



**Department of Commerce**

# **Criminal Penalty Fees**

*Related to Sexual Exploitation Crimes*

*RCW 43.280.100*

March 2019

Report to the Legislature

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## Acknowledgements

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# Executive Summary

## Overview

In 2013, the Washington Legislature levied additional fees on Commercial Sexual Abuse of a Minor (CSAM) and other sexual exploitation crimes (Chapter 121, Laws of 2013). The fees are in addition to other criminal penalties, including statutory fines and jail time. Local jurisdictions retain most of the revenue from these fees to fund preventative efforts, services for victims and law enforcement activities to reduce the commercial sale of sex.

Judges can reduce some of the fees by up to two-thirds if the judge finds, on the record, that an offender cannot pay the higher fees. Courts cannot entirely waive any of the fees. The 2013 law requires the Washington State Department of Commerce (Commerce) to report annually on the fee revenue and expenditures related to this set of crimes. This is Commerce's fifth annual report, presenting information for state fiscal year 2018.

## Key Findings

In state fiscal year 2018:

- Seventy courts in Washington handed down convictions for the crimes that bear the additional fee. Of these courts, fewer than half – 28 – levied the statutorily required fees and collected payment of the fees. Another four courts collected revenue but did not assess fees, which indicated the revenue was from offenders paying off fees levied in past years.
- If judges were to order offenders to pay the full fee amount for their crimes, potential revenue in state fiscal year 2018 would have totaled \$780,950. Instead, judges in superior, district and municipal courts ordered payment of \$253,013 – 32 percent of the total possible. This percentage represented a significant decrease from the prior four-year average of 42 percent assessed out of the total amount possible.
- Courts levied a total of \$253,013 and collected \$401,892. Fiscal year 2018 was the first year in which the fees collected exceeded the amount levied. Offenders often pay fees over time, instead of the year in which the court assessed them, which explains the discrepancy. The Seattle Municipal Court collected the majority of the funds, 63 percent.
- Five courts reported less than \$100 collected during state fiscal year 2018. Report researchers did not survey these five courts. Researchers surveyed through email and phone contacts the 23 jurisdictions that collected greater amounts to determine how cities and counties used the funds. Seventeen courts responded to the survey.
- Arrests for sexual exploitation crimes totaled 1,294 in state fiscal year 2018, close to the prior four-year average of 1,288. Convictions for these crimes declined, however, to 363 – 13 percent less than the average of 419.

## **Recommendations**

In recent years, the Legislature, public, media and law enforcement agencies have paid increasing attention to sexual exploitation crimes.<sup>1</sup> Law enforcement agencies and prosecutors are working to combat trafficking and sexual exploitation, largely by conducting internet-based stings to intervene and interrupt CSAM and prostitution. However, courts are often choosing to not order offenders to pay the amounts statutes require for their crimes. It is beyond the scope of this report to investigate why many courts are not imposing these fees.

Commerce does not have policy recommendations for lawmakers to consider this year. However, further research and judicial outreach, as described below, could lead to a better understanding of gaps in the program's implementation that could lead to recommendations in a future report.

## **Research**

More research is required to determine why judges are often not ordering the penalty fees. The Administrative Office of the Courts (AOC) amends the fee schedules every year after the Legislature passes laws and amends criminal statutes. Research would reveal whether judges do not know about the fees, are choosing to forego levying the penalties (and, if so, why), or have other reasons.

## **Judicial Outreach**

If this research were conducted, its results should inform how AOC designs its outreach to judges, including contacting judges in superior courts and courts of limited jurisdiction to inform them about the sentencing requirements for the fees described in this report.

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<sup>1</sup> Shared Hope International, "Washington Report Card | 2018," [https://sharedhope.org/PICframe8/reportcards/PIC\\_RC\\_2018\\_WA.pdf](https://sharedhope.org/PICframe8/reportcards/PIC_RC_2018_WA.pdf)

## Introduction

In 2013, the Washington Legislature passed Sex Trafficking – Victim Services (Chapter 121, Laws of 2013), concerning prostitution and the commercial sexual abuse of minors. The legislation directs Commerce to:

*“Prepare and submit an annual report to the legislature on the amount of revenue collected by local jurisdictions under RCW 9.68A.105, 9A.88.120, or 9A.88.140 and the expenditure of that revenue [RCW 43.280.100].”*

The three statutes levy fees on convictions related to prostitution and the commercial sexual exploitation of children. The fees are in addition to other penalties, including statutory fines and/or jail time. Courts also levy fees on offenders who have entered into statutory or non-statutory diversion agreements as a result of an arrest for one of the applicable crimes. [Table 1](#) lists the statutes, the additional penalties and the crimes for which each penalty applies.

Statutes 9.68A.105, 9A.88.120 and 9A.88.140 describe how jurisdictions must use the revenue from the fees collected: Cities and counties must spend at least 50 percent of the revenue on prevention and rehabilitation services for victims. Prevention includes education programs for offenders, such as “john school.” (This program provides curriculum on the sexual exploitation of women, legal ramifications, confronting sexual addiction and healing from the addiction.) Rehabilitative services for victims include mental health and substance abuse counseling, teaching parenting skills, housing relief, education, vocational training, drop-in centers, and employment counseling.

Jurisdictions can use up to 48 percent of the collected fees for local efforts to reduce the commercial sale of sex, including but not limited to increasing enforcement of commercial sex laws.

Jurisdictions must remit 2 percent of the revenue quarterly to Commerce and send to Commerce a report detailing the fees assessed, the revenue received and how Commerce spent the revenue.

Judges can reduce some of the fees if the court finds that the offender cannot pay the fee. In those cases, judges can reduce the fee up to two-thirds.

Courts cannot reduce fees attached to vehicle impoundment. Impounding agencies collect these fees when a law enforcement officer impounds a vehicle used in the commission of a Commercial Sexual Abuse of a Minor (CSAM) or prostitution-related crime or if the vehicle meets other conditions. The vehicle’s owner must pay the fee to release the vehicle. If found not guilty of the crime, the defendant is entitled to a refund.

