

THE MUNICIPAL COURT OF SEATTLE



# INVENTORY OF CRIMINAL AND INFRACTION FINES AND FEES AT SEATTLE MUNICIPAL COURT

A research report in response to City Council  
Resolution 31637

Prepared by SMC Research, Planning & Evaluation Group (RPEG)

August 2017

## Executive Summary

This report is being issued by Seattle Municipal Court (SMC) to fulfill the requirements of City Council Resolution 31637, which directed the City of Seattle Reentry Work Group to “inventory and assess the City’s current imposition and collection of fees and fines for criminal and infractions and the impact of such on successful reentry”. SMC analysts worked with the Seattle Office of Civil Rights to define the scope of work for this inventory.

Washington State has a particularly challenging court funding scheme. The result is a systemic dependency on the imposition of legal financial obligations (LFOs) as a way of funding courts and the criminal justice structure. Assessing LFOs therefore requires careful balancing. On one hand, our court is bound by LFO regulations and underlying policy enacted by the Washington State Legislature and Seattle City Council. On the other, we are sensitive to the fact that the imposition of LFOs falls disproportionately upon those least able to afford them. There is growing momentum to review how they are used throughout the criminal justice system. In particular, how LFOs intersect with race and social justice issues, poverty, reentry opportunities, and equitable administration of justice.

Section One of the report provides information on SMC policies and business practices related to the collection of court-ordered fees and fines. This section provides detail on ability-to-pay and eligibility-for-public-defense determinations, community service and time payment plan opportunities, information on victim restitution, and information on SMC’s contracted debt-recovery provider. Key findings in this section include:

- **SMC collected \$47 million in revenue associated with court-ordered penalties in 2016. \$43.3 million went to the City of Seattle and \$3.8 million to the State of Washington.**
- **Criminal-related legal financial obligations make up less than 1% of all collections revenue recovered.**
- **At least 93% of monies collected from legal financial obligations at Seattle Municipal Court originate from infraction tickets.**
- **Approximately one out of five defendants with a criminal case at SMC pays for a private attorney.**

Section Two of the report provides an inventory of legal financial obligations imposed on criminal cases at SMC. Information is presented by defendant demographic characteristics where available. Key findings include:

- **In 2016, 9% of monies collected from criminal cases were mandatory regardless of defendant indigence, 56% were mandatory unless indigence was found, and 35% were discretionary.**
- **Case type is the biggest determinant of imposed LFO amounts. DUI cases receive significantly more fines and fees than DV and Non-DV, Non-DUI cases.**
- **62% of Non-DV, Non-DUI, 42% of DV and 7% of DUI cases have all LFOs suspended.**
- **Median LFO amounts are slightly higher for Asian / Pacific Islander and White defendants than for Black and Native American / Alaska Native defendants.**

- **When comparing average LFO impositions between White defendants and other races, there were some statistically significant differences.**
- **Preliminarily, it appears SMC may have lower LFO impositions than other jurisdictions, based on limited available data.**

Section Three of the report provides an inventory of fines and fees imposed on infraction cases at SMC. Information is presented by defendant demographic characteristics where available. Key findings include:

- **Parking and Traffic Camera tickets account for nearly 85% of infraction fine and fee monies collected, but because tickets are issued to vehicles, demographic information is unavailable.**
- **State assessments make up 82% of the total cost of infraction tickets.**
- **Black defendants and defendants under the age of 25 receive higher average and median infraction penalties on traffic infractions. This is largely because they receive tickets for violations for which the state has set higher penalty amounts.**
- **Defendants of different races contest and mitigate tickets at different rates, however, they receive similar reductions after contested and mitigation hearings.**

Section Four of the report offers a discussion regarding how court practices involving imposition and collections of legal financial obligations are consistent with court policy goals. The following are SMC's policy priorities when it comes to the imposition of legal financial obligations.

- **Comply with state and local statutes regarding mandatory LFO imposition.**
- **Make ability-to-pay determinations before imposing fines and fees.**
- **Provide options for people to meet legal financial obligations.**
- **Hold people accountable for violations.**
- **Impose user fees for some court services.**

The mission of Seattle Municipal Court is to provide a forum to resolve alleged violations of the law in a respectful, independent and impartial manner. The Court believes these LFO priorities and the results in this study suggest judges and staff are upholding this mission.

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## Introduction

### Report Purpose

In December 2015, the Seattle City Council passed Resolution 31637 which created the Prisoner and Community Corrections Reentry Work Group (in Section 2 of the Resolution) and placed on the work group the responsibility to “inventory and assess the City’s current imposition and collection of fees and fines for criminal and infractions and the impact of such on successful reentry” (in Section 3B of the Resolution). Appendix 1 provides a complete copy of Seattle City Council Resolution 31637. This report by the Seattle Municipal Court (SMC) is the inventory and assessment.

### Background on Legal Financial Obligation (LFO) Policy Reforms

Over the past decade there has been growing momentum to review how monetary sanctions are used in the U.S. criminal justice system. Attention is particularly focused on how these sanctions impact race and social justice issues, poverty and equitable administration of justice.

In 2015, after the killing of Michael Brown by police officers in Ferguson, Missouri and subsequent community riots, the use of monetary sanctions gained additional prominence. After a review of the Ferguson Police Department and Municipal Court, the U.S. Department of Justice found:

“Ferguson has allowed its focus on revenue generation to fundamentally compromise the role of Ferguson’s municipal court. The municipal court does not act as a neutral arbiter of the law or a check on unlawful police conduct. Instead, the court primarily uses its judicial authority as the means to compel the payment of fines and fees that advance the City’s financial interests... Together, these court practices exacerbate the harm of Ferguson’s unconstitutional police practices. They impose a hardship upon Ferguson’s most vulnerable residents, especially upon those living in or near poverty. Minor offenses can generate crippling debts, result in jail time because of an inability to pay, and result in the loss of a driver’s license, employment, or housing.”<sup>1</sup>

In November of that year, the National Center for State Courts (NCSC) published a study to identify best practices in operating and managing courts of limited jurisdiction throughout the United States and suggest how those practices may be applied to municipal courts in Missouri.<sup>2</sup> This study was conducted at the request of the Supreme Court of Missouri following the events in Ferguson and the U.S. Department of Justice’s investigation. The NCSC project team, which included then Seattle Municipal Court Administrator Yolande Williams as one of its three main members, returned with best practices

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<sup>1</sup> United States Department of Justice Civil Rights Division, INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT. [https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf).

<sup>2</sup> National Center for State Courts, State Justice Institute, MISSOURI MUNICIPAL COURTS: BEST PRACTICE RECOMMENDATIONS, FINAL REPORT – NOVEMBER 2015. <http://www.sji.gov/wp/wp-content/uploads/Missouri-Municipal-Court-Best-Practices-Recommendations-Final-Report-2015.pdf>

and recommendations that are specific to a court's fiscal and financial operations and responsibility that should shape LFO policies in each jurisdiction.

Beyond Ferguson, the imposition of monetary sanctions throughout the criminal justice system continues to gain attention as advocates, researchers, and government agencies call into question whether monetary sanctions should be part of a fair and effective criminal justice system. In March 2016, the U.S. Department of Justice sent a Dear Colleague Letter to all State Chief Justices and Court Administrators to "address some of the most common practices that run afoul of the United States Constitution and / or other federal laws and to assist court leadership in ensuring that courts at every level of the justice system operate fairly and lawfully."<sup>3</sup>

Monetary sanction reform within the criminal justice system has focused on several policy issues including conflicts of interest that arise from local jurisdictions' use of court ordered fees and fines to raise government revenue, the harmful impacts criminal justice debt can have on marginalized populations' ability to earn a living and reach stability, and whether courts throughout the country are making ability-to-pay determinations before imposing legal financial obligations.

In addition to national reform efforts, there is a growing interest in the State of Washington to review monetary sanction imposition in Washington Courts. In 2008, the Washington Minority and Justice Commission, a commission created by the Washington State Supreme Court, issued a report on legal financial obligations in the state. This report concluded that "LFOs often create a cycle of poverty and incarceration... the fines severely inhibited the state's goals of reducing recidivism and helping past offenders reintegrate into their communities".<sup>4</sup>

In 2015, the Washington State Supreme Court issued an opinion in *State v. Blazina* "that a trial court has a statutory obligation to make an individualized inquiry into a defendant's current and future ability to pay before the court imposes LFOs." This opinion has caused trial courts throughout the state not only to review their processes for ability-to-pay determinations, but also to examine associated policies around imposition of mandatory and discretionary legal financial obligations.

In 2016, the Washington Minority and Justice Commission was awarded a three-year, \$500,000 grant to investigate how to "structure criminal justice legal financial obligations in ways that support, rather than undermine, rehabilitation and successful reintegration of justice-involved individuals into communities". Please note that SMC Presiding Judge Karen Donohue currently serves on the Washington Minority and Justice Commission's Legal Financial Obligations committee.

Finally, during the last three state legislative sessions, a major legal financial obligation overhaul bill has been proposed. This bill passed the Washington State House of Representatives, but failed to make it out of the State Senate in 2015, 2016, and 2017.

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<sup>3</sup> United States Department of Justice Civil Rights Division. <https://www.justice.gov/crt/file/832461/download>

<sup>4</sup> [http://www.courts.wa.gov/committee/pdf/2008LFO\\_report.pdf](http://www.courts.wa.gov/committee/pdf/2008LFO_report.pdf)

## City of Seattle Interest in Legal Financial Obligations at SMC

In December 2015, the Seattle City Council unanimously passed Resolution 31637, establishing the Prisoner and Community Corrections Reentry Work Group to develop policies and strategies that will strengthen the City's efforts to assist reentry after incarceration. There are four main tasks of the work group, one of which is to "inventory and assess the City's current imposition and collection of fees and fines for criminal violations and infractions and the impact of such on successful reentry."

In May 2016, the Seattle Office of Civil Rights (SOCR), the department charged with implementing the council resolution and convening the reentry committee, contacted SMC to inquire about potential options for completing a fine and fee inventory. SOCR and SMC collaboratively decided the best approach would be for analysts in SMC's Research, Planning and Evaluation Group (RPEG) to query data and compile an initial report on LFO imposition practices at SMC. This report will address and answer the research questions posed in the scope of work drafted and put forward by SOCR.

SOCR and SMC agreed that the criminal and infractions fine and fee inventory would focus on two primary objectives:

- Provide data describing monetary sanction imposition by available defendant demographics;
- Document policies and practices SMC employs to impose and collect monetary sanctions.

The broader goal of the resolution, to assess the impact of SMC legal financial obligations "on successful reentry," is outside the scope of this initial report. The intent is that this report will be distributed to the reentry work group for broader discussion regarding how to further examine the ways that LFOs imposed at SMC affect defendant reentry efforts.

## SMC Fee and Fine Inventory Scope of Work

In May 2016, SOCR contacted SMC for assistance in developing an inventory of criminal and infraction fines and fees at SMC. The proposed scope of the inventory is to include information on the following four areas of study<sup>5</sup>:

**Section One: Information on SMC policies and business practices related to collection of court-ordered fees and fines. This section will specifically:**

- Document how the court makes ability-to-pay determinations and evaluates eligibility for court-appointed counsel.
- Document payment options provided at SMC, including time payment plan protocols.
- Document how fines and fees are converted to community service.
- Document policies and practices regarding collection of victim restitution.
- Document policies and practices regarding use of a contracted collections agency.

**Section Two: Provide an inventory of criminal fees and fines imposed at SMC. This section will specifically:**

- Define the different fees and fines imposed on criminal cases at SMC. Provide the legislative authority, whether the fine or fee is mandatory or discretionary, the associated policy goals of the fine or fee, and where revenue generated from the fine or fee is directed.
- Document the number and amount of each fine and fee imposed at SMC.
- Determine the total, average, and median criminal fees and fine amounts assessed. Breakout by available demographic categories and case types.
- Determine the amount and percentage imposed by case and defendant in comparison to the maximum amount allowed per legislative authority. This analysis must be completed by case type.
- Compare LFO imposition rates with available data from other Washington Courts of Limited Jurisdiction.

**Section Three: Inventory of infraction fees and fines imposed at SMC. This section will specifically:**

- Define the different fees and fines imposed on infraction cases at SMC. Provide the legislative authority, whether the fee or fine is mandatory or discretionary, the associated policy goals of the fee or fine, and where the revenue generated from the fee or fine is directed.
- Document the number and amount of each fee or fine imposed at SMC.
- Determine the total, average, and median infraction fees and fine amounts assessed. Examine the number of infractions filed and amounts imposed for available demographic groups.
- Review the infraction disposition process at SMC and the various paths an infraction goes through to result in a particular fine and fee obligation.

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<sup>5</sup> Please note, the original scope of work SOCR requested included some data elements analysts were either unable to provide (geographic location of offense, LFOs by courtroom) or considered outside the scope of this analysis (bail and alternative to confinement practices).

#### Section Four: Discussion regarding how court practices involving imposition and collection of legal financial obligations are consistent with court policy goals:

- Discuss how SMC LFO practices align with broader court policy goals.

#### Focus on Defendant Demographics

In addition to addressing the four areas of study provided above, SOCR asked SMC to analyze fee and fine imposition rates by defendant demographic characteristics, whenever possible. Specifically, SOCR and City Council are interested in the extent to which SMC fines and fees vary by all available defendant demographic characteristics. These characteristics include race, age, gender and ethnicity<sup>6</sup>.

#### Impact on Defendant Reentry

The extent to which SMC fines and fees “impact successful reentry” is outside the scope of this analysis. The purpose of this report is to document business practices related to fine and fee imposition, create an inventory of criminal and infraction fees and fines imposed at SMC, and document rates of LFO imposition by different demographic groups. This analysis will be provided to the 2016 City of Seattle Reentry Work Group for discussion regarding how to further examine the impact of SMC imposed fees and fines on successful citywide reentry efforts.

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<sup>6</sup> Seattle Municipal Court does not capture defendant ethnicity data, including whether a defendant identifies as Hispanic. The best proxy the Court has for ethnicity is whether defendants requested an interpreter, which occurs for about 5% of SMC criminal defendants. However, interpreter request data is not provided in this report because of the limitation that an individual who speaks English but identifies with a particular ethnicity would not be captured by relying on interpreter data.

## SMC Background Information

The City of Seattle municipal government consists of three branches: The Executive (Mayor), the Legislative (City Council), and the Judicial (Municipal Court). These three branches of government provide Seattle residents with infrastructure, programs, and services that support their quality of life.

SMC is a limited jurisdiction court authorized under the Revised Code of Washington (RCW) 35.20 with jurisdiction over all violations of the Seattle Municipal Code. SMC's mission is to provide a forum to resolve alleged violations of the law in a respectful, independent, and impartial manner. SMC works closely with the Executive and Legislative branches of City government, the Seattle City Attorney's Office and the Defense Bar toward a safe and vital community.

SMC processes more cases than any other municipal court in the State of Washington. SMC's bench is comprised of seven separately elected judges who preside over criminal proceedings and five-and-a-half full-time equivalent magistrates who preside over infraction cases. SMC adjudicates misdemeanors (maximum jail sentence of 90 days and \$1,000 fine) and gross misdemeanors (maximum jail sentence of 364 days and \$5,000 fine). These include offenses such as driving under the influence, domestic violence, theft, and trespass. The Court also adjudicates civil violations related to building and zoning.

SMC employs about 215 staff across nine work units to provide support to judges and magistrates, process the work of SMC courtrooms and provide customer service to court users. In 2016, SMC's annual budget was \$30.3 million, appropriated from the City of Seattle's General Fund. 71% of the budget was accountable to personnel costs, 21% to inter-fund transfers and 8% to other costs.

In 2016, workload data indicates that SMC:

- Handled approximately 7,200 criminal filings.
- Held approximately 19,000 criminal hearings.
- Processed approximately 630,000 infraction tickets.
- Held over 70,000 magistrate hearings.
- Processed approximately \$47 million in court ordered fines, fees and penalties.

Figure 1 and Figure 2 provide additional detail on the types of criminal and infraction cases handled by SMC judges and magistrates.<sup>7</sup> Over the past 6 years, driving while under the influence (DUI) and Non-DV, Non-DUI filed cases have decreased more sharply than domestic violence (DV) cases.

