



Department of Commerce

Financial Fraud and Identity Theft Investigation and Prosecution Program

Progress Report on Task Force and Recommendations (RCW 43.330.300)

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Report to the Legislature
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Executive Summary

Overview

The Financial Fraud and Identity Theft Crime Investigation and Prosecution Program (FFIT), administered by the Department of Commerce (Commerce), has brought together state, county, and local law enforcement with financial industry investigators to reduce financial fraud and identity theft in Washington state since the program's inception in 2008.

Financial fraud and identity theft crimes are defined in RCW 43.330.300¹ as check fraud, chronic unlawful issuance of bank checks, embezzlement, credit/debit card fraud, identity theft, forgery, counterfeit instruments (such as checks or documents), organized counterfeit check rings, and organized identification theft rings. This report meets the statutory requirements for an annual FFIT progress report to the Legislature.

In 2008, Commerce established two regional FFIT task forces consisting of the three largest counties in the state. The Greater Puget Sound (GPS) FFIT Task Force, which includes King and Pierce counties, and the Spokane County FFIT Task Force, are each comprised of representatives of:

- Local law enforcement.
- County prosecutors.
- The state Office of the Attorney General.
- Financial institutions.
- Other state, local, and federal law enforcement and investigative agencies.

At the end of the State Fiscal Year (SFY) 2015, Snohomish County joined the Greater Puget Sound (GPS) Task Force and began working as part of that group beginning of January 2016.

The GPS Task Force focuses on large, complex, multi-jurisdictional environments with cases involving multiple suspects and large financial organizations. The Spokane County Task Force operates in a smaller metropolitan area with fewer financial institutions. Both task forces direct grant funds to law enforcement investigation and forensic analysis, as well as to prosecutorial staff dedicated to financial fraud and identity theft cases generated by the investigations. The task forces strengthen cooperation between financial institutions and local law enforcement agencies to increase the capacity to respond to financial fraud and identity theft crimes.

The FFIT program is funded entirely through the collection of fees self-imposed by the business community on Uniform Commercial Code (UCC) filings statewide. UCC filings are collected and deposited to the FFIT account by the state Department of Licensing (DOL). SB1090, passed during the 2014-15 legislative session, increased the three categories of fees to \$10 each per

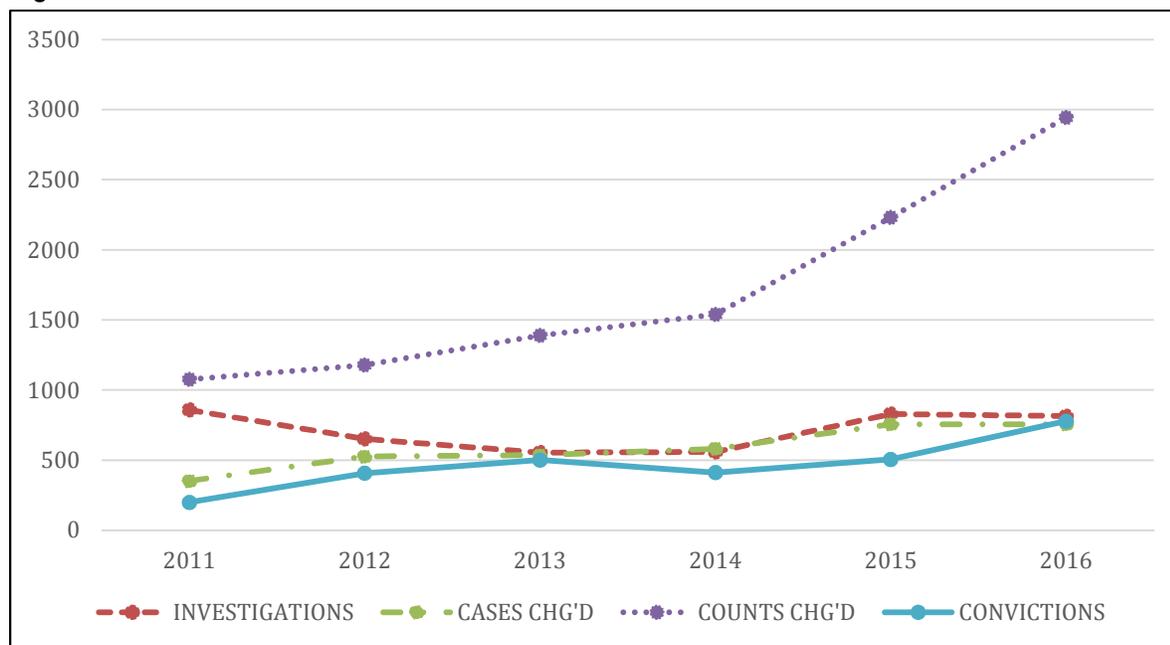
¹ <http://apps.leg.wa.gov/rcw/default.aspx?cite=43.330.300>