**Table 1: Statutes Modified by Chapter 121, Laws of 2013**

<b>Statute</b>	<b>Additional Penalty Amount</b>	<b>Crimes to Which Penalty Applies</b>
9.68A.105	\$5,000	9.68A.100 – Commercial sexual abuse of a minor (CSAM) 9.68A.101 – Promoting CSAM 9.68A.102 – Promoting travel for CSAM
9A.88.120	\$50	9A.88.010 – Indecent exposure
	\$50	9A.88.030 – Prostitution
	\$1,500 for the first offense \$2,500 for a second offense \$5,000 for the third or greater offense	9A.88.090 – Permitting prostitution 9A.88.110 – Patronizing a prostitute
	\$3,000 for a first offense \$6,000 for a second offense \$10,000 for the third or greater offense	9A.88.070 – Promoting prostitution in the first degree 9A.88.080 – Promoting prostitution in the second degree
9A.88.140	\$500	9A.88.140 – Vehicle impoundment fine for: 9A.88.110 – Patronizing a prostitute 9A.88.070 – Promoting prostitution in the first degree 9A.88.080 – Promoting prostitution in the second degree 9A.88.085 – Promoting travel for prostitution
	\$2,500	9A.88.140 – Vehicle impoundment fine for: 9.68A.100 – CSAM 9.68A.101 – Promoting CSAM 9.68A.102 – Promoting travel for CSAM

## Fee Assessments and Crime Rates

In state fiscal year 2018, 70 courts in Washington handed down convictions for the crimes that bear the additional penalty fees. Of these, 28 courts across 12 counties levied the statutorily required fees.

[Table 2](#) lists arrests and convictions for the relevant crimes, the maximum amount of fees judges can assess for those crimes, the actual fees assessed, and the fees each county in Washington collected. [Appendix B](#) contains a complete list of all courts that imposed convictions for the applicable crimes and the amounts assessed and collected.

The data in [Table 2](#) shows that many courts in Washington are not assessing the fees or are levying a fraction of what they could. For instance, state fiscal year 2018 saw the following outcomes:

- Spokane County had nine convictions for applicable charges, with maximum possible fees totaling \$22,100. The county levied \$1,250, or 6 percent of the total possible.
- Pierce County had 72 convictions for the covered crimes. That's a decrease from 88 convictions in state fiscal year 2017.<sup>2</sup> The maximum possible fees totaled \$193,650. Judges assessed \$11,150, or 6 percent of the total possible.
- Franklin County had nine convictions, with maximum possible fees totaling \$22,100. The county did not levy or collect any fees.
- Sixty percent (42 out of 70) of Washington state courts did not assess any fees for the applicable convictions.

[Table 3](#) illustrates the total amount of potential fees compared to the amounts courts levied in 2018. It shows that overall courts assessed 32 percent of the total possible fees amount – \$253,013 out of a potential \$780,959. As in the previous four years, courts in King County both levied and collected the majority of the fees.

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<sup>2</sup> Washington State Department of Commerce, "Criminal Penalty Fees," (2017), <http://www.commerce.wa.gov/wp-content/uploads/2018/04/OCVA-Commerce-Criminal-Penalty-Fines-2017.pdf>

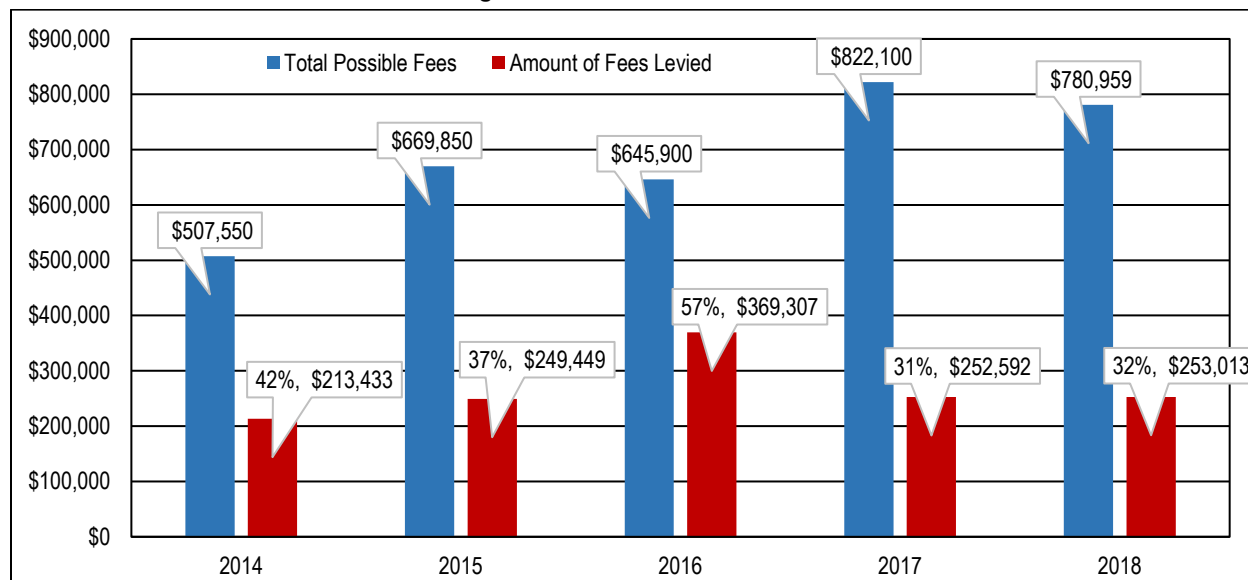


**Table 2: Arrests, Convictions and Fees by County – State Fiscal Year 2018**

<b>County</b>	<b>Arrests for Applicable Charges</b>	<b>Convictions for Applicable Charges</b>	<b>Maximum Possible Fees</b>	<b>Fees Assessed</b>	<b>Fees Collected</b>
Adams	1	0	\$0	\$0	\$0
Asotin	10	1	\$50	\$0	\$0
Benton	26	12	\$12,500	\$5,000	\$387
Chelan	9	0	\$0	\$11,500	\$9,032
Clallam	7	5	\$750	\$0	\$0
Clark	43	13	\$21,550	\$2,817	\$492
Columbia	1	0	\$0	\$0	\$0
Cowlitz	18	5	\$550	\$0	\$0
Douglas	0	0	\$0	\$0	\$0
Ferry	0	0	\$0	\$0	\$0
Franklin	18	9	\$12,550	\$0	\$0
Garfield	2	2	\$300	\$0	\$0
Grant	6	5	\$650	\$0	\$0
Grays Harbor	12	1	\$150	\$17	\$750
Island	5	2	\$300	\$0	\$0
Jefferson	7	3	\$450	\$50	\$50
King	608	142	\$407,900	\$212,484	\$380,886
Kitsap	61	33	\$87,300	\$7,749	\$5,950
Kittitas	2	4	\$600	\$0	\$0
Klickitat	0	2	\$300	\$0	\$0
Lewis	5	3	\$6,300	\$0	\$0
Lincoln	1	0	\$0	\$0	\$0
Mason	1	0	\$0	\$0	\$0
Okanogan	8	3	\$450	\$150	\$0
Pacific	2	1	\$150	\$0	\$0
Pend Oreille	3	0	\$0	\$0	\$0
Pierce	152	72	\$193,650	\$11,150	\$1,174
San Juan	0	0	\$0	\$0	\$0
Skagit	26	7	\$1,050	\$0	\$0
Skamania	2	0	\$0	\$0	\$0
Snohomish	100	13	\$9,150	\$732	\$607
Spokane	52	9	\$22,100	\$1,250	\$789
Stevens	2	1	\$150	\$0	\$0
Thurston	22	3	\$450	\$0	\$0
Wahkiakum	0	0	\$0	\$0	\$0
Walla Walla	7	0	\$0	\$0	\$0
Whatcom	41	4	\$600	\$0	\$275
Whitman	6	1	\$50	\$0	\$0
Yakima	28	7	\$950	\$115	\$1,500
<b>TOTAL</b>	<b>1,294</b>	<b>363</b>	<b>\$780,950</b>	<b>\$253,014</b>	<b>\$401,892</b>