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<sup>7</sup> These charts are also available on the SMC website: <http://www.seattle.gov/courts/pio/pioembed.htm>.

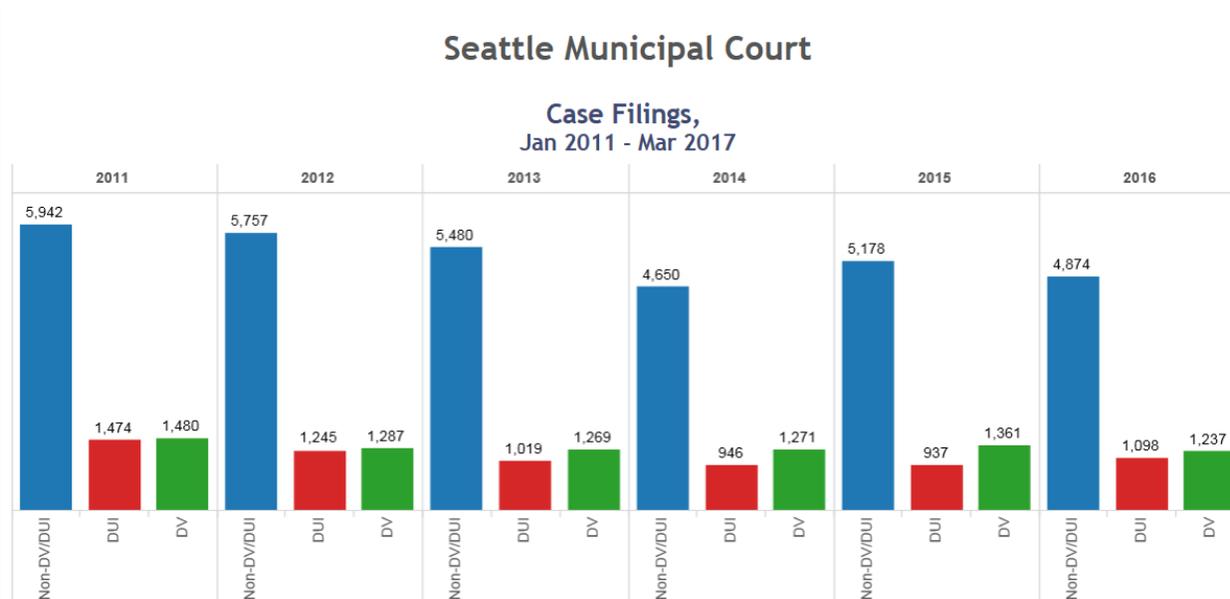


Figure 1: SMC Case Filings Jan 2011-Mar 2017

Figure 2 describes the types of alleged criminal violations handled at SMC. Assault (both DV and Non-DV) and Theft cases make up approximately 40% of all criminal cases filed at SMC in any given year. The next most common charge, DUI (“PRSNS UNDER THE INFLUENCE OF INTOXICANT/DRUGS”) accounts for about 7% of the SMC caseload.

### Top 10 Most Frequently Filed Criminal Charges Jan 2011 - Dec 2016

	2011	2012	2013	2014	2015	2016
THEFT	2,352	2,877	2,517	2,135	2,326	1,878
ASSAULT	2,115	1,952	1,883	1,825	1,968	1,945
PRSNS UNDER THE INFLUENCE OF INTOXICANTS/DRUGS (DUI)	842	752	691	618	647	739
HARASSMENT	515	498	543	526	575	549
PROPERTY DESTRUCTION	519	532	534	454	513	486
CRIMINAL TRESPASS - 1ST DEGREE (BUILDING)	401	410	483	459	544	616
VIOLATION OF DOMESTIC VIOLENCE ORDER	424	429	433	410	408	397
LICENSE, DRIVER, SUSP./REVOKED THIRD DEGREE	505	354	375	354	287	281
RECKLESS DRIVING (CRIME)	434	377	321	311	320	345
FALSE REPORTING	202	167	209	180	218	221

*Please note violations are listed from 1 to 10 based on 2011 - 2016 total filings. This data does not include cases where a defendant was booked into jail, but ultimately the City Attorney’s Office declined to proceed with the case before initial arraignment.*

Figure 2: Top 10 Most Frequently Filed Criminal Charges Jan 2011-Dec 2016

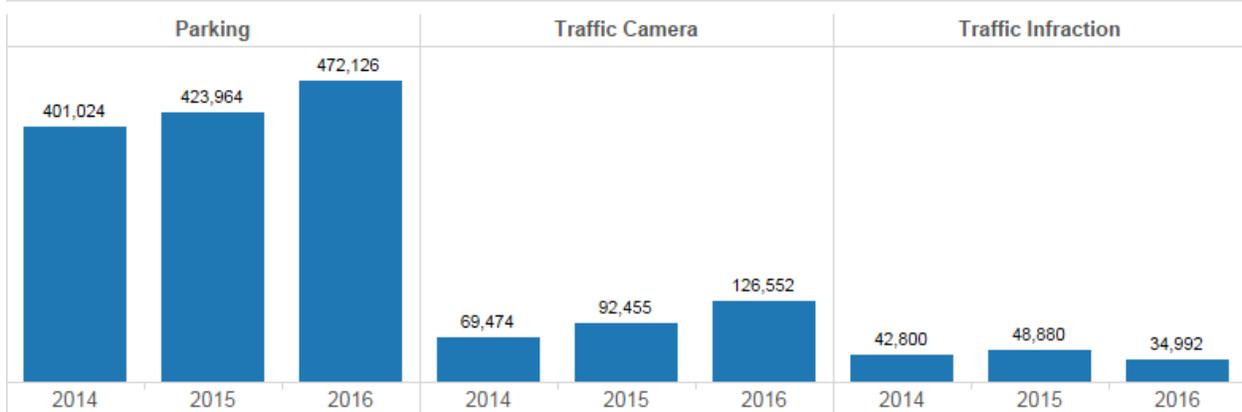
SMC processes the most infractions of any court in the State of Washington. The number of parking tickets issued by Seattle Police Parking Enforcement Officers (PEOs) continues to increase every year. In addition, citations issued for traffic camera violations are increasing because the City continues to install

new traffic cameras every year. Traffic violations are the only type of infraction that have decreased rates of issuance over the past three years.

### Seattle Municipal Court

**Vehicle Infractions Issued by Infraction Type**  
Jan 2014 - Dec 2016

Infraction Type	2014	2015	2016
Parking	401,024	423,964	472,126
Traffic Camera	69,474	92,455	126,552
Traffic Infraction	42,800	48,880	34,992



**Year Over Year Percent Growth of Vehicle Infractions by Infraction Type**  
2014 - 2016

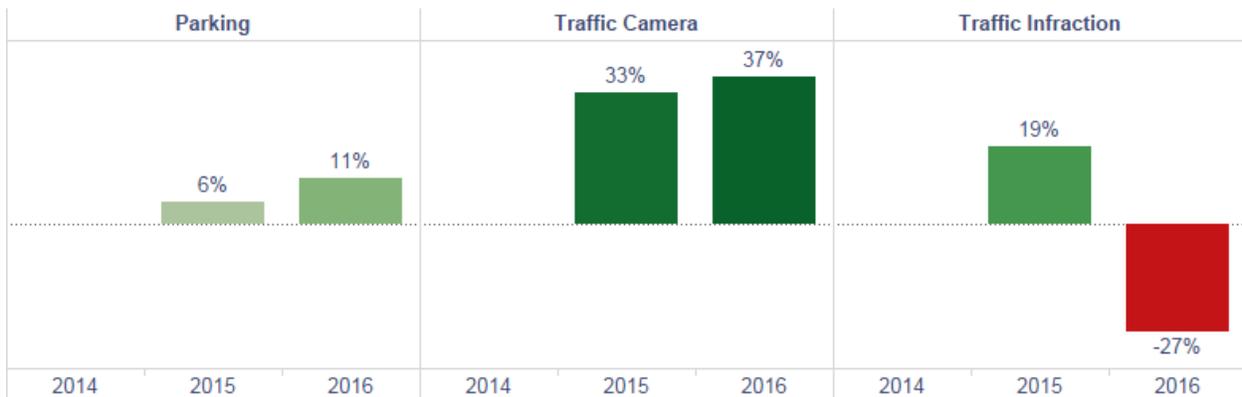


Figure 3: Vehicle Infractions Issued by Infraction Type Jan 2014-Dec 2016

Figure 4: Year over Year Percent Growth of Vehicle Infractions by Infraction Type 2014-2016

In addition to case adjudication, SMC houses a large Probation department that provides services and programs that afford individuals opportunities to change behavior; by brokering community referrals for a broad range of therapeutic intervention programs including substance abuse, mental health, domestic violence, homelessness and unemployment.

SMC Probation consists of 46 staff members organized into a DV-unit, DUI-unit, Mental Health unit, General Probation, Pre-trial Services, and Alternative-to-confinement unit. SMC Probation relies heavily on volunteers to operate the Court Resource Center, a resource hub within the courthouse that co-locates a variety of social service providers and resources.

SMC offers a variety of specialty court programs including DV Court, Mental Health Court, Veterans Treatment Court and Youth Traffic Court. Each of these programs is designed to better serve the defendants and victims involved in the program rather than sending them through traditional SMC courtrooms.

Finally, SMC invests in diversion programs and alternatives to confinement aimed at reducing the City's jail population along with its expenditures and creating opportunities to support defendants with underlying issues that can lead to criminal behavior. Diversion opportunities at SMC are housed under the SMC Connected program and include Pre-trial Diversion and Needs-based Sentencing<sup>8</sup>. The Probation department oversees SMC's alternatives-to-confinement programs which include day reporting, community service, work crew and electronic home monitoring.

### Background on Legal Financial Obligations in Washington State Courts

Superior, District and Municipal courts in the State of Washington are subject to a complex array of legal financial obligations (LFOs) that have been legislated either by the Washington State Legislature or local municipal codes. Under these laws, there are both mandatory and discretionary LFOs, and each statute differs in setting standards for imposition and waiver. Types of LFOs include restitution, fees, fines, assessments, and costs imposed by a criminal court as part of a judgment upon conviction or entrance into alternative disposition.<sup>9</sup> Both nationally and in the State of Washington, the types of LFOs and amount of money imposed increased dramatically over the past 25 years.<sup>10</sup>

In Washington State Courts of Limited Jurisdiction, typical mandatory LFOs include the criminal conviction fee<sup>11</sup>, the DNA collection fee<sup>12</sup>, and the Public Safety and Educational Assessment<sup>13</sup>, among others.

Discretionary LFOs include fines, a wide range of fees for certain offenses, and restitution. The array of state statutes and local codes authorizing mandatory and discretionary LFO imposition is so complex,

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<sup>8</sup> In 2017, SMC plans to participate in an additional Pre-filing Diversion (PFD) program. This program is being implemented by the Seattle City Attorney's Office and aims to divert defendants out of the criminal justice system before the filing of a case.

<sup>9</sup> Certain LFOs are imposed on defendants entering specific diversion-based dispositions (i.e. Deferred Prosecution).

<sup>10</sup> Harris, A. (2016) *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor*. New York: Russell Sage. (American Sociological Association's Rose Monograph Series).

<sup>11</sup> RCW 3.50.100

<sup>12</sup> RCW 43.43.7451

<sup>13</sup> RCW 3.62.090

there is often variance in how different courts or even judicial officers at a single court impose certain monetary sanctions.

In this study, analysts identified the 15 most commonly imposed LFOs for criminal cases and included all LFOs ordered on infractions.<sup>14</sup> Tables providing additional detail on relevant legal financial obligations for criminal cases can be found on page 50 of this report and page 85 for infractions.

### 2016 Data on Collection of Legal Financial Obligations at SMC

In 2016, SMC collected over \$47 million from payment of criminal and infraction monetary obligations. As directed by state statute and municipal code, this revenue is directed to a variety of funds within the City of Seattle, King County and Washington State budgets. The following figures provide general information on the amount of money SMC collected from legal financial obligations in 2016. These figures detail the amount of money collected in the specified years; however, the date of violation connected to the sanction could have occurred in 2016 or any year prior. A more detailed analysis of LFOs imposed on all criminal cases filed between 2011 and 2015 is provided in section two of this report. An analysis of infraction LFOs imposed between 2014 and 2016 can be found in section three of this report.

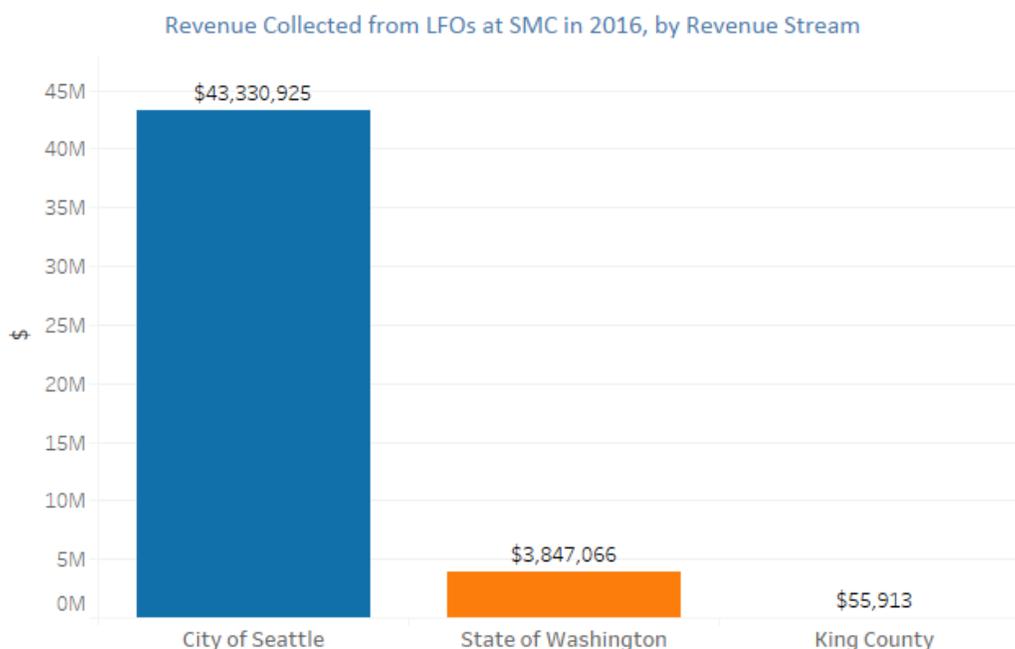


Figure 5: Revenue Collected from LFOs at SMC in 2016, by Revenue Stream

Figure 5 provides a summary of revenue collected by SMC separated by where the money is directed. Around \$43 million of the \$47 million collected in 2016 goes back to the City of Seattle. Most revenue

<sup>14</sup> Six criminal LFOs infrequently imposed were excluded to simplify the methodology. These six fees made up less than 0.1% of all fees imposed. These exclusions include the Transfer Offender Fee (imposed 39x in 5 years), the Crime Lab Analysis Fee (9x), the Defender Recoupment Fee (8x), the Incarceration Fee (6x), the Vacated Finding Fee (5x), and the Pre-trial Diversion Fee (2x).

the City receives is deposited in the General Fund, but there are other special funds that receive dedicated funding, as directed by Seattle Municipal Code. For example, in 2016 about \$13 million of City of Seattle-directed revenue stems from speeding tickets issued in school zones. 100% of these funds are dedicated to fund projects addressing “*school traffic and pedestrian safety and directly related infrastructure projects; pedestrian, bicyclist, and driver education campaigns; and installation, administrative, enforcement, operations and maintenance costs associated with the school zone fixed automated cameras*”.<sup>15</sup>

Approximately \$5 million of revenue collected in 2016 came from violations of red light cameras, with 80% of revenue directed to the City’s General Fund and 20% directed to the same school traffic and pedestrian safety projects noted above<sup>16</sup>. \$438,000 of 2016 collected revenue was directed to the Seattle Police Department because of handicap placard parking infraction violations<sup>17</sup>, and \$85,000 was directed to the City to specifically fund enforcement of sexual exploitation and prevention services for victims of sexual exploitation.<sup>18</sup>

Most revenue collected in any given year is attributable to infraction violations (Traffic/Non-traffic, Parking, and Traffic Camera) issued within city limits. The next two figures provide data on money obligations collected on criminal compared to infraction matters. Figure 6 shows that at least 92% (45% Parking, 38% Traffic Camera, and 9% Traffic/Non-Traffic) of total revenue from legal financial obligations collected at SMC in 2016 stemmed from infraction violations and 2% were connected to criminal cases. Unfortunately, for 6% of the revenue, it is not possible to initially decipher if it stemmed from a criminal or infraction violation. This is because two common fines and fees, *Collections Interest* and the *Public Safety and Education Account*, are applied to both criminal and infraction cases.<sup>19</sup>

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<sup>15</sup> SMC 5.81.010.