filing going forward. The increased fees support a program-wide expansion of FFIT investigation and prosecution, and the inclusion of a new partner in the GPS Task Force. The fees that fund the FFIT program were extended from the original expiration date of July 1, 2015 to July 1, 2020.

Key Findings²

- There were 814 investigations conducted between July 1, 2015 and June 30, 2016, 15 fewer than in the previous state fiscal year period.
- The task forces charged the same number of cases (757) for 712 more counts than the previous year, for a total of 2,944 counts.
- There were 778 convictions, a 54 percent increase, or 272 more convictions, over the previous year.
- The task forces report performance quarterly to Commerce. In their six full contract years of active investigative operations (SFY 2011 through SFY 2016), the task forces have conducted 4,268 investigations, resulting in 3,509 cases that produced 10,361 charges, with 2,804 convictions.

Figure 1: Statewide FFIT Performance for SFY 2011-SFY 2016



Source: FFIT Task Force Quarterly Reports

² Commerce found inconsistencies in the task forces' previous reporting of data. We conducted an intensive technical assistance effort to find and fix the causes of data inconsistencies. This work yielded accurate data for the past six fiscal years, which is reflected in the figures and tables in this report.

Recommendations

Commerce recommends that the Legislature consider the following task forces' recommendations, which were developed with input from appropriate stakeholders, including representatives from the financial institutions industry, the Washington Association of Sheriffs and Police Chiefs, and the Washington Association of Prosecuting Attorneys. The recommendations are further discussed in each task force's summary of activities and recommendations in the Task Force Program Outcome section.

Task Force Recommendations

The task forces submitted the following recommendations to Commerce (Appendix A), based on their experience investigating and prosecuting financial fraud and identity theft crimes:

- Elevate identity theft that is not financially motivated (under \$1,500) to a first degree charge rather than the current charge of Identity Theft in the Second Degree under RCW 9.35.020.³
- Make possession of a skimming device with criminal intent to commit identity theft a felony under RCW 9.35.020.
- Use of a stolen credit card (Identity Theft in the Second Degree under RCW 9.35.020) should be more heavily weighted for charges and prosecution than the charge for using a stolen identity to open up new accounts, loans, or both, which is a rarer occurrence.

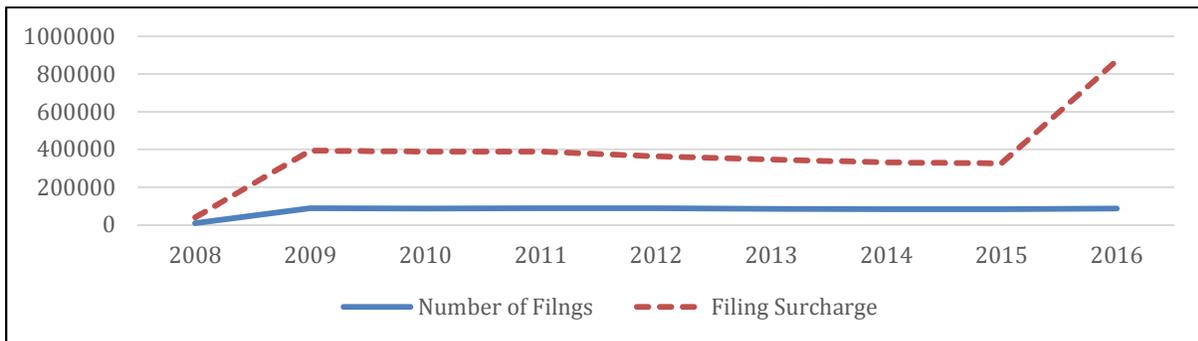
³ <http://apps.leg.wa.gov/Rcw/default.aspx?cite=9.35.020>

Task Force Program Outcomes

Financial Fraud and Identity Theft Program Surcharge Transfers

Funds are collected by the Department of Licensing (DOL) from surcharges on personal and corporate Uniform Commercial Code-1 (UCC) filings. DOL transfers collections monthly to Commerce for exclusive support of the activities of the Financial Fraud and Identity Theft (FFIT) program.