The number of convictions reported for each crime category determines the total amount of potential fees. The total possible amount in state fiscal year 2018 decreased to \$780,950 from the previous year’s \$822,100, reflecting that courts handed down fewer convictions for these crimes (363 verdicts compared to 490 in state fiscal year 2017).<sup>3</sup> Courts levied slightly more penalty fees as a percentage of the possible total fee amount when compared to the previous year (32 percent compared to 31 percent).

**Table 3: Amounts Levied as a Percentage of Total Potential Fees**



Sources: The Administrative Office of the Courts, the Washington State Patrol and the Seattle Municipal Court

## Background on Fees and Payments

According to the Administrative Office of the Courts (AOC), many offenders do not pay fees all at once but instead enter into a payment plan with the court. As they gradually pay off the fees, court clerks code them into the [Judicial Information System](#) (JIS), which most courts in Washington use. Therefore, revenue from fees can be greater during a given year than the fees assessed. AOC is responsible for establishing new codes in JIS and informing courts about which codes to use. AOC codes data in JIS to an account code instead of to the statute applicable to the crime. Therefore, this report cannot analyze the collected funds based on committed offenses. Once a court clerk receives revenue and allocates it to a code, the city or county treasurer establishes an account for the monies. Some cities contract with their county to act as treasurer for the jurisdiction. Then the jurisdiction must decide which department, office or official is responsible for determining how to spend the funds; allocating the amounts according to the Legislature’s guidance; and ensuring Commerce receives the quarterly reports.

<sup>3</sup> Washington State Department of Commerce, “Criminal Penalty Fees,” (2017)

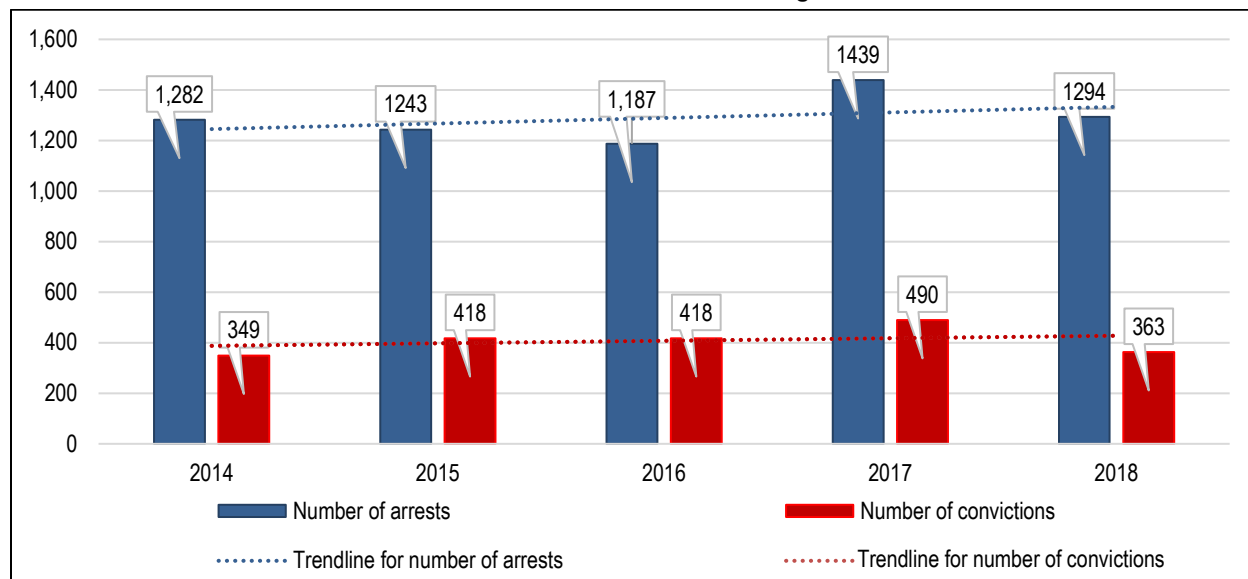
The State Patrol maintains data by county on arrests and convictions for all crimes in Washington. Some cities, notably Seattle, have a municipal code for misdemeanor offenses. That code effectively replaces the applicable state statute for that crime in the city’s data system. Therefore, the researchers for this report obtained data on arrests, cases and convictions for crimes committed within the city of Seattle from the Seattle Municipal Court. Because the applicable crimes include both misdemeanors and felonies, affected courts include municipal, district (known as courts of limited jurisdiction) and superior courts (the latter of which hear serious felonies).

Certain courts, including the Seattle Municipal Court, do not use JIS. Additionally, some municipal courts contract with their county district courts to collect fees on their behalf. For instance, King County District Court contracts with the cities of Beaux Arts, Bellevue, Burien, Carnation, Covington, Duvall, Kenmore, Redmond, Sammamish, Shoreline, Skykomish and Woodinville. King County District Court merges the cities’ collected and assessed fee information into its data.

### Crime Rates

In state fiscal year 2018, the number of arrests for sexual exploitation crimes remained similar to prior years – 1,294. However, convictions decreased 13 percent, to 363, from the previous four-year average. Table 4 shows arrests and convictions for the full set of crimes over five years. The trend line shows both arrests and convictions slowly increasing on average in previous years.

**Table 4: Statewide Totals of Arrests and Convictions – 2014 through 2018**



Sources: The Washington State Patrol provided data on statewide arrests and convictions, and Seattle Municipal Court provided data on arrests and convictions within the city of Seattle

Table 5 lists arrests, cases and convictions for these crimes. The table also includes the crime of trafficking, which carries an additional \$10,000 fee. However, the fee for trafficking is not subject to the same dispersal as those specified under 9.68A.105, 9A.88.120 and 9A.88.140.