<sup>16</sup> SMC 5.82.010. The revenue split on red light traffic camera tickets was 90% General Fund / 10% school and pedestrian safety projects in 2016. This changed to 80% General Fund / 20% school and pedestrian safety projects in 2017.

<sup>17</sup> SMC 11.72.065.

<sup>18</sup> SMC 12A.10.070(A)(2). Half of the funds are dedicated to enforcement and half to prevention services in any given year.

<sup>19</sup> It is likely the revenue in the “Not Categorized” section is similarly distributed as all other money obligations, with most of the revenue connected to infraction violations.

### Revenue by Violation Type on LFOs Collected at SMC in 2016

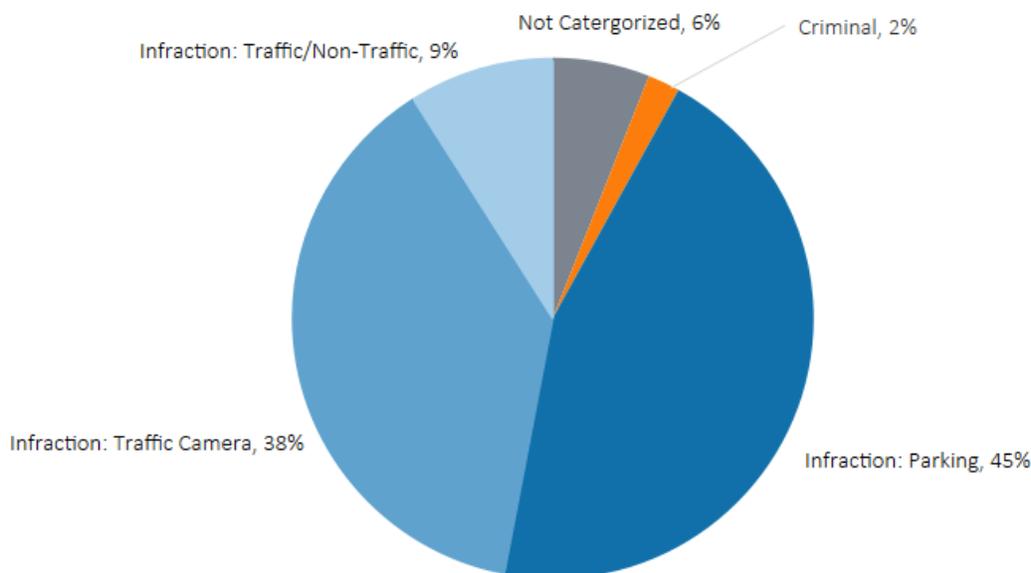


Figure 6: Revenue by Violation Type on LFOs Collected at SMC in 2016

When one ignores fees and surcharges and just considers fines, which made up around \$41.5 million of the \$47 million collected by SMC in 2016, it is clear that infractions are the biggest driver of the SMC-collected City revenue. Figure 7 breaks down fines by case type, demonstrating that parking and traffic camera violations account for nearly 95% of fines collected by the Court in 2016.

### Fines Collected in 2016 at SMC, by Case Type

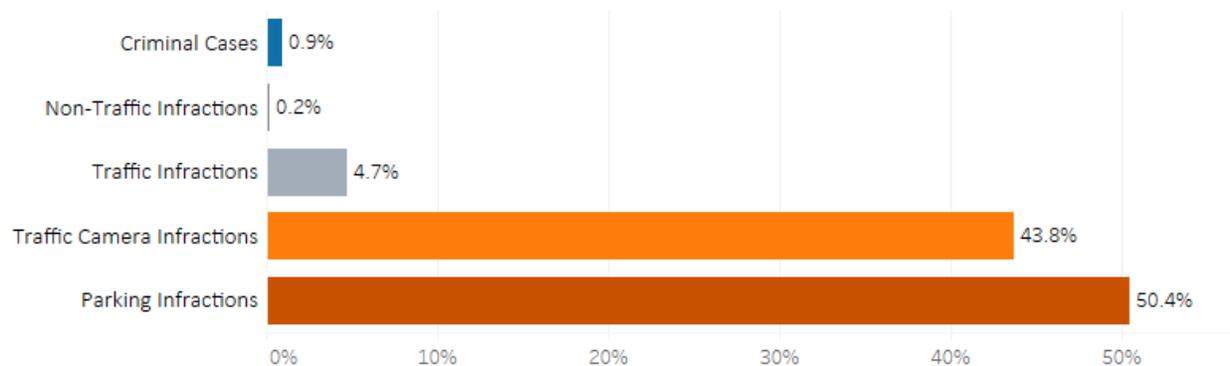


Figure 7: Fines Collected in 2016 at SMC, by Case Type

One of the primary ways LFOs expanded over the past 25 years is through an increase in state legislatures and municipalities legislating mandatory fees and surcharges. Figure 8 and Figure 9 display the amount of revenue collected by SMC in 2016 stemming from criminal and infraction matters categorized by whether the revenue was associated with the original penalty or an additional fee / surcharge that goes either to the City, County or State.

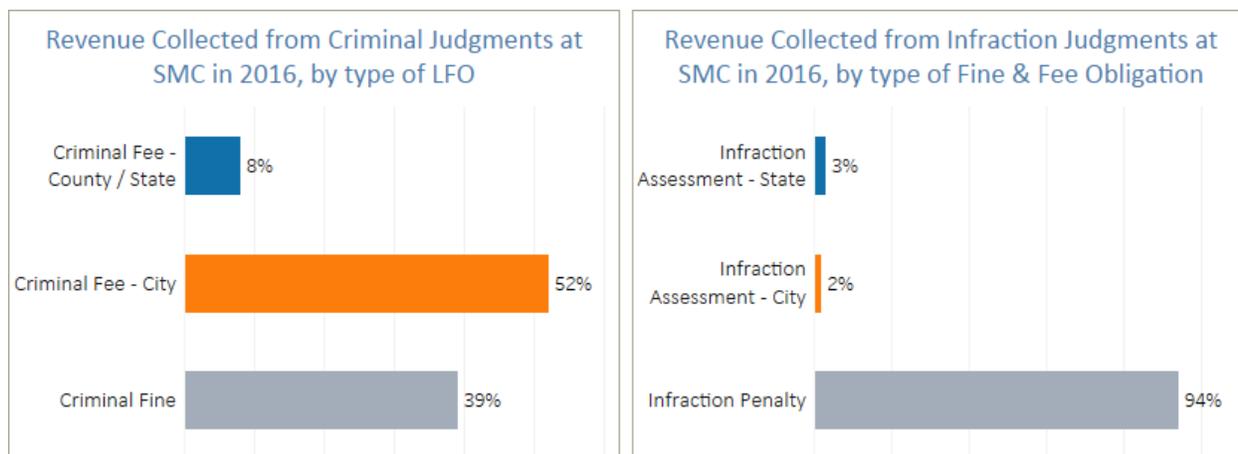


Figure 8: Revenue Collected from Criminal Judgments at SMC in 2016, by type of LFO

Figure 9: Revenue Collected from Infraction Judgments at SMC in 2016, by type of LFO

In 2016, 39% of monies received on criminal associated LFOs at SMC stemmed from the initial fine, 52% from City-generated fees and 8% from State-generated fees. For infraction-related financial obligations, a much higher percentage of monies collected is related to the original penalty on the violation. This makes sense given there are no assessments placed on parking or traffic camera tickets that are paid on time, and these tickets make up a sizable percentage of all infraction tickets issued at SMC.<sup>20</sup>

<sup>20</sup> Traffic infractions do have substantial state assessments with only 18% of the amount on a common traffic ticket stemming from the original penalty.

## Section 1: Information on SMC policies and business practices affecting court-ordered fees and fines

Section one of this report documents policies and business practices at SMC that facilitate a structured approach to the imposition and collection of legal financial obligations. This section will describe how the court determines ability to pay, determines eligibility for court appointed counsel, allows fines and fees to be satisfied through completion of community service or work crew, offers time payment options to satisfy monetary obligations, and contracts with a private collection agency to collect outstanding monetary sanctions.

### SMC Policies on Ability-to-Pay Determinations and Eligibility for Court Appointed Counsel

#### Ability-to-Pay Determinations

The process at SMC for assessing a defendant's ability to pay legal financial obligations is different depending on whether the obligation stems from the resolution of a criminal case or an infraction case.

In criminal matters, legal financial obligations are generally imposed at SMC in the courtroom at time of sentencing. To determine if a defendant has the ability to pay imposed fines and fees, judges make an individualized inquiry into a defendant's current and future ability to pay. If a defendant indicates he or she is a recipient of a needs-based, means-tested assistance program (i.e. TANF, GA-U, GA-X SSI, food stamps), the judges waive discretionary legal financial obligations. If a defendant is not receiving public assistance, judges rely on additional information gained through a colloquy on the record with a defendant. An example of the information solicited through this colloquy is provided in Appendix 2.

If judges feel they have not gained enough information to make an informed decision about a defendant's current or future ability to pay through the colloquy, they may direct a defendant to full financial screening. Full financial screening is a process where SMC financial screening staff ask more detailed questions about a defendant's income and resources and often ask them to provide documents establishing current and / or future income levels. A copy of the full financial screening form is provided in Appendix 3.

Under Washington State Court Rule GR 34, a defendant is found to be indigent if he or she<sup>21</sup>:

- Currently receives public assistance.
- Has an income level at or below 125% of the federal poverty level (FPL).
- Has income above the FPL, but basic living expenses render the defendant unable to pay. These expenses are defined in RCW<sup>22</sup> and include reasonable payments towards shelter, food, utilities, healthcare, transportation, clothing, loan payments, support payments and court-imposed obligations.

<sup>21</sup> [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.display&group=ga&set=GR&ruleid=gagr34](http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr34)

<sup>22</sup> RCW 10.101.010(2)

- Has other compelling circumstances that demonstrate an applicant's inability to pay fees or surcharges.

While the rule applies to a determination of indigence for purposes of waiving court and clerk's fees and charges in civil matters, it can also be used to help determine a defendant's ability to pay LFOs, which is exactly what the Washington State Supreme Court Minority and Justice Commission did in its 2015 reference guide, attached as Appendix 4.

For infraction matters, which include traffic, non-traffic, parking, and traffic camera tickets, the court provides two alternative options for individuals who do not have the ability to immediately pay imposed infraction penalties. First, any individual, regardless of personal income level, may ask to set up a time payment plan to pay off his or her tickets. For more complete information on this process, please refer to the Time Payment Plan Policies at SMC section of this report found on page 28.

The second option is for eligible defendants to convert outstanding infraction penalties to community service or SMC work crew.<sup>23</sup> SMC only offers infraction community service conversions for defendants receiving public assistance or who are within 125% of the FPL, as determined by an SMC financial screener. More details about the community service and the SMC work crew conversion process are provided on page 30 of this report.

### Eligibility for Court-appointed Counsel

SMC is committed to screening defendants as early in the case adjudication process as possible so that defendants can gain effective legal counsel. For defendants initially booked into King County Jail, SMC personal recognizance screeners working in the jail conduct the indigence screening prior to a defendant's initial hearing. For defendants who are out-of-custody, SMC utilizes an indigence screener who works in the Court Resource Center.

Court personal recognizance and indigence screeners rely on the income qualification guidelines set forth in RCW.<sup>24</sup> These are also consistent with guidelines set forth in Washington State Court Rule GR 34.

Essentially, if a defendant's income is within 125% of FPL, which varies depending upon the number of dependents for which an individual is financially responsible, then the individual qualifies for public defense services.<sup>25</sup> Consistent with statutory requirements<sup>26</sup>, if an individual's income exceeds 125% of FPL guidelines but he or she cannot afford the full cost of a private attorney, the individual is offered the option of signing a promissory note and receiving court appointed counsel at a subsidized rate. Defendants with some ability to contribute to the cost of public defense services are those whose

<sup>23</sup> In July 2017, SMC began offering SMC Work Crew as an option for defendants looking to resolve tickets that were preventing them from renewing their driver's license.

<sup>24</sup> RCW 10.101.010, RCW 10.101.120

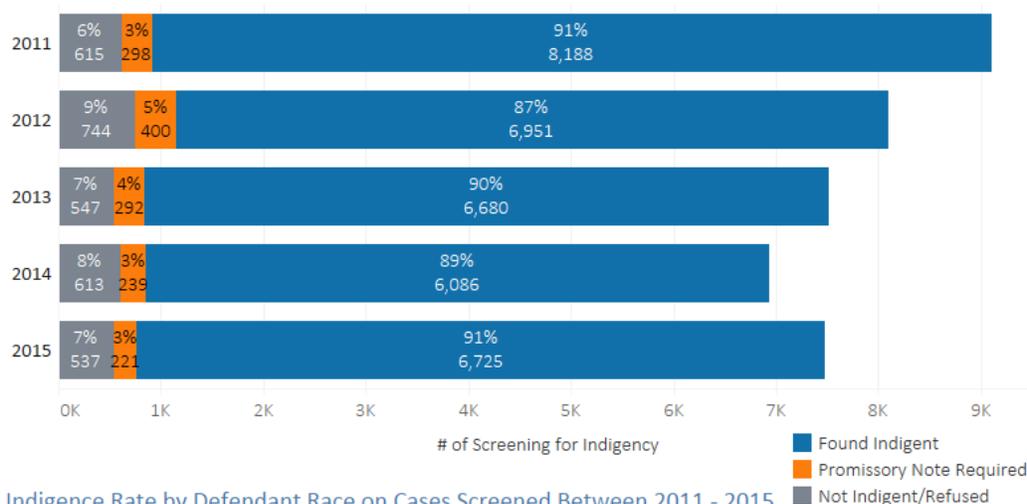
<sup>25</sup> 125% of 2016 Federal Poverty Guidelines are the following: \$1,238 (1 dependent), \$1,669 (2), \$2,100 (3), \$2,531 (4), \$2,963 (5), \$3,394(6), \$3,826 (7), \$4,259(8).

<sup>26</sup> RCW 10.101.120

income is between 125% of the FPL but less than \$1700 over the monthly FPL standards.<sup>27</sup> If individuals do have some ability to contribute, they are asked to pay \$554.94 per case, or \$333.56, if the case is already in post-disposition status (review hearings). The City of Seattle splits these payments up into three equal monthly amounts for defendants to reduce the financial burden of this expense.<sup>28</sup>

Figure 10 and Figure 11 provide several data measures regarding individuals screened for a public defender from 2011 through 2015. Many out-of-custody defendants hire private attorneys and never request to be screened for indigence; they are not included in this data.

Number of Defendants Screened and Rate of Indigence by Year



Indigence Rate by Defendant Race on Cases Screened Between 2011 - 2015

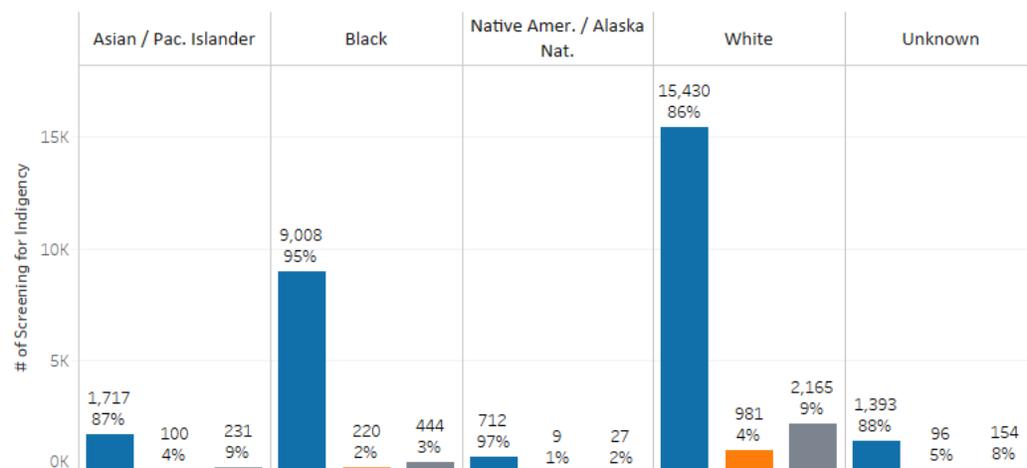


Figure 10: Number of Defendants Screened and Rate of Indigence by Year

Figure 11: Indigence Rate by Defendant Race on Cases Screened between 2011-2015

<sup>27</sup> For example, in 2016 the 125% FPL threshold for one individual with no dependents was a monthly income of \$1,238. If this individual’s personal income was found to be between \$1,238 and \$2,938, then he or she would be provided the opportunity to sign a promissory note and received subsidized defense services.

