



Department of Commerce

Criminal Penalty Fees

*Related to Prostitution and Commercial Sexual Abuse of Minors
(Chapter 121, Laws of 2013)*

December 2016
Report to the Legislature
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Acknowledgements

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Executive Summary

In 2013, the Washington State Legislature levied additional fees on Commercial Sexual Abuse of a Minor (CSAM) and prostitution-related crimes (ESHB 1291). The fees are in addition to other criminal penalties, including statutory fines and/or jail time. The majority of the revenue from these fees is retained by local jurisdictions to fund services for victims, preventative efforts, and law enforcement activities to reduce the commercial sale of sex. Some of the fees can be reduced by up to two-thirds if the judge finds, on the record, that an offender does not have the ability to pay. None of the fees can be waived entirely.

This report, for state fiscal year 2016 (SFY 2016), is the third annual report prepared by the Washington State Department of Commerce on the fee revenue and expenditures related to this set of crimes.

Key Findings

- In SFY 2016, 79 courts in Washington handed down convictions for the crimes that bear the additional fee. Of these courts, fewer than half – 33 – levied the statutorily required fees. Of the 33 courts, 28 collected revenue towards payment of the fees.
- Washington state courts (both city and county) are not levying fees for many of the crimes for which the fees are statutorily required. Overall, courts assessed just 57 percent of the total fees that could be levied – \$369,307 out of a potential \$645,900.
- A total of \$369,307 was levied, and \$182,065 was collected during SFY 2016. As in SFY 2014 and SFY 2015, the great majority (close to 90 percent) of the fees were both levied and collected by courts in King County.
- Fourteen courts reported less than \$100 collected during SFY 2016, and were not surveyed. Nineteen jurisdictions collecting greater amounts were surveyed through email and phone contacts to determine how the funds had been used. Responses were received from 14 courts.

Recommendations

- **Local Government Education Effort:** More education is needed for both court clerks and city and county treasurers, so they are aware of how the fees are to be spent and develop better methods for tracking and designating the funds.
- **Judge and Prosecutor Education Effort:** Education is needed for both judges and prosecutors, in both superior courts and courts of limited jurisdiction, about the statutory requirements to levy the fees covered by this report.
- **Statute Clarification:** The Legislature should consider clarifying in statute which body or individual decides how the funds are to be spent and who is responsible for reporting to Commerce on how funds are spent.

Introduction

In 2013, the Washington State Legislature passed ESHB 1291. The law, Chapter 121, Laws of 2013, concerned prostitution and the commercial sexual abuse of minors, and directed the Department of Commerce (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 – 9.68A.105, 9A.88.120, and 9A.88.140 – 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. The fees are also levied on an offender who has entered into a statutory or non-statutory diversion agreement as a result of an arrest for one of the applicable crimes. Table 1 lists the statutes, the additional penalty, and the crimes to which the penalty applies.

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

Statute	Additional Penalty Amount	Crimes to Which Penalty Applies
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 first offense \$2,500 for second offense \$5,000 for third or greater offense	9A.88.090 – Permitting prostitution 9A.88.110 – Patronizing a prostitute
	\$3,000 for first offense \$6,000 for second offense \$10,000 for 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

The three statutes levying the additional fees establish how the revenue from the fees collected must be used by jurisdictions:

- At least 50 percent of the revenue must be spent on prevention and rehabilitation services for victims. Prevention includes education programs for offenders, such as “john school,” which provides curriculum on the sexual exploitation of women, legal ramifications, and confronting and healing from sexual addiction. Rehabilitative services for victims includes mental health and substance abuse counseling, parenting skills, housing relief, education, vocational training, drop-in centers, and employment counseling.
- 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.
- Two percent of the revenue must be remitted quarterly to Commerce, together with a report detailing the fees assessed, the revenue received, and how that revenue was spent.

Some of the fees can be reduced if the court finds, on the record, that the offender does not have the ability to pay the fee. In those cases, the fee can only be reduced up to two-thirds.

The fees attached to vehicle impoundment may not be reduced at all. These fees are collected by the impounding agency if a law enforcement officer impounds a vehicle that was used in the commission of a CSAM or prostitution-related crime, or if other conditions are met. This fee is collected prior to the owner redeeming their vehicle. If the defendant is subsequently found not guilty of the crime, they are entitled to a refund of the fee.

Fee Assessments and Crime Rates

In 2016, 79 courts in Washington handed down convictions for the crimes that bear the additional penalty fee. Of these, 33 courts from 12 different counties levied the statutorily required fees.