**Table 5: Statewide Arrests and Convictions Per Crime – State Fiscal Year 2018**

Statute	Charge	Number of Arrests	Number of Convictions
9.68A.100	Commercial Sexual Abuse of a Minor (CSAM)	61	19
9.68A.101	Promoting Commercial Sexual Abuse of a Minor	23	1
9.68A.102	Promoting Travel for Commercial Sexual Abuse of a Minor	11	1
9.68A.103	Permitting Commercial Sexual Abuse of a Minor	5	0
9A. 40.100	Trafficking	52	1
9A.88.010	Indecent Exposure	586	185
9A.88.030	Prostitution	127	47
9A.88.070	Promoting Prostitution in the First Degree	24	12
9A.88.080	Promoting Prostitution in the Second Degree	32	44
9A.88.085	Promoting Travel for Prostitution (Vehicle Impoundment)	0	0
9A.88.090	Permitting Prostitution	0	2
9A.88.110	Patronizing a Prostitute	373	51
<b>TOTAL</b>		<b>1,294</b>	<b>363</b>

Sources: *The Washington State Patrol and the city of Seattle*

According to prosecutors interviewed for this report, the relatively high number of arrests for trafficking – 52 – compared to the single conviction suggests that many prosecutors charge defendants with the lesser charge of promoting prostitution. Also, if an investigation reveals that the victim was underage, the prosecutor might elect to press a felony charge of CSAM instead of a trafficking charge. Finally, an arrest made in one year can lead to a case that takes more than a year to prosecute and resolve, which explains why some charges have fewer arrests than convictions.

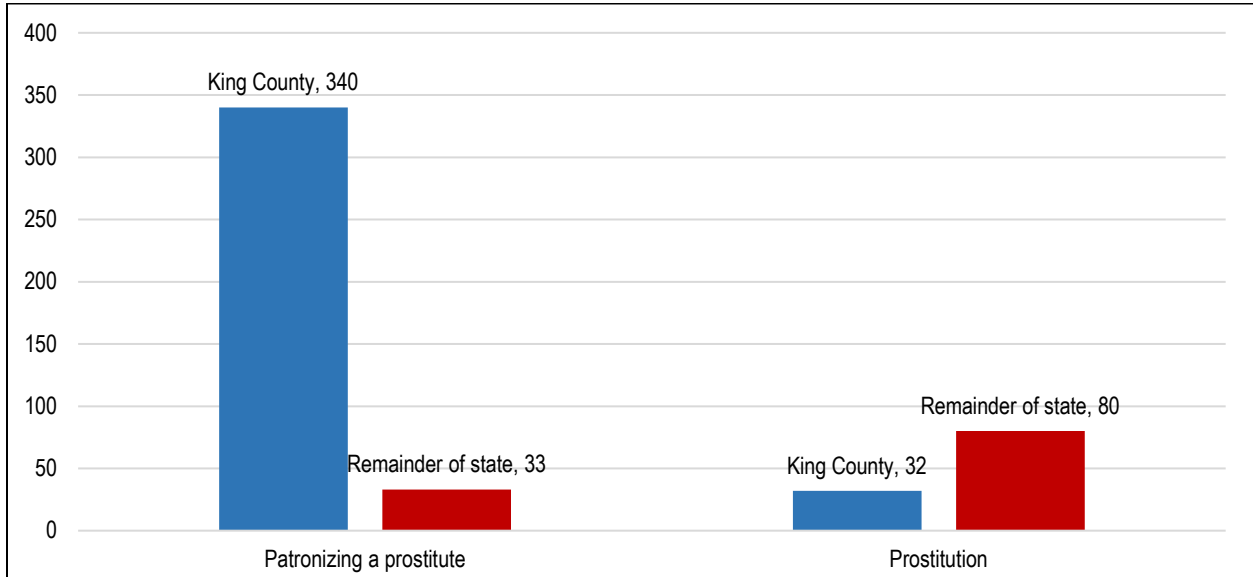
### **King County’s Approach to Prostitution**

Most of the arrests and convictions for the crime of patronizing a prostitute take place in King County. The city of Seattle, King County Sheriff’s Department and several other jurisdictions in King County have a policy to actively pursue those who buy sexual encounters from adults or children. This approach, known as the Buyer Beware Program, is discussed in further detail beginning on page 15.

[Table 6](#) shows that law enforcement agencies in King County were responsible for 91 percent of the arrests for patronizing a prostitute in the state. King County courts (including city municipal courts within the county) handed down 80 percent of the convictions for these crimes ([Table 7](#)).

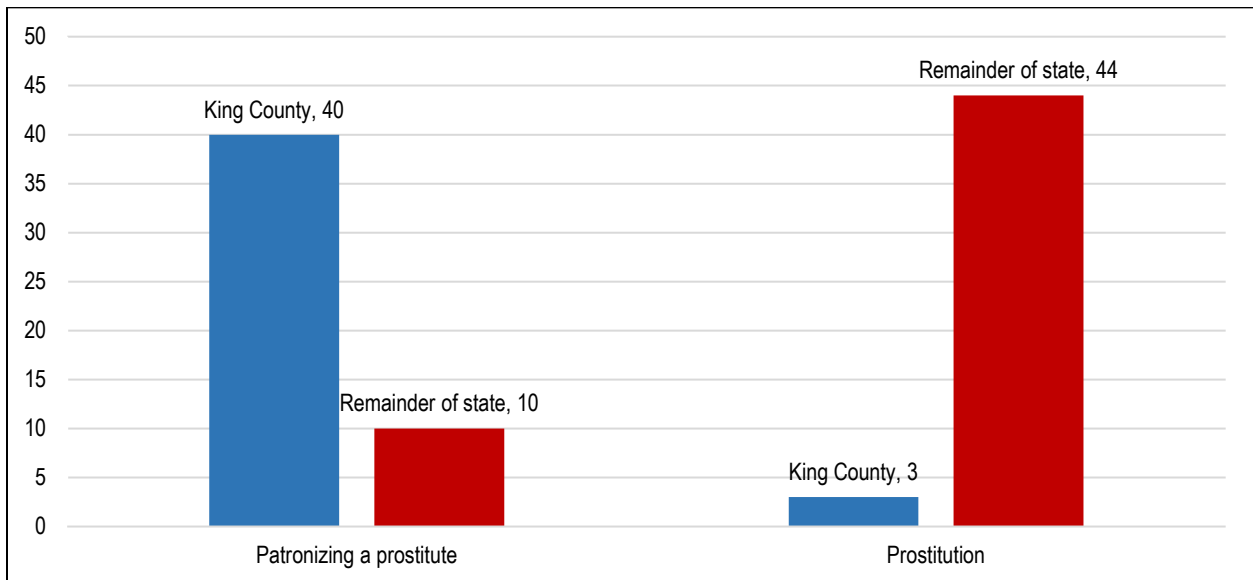
In contrast, the rest of the state’s law enforcement agencies made 9 percent of the arrests for prostitution, and courts in those counties handed down 6 percent of the convictions.