Figure 2: Uniform Commercial Code-1 Collections From 2008 Through 2015

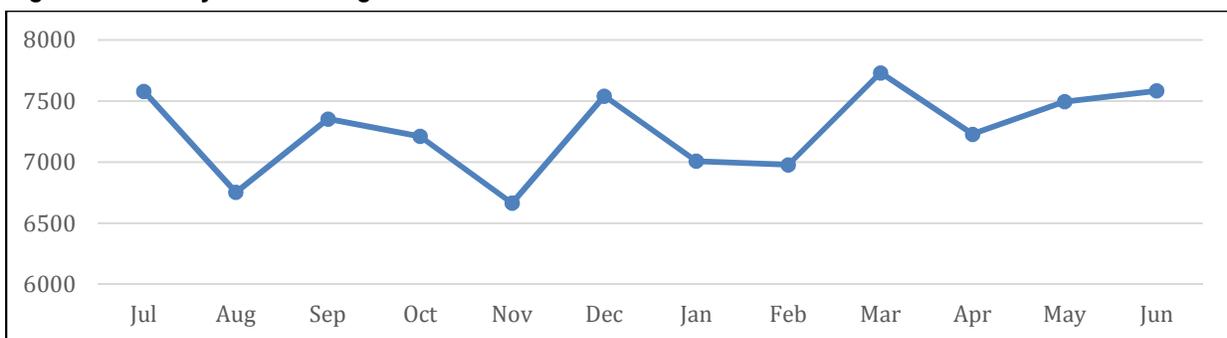


Source: DOL Monthly UCC-1 Surcharge Reports

UCC-1 collections began in August 2008, providing five months of surcharges for the 2008 calendar year. The FFIT program had three UCC surcharge fees: \$8 for paper filings; \$3 for individual web-based filings; and \$3 for batch web-based filings. The program saved collections for a year in order to fund the task forces, which spend the first two years in organizing, hiring, and training staff before becoming operational.

Beginning July 1, 2015, all fees were charged at \$10 for each type of filing. From July 2015 through June 2016, DOL reported 87,129 UCC filings resulting in \$871,290 in surcharge fees that were transferred to Commerce for the FFIT program in SFY 2016.

Figure 3: Monthly UCC-1 Filings for State Fiscal Year 2016



Source: Washington State Department of Licensing

Financial Fraud and Identity Theft Task Force Program Performance

The FFIT program is required to report on task force activity performance and new methods of cooperation. The task forces report their performance quarterly and then follow up with two semi-annual narrative reports of ongoing operational successes and accomplishments. These reports describe the planning and staffing of investigations, apprehension and prosecution of financial fraud and identity theft crimes, and new and best practices.