This indicates that many courts in Washington are not assessing the fees, or are only levying a fraction of what they could. For instance, Snohomish County had 19 convictions for applicable charges, with \$13,750 in possible fees, but none imposed. (Snohomish County did receive \$1,893 in collections, presumably from convictions in previous years.) Skagit County had four convictions, with a potential \$5,150 in assessments, but no fees levied. Pierce County had 55 convictions for the covered crimes, with a possible total of \$79,500, but only assessed \$7,400 – 9 percent of the amount that courts in that county could assess.

More than half (46 out of 79) of Washington state courts did not assess any fees for the applicable convictions. Overall, courts assessed just 57 percent of the total fees that could be levied – \$369,307 out of a potential \$645,900. As in SFY 2014 and SFY 2015, the great majority (close to 90 percent) of the fees were both levied and collected by courts in King County. It is beyond the scope of this report to investigate why these fees are not being imposed by many courts. However, it is clear that education is needed for both judges and prosecutors, in both superior courts and courts of limited jurisdiction, about the statutory requirements to levy the fees covered by this report. Please see page 17 for this and other recommendations.

Table 2, on the following page, lists the number of arrests and convictions for the relevant crimes, the maximum possible amount of fees that could be assessed for those crimes, the actual fees assessed, and the fees collected for each county in Washington. Additional detail can be found in Appendix B, which contains a complete list of all courts that imposed convictions for the applicable crimes, and the amounts assessed and collected.

Table 2: Arrests, Convictions, and Fees by County – SFY 2016

County	Arrests for Applicable Charges	Convictions for Applicable Charges	Maximum Possible Fees	Fees Assessed	Fees Collected
Adams County	0	1	\$50.00	\$0	\$0
Asotin County	17	1	\$50.00	\$0	\$0
Benton County	17	8	\$400.00	\$0	\$0
Chelan County	8	2	\$100.00	\$1,000.00	\$0
Clallam County	10	10	\$500.00	\$0	\$0
Clark County	50	10	\$2,950.00	\$0	\$0
Columbia County	0	0	\$0	\$0	\$0
Cowlitz County	22	5	\$1,700.00	\$1,550.00	\$1,500.00
Douglas County	0	0	\$0	\$0	\$0
Ferry County	0	0	\$0	\$0	\$0
Franklin County	19	9	\$1,900.00	\$0	\$0
Garfield County	2	1	\$50.00	\$0	\$0
Grant County	11	1	\$50.00	\$0	\$0
Grays Harbor County	23	7	\$350.00	\$3,116.50	\$366.50
Island County	10	3	\$150.00	\$75.00	\$2.30
Jefferson County	0	0	\$0	\$0	\$8.75
King County	480	211	\$485,150.00	\$331,216.26	\$162,543.33
Kitsap County	45	25	\$22,350.00	\$8,249.50	\$8,292.37
Kittitas County	2	2	\$100.00	\$0	\$0
Klickitat County	0	0	\$0	\$0	\$0
Lewis County	2	2	\$100.00	\$1,550.00	\$0
Lincoln County	0	0	\$0	\$0	\$0
Mason County	0	1	\$50.00	\$0	\$0
Okanogan County	7	3	\$150.00	\$150.00	\$50.00
Pacific County	1	1	\$5,000.00	\$0	\$0
Pend Oreille County	0	0	\$0	\$0	\$0
Pierce County	181	55	\$79,500.00	\$7,400.00	\$1,348.02
San Juan County	0	0	\$0	\$0	\$0
Skagit County	14	4	\$5,150.00	\$0	\$0
Skamania County	5	1	\$50.00	\$0	\$0
Snohomish County	86	19	\$13,750.00	\$0	\$1,893.66
Spokane County	75	20	\$19,700.00	\$8,850.00	\$510.53
Stevens County	4	1	\$50.00	\$0	\$0
Thurston County	23	3	\$150.00	\$0	\$0
Wahkiakum County	0	0	\$0	\$0	\$0
Walla Walla County	3	3	\$150.00	\$0	\$0
Whatcom County	23	5	\$4,600.00	\$4,500.00	\$2,792.48
Whitman County	7	0	\$0	\$0	\$0
Yakima County	40	4	\$1,650.00	\$1,650.00	\$2,757.33
TOTAL	1,187	418	\$645,900.00	\$369,307	\$182,065

Background on Fees and Payments

Many offenders do not pay fees all at once, but instead enter into a payment plan with the court. As penalty fees are paid off, they are coded into the Judicial Information System (JIS) used by most courts in Washington. Therefore, revenue from fees can be greater during a given year than the fees assessed, as penalties from past years are paid off.

The Administrative Office of the Courts (AOC) is responsible for establishing new codes in JIS and informing courts about which codes to use. Data in JIS is coded to the account to which funds are directed, rather than to the statute applicable to the crime. As a result, it is not possible to separate the funds collected by the offense committed.