**Table 6: Arrests for Patronization and Prostitution Crimes – State Fiscal Year 2018**



Sources: *The Washington State Patrol and Seattle Municipal Court*

**Table 7: Convictions for Patronization and Prostitution Crimes – State Fiscal Year 2018**



Sources: *The Washington State Patrol and Seattle Municipal Court*

## How Jurisdictions Reported Expending the Funds

### Overview

In state fiscal year 2018, 70 courts in Washington handed down convictions for the crimes that bear the additional fee. Of these, 28 courts collected revenue from payment of the fees. An additional four courts collected revenue but did not assess fees, which indicates the revenue was from offenders paying off fees levied in past years. Five courts reported less than \$100 collected during state fiscal year 2018. Report researchers did not survey these five courts. Researchers surveyed through email and phone contacts the 23 jurisdictions that collected greater amounts to determine how cities and counties used the funds.

As in previous years, jurisdictions received a chart ([Appendix A](#)) showing the relevant statutes and the statutory dispersal formula for the funds.

Usually, researchers needed to speak with another department (for instance, the city treasurer, county treasurer, police department or prosecutor's office) to learn whether the jurisdiction allocated the funds and, if so, how were they spent.

### Summaries of Reported Expenditures

Seventeen courts responded to the survey. The following information describes how each jurisdiction expended the funds. Jurisdictions retain 98 percent of the fee and submit 2 percent to Commerce, so totals referenced do not total 100 percent.

#### City of Arlington

Arlington has not yet expended the funds.

#### City of Bellingham

Bellingham allocated 48 percent of the funds to the Bellingham Police Department to support its Neighborhood Anti-Crime Team. The Police Department worked with area motels to conduct "john stings" to enforce and reduce commercial sale of sex. (A john sting involves placing a fake advertisement for commercial sex online. Then police arrest potential buyers when they arrive at the designated meeting spot and confirm they were there to pay for sex.) Law enforcement referred victims of these crimes to local services for prevention and intervention.

Bellingham allocated 50 percent of the funds to Domestic Violence Sexual Assault Services, an agency the city financially supports. The agency's focus is on sexual assault victim services, including education and counseling.

### **Benton County**

Benton County has not yet expended the funds.

### **Chelan County**

The Chelan County sheriff and the city of Wenatchee used the funds to reduce the commercial sale of sex.

### **Clark County**

Clark County has not yet expended the funds.

### **City of Federal Way**

Federal Way allocated 50 percent of the funds for the Federal Way Coalition Against Trafficking. The coalition educates and engages the community to encourage each person play a role in ending trafficking. The coalition sponsors guest speakers, such as Dr. Mar Brettmann, founder of Business Ending Slavery and Trafficking (BEST), at its community forums.

The Federal Way Police Department used 48 percent of the monies to reduce the sex trade. This work included police stings to arrest the customers perpetuating prostitution.

### **City of Fife**

Fife has not yet expended the funds.

### **Grays Harbor County**

Grays Harbor County dispersed the funds to Beyond Survival, a sexual assault resource center that provides community education, counseling and a 24-hour crisis phone line.

### **City of Kent**

The Kent Police Department used a portion of the penalty fees to reduce the commercial sale of sex. Kent has taken a proactive, dedicated approach to combat trafficking and commercial sexual exploitation through online and monthly hotel-based stings. Kent allocated the remainder for prevention and rehabilitative services for the victims of human trafficking:

- \$25,000 to Kent Youth and Family Services for its Human Trafficking Victim Advocate Program
- \$5,000 to the Organization for Prostitution Survivors

## **King County (District and Superior Courts)**

In 2014, King County launched a new approach to reduce the demand for prostitution by working to change the attitudes and behaviors of people arrested for patronization. The Buyer Beware initiative is a partnership with eight police departments and city attorneys' offices across King County. They are shifting their emphasis to pursue the buyers of commercial sex. The Organization for Prostitution Survivors and the King County Prosecuting Attorney's Office lead the initiative.

Buyer Beware brings together local prosecuting authorities, community service organizations and survivors to carry out a comprehensive strategy to reduce demand and facilitate exit from prostitution. Leaders of the initiative said that past practices punished prostituted people, resulting in the cycle of prostitution-related crime and sex trafficking persisting. The Buyer Beware leaders instead are focusing on punishing those who seek out the illegal interaction – the sex buyers.

According to the Buyer Beware program, people are typically coerced into prostitution between the ages of 12 and 15.<sup>4</sup> Pimps control these victims, and the victims experience multiple traumas. All through the process, the trafficking victims face many barriers to escaping the life of prostitution. Therefore, the new model emphasizes the prosecution of sex buyers and connecting prostituted people to services. The goal is to reduce demand for commercial sex by 20 percent in two years. Program leaders assert that a reduction in demand will decrease harm to prostituted people, reduce self-destructive behaviors of buyers and curb sex trafficking.

Participating community organizations include Businesses Ending Slavery and Trafficking (BEST), Stolen Youth, and Seattle Against Slavery. Participating law enforcement agencies include the King County Sheriff's Office and the police departments of Seattle, Des Moines, Kent, Federal Way, Bellevue and Renton.

Buyer Beware program interventions include:

- Employing a systematic law enforcement emphasis on arrests and prosecutions of sex buyers
- Increasing penalties to deter buyers
- Referring sex buyers to Stopping Sexual Exploitation, a comprehensive intervention program
- Collecting fines to fund services for prostituted people
- Reducing arrests and prosecutions of prostituted people in favor of referral to services
- Expanding effective services to assist people who want to leave prostitution

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<sup>4</sup> Congressional Research Service, "Sex Trafficking of Children in the United States: Overview and Issues for Congress," (2015), <https://fas.org/sgp/crs/misc/R41878.pdf>



- Forming an alliance of public and private employers committed to implementing policies and practices against buying sex
- Educating high school and college students about commercial sexual exploitation and the damage it causes
- Initiating social media campaigns to engage young men on the harms of buying sex
- Engaging a spectrum of community sectors, including public health, education, business, media and criminal justice to change cultural norms around buying sex

### **City of Kirkland**

Kirkland has not yet expended the funds.