<sup>28</sup> Billing of subsidized public defense services for defendants who sign a promissory note is not a court function, but is handled by the City of Seattle Finance and Administrative Services department.

Approximately 90% of defendants who were screened for public defense services, either after being booked into King County Jail or as requested for an out-of-custody criminal or infraction matter, qualified for free court-appointed counsel. Between 3% and 5% were found to have some ability to pay and asked to sign a promissory note. Between 6% and 9% either had full ability to pay for attorney representation or refused to use public defense services.<sup>29</sup>

When comparing indigence screening data by defendant race, it appears Asian / Pacific Islander and White defendants were about 10% less likely than Black or Native American / Alaska Native defendants to be indigent and qualify for court appointed counsel.

To overcome the limitation that indigence screening data does not capture individuals who hire their own attorneys, court analysts queried the Municipal Court Information System (MCIS) to identify the percentage of criminal defendants who use private attorneys. This information is provided in the table below and suggests that approximately one out of five individuals hire a private attorney to adjudicate their SMC case.

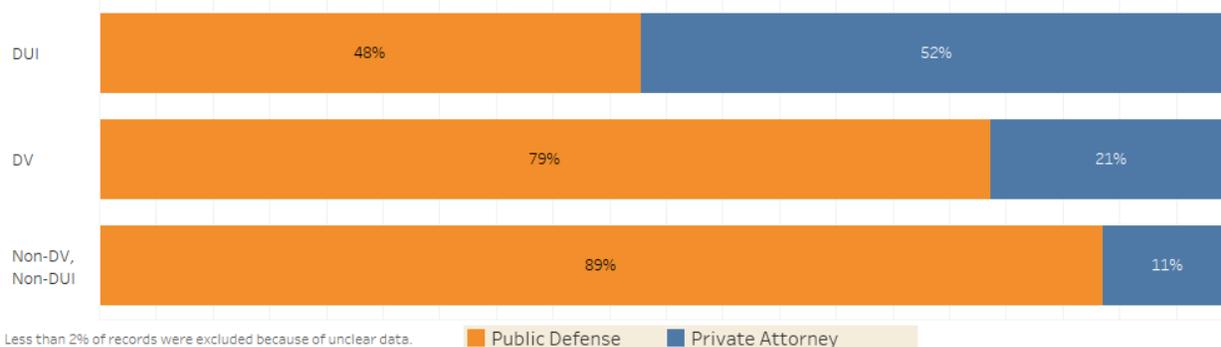
#### Number & Percentage of Unique Defendants on Criminal Cases with Private Attorneys, by Year

	2011	2012	2013	2014	2015
Defendants with Private Attorneys	1,723	1,412	1,112	992	999
Defendants with Criminal Cases	7,411	6,718	6,212	5,589	5,773
Percentage with Private Attorney	23%	21%	18%	18%	17%

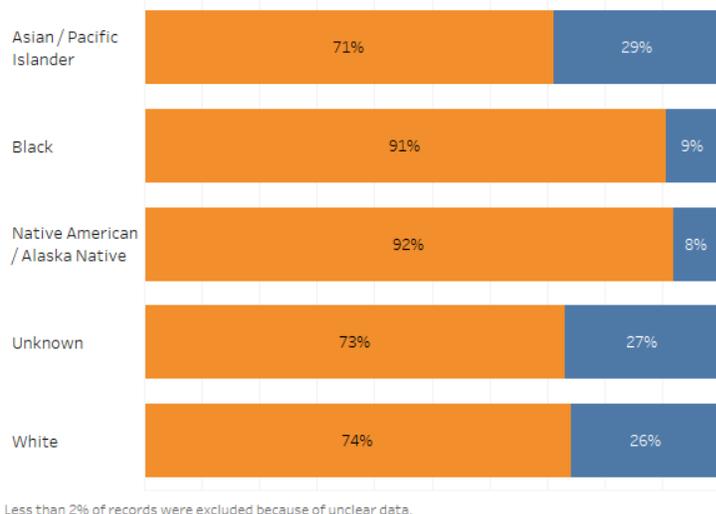
Figure 12: Number and Percentage of Unique Defendants on Criminal Cases with Private Attorneys, by Year

<sup>29</sup> A small percentage of in-custody defendants screened for indigence at time of booking in King County Jail refused to be interviewed by personal recognizance screeners. Data for these defendants can't be separated from those who were found not to be indigent, so true defendant indigence rates of those screened could be slightly higher than the figures presented in Figure 12.

Defense Representation by Case Type on Cases Filed 2011 - 2015



Defense Representation by Defendant Race on Cases Filed 2011 - 2015



Defense Representation by Case Type and Defendant Race on Cases Filed 2011 - 2015

Case Type	Race	Private Attorney (%)	Public Defense (%)
DUI	Asian / Pacific Islander	54%	46%
	Black	22%	78%
	Native American / Alaska Native	26%	74%
	White	59%	41%
DV	Unknown	48%	52%
	Asian / Pacific Islander	26%	74%
	Black	15%	85%
	Native American / Alaska Native	14%	86%
Non-DV, Non-DUI	White	25%	75%
	Unknown	27%	73%
	Asian / Pacific Islander	20%	80%
	Black	6%	94%
Non-DV, Non-DUI	Native American / Alaska Native	5%	95%
	White	14%	86%
Non-DV, Non-DUI	Unknown	20%	80%

Less than 2% of records were excluded because of unclear data.

Figure 13: Defense Representation by Case Type on Cases Filed, 2011-2015

Figure 14: Defense Representation by Defendant Race on Cases Filed 2011-2015

Figure 15: Defense Representation by Case Type and Defendant Race on Cases Filed 2011-2015

SMC defendants appear to have different rates of public defense representation depending upon the race of the defendant and the type of case being adjudicated at SMC. The table above titled *Defense Representation by Defendant Race* shows that 26% of White defendants and 29% of Asian defendants hired private attorneys between 2011 and 2015, whereas these rates were much lower for Black and Native American defendants, at 9% and 8% respectively.

DUI cases at SMC are more likely to be adjudicated by a private attorney, with public defense representation rate of 48% on cases filed between 2011 – 2015. Domestic violence and Non-DV, Non-DUI have significantly higher rates of public defense representation at 79% and 89% respectively.

The table titled *Defense Representation by Case Type and Defendant Race on Cases Filed 2011 – 2015* distills this information further, showing that Black and Native American defendants charged with Non-DV, Non-DUI violations have the highest rates of public defense representation at 94 to 95%. White

defendants charged with DUI violations are least likely to be represented by a public defender with a public defense representation rate of 46%.

### Fee and Fine Payment Options at SMC

SMC is committed to working with defendants to resolve outstanding obligations and offering different locations and options for fulfilling legal financial obligations. The options a defendant may use to fulfill monetary sanctions are described below, broken out by whether an individual pays-in-full, enters a time payment plan, or completes community service in lieu of payment. Appendix 4 outlines all the different payment options and time payment plan policies that the SMC Court Payments Unit relies on in working with defendants to resolve debt stemming from criminal and infraction monetary sanctions.

#### Payment-In Full

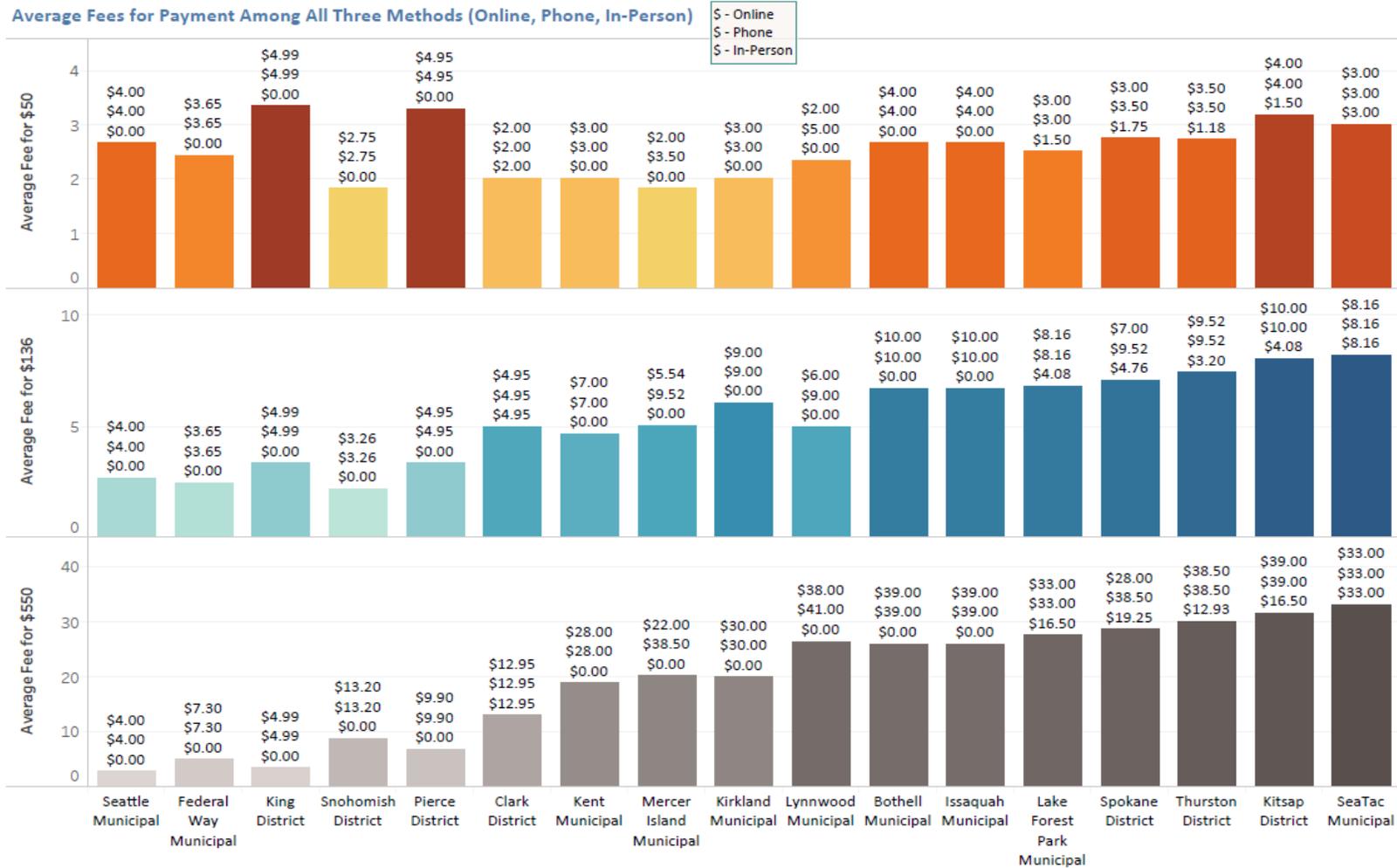
A defendant may pay a legal financial obligation in full by paying in person at SMC or various neighborhood service centers around the city, by dropping payment in an afterhours drop box at the court, or mailing the payment to City Treasury.<sup>30</sup>

The Court charges a \$4 fee per transaction to make a payment by credit card either through the web application or using the IVR phone system. SMC analyzed how the \$4 convenience fee compared to practices in other Washington State Courts and the results are provided in Figure 16 on the following page. SMC ranks 11<sup>th</sup> lowest out of 17 courts for paying off a \$50 penalty, 3<sup>rd</sup> lowest for paying a \$136 penalty and 1<sup>st</sup> lowest for paying a \$550 penalty.<sup>31</sup> This range is due to the fact that SMC charges a flat \$4 transaction fee, while many other jurisdictions charge a percentage fee of the payment being made.

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<sup>30</sup> The Court encourages payment to City Treasury for efficiency reasons, but SMC cashiers process any payments that are mailed directly to the court.

<sup>31</sup> \$50 is a typical parking penalty at SMC, \$136 is a typical traffic infraction and \$550 is the penalty for driving without motor vehicle insurance, an example of a common violation with a high penalty amount.



Seattle Municipal Court is **11th** lowest out of 17 courts for credit card fee to pay \$50; **3rd** lowest to pay \$136; and **1st** lowest to pay \$550.

Chart shows 17 courts that are close in proximity to SMC, or has multiple judicial officers for size determination. 9 courts included in the analysis does not appear on the chart because credit card payment was not available for one or more of the three methods.

APRIL 2017 \* PREPARED BY SMC RPEG STAFF

Figure 16: Average Fees for Payment Among All Three Methods (Online, Phone, In-Person) by Jurisdiction

## Time Payment Options

The Court offers time payment plans to anyone who either does not want or is not able to pay his or her legal financial obligations all at once. As outlined in Appendix 4, time payment terms differ, depending on whether an individual is indigent.

The following time payment plan terms are offered for defendants presumptively indigent or determined to be indigent:

- There is no minimum balance to setup a time payment account
- If the account balance is \$75 or less, a \$10 minimum payment is required
- If the account balance is greater than \$75, a \$25 minimum payment is required

The following time payment plan terms are offered for non-indigent defendants:

- The account balance must \$50 or greater to setup a time payment account
- If the account balance is \$600 or less, standard plan is typically 12 months and monthly payments are equal amounts
- If the account balance is between \$600 and \$1,200, standard plan is typically 24 months and monthly payments are equal amounts

For both indigent and standard time payment plans, SMC charges a one-time \$10 fee to administer infraction-based time payment plans, as authorized by state law.<sup>32</sup>

Figure 17, Figure 18 and Figure 19 provide additional information on the number of time payment plans setup each year and how they differ between criminal and infraction monetary sanctions.

Percentage of Time Payment Accounts Opened by Case Type on Cases Filed in 2015 - 2016



Total Payment by Case Type for all 2015 - 2016 SMC Cases Entering Time Payment Plans

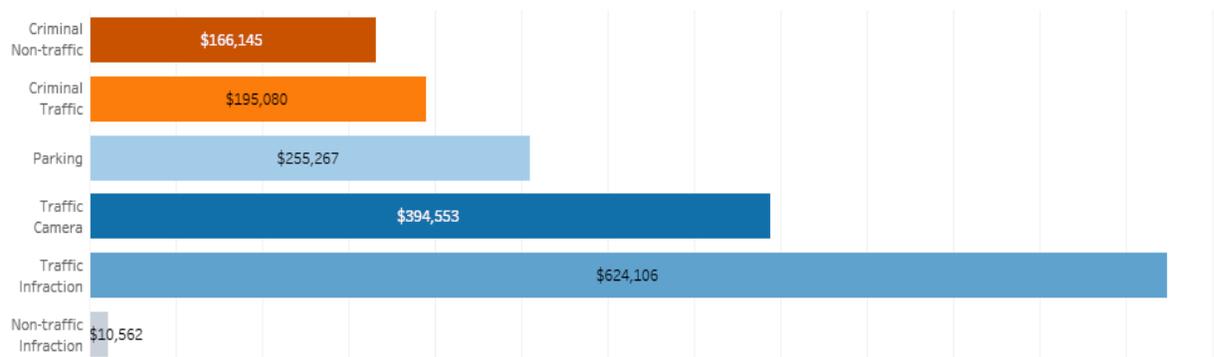


Figure 17: Percentage of Time Payment Accounts Opened by Case Type on Cases Filed in 2015-2016

<sup>32</sup> RCW 46.63.110(6). This fee is not applied for time payment plans consisting of LFOs related only to criminal cases.