Once the revenue is received and allocated to a code, the city or county treasurer is responsible for establishing 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 deciding how the funds should be spent, seeing that they are allocated according to the guidance established by the Legislature, and ensuring that the quarterly reports are sent to Commerce.

The Washington State Patrol (WSP) maintains data by county on the number of arrests and convictions for all crimes in Washington. Some cities, notably Seattle, have a municipal code that is used for misdemeanor offenses and which effectively replaces the applicable state statute for that crime in the city's data system. Therefore, data on arrests, cases, and convictions for crimes committed within the city of Seattle must be obtained from the Seattle Municipal Court.

Because the applicable crimes include both misdemeanors and felonies, the courts impacted include municipal and district courts (known as courts of limited jurisdiction, or CLJs), and superior courts, which hear serious felonies.

Certain courts, including the Seattle Municipal Court, do not utilize JIS. Additionally, some municipal courts contract with their county district court 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. The information on fees collected and assessed by those cities is merged with the data for King County District Court.

Crime Rates

Table 3 lists the number of arrests, cases, and convictions for the relevant crimes. It also includes the crime of trafficking, which carries an additional \$10,000 penalty 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 3: Statewide Arrests and Convictions Per Crime – SFY 2016

Statute	Charge	Number of Arrests	Number of Convictions
9.68A.100	Commercial Sexual Abuse of a Minor (CSAM)	59	9
9.68A.101	Promoting Commercial Sexual Abuse of a Minor	32	7
9.68A.102	Promoting Travel for Commercial Sexual Abuse of a Minor	8	1
9.68A.103	Permitting Commercial Sexual Abuse of a Minor	1	0
9A. 40.100	Trafficking	59	1
9A.88.010	Indecent Exposure	526	167
9A.88.030	Prostitution	210	60
9A.88.070	Promoting Prostitution in the First Degree	50	4
9A.88.080	Promoting Prostitution in the Second Degree	68	92
9A.88.085	Promoting Travel for Prostitution (Vehicle Impoundment)	0	1
9A.88.090	Permitting Prostitution	2	3
9A.88.110	Patronizing a Prostitute	172	73
TOTAL		1,187	418

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.

Note: Data from the Seattle Municipal Court includes the charge of Prostitution Loitering within the category of Prostitution.

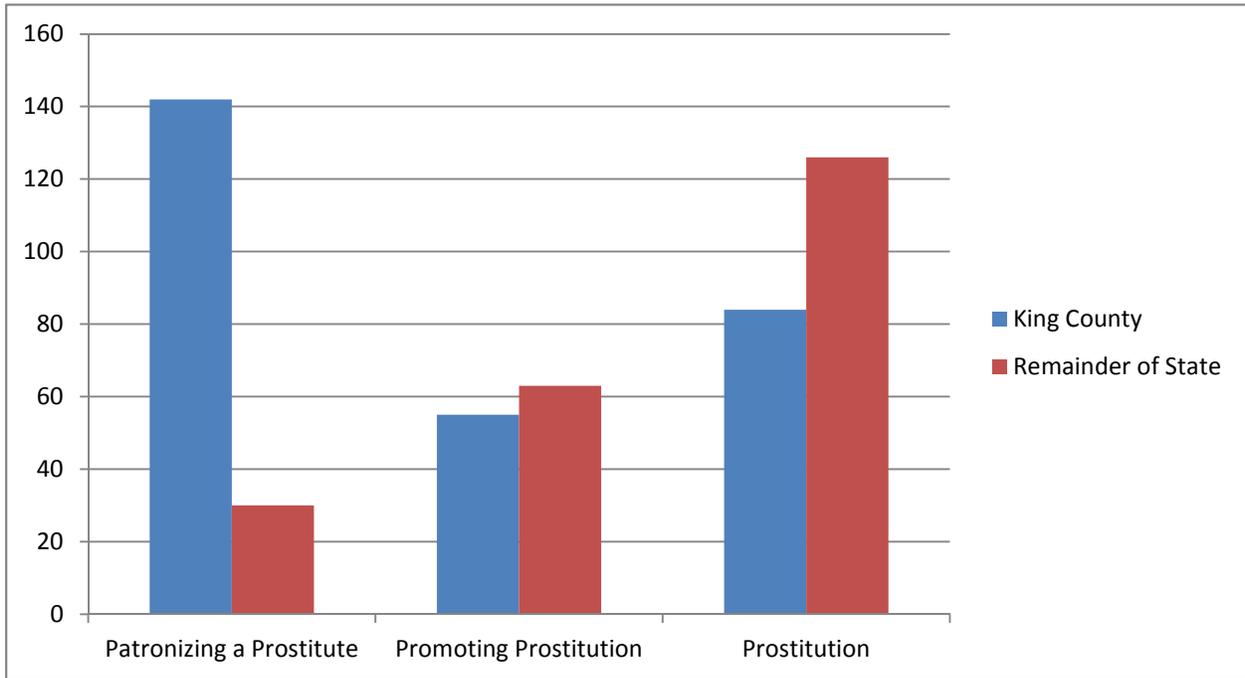
The relatively high number of arrests for trafficking (59) compared to the single conviction suggests that many of these cases are instead prosecuted for the lesser charge of promoting prostitution. In addition, if an investigation reveals that the victim(s) was underage, the prosecutor may elect to press a felony charge of CSAM instead of a trafficking charge.