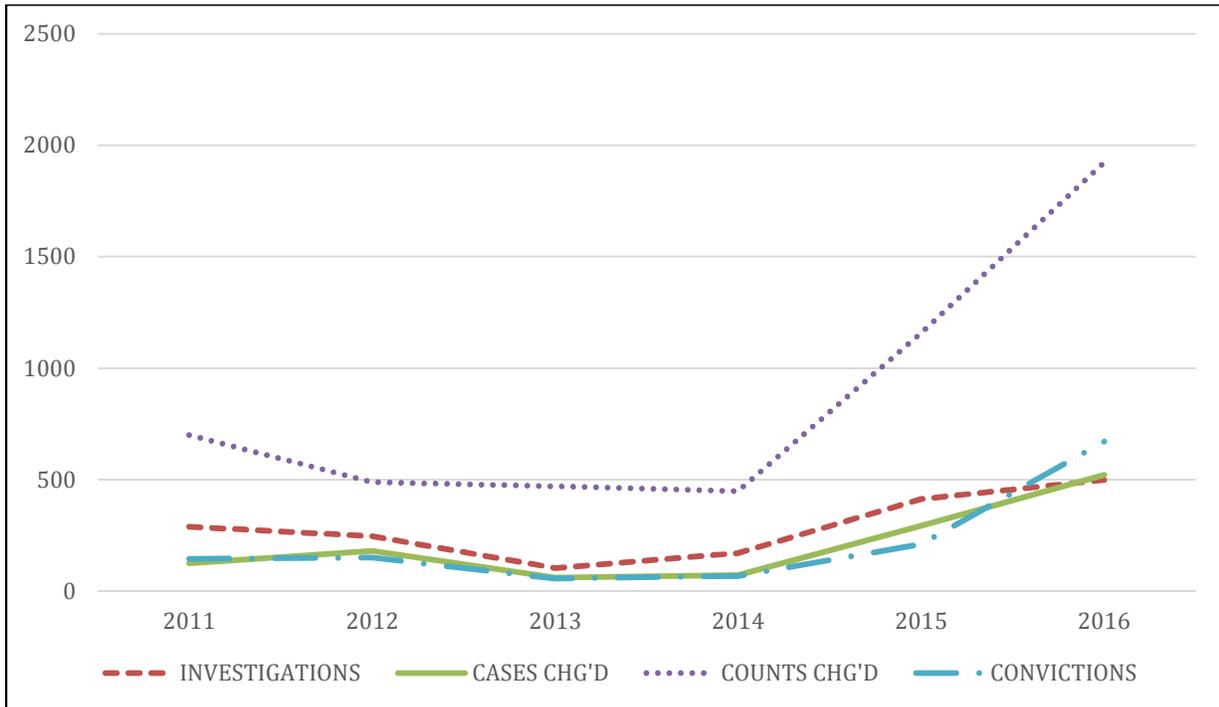
FFIT continues to make improvements in identifying, arresting, and prosecuting individuals and groups engaged in the criminal enterprise of financial fraud and identity theft. Each year, both task forces have incrementally increased the scope of their investigations, going after larger and more complex criminal enterprises.

The two task forces operate in vastly different regions of the state, experiencing a wide variety of financial fraud and identity theft activity in all sectors of the business and financial markets. The following charts and graphs depict quarterly results of the enforcement work done by each task force. In the criminal justice system, law enforcement investigations are half of the process of bringing criminal enterprises to justice. Prosecution and sentencing are the culmination of that process and constitute a measurable outcome for the program.

Statewide, the performance goal of the task forces is 92 convictions per quarter. Since establishing this performance measure in 2011, the task forces have achieved 2,804 convictions, averaging 51.9 convictions during each of the 54 quarters reported. This measure is being reviewed for appropriate inclusion in the 2017 program year operations.

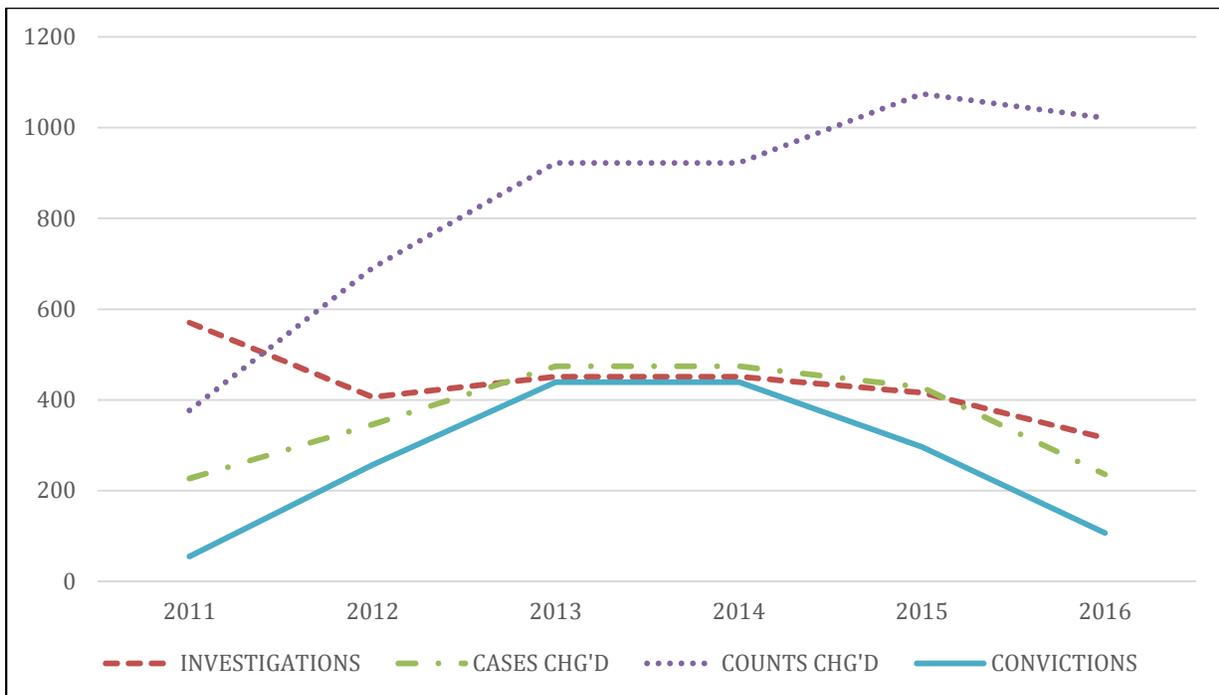
During SFY 2016, the Greater Puget Sound Task Force conducted 498 investigations, charged 521 cases involving 1,923 counts, and received 671 convictions on cases prosecuted. In the same contract period, the Spokane County Task Force conducted 316 investigations, charged 236 cases involving 1,021 counts, and received 107 convictions on cases prosecuted. The quarterly results are shown in Figures 4 and 5 on the following page.

