Self Assessment of Substance Abuse		
Described self as having alcoholism	18.3%	18.1%
Have used drugs in the past year	35.4%	34.7%
After PFL course, intends not to use drugs in the future	73.8%	74.2%
<i>PRIME for Life</i> Course Evaluation (on a 1-5 scale)		
Taught participants things that will work	4.3	4.3
Changed participants' thinking about drinking	4.2	4.2
Changed participants' thinking about drug use	4.0	4.0
Class was a waste of time	1.7	1.7
Source: <i>PRIME for Life Utah 2004</i> , Prevention Research Institute		

Treatment: DUI Courts

The National Drug Court Institute stated it most effectively: *“America’s drug courts are working. Taking a rehabilitative approach to justice that is based on intensive drug treatment, close supervision, and a demand for offender accountability, drug courts offload nonviolent drug offenders from traditional court systems and place them in programs designed to get them off drugs, reduce recidivism, save money, and slow the*

⁸ In the 2003 analysis timeframe, 3,074 individuals participated in the *PRIME for Life* course; however, only 2,678 completed both the pre- and post-test surveys and are included in the analysis. In the 2004 analysis timeframe, 4,316 individuals participated in the *PRIME for Life* course; however, only 3,628 completed both the pre- and post-test surveys and are included in the analysis.

revolving door that has come to characterize the nation's criminal justice system. The positive outcomes for drug courts beg the question: Can the drug court model be applied with equal effectiveness to other populations? More specifically, can it work with drunk drivers?"⁹

There are currently three Justice Courts in Utah that are considered DUI Courts because they employ a drug court model in dealing with DUI offenders. These courts are located in Clearfield, Holladay and Taylorsville. In the Taylorsville Court, offenders are offered a plea in abeyance and ordered into a substance abuse treatment program. The plea is considered a conviction for purposes of penalty enhancement in subsequent offenses. The Court has been extremely successful with over 95 percent of offenders who are given a plea in abeyance completing treatment,¹⁰ and a self-reported recidivism rate of only 10 percent.

In September of 2005, the National Drug Court Institute, Utah Administrative Office of the Courts, Utah Department of Public Safety, and National Highway Traffic Safety Administration joined together to provide a six-hour course in Salt Lake City for Utah Justice Court judges on how to plan and operate a DUI Court. Thirty-one judges attended the training. It is anticipated that the number of DUI Courts in Utah will continue to grow.

Pleas in Abeyance in DUI Cases

The 2004 Utah Legislature passed *S.B. 20 – Driving Under the Influence Amendments*. This bill did the following: 1) outlined the circumstances under which a plea held in abeyance may and may not be used in DUI cases; 2) set a sunset date for the use of pleas in abeyance in DUI cases on July 1, 2006; and 3) required the Commission on Criminal and Juvenile Justice (CCJJ) to study the use of pleas in abeyance involving DUI violations.

The CCJJ study, *DUI and Pleas in Abeyance*, was completed in October 2005. The study examined two Justice Courts: the Taylorsville Justice Court, which uses pleas in abeyance in DUI cases; and the Salt Lake City Justice Court, which does not offer DUI offenders a plea in abeyance. The primary measure examined in the study was the successful completion of the treatment regimen ordered by the court. The study found the difference in treatment completion between the two sites was statistically significant. In Taylorsville, 95.8 percent of offenders offered a plea in abeyance successfully completed treatment; in Salt Lake City, 80.0 percent of offenders completed the ordered treatment.

The researchers concluded, however, that it was more likely the difference in approach utilized by the two courts that accounted for the difference in treatment completion, not the use of a plea in abeyance. The Taylorsville Justice Court utilizes a “therapeutic

⁹ National Drug Court Institute, *DUI/Drug Courts: Defining a National Strategy*, March 1999.

¹⁰ Commission on Criminal and Juvenile Justice, *DUI and Pleas in Abeyance*, October 2005.

jurisprudence” approach in serving DUI offenders, much like that of a drug court; the Salt Lake City Justice Court does not offer DUI offenders this approach. The study further concluded: *“In both Salt Lake City and Taylorsville, an overwhelming majority of DUI offenders ordered into treatment do successfully complete treatment. A drug court model can be effectively employed in the realm of DUI offenses; however, the data analysis does not shed light on the question of whether or not a plea in abeyance is critical in accomplishing the goals of a drug court approach.”*¹¹

¹¹Commission on Criminal and Juvenile Justice, *DUI and Pleas in Abeyance*, October 2005.

Recommended
Action

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Recommended Action

Use of Pleas in Abeyance in DUI Cases

Enact legislation to extend the sunset date on the use of pleas in abeyance in DUI cases.

The CCJJ study conducted to determine if offering DUI offenders a plea in abeyance is necessary to get them into treatment and to complete treatment was not able to provide a definitive answer. The study did conclude that while there was a significant difference in the treatment completion rates between the Taylorsville Justice Court (96%), which used a plea in abeyance, and the Salt Lake City Justice Court (80%), which did not offer a plea in abeyance, the difference could not conclusively be attributed to the plea in abeyance. Instead, the study concluded that the “therapeutic jurisprudence” approach used in the Taylorsville Justice Court, based on the drug court model, was most likely the reason for this Court’s significantly greater treatment completion rate. The Salt Lake City Justice Court does not offer DUI offenders this approach. An extension of the timeframe for permitting the use of pleas in abeyance in DUI cases may allow for further research on the importance of using pleas in abeyance with DUI offenders.

Ignition Interlock Amendments

Enact legislation to increase the use of the ignition interlock device (IID) as an effective tool for preventing and reducing DUI.

Ignition interlock devices (IIDs) have been found to be helpful in managing DUI offenders and in reducing DUI-related recidivism, when they are used in conjunction with other sanctions, such as education and treatment. A CCJJ survey of judges to determine how often they ordered IIDs, however, indicated that while judges do order IIDs much of the time, there were also cases in which they did not order the devices. Amendments to Utah’s ignition interlock laws should ensure if a DUI offender meets the conditions for an ignition interlock device, it will be illegal for the offender to drive without the device.



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