King County’s Approach to Prostitution

The majority of the arrests and convictions for prostitution-related crimes take place in King County. The city of Seattle, the King County Sheriff’s Department, and several other jurisdictions in King County have adopted a policy of actively pursuing the buyers of sex, from both adults and children. This approach, known as the Buyer Beware program, is discussed in further detail on page 13.

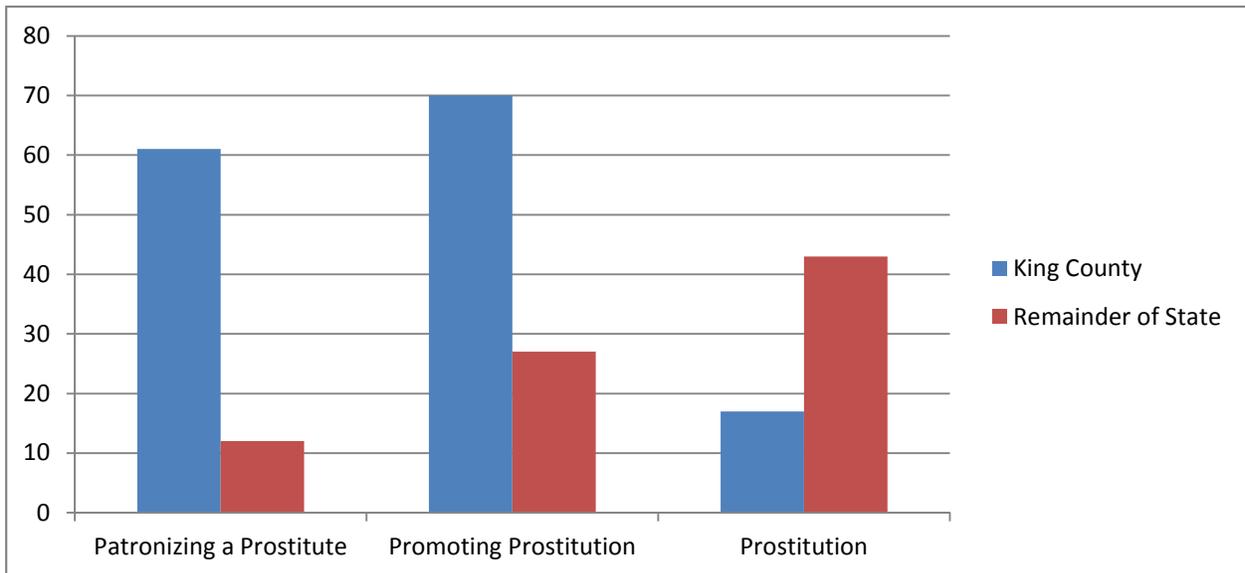
As shown in tables 4 and 5, law enforcement agencies in King County were responsible for 83 percent of the arrests for patronizing a prostitute in the state, and 84 percent of the convictions for these crimes were handed down in King County courts (including city municipal courts within the county). King County courts were also responsible for over two-thirds (72 percent) of the convictions for promoting prostitution statewide.