Number of Cases & Average Monthly Payment by Case Type for all Cases Entering Time Payment Plans on 2015 - 2016 SMC Filed Cases



Average Total Payment per Case for 2015 - 2016 Filed Cases Completing Time Payment Plans



Figure 18: Number of Cases and Average Monthly Payment by Case Type for all Cases Entering Time Payment Plans in 2015-2016 SMC Filed Cases

Figure 19: Average Total Payment per Case for 2015-2016 Filed Cases Completing Time Payment Plans

90% of all time payment accounts opened on cases filed between 2015 and 2016 were related to infraction monetary sanctions. 16% of accounts opened were related to monetary sanctions from criminal cases. This figure is greater than 100% because time payment plans can consist of LFOs from multiple cases and case types. About 6% of time payment accounts opened in 2015 – 2016 included monetary sanctions from multiple types of SMC cases.

Traffic infractions are the most common type of case whose money obligations are being satisfied through time payment plans. Traffic infractions also account for the most monies collected via time payment plans. This may in part be due to the Washington State Department of Licensing's policy of suspending a driver's license if a traffic ticket for moving violations are not paid.<sup>33</sup>

Criminal non-traffic and criminal traffic cases in time payment status have higher average monthly payment plans than infraction cases. This is likely due to higher initial fines and fees on those case types. The largest fee types for non-traffic criminal cases are the probation supervision fee (\$25 per month of supervision) and two sexual exploitation-related LFOs, the sex industry victims fund (\$1,000) and the prostitution prevention and intervention account (\$1,500 for first offense, \$2,500 for second offense and \$5,000 for third offense).

The criminal related time payment accounts also have higher average total payments for defendants completing time payment plans than the infraction accounts. Defendants with criminal non-traffic cases that completed the terms of their time payment plans averaged a total payment of \$665. Defendants with criminal traffic cases averaged \$353. Infraction cases appear to have similar total average payments regardless of case type.

<sup>33</sup> Generally, moving violations are directly related to driving; non-moving violations relate to equipment or documentation violations. See Washington Administrative Code (WAC) 308-104-160 for more information.

### Community Service Opportunities In Lieu of Fees / Fines at SMC

SMC is committed to providing defendants who lack the means to pay court ordered fines and fees with alternative ways to satisfy these obligations, if provided by law. One of the methods used by SMC judges and magistrates is the conversion of court ordered fees and fines to community service hours.

To support this process, SMC Probation cultivates partnerships with around 125 community organizations where defendants can perform service and satisfy court conditions.<sup>34</sup> This list of organizations is provided in Appendix 6. A defendant may choose any of the organizations on the list to complete community service, however, some sites do have restrictions on who can perform service at their organization. For example, some sites exclude defendants who are convicted of a violent offense or who have a specific type of charge in their criminal history. Ultimately, the court partnering with community organizations to identify community service opportunities helps the defendant overcome a big hurdle of completing the service: knowing where to go and how to get started.

### Conversion of Fees and Fines on Criminal Cases

At time of sentencing, judges have discretion to impose, waive (due to defendant indigence) or convert criminal fees and fines to community service obligations. However, state law is complex and unclear regarding what fees and fines are eligible for community service conversion. In the past, judges converted many different types of LFOs to community service; however, this practice is now less common due to a recent interpretation under state law that most state assessments are not eligible to be converted to community service. Appendix 5 provides internal guidelines to which SMC judges refer when deciding whether to convert a LFO to community service.

Currently, the only fees that can explicitly be converted to community service are the DUI Assessment Fee (DIAS) and the Criminal Traffic Assessment Fee (CRAS).<sup>35</sup> However, judges occasionally convert other monetary obligations, citing judicial discretion over fine and fee setting.<sup>36</sup> If criminal LFOs are converted to community service, the court sometimes imposes an additional one-time \$25 Community Service Setup Fee (CSFE) that covers the cost of administering the community service condition. Figure 39 in Section Two of this report details the number of times the CSFE was imposed on cases filed between 2011 and 2015.

### Conversion of Fines and Fees on Infraction Cases

Upon defendant request, any infraction penalty can be administratively converted to a community service obligation if the defendant is receiving public assistance and / or screened by SMC financial screeners and found to be indigent (within 125% of federal and state poverty guidelines). Magistrates may also order penalties to be converted to community service without requiring indigence. In rare

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<sup>34</sup> Judges do sometimes use their discretion to allow individuals to complete community service at an organization not on the Court's list. This occurs most often when individuals have SMC matters but outside King County.

<sup>35</sup> RCW 46.64.055.

<sup>36</sup> Seattle Municipal Court is the only court in the state authorized under RCW 35.20. 35.20.255 gives SMC judges wider discretion than in other district and municipal courts in Washington State.

instances, SMC Magistrates may not impose any financial penalties and instead, order a defendant to complete community service hours.

#### Conversion Rate and Assessing Completion of Community Service Condition

When an eligible defendant seeks to perform community service in lieu of fine payment, a Court Payments staff member provides the defendant a list of organizations where the service can be performed. In addition, Court Payments staff outline the following policies governing community service conversions:

- The conversion rate is \$15 of outstanding fines for every hour of community service performed.
- SMC asks defendants to perform at least 5 hours of service per week or 25 hours per month.
- If the plan is more than 50 hours, defendants must report completed hours each month.
- For infractions, no more than ten tickets may be converted in a one-year period.

A complete list of community service conversion policies is detailed in Appendix 4.

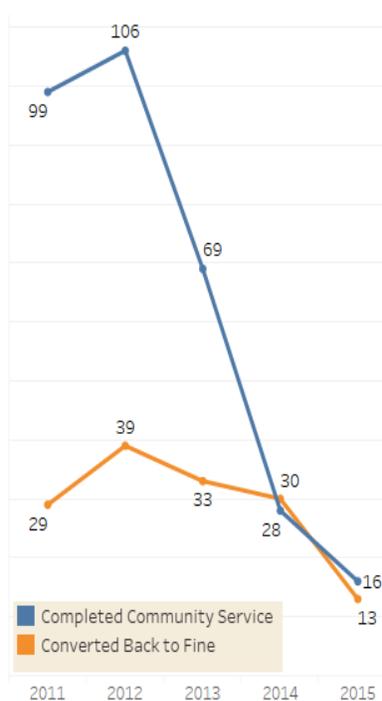
Once a community service defendant reports his or her hours worked, Court Payments staff contact the community partner to verify whether the community service was performed. For both criminal and infraction matters, if the service hours are performed as directed, Court Payments close out the underlying financial conditions on the case. If a defendant does not complete community service, staff reinstate the original monetary obligation.

Figure 20, Figure 21, Figure 22, and Figure 23 detail the frequency with which SMC converts fines and fees to community service in criminal cases.

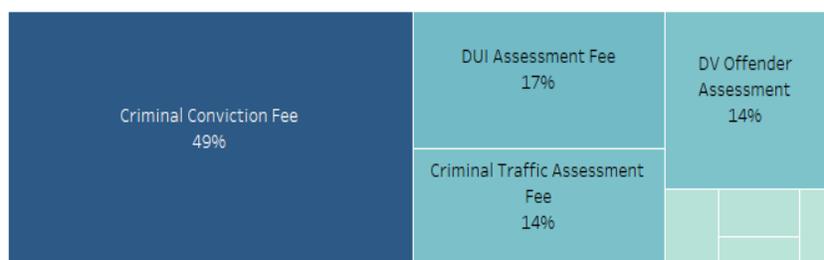
LFO Amount and Number of Hours Assigned by Community Service Completion Status

		2011	2012	2013	2014	2015
Completed Community Service	Amount of Fees/ Fines Converted	\$10,789	\$12,226	\$10,203	\$3,485	\$1,867
	Community Service Hours Assigned	719	815	680	232	124
Converted Back to Fine	Amount of Fees/ Fines Converted	\$20,460	\$39,930	\$27,270	\$21,855	\$10,065
	Community Service Hours Assigned	1,364	2,662	1,818	1,457	671

Number of Cases with LFOs Converted to Community Service by Completion Status



Proportion of Criminal LFOs Converted to Community Service by Obligation Type



Fee or Fines with < 3% of sample are not labeled.

Completion of Criminal LFOs Converted to Community Service by Defendant Race

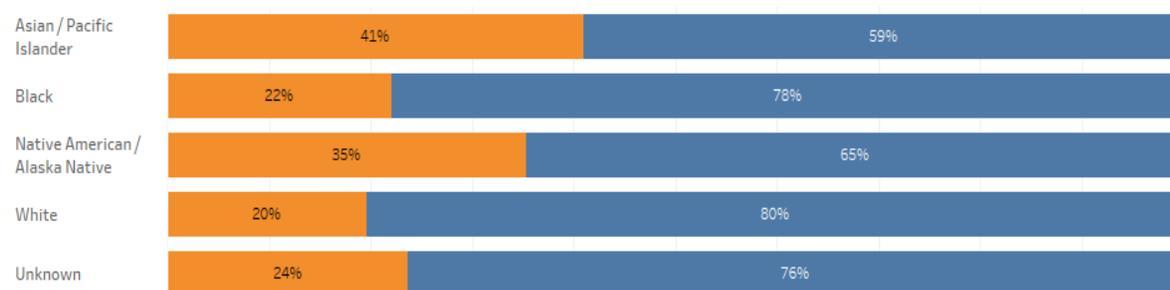


Figure 20: LFO Amount and Number of Hours Assigned by Community Service Completion Status

Figure 21: Number of Cases with LFOs Converted to Community Service by Completion Status

Figure 22: Proportion of Criminal LFOs Converted to Community Service by Obligation Type

Figure 23: Completion of Criminal LFOs Converted to Community Service by Defendant Race

SMC converted a relatively small and decreasing number of criminal-related LFOs to community service conditions. Of the approximately 21,000 criminal cases with at least one LFO imposed between 2011 – 2015, only 434 cases or 2% of cases, had an LFO converted to community service. This does not include cases where defendants were ordered to complete community service as a condition of sentence rather than a conversion of monetary sanctions. In addition to a recent legal interpretation that narrows the types of criminal LFOs eligible for community service conversion, another possibility is that many indigent defendants may have all their LFOs waived or suspended outright.

Figure 20 displays the total monetary value of LFOs converted and community service hours assigned by year and completion status. While almost 70% of criminal cases with converted LFOs successfully complete the community service assignment, cases that fail appear to have higher LFOs and corresponding lengthier community service assignments. This suggests community service conversion may be more effective for shorter, more manageable lengths of community service.

Figure 22 provides data on the type of criminal LFOs most commonly converted. The criminal conviction fee (CCFE) was converted most frequently at 49% and other fees more commonly converted include the DUI Assessment Fee, the Criminal Traffic Assessment Fee and the DV Offender Fee.

Figure 23 provides a demographic comparison on the success rates of community-service-converted-LFOs. This data suggests that White and Black defendants are slightly more successful at completing community service conversions than Asian and Native American defendants, but no strong conclusions can be drawn from this data, given the small number of criminal LFOs converted between 2011 and 2015.

Figure 24, Figure 25, and Figure 26, detail the frequency with which the Court converts fines and fees to community service in infraction cases.

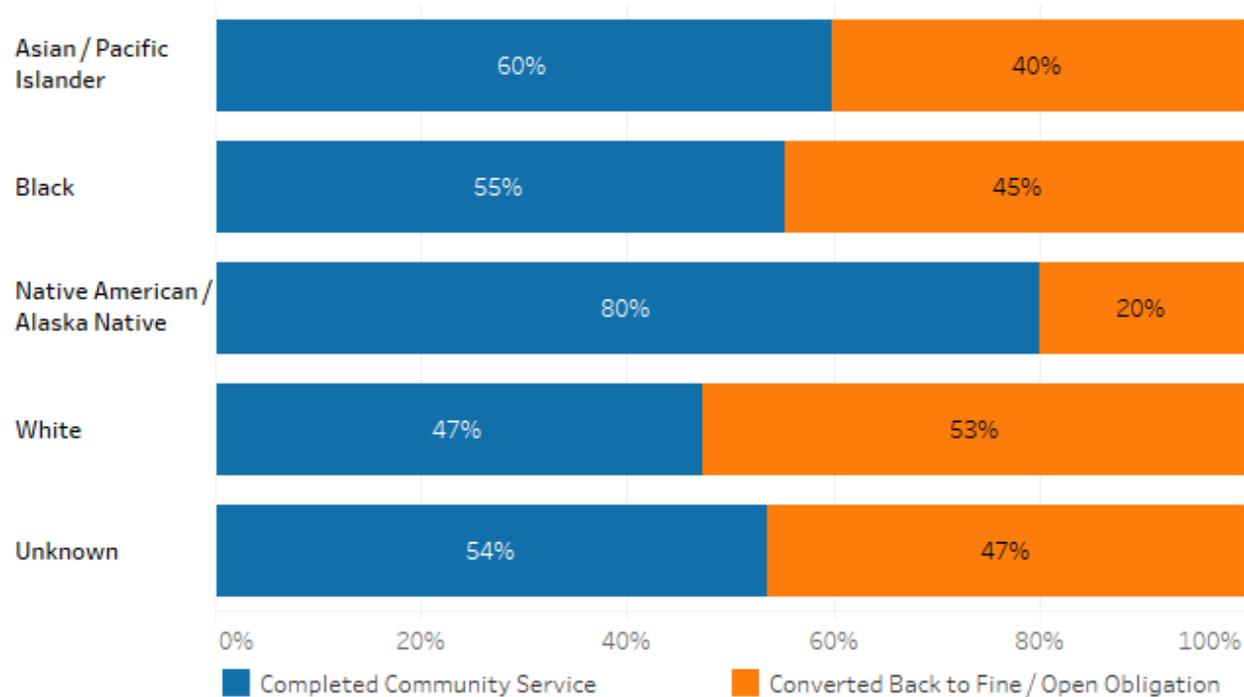
#### # of Infraction Cases with Fines and Fees Converted to Community Service and Completed Amount, by Year, 2014 - 2016

		2014	2015	2016	Grand Total
Infractions	# of Cases	314	359	209	882
	Converted Amount	\$101,906	\$105,629	\$54,002	\$261,537
Parking	# of Cases	334	328	310	961
	Converted Amount	\$22,060	\$18,932	\$24,056	\$65,048
Traffic Camera	# of Cases	276	345	400	1,021
	Converted Amount	\$32,759	\$40,954	\$51,716	\$125,429
Grand Total	# of Cases	911	1,025	908	2,832
	Converted Amount	\$156,725	\$165,515	\$129,774	\$452,014

Figure 24: Number of Infraction Cases with Fines and Fees Converted to Community Service and Completed Amount by Year, 2014-2016

With infraction fines and fees making up at least \$43 million of the monies collected by SMC in 2016, the above community service conversion amounts appear low. One reason for this is most people who receive infractions simply to choose to pay them and do not request to have their tickets go through a court adjudication process.

### Completion Percentage of Fines and Fees Converted to Community Service for Infraction Cases, by Race



% of Completed Community Service vs Converted Back to Fines & Fees

Figure 25: Completion Percentage of Fines and Fees Converted to Community Service for Infraction Cases by Race

To provide a demographic comparison, Figure 25 shows the number and rate of completions by defendant race. Black defendants had obligations converted to community service on about 1,500 cases, while this figure was just shy of 1,300 cases for White defendants, about 200 cases for Asian / Pacific Islander defendants and about 15 cases for Native American / Alaska Native defendants.

Figure 26 displays the number of cases resolved successfully by community service and the value of the fines and fees. Asian / Pacific Islander defendants completed obligations converted to community service on 152 cases in the value of \$26,469, while this figure was about 1,077 cases for Black defendants for just over \$201,000, 14 cases for Native American / Alaska Native defendants for \$1,673 and 764 cases for White defendants at the value just shy of \$110,000.