### **Kitsap County**

Kitsap County used the revenue from penalty fees to support the anti-trafficking activities of its Prosecutor’s Office as well as advocacy and outreach efforts.

The Vice Unit within the Kitsap County Prosecutor’s Office handles all felony offenses involving human trafficking, drugs and gang-related crimes. The felony human trafficking offenses prosecuted by this unit include human trafficking, promoting commercial sexual abuse of a minor, promoting prostitution in the first and second degrees, and violent felonies that occur during the commission of trafficking-related offenses. The Vice Unit also acts as a liaison between the Kitsap County Prosecutor’s Office and the various drug and human trafficking enforcement agencies in Kitsap County.

In addition to the four attorneys in the Vice Unit, Kitsap County has a full-time investigator whose focus is criminal occurrences related to human trafficking, drugs and gangs.

Kitsap County also supports advocacy services, which include emotional support for both underage and adult victims of human trafficking. Lastly, community outreach and education activities include providing technical assistance and training to community and faith-based organizations, government, law enforcement officials, and others.

### **City of Marysville**

Marysville has not yet expended the funds.

### **Pierce County**

Pierce County uses the fee revenue to augment its costs for the enforcement of commercial sex laws. The Sheriff’s Department conducts internet child sexual predator stings and operates a web portal to identify individuals charged with sexual crimes. A portion of the funds are allocated to the Family Justice Center to reduce and prevent teen sexual violence. Additionally,

Pierce County allocates funding to service providers to conduct trainings for parents and guardians, and support services for families at risk.

#### **City of Poulsbo**

Poulsbo has not yet expended the funds.

#### **City of Puyallup**

Puyallup has not yet expended the funds.

#### **City of SeaTac**

SeaTac has not yet expended the funds.

#### **City of Seattle**

In May 2018, the Seattle Human Services Department released a request for proposals for Gender-Violence Victim Support Services. Through the competitive process, Seattle identified medical support services for survivors as an unsupported gap in its funding process.

The grant award was contracted to the Harborview Center for Sexual Assault and Traumatic Stress to support sexual assault examination, therapeutic services, hotline support and other victim-support-related services from 2019 through 2022. Harborview is the only medical facility in King County that is certified as a Community Sexual Assault Center (CSAP). Harborview provides emergency and continuing care for survivors of abuse and exploitation, many of whom are low income, homeless and chemically dependent. Harborview is also a member of the city of Seattle Coordinated Effort Against Sexual Exploitation (CEASE) coalition.

In state fiscal year 2018, Seattle law enforcement officers made about 62 percent of the arrests statewide for patronizing a prostitute. (The city is home to about 9 percent of the state's population.) The high arrest rate is partly because of the commitment from the Seattle Police Department (SPD) to focus law enforcement efforts on arresting buyers of commercial sex rather than those being prostituted.

Seattle splits the revenue from these fines between its Police and Human Services departments. In state fiscal year 2018, SPD used the fine revenue for salaries and overtime for officers conducting CSAM sting operations.

During the past nine years, the city of Seattle has instituted several programs to:

- Prevent gender-based violence
- Assist victims and survivors
- Curb commercial sexual exploitation

These programs, described below, are funded in part from the criminal penalty fines paid by those convicted of the crimes outlined in this report.

In 2009, Seattle Human Services funded YouthCare, a nonprofit homeless youth-focused organization, to pilot a residential recovery program for prostituted youth. The three-year pilot program, housed at a YouthCare facility, provided shelter/housing and wraparound services for youth identified as “being in the life.” Although the findings from the pilot resulted in the end of the residential portion of the program, the wraparound services portion continues to successfully provide victim services. Criminal penalty fines partially fund YouthCare.

Also in 2009, Human Services contracted with a consultant, Noel Gomez, cofounder of the Organization for Prostitution Survivors, to facilitate two courses:

1. John School for sex buyers the Seattle Municipal Court mandates attend
2. Sex Industry Workers for prostitution victims and survivors

These courses are funded from fines levied on those convicted for patronizing a prostitute. The curriculum of the Sex Industry Workers class includes information about public health, domestic violence, sexual assault, chemical dependency, parenting support and other resources supporting people who might be attempting to leave prostitution. The John School provides curriculum on the sexual exploitation of men, women and children, legal ramifications, and confronting and healing from sexual addiction.

In 2014, Seattle implemented an improved model for the Sex Industry Workers class. Instead of a one-day class, the program now provides four, two-hour sessions held weekly. The classes, as a discussion and support group, take place at a YWCA. Each week, a guest speaker is invited to address the participants for the second half of the class to discuss a specific topic, including violence against women, safer sex and resources to recover from chemical dependency.

Also in 2014, following three years of research, planning and engagement with community stakeholders, the city of Seattle implemented CEASE, a multi-agency effort to identify survivors of commercial sexual exploitation. CEASE provides “wraparound” services to prostituted people within 24 to 48 hours of identification. CEASE support services are funded in part by fines collected from the buyers of commercial sex. These services include emergency and transitional housing; counseling; employment assistance; mental health services; and funds to help clients

obtain safety, stability, and independence. CEASE has leveraged other funding sources as well, including monies for the victims of domestic violence and sexual assault.

In July 2015, the Mayor's Office on Domestic Violence and Sexual Assault released funding for both commercial sexual exploitation (CSE) and gender-based violence prevention. YouthCare received the CSE funding as the lead agency to provide wraparound services for prostituted youth (ages 18 and younger). Meanwhile, the Organization for Prostitution Survivors Collaborative (with YWCA, Real Escape from the Sex Trade and Aurora Commons) used CSE funds to provide services for adults (ages 19 and older). Human Services also funded Asian Counseling and Referral Services and Powerful Voices to provide gender-based violence prevention, which included awareness and prevention of commercial sexual exploitation.

About \$500,000 was provided for these services, by leveraging monies from the CSAM penalty fees, the Prostituted Children Rescue Fund and the Sex Industry Victims Funds.

### **Spokane County**

The Spokane County Sheriff's Office, in collaboration with the Washington State Patrol, ran Operation Net Nanny, a sting operation targeting sexual predators. The Sheriff's Office is a member of the Spokane Safe Streets Task Force and the Commercially Sexually Exploited Children (CSEC) Task Force. Employees of the Spokane County Juvenile Court and the Spokane City Police Department also assist with the CSEC Task Force, which focuses on prevention and intervention activities.

### **City of Tukwila**

Tukwila used the fees for its Police Department to participate in prostitution and CSAM stings. These activities included meetings with the FBI and other law enforcement agencies to plan for Operation Cross Country. The annual effort focuses on fighting underage human trafficking. Tukwila also participated in Operation Buyer Beware, a sting operation to arrest prospective sex buyers answering online ads.