Table 4: Arrests for Prostitution-Related Crimes – SFY 2016



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

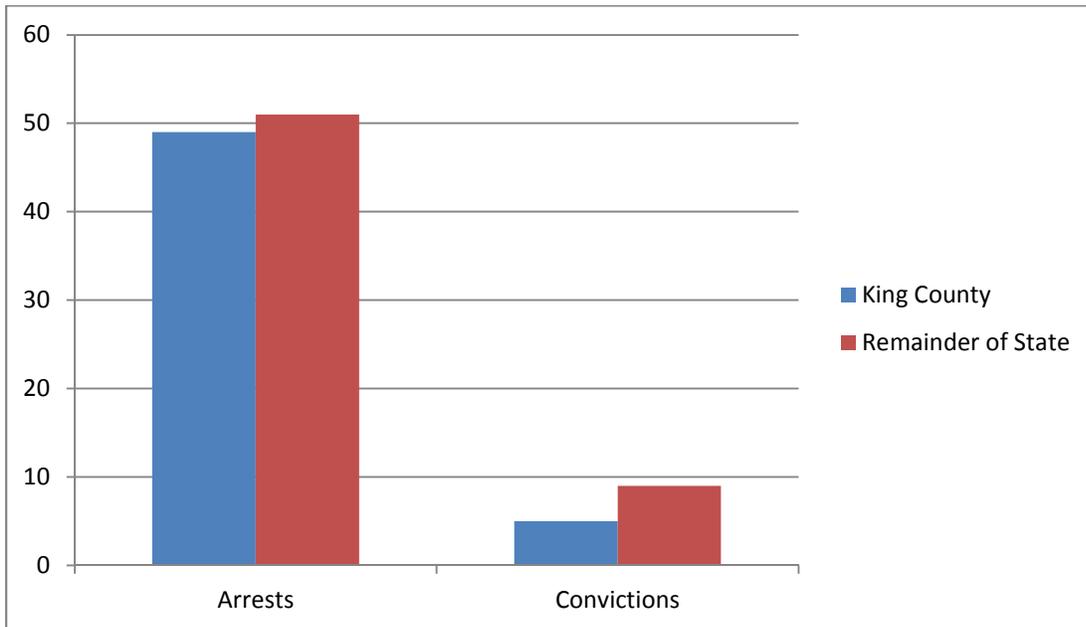
Table 5: Convictions for Prostitution-Related Crimes – SFY 2016



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

King County law enforcement agencies made 49 percent of the arrests in the state for CSAM crimes, and King County Superior Court was responsible for 36 percent of the convictions. The CSAM crimes in Table 6 include CSAM, promoting CSAM, and promoting travel for CSAM.

Table 6: Commercial Sexual Abuse of a Minor Arrests and Convictions – SFY 2016



Source: *The Washington State Patrol*

How Jurisdictions Reported Expending the Funds

According to data from the AOC, 33 courts assessed and/or collected the relevant fees during SFY 2016. Fourteen courts reported less than \$100 collected during SFY 2016, and were not surveyed. Nineteen jurisdictions collecting greater amounts were surveyed, through email and phone contacts, to determine how the funds had been expended. As in 2014 and 2015, jurisdictions were provided with a chart (Appendix A) showing the relevant statutes and the statutory dispersal formula for the funds.

In most cases, it was necessary to speak with another department (for instance, the city or county treasurer, the police department, or the prosecutor's office) to learn whether the funds had been allocated, and if so, what they had been spent on.

Responses were received from 14 courts. The following information lists how each jurisdiction described expending the funds.

City of Aberdeen

Aberdeen allocated the funds to the nonprofit Beyond Survival. Beyond Survival supports, educates, and empowers all people impacted by sexual abuse.

City of Auburn

Auburn employs a crime victim advocate to assist survivors of commercial sexual exploitation. The city also provides human services funding for to Valley Cities Mental Health for counseling services for a multitude of issues including sexual victims, parenting skills etc. In addition, Auburn grants funds to other nonprofits to provide services related to education, vocational training, drop-in centers, and employment. The police also are actively looking for businesses that lend themselves to be fronts for human trafficking in the sex trade.

City of Bellingham

The city of Bellingham allocated 48 percent of the funds to the Bellingham Police Department for use by their Neighborhood Anti-Crime Team. In collaboration with area motels, "john stings" were conducted to enforce and reduce the commercial sale of sex. A john sting involves placing a fake advertisement online for commercial sex, and arresting the potential buyers when they arrive at the designated meeting spot and confirm they are there to pay for sex. The victims involved in these crimes were referred to local services for prevention and intervention.

Fifty percent of the funds were allocated to Domestic Violence Sexual Assault Services, an agency financially supported by the city. Their focus is on victim services, education, and counseling for victims of sexual assault.

Cowlitz County

Cowlitz County has not yet expended any of the funds.

City of Des Moines

Funds have not yet been expended. The funds are earmarked for the Genesis Project, an organization providing shelter, services, and mentorship to girls and women escaping commercial sexual exploitation.

City of Federal Way

The Federal Way Municipal Court, victim assistance coordinator, and police department have not expended any of the funds at this time. These agencies plan to let the money accrue until there are sufficient funds for a project. The decision about which project to fund will be made collaboratively by each department involved.