### Number of Traffic/Non-Traffic Infraction Cases and Completion Amount of Fines and Fees Converted to Community Service from 2014 to 2016, by Race

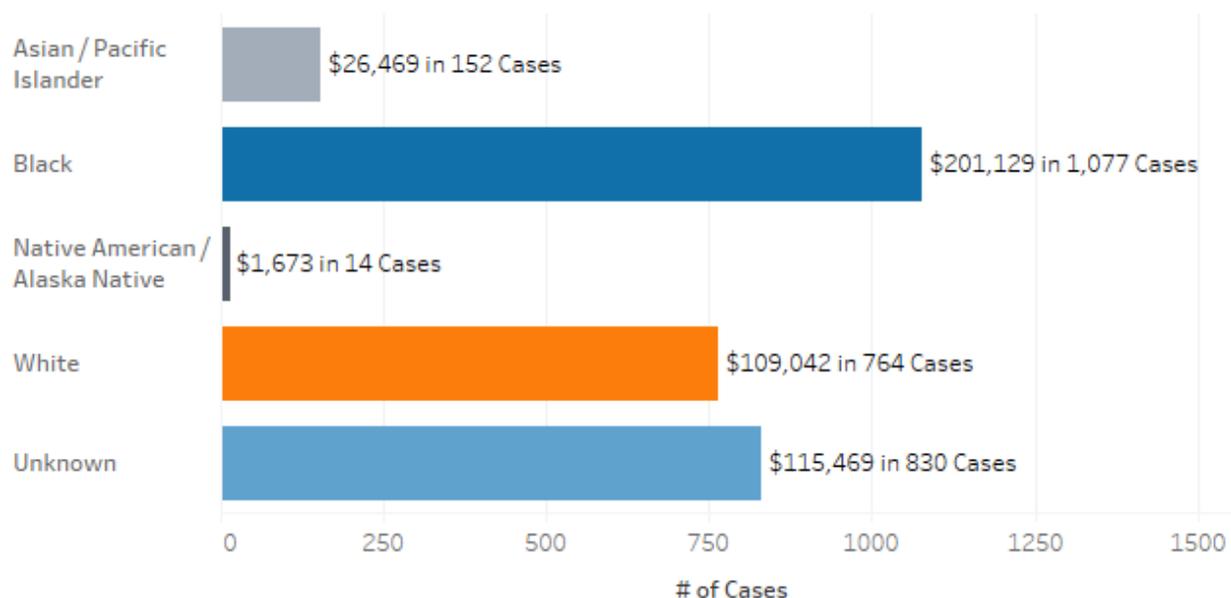


Figure 26: Number of Traffic/Non-Traffic Infraction Cases and Completion Amount of Fines and Fees Converted to Community Service from 2014-2016, by Race

### Conversion of Infractions to SMC Work Crew for Relicensing Defendants

In July 2017, SMC began a new initiative to help individuals who could not renew their driver's license due to unpaid infraction tickets.<sup>37</sup> This initiative allows individuals to work on an SMC work crew for 8 hours per day and receive \$120 credit towards their outstanding tickets. There are a few key benefits to this program versus the traditional infraction community service conversion process. First, the work of identifying an agency, coordinating available hours to complete service, and setting up logistics and transportation to and from the agency is handled by SMC staff. Second, work crew is an eight-hour shift, allowing individuals to resolve a significant amount of fines and fees. Through the regular community service process, SMC has received feedback that it is often hard to work with agencies to schedule long blocks of time that translate into meaningful reductions to financial penalties.

<sup>37</sup> Like regular infraction community service conversions, SMC work crew for relicensing defendants is only available for individuals who are presumptively indigent or are determined to be indigent after a financial screening.

## Policies and Practices Regarding the Collection of Victim Restitution.

Victim restitution is a court-ordered condition requiring an offender to compensate the victim of a crime for harm done by the offender's criminal act. Courts consider restitution as part of a criminal sentence, upon the request of the prosecuting attorney's office. Unlike fine and fee revenue, which is directed to the City or State, all money collected from restitution conditions is paid to victims.

SMC judges impose restitution on the defendant based on law and equity. Washington State law details that "restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime".<sup>38</sup>

The Seattle City Attorney's Office (SCAO) is directly involved with setting victim restitution. SCAO relies upon a victim impact statement to establish the amount of restitution requested and either moves for restitution to be imposed at sentencing or requests a post-disposition restitution hearing be set later.<sup>39</sup>

At time of sentencing, a defendant may not know the exact amount of restitution owed. SCAO has up to 90 days after sentencing to conduct its inquiry regarding the restitution amount. Upon completion, the SCAO submits a restitution packet to the court and moves for a restitution hearing for the amount to be imposed on the defendant. The defendant may accept and pay the amount, or contest the restitution amount at a hearing.

Attached in Appendix 7 and Appendix 8 are copies of the SCAO victim impact statement and the restitution packet, which document the process SCAO uses to determine how much, if any, restitution is requested.

SMC is charged with tracking, collecting, and transmitting restitution to victims. When a defendant makes partial payments on the total amount of fines, fees, and restitution on a case, SMC policy is to apply the money collected first to the outstanding victim restitution amount, then to other fines and fees on the case. However, it is important to note that because it can take up to 90 days post-sentencing for the victim restitution amount to be set, often money collected has already been applied to outstanding fines and fees during those first 90 days before the Court is able to collect victim restitution.

Victim restitution imposed in a judgment bears interest of 12% from the date of judgment.<sup>40</sup> Any interest collected on victim restitution is split 50% each between the City of Seattle and State of Washington.

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<sup>38</sup> RCW 9.94A.750

<sup>39</sup> Information obtained from SCAO on 4/4/17.

<sup>40</sup> RCW 10.82.090.

If a defendant contacts a victim and pays the restitution amount prior to sentencing, often the charges will be resolved as a “compromise of a misdemeanor” and the case will be dismissed, with the victim indicating they no longer wish to pursue the case.

*Amount of Restitution Conditions Imposed at Seattle Municipal Court on Cases Filed between 2011 - 2015*

	Filing Date					Total / Average
	2011	2012	2013	2014	2015	
# of Cases	282	360	328	238	261	1,469
# of restitution conditions	302	406	368	258	273	1,607
Average restitution amount	\$826	\$957	\$832	\$767	\$943	\$871
Median restitution amount	\$276	\$308	\$312	\$250	\$314	\$300
Total restitution ordered	\$249,542	\$388,570	\$306,188	\$197,854	\$257,508	\$1,399,661
Current total amount collected	\$110,785	\$195,105	\$120,664	\$80,641	\$82,783	\$589,977

*Figure 27: Amount of Restitution Conditions Imposed at SMC on Cases Filed between 2011-2015*

Figure 27 above provides the number of cases, individual restitution conditions, average and median restitution amounts and the total amount ordered and collected by case filing date. There is a sizable difference between the average and median restitution amounts ordered, suggesting a small number of cases with high restitution amounts are skewing the overall average.

Restitution amounts also vary significantly by type of case. Figure 28 provides a breakdown of average and median restitution amounts by case type. Cases with DUI charges average three to four times more in total imposed restitution than other case types. Restitution appears to be an uncommon condition in domestic violence cases.

### Amount of Restitution Conditions Imposed at SMC by Case Type and Filing Date

		2011	2012	2013	2014	2015	Total / Average
DUI	# of Cases	65	70	53	39	57	284
	Average restitution amount	\$1,742	\$2,700	\$1,864	\$2,302	\$1,703	\$2,081
	Median restitution amount	\$574	\$918	\$732	\$989	\$975	\$815
DV	# of Cases	21	26	15	15	11	88
	Average restitution amount	\$531	\$485	\$1,405	\$1,011	\$474	\$738
	Median restitution amount	\$260	\$290	\$519	\$400	\$400	\$310
Non-DV, Non-DUI	# of Cases	196	264	260	184	193	1,097
	Average restitution amount	\$541	\$504	\$584	\$428	\$734	\$556
	Median restitution amount	\$210	\$251	\$250	\$185	\$228	\$227

Figure 28: Amount of Restitution Conditions imposed at SMC by Case Type and Filing Date

Figure 29 shows the number of cases where SCAO requested a restitution condition and sent out a restitution packet to victims, but due to no response from the victim, a restitution amount was never imposed and the condition was closed by the Court. Only 35% of cases SCAO identifies for restitution have monetary conditions ever imposed on the case. Combining this data with information in Figure 28 suggests that over a five-year period, there were 1,469 cases where an actual restitution amount was imposed and 2,733 cases where SCAO sought restitution but no amount was imposed due to lack of victim response.

### Cases where SCAO Pursued Restitution but It was Closed due to No Victim Response to Restitution Packet

Obligation End Reason		Year of Filing Date					Grand Total
		2011	2012	2013	2014	2015	
No victim response	DUI	268	254	216	200	184	1,122
	DV	69	65	47	65	44	290
	Non-DV, Non-DUI	295	266	314	260	186	1,321
Grand Total		632	585	577	525	414	2,733

Figure 29: Cases where SCAO Pursued Restitution but it was Closed due to No Victim Response to Restitution Packet

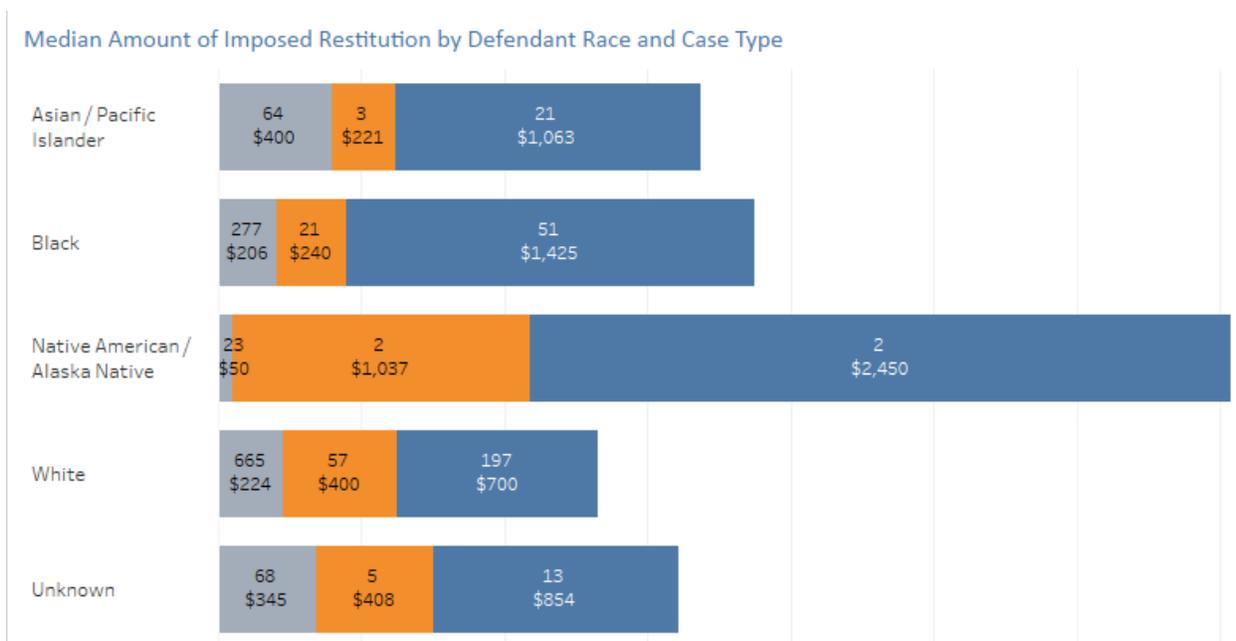


Figure 30: Median Amount of Imposed Restitution by Defendant Race and Case Type

Figure 30 shows the median amount of restitution imposed on criminal cases between 2011 and 2015 by defendant race. In comparing the two largest defendant groups, Black and White defendants, the data indicates Black defendants receive higher median restitution amounts on DUI cases, and White defendants receive higher amounts on DV cases. Restitution amounts for Black and White defendants is comparable in Non-DV, Non-DUI matters<sup>41</sup>.

In cases where the amount of victim restitution is contested, the judge acts as fact finder in a hearing between the Seattle City Attorney's Office and the defendant. The Court hears testimony and examines materials presented by the parties regarding the initial restitution amount. Figure 31 provides the number of times a contested restitution hearing was held on cases filed between 2011 and 2015 at SMC. Data indicates that 377 of 1,469, or 26%, of the cases where an actual restitution amount was requested by SCAO resulted in a contested restitution hearing.<sup>42</sup>

<sup>41</sup> Defendants identifying as Native American / Alaska Native appear to receive restitution amounts lower on Non-DV, Non-DUI cases and higher on DV and DUI cases. However, due to the small sample size of 2 defendants in each of these categories, it would be difficult to reach any conclusion based on this data.

<sup>42</sup> There are 2016 contested restitution hearings in the table because they originate from a criminal case filed in 2015 or earlier.

### # of Held Contested Restitution Hearings by Hearing Date

		Date of Held Hearing						Grand Total
		2011	2012	2013	2014	2015	2016	
Contested Restitution Hearing	Non-DV, Non-DUI	18	50	38	36	36	22	195
	DUI	11	35	32	31	36	16	154
	DV	5	6	9	4	2	3	28
Grand Total		34	91	79	71	74	41	377

Figure 31: Number of Held Contested Restitution Hearings by Hearing Date

Figure 32 details comparative figures on the number of overall cases in this study, the number of cases receiving restitution conditions and the number of cases where restitution amounts are contested, to provide an overall picture of restitution volume and practices at SMC.

### Proportion of Criminal Cases Receiving Restitution at SMC, 2011 - 2015

	# of Cases	% of Total
Criminal Cases in Fines & Fees Study	20,825	100.0%
SCAO Requests Restitution	4,202	20.2%
Restitution Amount Imposed	1,469	7.1%
Contested Restitution Hearing Held	377	1.8%

Figure 32: Proportion of Criminal Cases Receiving Restitution at SMC, 2011-2015

## SMC Policies Regarding Use of Contracted Collection Agency

SMC and the City of Seattle currently contract with AllianceOne, a debt collection agency, to recover unpaid criminal and infraction monetary sanctions. This agreement is a no-cost contract for the City of Seattle, which means that AllianceOne does not take a cut of the debt; instead, its fees are added to the principal amount referred by the court, and it retains the appropriate prorated portion of any amounts it collects. The City does not otherwise pay AllianceOne any money for its collection services. The Court retains ownership of the debt and can recall accounts at any time.

AllianceOne's Government Division headquarters is in Gig Harbor, Washington. They have additional payment sites at SMC, Tukwila Municipal Court, Kent Municipal Court, and at the Clark County Pay Station. In accordance with City Purchasing policies, AllianceOne assigns a portion of its Court accounts under a subcontract to a WMBE (Women and Minority Owned Businesses) collection agency, Payment Management Technology (PMT) Solutions, of Bellevue, Washington.

AllianceOne has been the primary contracted debt recovery provider for SMC accounts since 2004. The City of Seattle and King County selected AllianceOne from an RFP process for a joint court collection services contract in 2009. King County selected a different provider in 2013 and SMC has maintained the contract with AllianceOne since that time.

Currently, AllianceOne charges defendants the following fees when collecting aged debt on SMC accounts:

- A \$13 demand letter fee that notifies an individual when outstanding infraction or criminal obligations will be placed in collections status and steps to pay off the debt. This fee is \$15 for parking tickets on out-of-state license plates, which the agency attempts to get owner information for.<sup>43</sup>
- A one-time collections placement fee equal to 17.1% of the total outstanding debt on account.
- There is no charge for making payments via credit card. Prior to 2017, AllianceOne charged a \$10 per credit card payment, which has now been eliminated.

There is also an additional 12% interest rate collected by AllianceOne. However, the money is directed to the City of Seattle and State of Washington and not retained by the collection agency.<sup>44</sup>

Appendix 9 is the pre-collection “demand letter” that AllianceOne sends defendants informing them about their debt and the consequences of accounts entering full collection status.

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<sup>43</sup> The fee does not apply to parking tickets on vehicles with Washington State license plates because the Court issues a similar notice to the vehicle owner, with information obtained directly from Washington DOL.

<sup>44</sup> Per RCW 3.30.100, except for parking tickets, 32% of the interest collected on fees and fines in collections status is directed to the WA State General Fund. The remainder is directed to the City of Seattle General Fund. The City retains all interest collected from parking tickets in collection status.

The current contract with AllianceOne expires on 12/31/2017. The City and Court recently solicited and evaluated proposals for a new 3-year collections contract.<sup>45</sup> In July 2017, Seattle Municipal Court and the City of Seattle announced an intent to award a new collections contract to Harris & Harris, a collections agency headquartered in Chicago, Illinois.