### **City of Yakima**

Yakima has not yet expended the funds.

## Recommendations

### Overview

In recent years, the Legislature, public and law enforcement agencies have paid increasing attention to sexual exploitation crimes. Therefore, the state has gained increased awareness of the widespread, detrimental impacts of commercial sexual abuse of minors (CSAM) in our communities. In response, many jurisdictions are beginning to target buyers of commercial sex rather than those being exploited. And they are recognizing that sexual exploitation crimes are not victimless crimes.

Law enforcement agencies and prosecutors are working to combat trafficking and sexual exploitation, mainly by conducting internet-based stings to intervene and interrupt CSAM and prostitution.

However, courts are lagging behind these efforts when it comes to ordering defendants to pay the amounts required by statutes for these crimes. This year, the assessed penalty fees were just 32 percent of the potential total, significantly lower than the prior four-year average of 42 percent.

While Commerce has no immediate policy recommendations for lawmakers to consider for the 2019 legislative session, further research and judicial outreach, as described below, would lead to a better understanding of gaps in the program's implementation that could lead to recommendations in a future report.

### Research

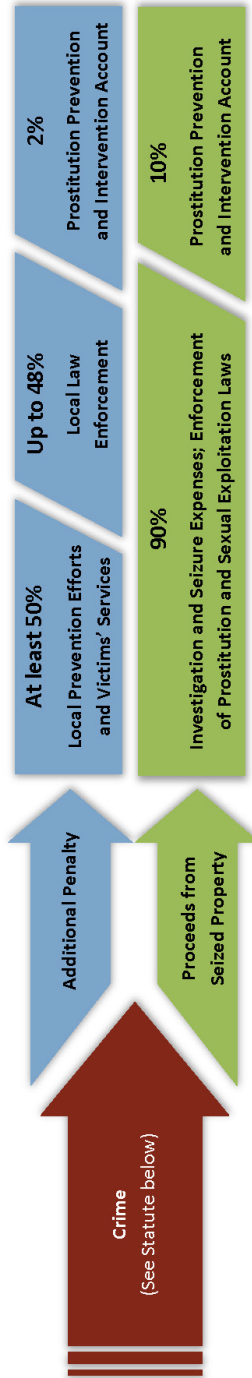
More research is required to determine why judges are often not ordering the penalty fees. The Administrative Office of the Courts (AOC) amends the fee schedules every year after the Legislature passes laws and amends criminal statutes. Research would reveal whether judges do not know about the fees, are choosing to forego levying the penalties (and, if so, why), or have other reasons.

### Judicial Outreach

If this research were conducted, its results should inform how AOC designs its outreach to judges, including contacting judges in superior courts and courts of limited jurisdiction to inform them about the sentencing requirements for the fees described in this report.

# Appendix A: Distribution of Criminal Penalty Fees

## Trafficking, Prostitution, and Commercial Sexual Exploitation Crimes: Dispersal of Penalty Fines and Revenue from Seized Property under Washington State Statutes



Statute	Additional Penalty Amount	Statute Providing Additional Penalty	How Fines Must Be Used
9A.40.100 – Trafficking	\$10,000 (not deposited into PPIA)	9A.40.100	Local Prevention Efforts and Victims' Services: At least 50 percent of the revenue must be spent on prevention, including education programs for offenders, such as John School, and rehabilitative services for victims, such as mental health and substance abuse counseling, parenting skills, training, housing relief, education, vocational training, drop-in centers, and employment counseling.
9.68A.100 – Commercial sexual abuse of a minor (CSAM)	\$5,000	9.68A.105	
9.68A.101 – Promoting CSAM	\$5,000	9.68A.105	Local Law Enforcement: Up to 48 percent must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws.
9.68A.102 – Promoting travel for CSAM	\$5,000 (all deposited to PPIA)	9.68A.106	
9.68A.106 – Internet advertisement related to CSAM	\$50		Prostitution Prevention and Intervention Account (PPIA): Two percent of the revenue shall be remitted quarterly to the Dept. of Commerce, together with a report detailing the fines assessed, the revenue received, and how that revenue was spent. (Does not apply to 9A.40.100; Trafficking.)
9A.88.010 – Indecent exposure	\$50		
9A.88.030 – Prostitution	\$1,500 for 1 <sup>st</sup> offense \$2,500 for 2 <sup>nd</sup> offense \$5,000 for 3 <sup>rd</sup> or greater offense	9A.88.120	Prostitution Prevention and Intervention Account (PPIA): Two percent of the revenue shall be remitted quarterly to the Dept. of Commerce, together with a report detailing the fines assessed, the revenue received, and how that revenue was spent. (Does not apply to 9A.40.100; Trafficking.)
9A.88.090 – Permitting prostitution	\$3,000 for 1 <sup>st</sup> offense \$6,000 for 2 <sup>nd</sup> offense \$10,000 for 3 <sup>rd</sup> or greater offense		
9A.88.110 – Patronizing a prostitute	\$500		Prostitution Prevention and Intervention Account (PPIA): Two percent of the revenue shall be remitted quarterly to the Dept. of Commerce, together with a report detailing the fines assessed, the revenue received, and how that revenue was spent. (Does not apply to 9A.40.100; Trafficking.)
9A.88.070 – Promoting prostitution in the 1 <sup>st</sup> degree	\$500		
9A.88.080 – Promoting prostitution in the 2 <sup>nd</sup> degree	\$2,500		Prostitution Prevention and Intervention Account (PPIA): Two percent of the revenue shall be remitted quarterly to the Dept. of Commerce, together with a report detailing the fines assessed, the revenue received, and how that revenue was spent. (Does not apply to 9A.40.100; Trafficking.)
9A.88.140 – Vehicle impoundment fine:	\$2,500		
9A.88.110 – Patronizing a prostitute			Prostitution Prevention and Intervention Account (PPIA): Two percent of the revenue shall be remitted quarterly to the Dept. of Commerce, together with a report detailing the fines assessed, the revenue received, and how that revenue was spent. (Does not apply to 9A.40.100; Trafficking.)
9A.88.070 – Promoting Prostitution in the 1 <sup>st</sup> degree			
9A.88.080 – Promoting Prostitution in the 2 <sup>nd</sup> degree			Prostitution Prevention and Intervention Account (PPIA): Two percent of the revenue shall be remitted quarterly to the Dept. of Commerce, together with a report detailing the fines assessed, the revenue received, and how that revenue was spent. (Does not apply to 9A.40.100; Trafficking.)
9A.88.085 – Promoting travel for prostitution			
9A.88.140 – Vehicle impoundment fine:			Prostitution Prevention and Intervention Account (PPIA): Two percent of the revenue shall be remitted quarterly to the Dept. of Commerce, together with a report detailing the fines assessed, the revenue received, and how that revenue was spent. (Does not apply to 9A.40.100; Trafficking.)
9.68A.100 – CSAM			
9.68A.101 – Promoting CSAM			Prostitution Prevention and Intervention Account (PPIA): Two percent of the revenue shall be remitted quarterly to the Dept. of Commerce, together with a report detailing the fines assessed, the revenue received, and how that revenue was spent. (Does not apply to 9A.40.100; Trafficking.)
9.68A.102 – Promoting travel for CSAM			
<b>Statute</b>	<b>How Proceeds Must Be Used (effective June 12, 2014)</b>		
<b>Proceeds from seized property:</b>	<b>Dispersal of Proceeds from Seized Property:</b>		
9.68A.120 – Child pornography	90% shall be used by the seizing law enforcement agency for the expenses of the investigation and seizure. Remaining funds shall be used to enforce the provisions of 9A.88 RCW or 9.68A RCW.		
9.68A.100 – CSAM	Prostitution Prevention and Intervention Account:		
9.68A.101 – Promoting CSAM	By January 31st of each year, each seizing agency shall remit to the state treasurer 10% of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the Prostitution Prevention and Intervention Account, managed by the Dept. of Commerce.		
9A.88.070 – Promoting prostitution in the 1 <sup>st</sup> degree			