City of Kent

The city of Kent has taken a proactive, dedicated approach to combatting trafficking and commercial sexual exploitation, through online and hotel-based stings. Half of the penalty fees are used by the Kent Police Department to reduce the commercial sale of sex. The remainder is used for prevention and rehabilitative services for the victims of human trafficking.

During this reporting period, costs for a john sting included overtime for the officers involved, a hotel room, and meals for the officers and trafficking victim.

King County (District and Superior Courts)

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

Buyer Beware brings together local prosecuting authorities with community service organizations and survivors to carry out a comprehensive strategy to reduce demand and facilitate exit from prostitution. Leaders of the initiative explain that past practice punished prostituted people instead of those who caused the harm: the sex buyers. As a result, the cycle of prostitution-related crime and sex trafficking persisted and victims continued to be harmed.

According to the Buyer Beware program, prostituted people are typically coerced into prostitution between the ages of 12 and 15, controlled by pimps, experience multiple traumas, and 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 persons, 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.

Interventions of the Buyer Beware program include:

- Systematic law enforcement emphasis on arrests and prosecutions of sex buyers.
- Increased penalties to deter buyers.
- Referring sex buyers to "Stopping Sexual Exploitation," a comprehensive intervention program.
- Collection of fines to fund services for prostituted people.
- Reduce arrests and prosecutions of prostituted persons in favor of referral to services.
- Expansion of effective services to assist prostituted people in leaving the life.
- Forming an alliance of public and private employers committed to implementing policies and practices against sex buying.
- Engaging high school and college students on the harm of commercial sexual exploitation.
- Social media campaigns to engage young men on the harms of sex buying.
- Engaging a spectrum of community sectors, including public health, education, business, media and criminal justice to change cultural norms around buying sex.

Kitsap County (District and Superior Courts)

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 Kitsap County Prosecutor's Office Vice Unit handles all felony offenses involving human trafficking, drugs, and gang related offenses. The felony human trafficking offenses prosecuted by this unit include human trafficking, promoting commercial sexual abuse of minor, promoting prostitution in the first and second degree, and violent felonies that occur during the commission of trafficking-related offenses.

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 includes 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 SeaTac

Funds have not yet been expended. The funds are earmarked for the city's Probation Department to work with the city of Tukwila to establish a program to help educate and prevent the commercial sale of sex.

City of Seattle

More than 69 percent of the arrests statewide for patronizing a prostitute were made in the city of Seattle (119 out of 172 arrests in SFY 2016). In comparison, the city has approximately 9 percent of the state's population. The high arrest rate is in part due to an expressed commitment from the Seattle Police Department to focus law enforcement efforts on arresting the buyers of commercial sex, rather than those being prostituted.

Seattle splits the revenue from these fines between its police department and human services department. In SFY 2016, the Seattle Police Department used the fine revenue for salaries and overtime for officers conducting CSAM sting operations. Funds were also used to buy laptop computers for officers to use while on stings.

During the last seven years, Seattle has instituted a number of programs to both curb commercial sexual exploitation and to assist victims and survivors. 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, the Seattle Human Services Department contracted with local providers to facilitate a Sex Industry Workers Class and a "john school" for those arrested for buying sex. These programs, each initially one day long, 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 women who may be attempting to leave prostitution. The john school provides curriculum on the sexual exploitation of women, legal ramifications, and confronting and healing from sexual addiction.

In 2014, the city implemented an improved model for the Sex Industry Worker's Class. Instead of a one-day class, the program now provides four two-hour sessions held weekly. The classes, in the form of 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 the Coordinated Effort Against Sexual Exploitation (CEASE), a multi-agency effort to identify survivors of commercial sexual exploitation. CEASE aims to provide these women and men with “wraparound” services within 24 to 48 hours after they have been identified. The support services provided by CEASE 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 the option of money that clients can use to obtain safety, stability, and independence.

The funding for CEASE has been leveraged with other fund sources, including monies for the victims of domestic violence and sexual assault.

In July 2015, the Mayor’s Office on Domestic Violence and Sexual Assault asked for applications from agencies to provide services for adult and youth victims and survivors of commercial sexual exploitation. The new services will provide survivors with advocacy and support to navigate resources and systems, so that they experience less secondary trauma and are better able to recover, obtain safety and self-sufficiency, and are able to leave the life of prostitution.

Approximately \$350,000 is available for these services, which leverages monies from CSAM penalty fees, the Prostituted Children Rescue Fund, and the Sex Industry Victims Funds.

City of Yakima

The City of Yakima has not yet expended any of the funds.

Recommendations

The following policy recommendations aim to improve the process for assessing, collecting, and reporting on the criminal penalty fees addressed by this report.