Through the request for proposal process, SMC and the City of Seattle outlined several criteria to be considered when evaluating proposals including; fair collection tactics (25%), experience and legal history (20%), information technology system capabilities (15%), client testimonials and referrals (15%), WMBE inclusion plan (10%), pricing / rates / fees<sup>46</sup> (10%), and local business presence (5%). The 2017 RFP speaks to the Court's philosophy regarding debt collection and financial obligation impact on its defendants. The following excerpt from the RFP highlights this key point:

*"[SMC] seeks a balance between effective debt collection and compassion for debtors who may be struggling to meet their financial obligations. The Court is interested in keeping defendants' costs as low as possible; in particular, keeping flat fees—monthly payment plan fees, payment card processing fees, etc. -- to a minimum since they most affect those least able to pay. The specification and scope of work below, define the Court's needs as they presently exist. The Court welcomes proposals that include ideas or systems that will promote the goals of having defendants comply with Court orders and having the information needed to properly identify and contact Court debtors and monitor performance of the contract. The Court encourages Proposers to propose ideas that may enhance efficacy and efficiency of debt recovery operations.*

*The Court firmly believes in a positive approach in dealing with debtors. The Court does not seek tactics that may be interpreted as harassment, are demeaning, or reflect poorly on the Court. Consistent and fair administration of collection efforts is required. The Proposer must show a consistently clear mission and practices that support those philosophies. The Proposer(s) under contract will be subject to review of the collection procedures, and the Court may disallow any collection enforcement procedure not consistent with the Court's philosophy."*

### SMC Practices Related to Placing Tickets in Collections Status

If a defendant fails to pay or respond to a ticket issued at SMC, it may be referred to AllianceOne to obtain payment. When a ticket is referred to collections, the additional fees outlined above are applied, interest begins to accrue, and typically all contact regarding the ticket is handled by AllianceOne. The process for referring tickets to collections status is handled differently depending on whether the debt originated as a parking infraction, other infraction type, or a criminal case.

### Placing Infraction Tickets in Collections Status

For parking infractions, registered vehicle owners are given 19 days from the date of ticket issuance to either request a hearing, pay the ticket in full, or request a community service or time payment plan. If

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<sup>45</sup> The proposed contract is for three years, with two 3-year options that will automatically extend the contract relationship to a total of nine years, unless either party declines to renew.

<sup>46</sup> The less burdensome the fee structure for individuals, the higher the rating in the RFP on this no-cost contract.

an individual does not respond in some fashion within 19 days, SMC adds a \$25 default penalty to the penalty amount<sup>47</sup>, and sends a postcard to the registered vehicle owner notifying the individual that he or she has an additional 30 days to pay or respond to the ticket before it enters full collection status.<sup>48</sup> The original parking penalty and the default penalty, if collected, are both directed to the City of Seattle General Fund.

For non-parking infractions, an individual is given 19 days from date of ticket issuance to either request a hearing, pay the ticket in full, or request a community service or time payment plan. If an individual does not respond within 19 days, SMC adds a \$52 default penalty to the original penalty amount.<sup>49</sup> After 19 days has passed, AllianceOne sends a demand letter, notifying the defendant of their outstanding penalties and allowing them an additional 30 days to pay the ticket in full or enter a time payment plan before the debt is transferred to full collections status. AllianceOne charges \$13 or \$15 per letter, as described on page 41.

### Placing LFOs from Criminal Cases in Collections Status

For legal financial obligations stemming from criminal cases, there is no automated process in place that moves unpaid obligations into collection status. When a judge imposes legal financial obligations on a case, the defendant is directed to report to the SMC Financial Compliance Unit on the first floor of the courthouse. A defendant has the choice of remitting full payment to an SMC cashier or requesting to be set on a time payment plan. SMC allows the defendant up to 30 days to contact SMC Financial Compliance. If a defendant never contacts Financial Compliance, or sets up a time payment plan but does not meet the conditions of that plan, then after 30 days, SMC sends a letter to the defendant. This letter reminds the defendant of the unpaid obligation and notifies them that the debt may be sent to collections. If SMC Financial Compliance receives no response to the letter, after an additional 15 days, Financial Compliance sends a status report to the sentencing judge on the case detailing the lack of progress the defendant has made in resolving the obligations. Judges do not reinstate previously suspended jail sentences solely for failure to pay financial obligations. Generally, judges either schedule a review hearing to discuss the reasons for financial non-compliance with a defendant, send the outstanding monetary obligations to collections, or both.

### Recalling Tickets and Other Ways to Assist Defendants with Tickets in Collections

SMC can recall a ticket from the collection agency at any time. Common ticket recall reasons include if the tickets were issued to indigent defendants for expired license plate tab violations or if the tickets are

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<sup>47</sup> SMC 11.31.120 B.

<sup>48</sup> The process described is for vehicles with Washington state license plates that acquire parking tickets in Seattle. This notification process is possible because SMC has a data exchange in place with WA Department of Licensing that enables access to contact information (home address) of WA registered vehicle owners. Out-of-state vehicles acquiring parking tickets in Seattle go through a slightly different process, with AllianceOne sending the pre-collections notice 19 days after a registered vehicle owner fails to respond or pay the original parking ticket. Out-of-state vehicles are subject to the same parking penalties (original and default penalty) as in-state vehicles, but also are assessed a \$15 pre-collection letter noticing fee, imposed and collected by AllianceOne.

<sup>49</sup> RCW 46.63.110(4) and RCW 3.62.090.

associated with moving violations that prohibit an individual from getting his or her license renewed. Assisting defendants with relicensing is particularly valuable to both defendants and the Court in limiting the issuance of potential future criminal Driving While License Suspended (DWLS) charges.

In addition to offering time payment plans and recalling some obligations from collections, SMC has historically worked with other City departments, community partners and internally to limit the burden to indigent defendants of legal financial obligations entering collection status. For example, under Mayor McGinn's Administration, Financial Empowerment Centers run by Neighborhood House and El Centro de la Raza partnered with SMC Financial Compliance to pull outstanding tickets out of collections for individuals who were under financial duress and working with these centers. Another example through the Scofflaw program,<sup>50</sup> SMC partners with Seattle Police Department and the Human Services Department (HSD) to establish protocols for Parking Enforcement Officers to place outreach information and warning notices on cars where it appears someone may be living in their vehicle. This includes information on the HSD-funded Road to Housing program,<sup>51</sup> which seeks to offer a safe place for parking, case management and a pathway to permanent housing for people living in their vehicles.

In 2009 and 2011, SMC offered collection reduction events aimed at assisting individuals in resolving outstanding court financial obligations. All infraction accounts in collections with AllianceOne were eligible for reduction. The purpose of these events was to incentivize individuals to pay off outstanding penalties by removing all accrued interest and collection fees if they paid the full amount of the underlying initial infraction.

One important regulation regarding collection practices is that agencies in Washington are not permitted to collect on court debt that is older than 10 years from the date of initial issuance of the ticket.<sup>52</sup> To ensure SMC and AllianceOne comply with this provision, the Court routinely runs a batch process to close out tickets and associated debt from its case management system on tickets that have aged beyond the ten-year time frame for eligible collection.

### Data on Collections Practices at SMC

The charts below provide additional data on revenue collected at SMC from collections activity. Figure 33 displays the total amount of revenue AllianceOne collected on SMC cases between 2013 and 2016. Collection amounts are separated by the amount directed to the City of Seattle and the amount retained by the collection agency. Not all "City of Seattle Revenue" is remitted to the City's general fund. Depending on the type of underlying violation, some of the amount collected may go to the State of Washington. 32% of the non-parking ticket interest collected on penalties in collection status are

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<sup>50</sup> SMC, SPD and the City of Seattle jointly operate a Scofflaw program that immobilizes vehicles through the application of a vehicle immobilization device if the registered owner has four or more parking tickets in collections. More information on the Scofflaw program can be found here: <http://www.seattle.gov/scofflaw-ordinance/frequently-asked-questions>

<sup>51</sup> More information on the HSD-funded Road to Housing Program can be found here:

<http://www.compasshousingalliance.org/what-we-do-top/emergency-shelter/road-to-housing/>

<sup>52</sup> RCW 6.17.020, This time-period can be extended an additional ten years at request of judicial officer.

directed to the State of Washington.<sup>53</sup> The data shows SMC collection activity brings in between \$5 to 6 million dollars for the City and State in recovered debt.

Total Amount Recovered from Collections by Revenue Recipient, 2013 - 2016

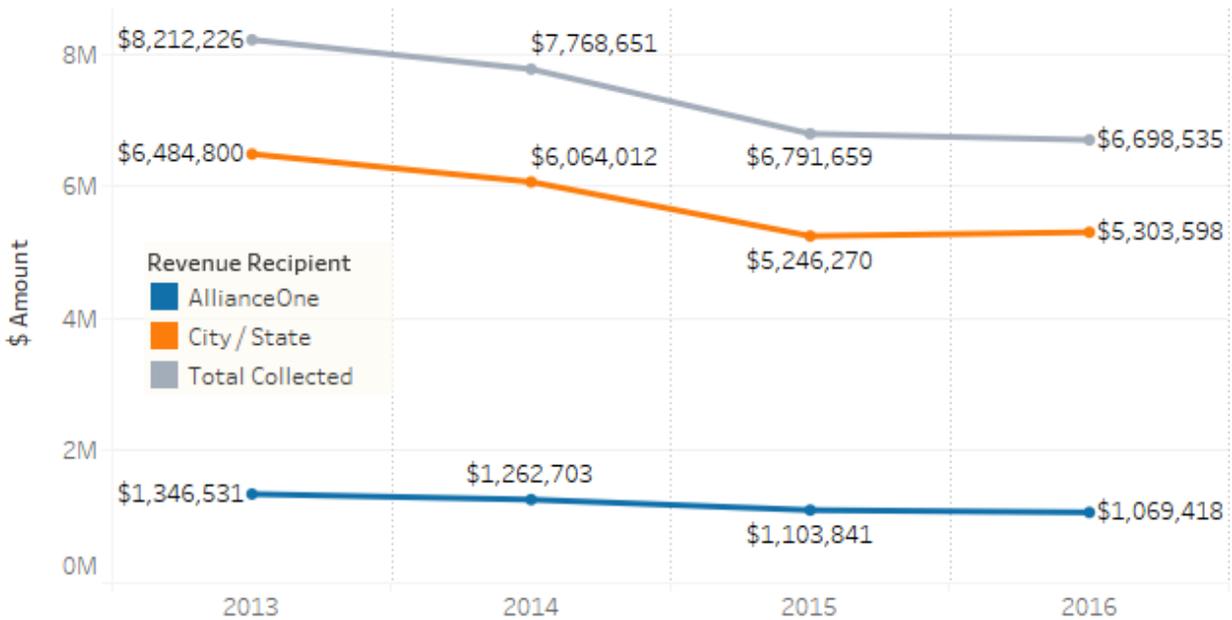


Figure 33: Total Amount Recovered from Collections by Revenue Recipient, 2013-2016

Figure 34 illustrates the percentage of total dollars received from collections activity attributable to the original violation, applied interest, and additional collection fees. Over the past four years, between 71% to 74% of collections revenue was due to the original penalty on the ticket, 16% was due to collection company fees, and between 9% and 13% was due to interest accrual.

<sup>53</sup> RCW 3.50.100

Percentage of Collections Revenue by Where Money is Applied, by Year

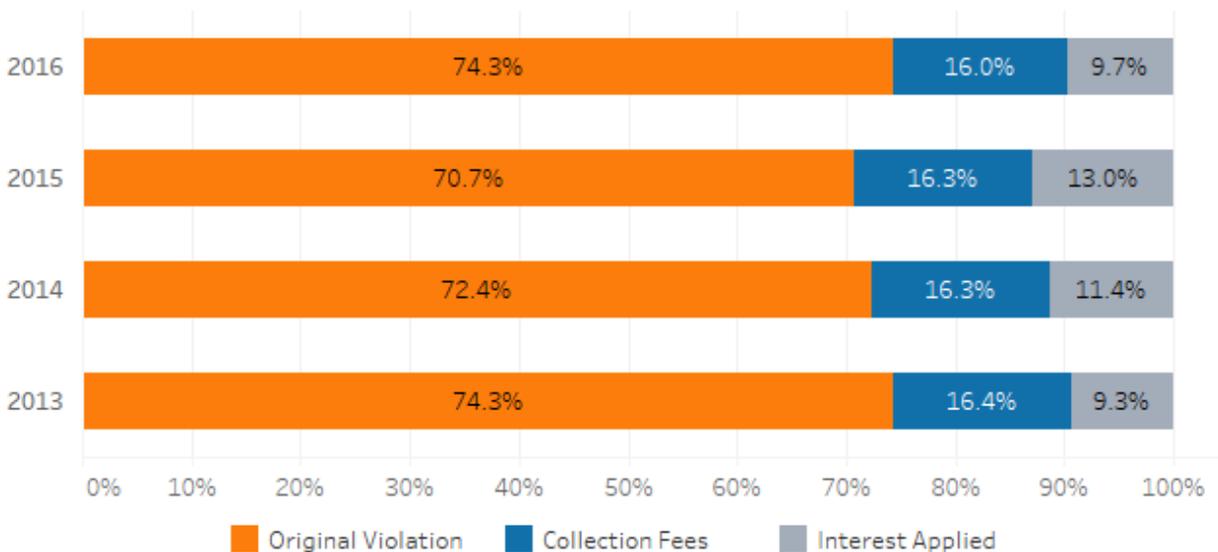


Figure 34: Percentage of Collections Revenue by Where Money is Applied, by Year

Figure 35 displays the percentage of revenue collected from different case types in collections. Parking tickets account for between 64% and 74% of the revenue collected between 2013 and 2016. Traffic tickets make up between 25% and 36% of this revenue over the same period. Less than 1% of revenue collected through collections activity comes from criminal cases at SMC.

Percentage of Total Revenue Collected by AllianceOne by Original Violation Type and Year

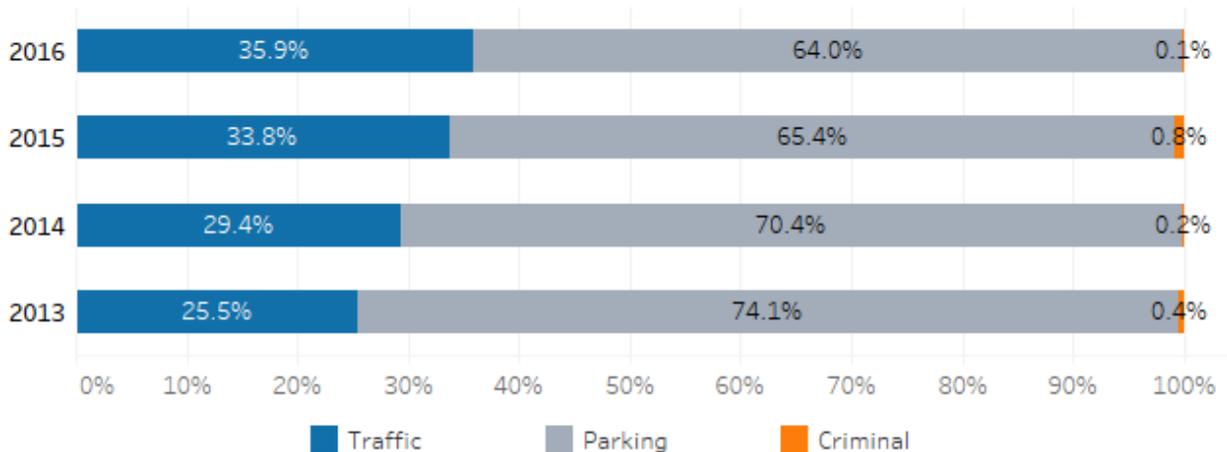


Figure 35: Percentage of Total Revenue Collected by AllianceOne by Original Violation Type and Year

Figure 36 on collections practices illustrates the proportion of cases sent to collections compared to the overall number of cases filed or tickets issued. For example, approximately 24% of all parking tickets, 22% of traffic tickets and 5% of criminal cases had unfulfilled monetary obligations sent to collections status in 2016. For criminal cases, monetary obligations are not imposed until after the disposition of the case. Since some 2016 criminal cases have not yet reached disposition, this could be a reason for a lower proportion of 2016 criminal cases sent to collections.