Figure 4: Greater Puget Sound FFIT Task Force Performance by SFY 2011- SFY2016



Source: Greater Puget Sound FFIT Task Force Quarterly Reports

Figure 5: Spokane Area FFIT Task Force Performance by SFY 2011-SFY 2016



Source: Spokane Area FFIT Task Force Quarterly Reports

Appendix A: Task Force Activities and Recommendations

The following narratives represent the views of the task forces and are reported as such elsewhere in the document.

Greater Puget Sound Task Force

Review of SFY 2016 Activities

SFY 2016 was a period of growth for the Greater Puget Sound Task Force. Task force funding was renewed and increased. The statute expanded the task forces adding Snohomish County to Pierce and King counties. The GPS executive board expanded to include members from Snohomish County and added a prosecutor to the task force. A new team member has also been an excellent addition to the task force's collaborative work. These three counties involve the bulk of identity theft crime that is seen in Western Washington.

In June 2016, a detective was added from the King County Sheriff's Office, bringing more investigatory power to the task force. This detective has broad experience in complex financial fraud cases. The new detective has already made an impact running by solving a "bank liquidity" case where the defendant used other people's accounts to deposit forged checks. The defendant allegedly used a gun to force a recruit to cooperate.

The work groups have grown in size and popularity. The task force has investigators from Pierce, King, and Snohomish counties, federal agents, state agency investigators, prosecutors from the U.S. Attorney's Office, and the Washington State Attorney General's Office attending the quarterly information sharing meetings. The task force provides financial industry-wide notifications of the top offenders, updates on GPS's task force cases, and discussions of current trends. The task force plans to continue outreach efforts to local law enforcement investigators to make sure the law enforcement community has a coordinated response to the larger span of organized criminals. The task force has also continued outreach efforts with trainings for prosecutors across the state held in Spokane and Chelan.

Planned SFY 2017 Activities

In SFY 2017, the task force plans to expand again. The task force is working out the details with the hope that detectives in Snohomish and King counties have additional computer forensic capabilities. Identity theft cases of any complexity need computer analysis. Criminals store lists of their victims on their computers and use them to re-encode credit cards with stolen financial information. An investigation is not complete until the criminal's computer is analyzed. Yet the competition for a local computer forensic analyst's time is fierce. Violent crimes take priority and the wait can be months. It is often necessary to choose between resolving a case without the computer information (which means the breadth of the crimes isn't known) and leaving a criminal on the streets for months to commit additional crimes. Neither option is optimal.

The task force has begun to focus more on how to organize ourselves in the upcoming years. We've discussed bringing task force employees together, tracking offenders after release from prison in a more coordinated way, and ways to increase participation with more agencies and counties in the Puget Sound area. The task force will share these efforts' outcomes with Commerce and help create best practice approaches during SFY 2017.

Policy Recommendations

The GPS Task Force has legislative recommendations in two areas. The first is properly recognizing identity theft that isn't financially motivated, but has devastating consequences for a victim. If a defendant gives a victim's name to police to avoid arrest, unless the defendant is booked into jail allowing fingerprints to identify him/her, a victim can get a criminal citation, arrest warrant, and criminal history. Yet, because the "loss" is under \$1,500, it can only be charged as Identity Theft in the Second Degree. Elevating "freedom theft" to first degree would be a more appropriate treatment for this crime if the use of a victim's name results in a criminal charge or arrest for the victim.