Local Government Education Effort

While ESB 1291 was signed into law in 2013, it is evident that many cities and counties are still unfamiliar with its requirements. For instance, only one city – Kent – has complied with the requirement to send Commerce quarterly reports detailing how much it has assessed and how the funds have been expended.

In many cases, the courts forward the funds to the city or county treasurer without detailing how the funds are to be spent. Once they reach the treasurer, the funds are deposited into the general fund and not earmarked for a specific purpose.

Therefore, more education is needed for both court clerks and city and county treasurers, so they are aware of how the fees are to be spent and develop better methods for tracking and designating the funds.

Judge and Prosecutor Education Effort

More than half (46 out of 79) of Washington state courts did not assess any fees for the applicable convictions during SFY 2016. (See Appendix B on page 20 for the complete list of courts that did and did not levy the fees.) While judges have the discretion to reduce many of the fees by up to two-thirds if they find, on the record, that the defendant does not have the ability to pay, none of the fees may be waived.

It is not clear why judges are not assessing the fees, and why prosecutors are not asking them to do so during sentencing. Investigating this question is outside the scope of this report. However, it is clear that education is needed for both judges and prosecutors, in both superior courts and courts of limited jurisdiction, about the statutory requirements to levy the fees covered by this report.

Statute Clarification

The three statutes levying the additional penalties (RCW 9.68A.105, 9A.88.120, and 9A.88.140) do not specify which body or individual decides how the funds are to be spent, and this has been a point of confusion for some jurisdictions. The statutes also do not clarify which body or individual is responsible for reporting to Commerce how the funds are spent. While this lack of specificity does allow jurisdictions to develop their own processes without being prescribed them by the Legislature, it also creates some confusion. It additionally leads to jurisdictions not

following the statutory requirements because no department or position is tasked with the responsibility. Therefore, amending these statutes to provide clarification would help resolve the confusion.

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 job 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 (all deposited to PPIA)	9.68A.106	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	\$50		
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	\$1,500 for 1 st offense		
9A.88.030 – Prostitution	\$2,500 for 2 nd offense	9A.88.120	
9A.88.090 – Permitting prostitution	\$5,000 for 3 rd or greater offense		
9A.88.110 – Patronizing a prostitute	\$3,000 for 1 st offense		
9A.88.070 – Promoting prostitution in the 1 st degree	\$6,000 for 2 nd offense		
9A.88.080 – Promoting prostitution in the 2 nd degree	\$10,000 for 3 rd or greater offense		
9A.88.140 – Vehicle impoundment fine:			
9A.88.110 – Patronizing a prostitute	\$500	9A.88.140	
9A.88.070 – Promoting Prostitution in the 1 st degree			
9A.88.080 – Promoting Prostitution in the 2 nd degree			
9A.88.085 – Promoting travel for prostitution			
9A.88.140 – Vehicle impoundment fine:			
9.68A.100 – CSAM	\$2,500		
9.68A.101 – Promoting CSAM			
9.68A.102 – Promoting travel for CSAM			
Statute	How Proceeds Must Be Used (effective June 12, 2014)		
Proceeds from seized property:	Dispersal of Proceeds from Seized Property: 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.120 – Child pornography			
9.68A.100 – CSAM			
9.68A.101 – Promoting CSAM			
9A.88.070 – Promoting prostitution in the 1 st degree	Prostitution Prevention and Intervention Account: 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.		

Appendix B: Courts with Convictions for Applicable Charges

Table 7: Courts with Convictions for Applicable Charges – SFY 2016

Court	County	Convictions for Applicable Charges	Fees Assessed	Fees Collected
Aberdeen Municipal Court	Grays Harbor County	3	\$1,616.50	\$366.50
Adams County Superior Court	Adams County	1	\$0	\$0
Airway Heights Municipal Court	Spokane County	1	\$0	\$0
Asotin County Superior Court	Asotin County	1	\$0	\$0
Bellingham Municipal Court	Whatcom County	3	\$4,500	\$2,792.48
Benton County District Court	Benton County	7	\$0	\$0
Benton County Superior Court	Benton County	1	\$0	\$0
Bothell Municipal Court	King County	3	\$100	\$100
Bremerton Municipal Court	Kitsap County	10	\$100	\$0
Burlington Municipal Court	Skagit County	2	\$0	\$0
Centralia Municipal Court	Lewis County	0	\$1,500	\$0
Chehalis Municipal Court	Lewis County	1	\$0	\$0
Chelan County District Court	Chelan County	1	\$1,000	\$0
Chelan County Superior Court	Chelan County	1	\$0	\$0
Clallam County District Court No. 1	Clallam County	7	\$0	\$0
Clallam County Superior Court	Clallam County	3	\$0	\$0
Clark County District Court	Clark County	4	\$0	\$0
Clark County Superior Court	Clark County	6	\$0	\$0
Cowlitz County District Court	Cowlitz County	4	\$1,550	\$1,500
Cowlitz County Superior Court	Cowlitz County	1	\$0	\$0
Des Moines Municipal Court	King County	0	\$1,500	\$1,947.19
Edmonds Municipal Court	Snohomish County	1	\$0	\$0
Everett Municipal Court	Snohomish County	5	\$0	\$0
Federal Way Municipal Court	King County	17	\$19,250	\$13,853.96
Fife Municipal Court	Pierce County	3	\$300	\$250
Franklin County District Court	Franklin County	1	\$0	\$0
Garfield County Superior Court	Garfield County	1	\$0	\$0
Grant County District Court	Grant County	1	\$0	\$0
Grays Harbor County District Court No. 1	Grays Harbor County	1	\$1,500	\$0
Grays Harbor County Superior Court	Grays Harbor County	2	\$0	\$0
Hoquiam Municipal Court	Grays Harbor County	1	\$0	\$0
Island County District Court	Island County	2	\$75	\$2.30
Island County Superior Court	Island County	1	\$0	\$0