## Appendix B: Courts with Convictions for Applicable Charges

**Table 8: Courts with Convictions for Applicable Charges – State Fiscal Year 2018**

<b>Court</b>	<b>County</b>	<b>Convictions for Applicable Charges</b>	<b>Fees Assessed</b>	<b>Fees Collected</b>
Aberdeen Municipal	Grays Harbor	1	\$17	\$0
Asotin County District	Asotin	1	\$0	\$0
Anacortes Municipal	Skagit	2	\$0	\$0
Bellingham Municipal	Whatcom	2	\$0	\$275
Benton County District	Benton	9	\$0	\$0
Benton County Superior	Benton	3	\$5,000	\$387
Bremerton Municipal	Kitsap	3	\$0	\$0
Chelan County District	Chelan	0	\$11,500	\$9,032
Cheney Municipal	Spokane	1	\$0	\$0
Clallam County District No. 1	Clallam	5	\$0	\$0
Clark County District	Clark	7	\$150	\$50
Clark County Superior	Clark	6	\$2,667	\$442
Cowlitz County District	Cowlitz	5	\$0	\$0
Des Moines Municipal	King	2	\$50	\$562
East Klickitat District	Klickitat	2	\$0	\$0
Everett Municipal	Snohomish	2	\$75	\$0
Evergreen District	Snohomish	1	\$0	\$0
Federal Way Municipal	King	8	\$5,000	\$5,508
Fife Municipal	Pierce	8	\$850	\$350
Franklin County Superior	Franklin	3	\$0	\$0
Garfield County Superior	Garfield	2	\$0	\$0
Grant County District	Grant	1	\$0	\$0
Grant County Superior	Grant	4	\$0	\$0
Grays Harbor District No. 1	Grays Harbor	0	\$0	\$750
Island County District	Island	1	\$0	\$0
Island County Superior	Island	1	\$0	\$0
Issaquah Municipal	King	2	\$0	\$0
Jefferson County District	Jefferson	3	\$50	\$50
Kent Municipal	King	11	\$39,100	\$34,154
King County District*	King	25	\$88,767	\$63,173
King County Superior	King	49	\$20,167	\$17,213
Kirkland Municipal	King	0	\$0	\$257
Kitsap County District	Kitsap	18	\$7,599	\$5,832
Kitsap County Superior	Kitsap	11	\$0	\$18
Kittitas County Superior	Kittitas	1	\$0	\$0
Lakewood Municipal	Pierce	3	\$0	\$0

Court	County	Convictions for Applicable Charges	Fees Assessed	Fees Collected
Lewis County District	Lewis	2	\$0	\$0
Lewis County Superior	Lewis	1	\$0	\$0
Lower Kittitas County District	Kittitas	3	\$0	\$0
Lynnwood Municipal	Snohomish	2	\$457	\$457
Marysville Municipal	Snohomish	4	\$150	\$100
Monroe Municipal	Snohomish	2	\$50	\$50
Mount Vernon Municipal	Skagit	1	\$0	\$0
Okanogan County District	Okanogan	2	\$150	\$0
Okanogan County Superior	Okanogan	1	\$0	\$0
Olympia Municipal	Thurston	1	\$0	\$0
Pacific County North District	Pacific	1	\$0	\$0
Pasco Municipal	Franklin	6	\$0	\$0
Pierce County District No. 1	Pierce	4	\$0	\$0
Pierce County Superior	Pierce	34	\$10,000	\$674
Poulsbo Municipal	Kitsap	1	\$150	\$100
Puyallup Municipal	Pierce	14	\$300	\$150
Renton Municipal	King	6	\$0	\$0
SeaTac Municipal	King	2	\$6,050	\$4,200
Seattle Municipal	King	35	\$52,850	\$251,321
Skagit County District	Skagit	1	\$0	\$0
Skagit County Superior	Skagit	3	\$0	\$0
Snohomish County Superior	Snohomish	2	\$0	\$0
Spokane County District	Spokane	1	\$50	\$0
Spokane County Superior	Spokane	5	\$1,200	\$789
Spokane Municipal	Spokane	2	\$0	\$0
Stevens County District	Stevens	1	\$0	\$0
Tacoma Municipal	Pierce	9	\$0	\$0
Thurston County Superior	Thurston	2	\$0	\$0
Tukwila Municipal	King	2	\$500	\$4,500
Whatcom County Superior	Whatcom	2	\$0	\$0
Whitman County District	Whitman	1	\$0	\$0
Yakima County District	Yakima	2	\$0	\$0
Yakima County Superior	Yakima	1	\$0	\$0
Yakima Municipal	Yakima	4	\$115	\$1,500
<b>TOTAL</b>		<b>363</b>	<b>\$253,014</b>	<b>\$401,894</b>

Sources: The Washington State Patrol, AOC, King County Superior Court and Seattle Municipal Court.

\* King County District Court contracts with several other jurisdictions' courts and handles the fee collection on their behalf. Therefore, the amounts for King County District Court include those for Auburn, Bellevue, Redmond, Shoreline and Woodinville municipal courts.