The second legislative idea is making possession of a skimming device with intent to commit identity theft a felony. Skimming has increasingly become a problem in identity theft cases. Skimmer devices allow a person to get information off a credit/debit cards magnetic stripe. There are legitimate reasons to use that information. For example, small businesses use "skimmers" on iPhones to sell items.

However, these small devices are used by identity thieves to get people's financial information (account number, expiration date, CCV) to make new counterfeit credit cards for illegal use. There have been situations where suspects have been caught before they got any information from victims and only had the skimmer, but other evidence makes it clear that the skimmer was about to commit a crime. The only charge available is attempted identity theft in the second degree (since it wasn't known if they would be able to steal over \$1,500 to make it first degree) which is a gross misdemeanor. That is inadequate for a more-sophisticated-than-typical level of crime. The task force has unsuccessfully attempted to make possession of a skimmer with criminal intent a felony the past couple of years.

Spokane Task Force

Review of SFY 2016 Activities

In SFY 2016, the Spokane FFIT Task Force expanded its ability to investigate and prosecute Financial Fraud and Identity Theft crimes by acquiring enhanced investigative tools and software, and updated and added to its current set of tools and software. In addition, there was increased investigative and staffing participation by the City of Spokane Police Department (Spokane PD) investigators and other staff. The Spokane County Prosecutor's Office dedicated 0.25 FTE to FFIT Task Force cases for SFY 2017 and will assist in the tracking of FFIT incidents as they move through the criminal justice system, including decisions on what cases are to be investigated, charged, and prosecuted.

The Spokane County Sheriff's Office (SCSO) Regional Intelligence Group has acquired several Intel Information monitors, which are being shared between the SCSO and Spokane PD to provide investigators with access to information on problem locations, wanted persons, and analysis work. These have specific tabs and functions directly related to financial fraud, identity theft, and vehicle prowls (where the majority of financial crimes start). Additional monitoring systems have been made available and shared with jail and patrol locations further improving investigation and identification of suspects and criminal actors by detectives and deputies.

In Spokane County, two groups meet to share information and identify fraud losses of the financial institutions and other partners in Spokane County. These groups are the:

- Spokane Banker Security Officer (SBSO) group of law enforcement officers and bankers whose duties involve working fraud claims and cases to help keep people and the community safe.
- Financial Fraud and Identity Theft (FFIT) Group comprised of law enforcement and bankers who have obtained a limited commission through the local Spokane PD program where more detailed case work is shared and worked on by these special officers and law enforcement.

Many of these cases are then filed, de-conflicted, and shared with law enforcement including SCSO, Spokane PD, Washington State Gambling, Washington State Liquor and Cannabis Board, U.S. Marshalls, U.S. Postal Inspection Service, Secret Service, and others. The relationships and networking that has resulted is priceless.

Planned SFY 2017 Activities

Going forward, the Spokane FFIT will update its IBM i2 Analyze intelligence software to improve its crime analyst's ability to create tools and methods for linking crime where there are multiple victims, locations, and suspects. The FFIT task force will improve its work on large U.S. mail theft cases by upgrading certain SCSO Investigative task force equipment to work with multiple federal partners in these crimes. The Spokane FFIT learned and implemented "Best Practices" based on previous experience and knowledge on financial crimes and is now discovering more through the Internet and on social media pages. Intelligence sources are following stolen property rings, fraud scams (IRS, rental houses, elder fraud, etc.), and more.

Beginning October 2016, Spokane County and the city of Spokane will initiate a new system for tracking incident calls, reports, and case management. In preparation, task force members are reviewing and clarifying what has been recorded in prior data collected regarding performance measures, and are determining how best to revise the past goal regarding successful prosecutions.

Policy Recommendations

The Spokane FFIT task force sees the use of a stolen credit card by a suspect (Identity Theft in the Second Degree) as the greatest challenge to financial institutions, and recommends that it be weighted more heavily for charges and prosecution than crimes related to the stolen identity used to open up new accounts and or loans. Spokane agrees with and endorses the recommendations made by the GPS FFIT Task Force regarding proper recognition of identity theft that isn't financially motivated and making possession of a skimming device with intent to commit identity theft a felony.