Court	County	Convictions for Applicable Charges	Fees Assessed	Fees Collected
Jefferson County Superior Court	Jefferson County	0	\$0	\$8.75
Kent Municipal Court	King County	6	\$10,500	\$13,263.53
King County District Court*	King County	17	\$1,839	\$1,520
King County Superior Court**	King County	97	\$188,810.26	\$70,618.10
Kirkland Municipal Court	King County	2	\$534	\$0
Kitsap County District Court	Kitsap County	8	\$3,000	\$223.02
Kitsap County Superior Court	Kitsap County	7	\$5,149.50	\$8,069.35
Lake Forest Park Municipal Court	King County	0	\$600	\$95.46
Lewis County Superior Court	Lewis County	1	\$0	\$0
Lower Kittitas County District Court	Kittitas County	2	\$0	\$0
Lynnwood Municipal Court	Snohomish County	4	\$0	\$0
Marysville Municipal Court	Snohomish County	2	\$0	\$0
Mount Vernon Municipal Court	Skagit County	1	\$0	\$0
Napavine Municipal Court	Lewis County	0	\$50	\$0
Okanogan County District Court	Okanogan County	3	\$150	\$50
Olympia Municipal Court	Thurston County	1	\$0	\$0
Pacific County Superior Court	Pacific County	1	\$0	\$0
Pasco Municipal Court	Franklin County	8	\$0	\$0
Pierce County District Court No. 1	Pierce County	8	\$50	\$50
Pierce County Superior Court	Pierce County	36	\$7,050	\$1,048.02
SeaTac Municipal Court	King County	1	\$6,000	\$6,035.29
Seattle Municipal Court	King County	68	\$95,983	\$52,010
Shelton Municipal Court	Mason County	1	\$0	\$0
Skagit County Superior Court	Skagit County	1	\$0	\$0
Skamania County Superior Court	Skamania County	1	\$0	\$0
Snohomish County South District Court	Snohomish County	2	\$0	\$1,893.66
Snohomish County District Court Everett	Snohomish County	2	\$0	\$0
Snohomish County Superior Court	Snohomish County	3	\$0	\$0
Spokane County District Court	Spokane County	6	\$0	\$0
Spokane County Superior Court	Spokane County	6	\$8,850	\$510.53
Spokane Municipal Court	Spokane County	7	\$0	\$0
Stevens County Superior Court	Stevens County	1	\$0	\$0
Sumner Municipal Court	Pierce County	1	\$0	\$0
Tacoma Municipal Court	Pierce County	7	\$0	\$0
Thurston County District Court	Thurston County	1	\$0	\$0
Thurston County Superior Court	Thurston County	1	\$0	\$0
Tukwila Municipal Court	King County	0	\$6,100	\$3,100

Court	County	Convictions for Applicable Charges	Fees Assessed	Fees Collected
Walla Walla County District Court	Walla Walla County	3	\$0	\$0
Whatcom County Superior Court	Whatcom County	2	\$0	\$0
Yakima County Superior Court	Yakima County	1	\$0	\$0
Yakima Municipal Court	Yakima County	3	\$1,650	\$2,757.33
TOTAL		418	\$369,307	182,065

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

*King County District Court contracts with a number of 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, Sammamish, and Shoreline municipal courts.

**In keeping with statutory requirements, King County Superior Court transfers the fees it collects back to the jurisdictions where the offense occurred. During this reporting period, King County Superior Court transferred fees to the cities of Bellevue, Kent, Renton, and Seattle.