Percentage of Cases Filed in Year Sent to Collections, by Case Type

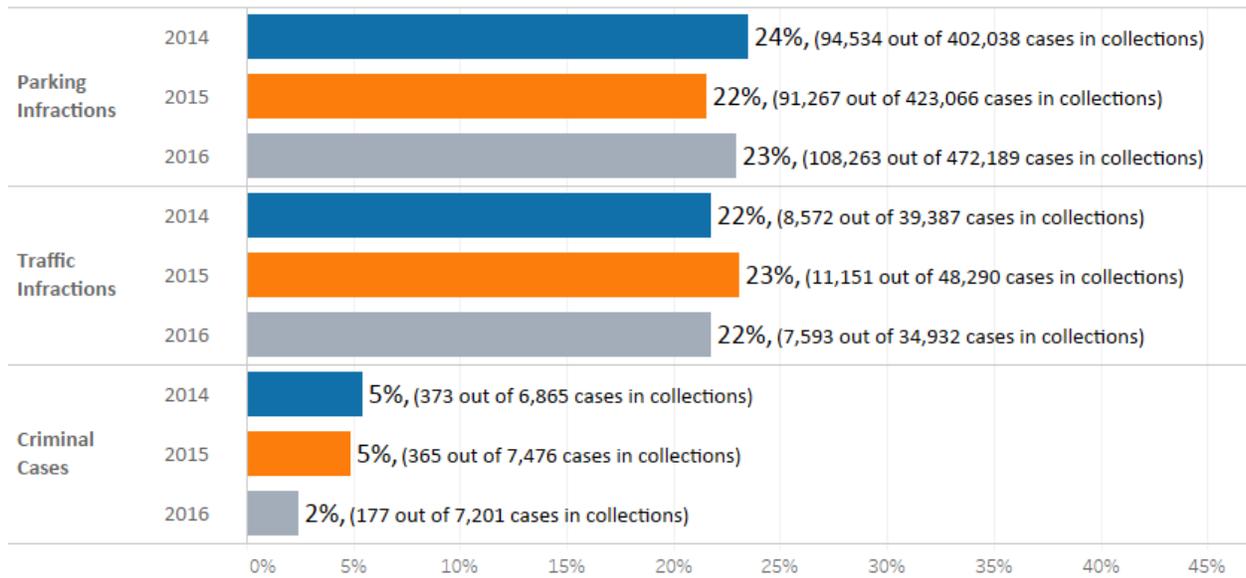


Figure 36: Percentage of Cases Sent to Collection Per Year, 2014-2016, by Type

## Section 2: Inventory of Criminal Fines and Fees Imposed at SMC

Before addressing the six research areas that will comprise the “inventory of criminal fines and fees” at SMC, it is important to outline the methodology, definitions, and limitations of data in this study.

### Methodology and Data Definition

The sample analyzed in this section of the report includes all SMC criminal cases filed between 2011 and 2015 where at least one “criminal financial obligation” is imposed. The definition of “criminal financial obligation” is provided below. Please note that cases where LFOs are not ordered (many dismissals or instances where the City Attorney does not proceed with charges after initial arrest) are excluded from the sample analyzed.

Some external studies on LFOs only include cases where convictions were entered<sup>54</sup>. However, if SMC analysts limit data to convictions, many cases that initially enter an alternative or diversionary disposition<sup>55</sup> with LFOs assessed but where charges are ultimately dismissed, get excluded. Instead, this study defines the case sample based on whether LFOs were ever imposed.

A five-year study period is used because it is long enough to show trends over time, however, it is not so long that court practices or statutory rules during the study period differ significantly from today. Please note the 2015 publication of *State vs. Blazina*<sup>56</sup> did dramatically change practices regarding how LFOs are imposed in Washington State Courts.

2016 data is not included for two reasons. First, this study began midyear 2016. Second, LFOs are imposed on cases at time of disposition, therefore many cases filed in 2016 are in pre-trial status, without an opportunity for LFO imposition.

In addition to the case filing date and whether a criminal LFO is imposed, analysts queried MCIS to compile a dataset that includes the LFO type and amount, case and charge information including type of violation, case disposition, and associated defendant demographic information (age, race and gender).

The study relies on the following definitions to assist in collecting and analyzing SMC legal financial obligation data.

**Criminal Legal Financial Obligations:** Any obligation imposed by the Court on a criminal case with a monetary assessment. If a criminal LFO is imposed, but either waived due to indigence or suspended in full by a judge, the case is included in the analysis. The definition of LFOs in this report does not include monetary obligations related to custody status of a defendant, including Bail, Bond or Warrant fees. In addition, restitution is not considered a court-generated financial obligation and therefore it is outside

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<sup>54</sup> Convictions are generally defined as a guilty finding after trial or defendants entering into deferred sentences, suspended sentences or guilty findings as part of a negotiated plea.

<sup>55</sup> Defined as *deferred prosecution, dispositional continuance, stipulated order of continuance, pre-trial diversion*.

<sup>56</sup> [http://scholar.google.com/scholar\\_case?case=16801131650335009437&hl=en&as\\_sdt=6&as\\_vis=1&oi=scholar](http://scholar.google.com/scholar_case?case=16801131650335009437&hl=en&as_sdt=6&as_vis=1&oi=scholar)

the scope of the inventory provided in section two of this study. Ultimately there are 15 different criminal fines and fees routinely imposed at SMC. They are provided in Figure 37 below.<sup>57</sup>

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<sup>57</sup> “Routinely imposed” for the purposes of this study is defined as any fee or fine that was ordered more than 40 times between 2011 – 2015. With approximately 30,000 fees / fines imposed during this period, any fee / fine imposed less than 40 times, would make up about 0.13% of all fees / fines imposed.

### SMC Fee & Fines Imposed on Criminal Cases

MCIS Obligation	Fee / Fine Name	SMC/RCW Authority	Fee Amount	Able to Suspend due to indigency Y/N?	Where \$ goes	%
BRTH	BREATH TEST ASSESSMENT (Alcohol Violators Fee)	RCW 46.61.5054	\$200	Y	City/State	27%/73%
COST	COURT COSTS	RCW 3.62.060; 3.62.065; 3.62.040	Varies depending on service	Unknown	City	56%
CCFE	CRIMINAL CONVICTION FEE	RCW 3.62.085	\$43	Y	City/State	68%/32%
CRAS	CRIMINAL TRAFFIC ASSESSMENT FEE <sup>1</sup>	RCW 46.64.055	\$102.50	Y	State	100%
CSFE	CSHS FEE - COMMUNITY SERVICE SET UP FEE	RCW 9.94A.725 and 10.01.160	\$25	Y	City	100%
DNAF	DNA SAMPLE FEE <sup>2</sup>	RCW 43.43.7541, See footnote	\$100	N	State	100%
DVOA	DOMESTIC VIOLENCE OFFENDER ASSESSMENT	RCW 10.99.080	not to exceed \$100	Y	City	100%
DIAS	DUI ASSESSMENT FEE <sup>1</sup>	RCW 46.64.055	\$102.50	Y	State	100%
FINE	PAY FINE (including PSEA)	RCW 3.62.010 (general Fines or Penalties), 'RCW 46.61.5055 (DUI Fines), RCW 3.62.090 (PSEA)	Varies. For DUIs, often \$595 but varies by criminal history and BAC	Y	City (except PSEA)	100%
PSFE	PROBATION SUPERVISION FEE	RCW 10.64.120	\$25/ month	Y <sup>3</sup>	City	100%
PPIA	PROSTITUTION PREVENTION AND INTERVENTION	12A.10.020 Prostitution	\$50	Partial	City	100%
		12A.10.130/RCW 9A.88.120 Indecent Exposure	\$50	Partial	City	100%
		12A.10.040 Sexual Exploitation/Patronizing	\$1,500/\$2,500/\$5,000	Partial	City	100%
		12A.10.060 Permitting prostitution	\$1,500/\$2,500/\$5,000	Partial	City	100%
DFEE	PUBLIC DEFENDER FEE	RCW 10.01.160	\$430 new/\$260 review	Y	City	100%
RCFE	RECORDS CHECK FEE	RCW 10.64.120	\$10/month	Y	City	100%
SIVF	SEX INDUSTRY VICTIMS FUND	12A.10.070 Subsection B/12A 10.040 Sexual Exploitation/Patronizing	\$1,000	Y	City	100%
		12A.10.070 Subsection B/12A 10.060 Permitting prostitution	\$1,000	Y	City	100%
STDC	STD / HIV COUNSELING	SMC 12A.10.110 (patronizing only)	\$163.50	Y	City	100%
WCFE	WORK CREW FEE	RCW 10.64.120	\$25	Y	City	100%

<sup>1</sup> CRAS/DIAS may be converted to community service. \$102.50 is broken out as (\$50 + PSEA1 + PSEA2) = \$102.50. PSEA is the Public Safety and Educational Assessment and all goes to the State.

<sup>2</sup> DNA test not ordered if DNA on file but fee is assessed upon conviction on mandatory charges.

DNA testing mandatory for: 12A.06.035 Stalking, 12A.06.040 Harassment, 12A.10.040 Patronizing/Sexual Exploitation, 12A.10.140 Communicating with a Minor Immoral

<sup>3</sup> Can be waived while the probationer is being supervised by another state under RCW 9.94A.745, the interstate compact for adult offender supervision. No specific mention of waiver due to indigence is provided in RCW. Fee is routinely waived due to indigence at Seattle Municipal Court.

Figure 37: SMC Fee and Fines Imposed on Criminal Cases

**Amount Imposed:** The amount a judge requires a defendant to pay. If a fine or fee is waived or suspended for any reason, it is excluded from total imposed amount.

For the specific LFO type “*Fine*”, with limited exception, judges assess the \$5,000 fine (for gross misdemeanors) or \$1,000 (for misdemeanors) and immediately suspend a significant portion or all the fine. For the purposes of this study, the difference between the original and immediately suspended amount of the Fine obligation is what is defined as “amount imposed”. For example, if a judge assesses a \$5,000 gross misdemeanor fine and immediately suspends \$4,500, the total amount imposed is \$500.

**Amount Suspended:** The amount a judge suspends or waives from the original fines and fees assessment. Typically, these reductions are due to a finding of defendant indigence, but can also be closed for other administrative reasons. It is worth noting that the amount waived does not include instances where a fine or a fee was never ordered on a case, even if statutorily a specific type of fee was supposed to be assessed. Analysts have no way of tracking a judicial decision to not impose a specific financial condition on a case.

**Demographic Data Limitations:** A primary purpose of the SOCR requested inventory is to examine if there are demographic differences in the imposition of fines and fees at SMC. Currently, the Court can provide age, race, and gender, however there are limitations to this information. The race field captured by MCIS only records five racial identifiers: *Asian / Pacific Islander, Black, Native American / Alaska Native, White, and Unknown*. There is no Hispanic identifier. A more detailed explanation of how race data enters the Court’s case management system is provided in Appendix 10 of this report. The Court’s racial reporting limitations are primarily driven by the required fields all criminal justice agencies must report to the Federal Bureau of Investigation’s National Crime Information Center (NCIC).

A complete inventory of SMC fines and fees addresses the following six research areas:

1. Define the different fines and fees imposed on criminal cases at SMC. Provide the legislative authority, whether the fine or fee is mandatory or discretionary, the associated policy goals of the fine or fee, and where revenue generated from the fine or fee is directed.
2. Document the number and amount of each fine and fee imposed at SMC.
3. Determine the total, average and median criminal fine and fee amounts assessed. Break out by available demographic categories and case types.
4. Determine the amount and percentage imposed by case and defendant in comparison to the maximum amount allowed per legislative authority. This analysis must be completed by case type.
5. Compare LFO imposition rates with available data from other Washington Courts of Limited Jurisdiction.

Define the different fees and fines imposed on criminal cases at SMC. *Provide the legislative authority, whether the fine or fee is mandatory or discretionary, the associated policy goals of fine or fee, and where revenue generated from the fine or fee is directed.*

Judges are required or authorized to impose various fines and fees on criminal cases. Each fine or fee has different legislative authority and differs on whether the fine or fee is mandatory or discretionary. The revenue collected by the Court from each fine or fee is directed to funds within the City of Seattle or the State of Washington depending on legislative direction.

Figure 37 on page 50 of this study lists all criminal fines and fees routinely imposed at SMC and the associated legislative authority for each fine or fee.<sup>58</sup> The table also identifies whether the fine or fee is mandatory or can be waived due to indigence and whether the money is directed to the City or State. Figure 38 titled *SMC Fee and Fines Revenue Purpose* provides additional information regarding the general purpose or policy goals of the funding, if applicable.

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<sup>58</sup> “Routinely imposed” for the purposes of this study is defined as any fee or fine that was ordered more than 40 times between 2011 – 2015. With approximately 30,000 fees / fines imposed during this period, any fee / fine imposed less than 40 times, would make up about 0.13% of all fees / fines imposed.

**SMC Fee & Fines  
Revenue Purpose**

MCIS Obligation	Fee / Fine Name	SMC/RCW Authority	Fee Amount	Revenue/Policy Purpose
BRTH	BREATH TEST ASSESSMENT (Alcohol Violators Fee)	RCW 46.61.5054	\$200	This fee is for the purpose of funding the Washington state toxicology laboratory and the Washington state patrol for grants and activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs.
COST	COURT COSTS	RCW 3.62.060; 3.62.065; 3.62.040	Varies depending on service	Clerks of the district courts shall collect a variety of fees for their official services. The fees vary depending on the service. See the Fines and Fees Background Information Appendix for more on Court Costs.
CCFE	CRIMINAL CONVICTION FEE	RCW 3.62.085	\$43	For costs associated with prosecution of case.
CRAS	CRIMINAL TRAFFIC ASSESSMENT FEE <sup>1</sup>	RCW 46.64.055	\$102.50	Used to increase revenue for traffic assessments
CSFE	CSHS FEE - COMMUNITY SERVICE SET UP FEE	RCW 9.94A.725 and 10.01.160	\$25	Costs for administering community service set up.
DNAF	DNA SAMPLE FEE <sup>2</sup>	RCW 43.43.7541, See footnote	\$100	For purposes of DNA identification analysis. The fee is a court-ordered legal financial obligation as defined in RCW 9.94A.030 and other applicable law.
DVOA	DOMESTIC VIOLENCE OFFENDER ASSESSMENT	RCW 10.99.080	not to exceed \$100	Revenue from the assessment shall be used solely for the purposes of establishing and funding domestic violence advocacy and domestic violence prevention and prosecution programs in the city or county of the court imposing the assessment.
DIAS	DUI ASSESSMENT FEE <sup>1</sup>	RCW 46.64.055	\$102.50	Used to increase revenue for traffic assessments
FINE	PAY FINE (including PSEA)	RCW 3.62.010 (general Fines or Penalties), 'RCW 46.61.5055 (DUI Fines), RCW 3.62.090 (PSEA)	\$0 and up - See attached DUI Fines Assessments table	'RCW 3.62.010 (general Fines or Penalties), 'RCW 46.61.5055 (DUI Fines), RCW 3.62.090 (PSEA)
PSFE	PROBATION SUPERVISION FEE	RCW 10.64.120	See attached Probation Fee Chart	Revenues raised under this section shall be used to fund programs for probation services.
PPIA	PROSTITUTION PREVENTION AND INTERVENTION	12A.10.020 Prostitution	\$50	Several SMC codes. Revenue from the fees must be used for local efforts to reduce the commercial sale of sex including, but not limited to, increasing enforcement of commercial sex laws. At least 50% must be spent on prevention (education for offenders, and rehabilitative services for victims).
		12A.10.130/RCW 9A.88.120 Indecent Exposure	\$50	
		12A.10.040 Sexual Exploitation/Patronizing	\$1,500/\$2,500/\$5,000	
		12A.10.060 Permitting prostitution	\$1,500/\$2,500/\$5,000	
DFEE	PUBLIC DEFENDER FEE	RCW 10.01.160	\$430 new/\$260 review	To reimburse for costs associated with providing a public defender.
RCFE	RECORDS CHECK FEE	RCW 10.64.120	\$10/month	For evaluation or supervision services and for fees related to records and background checks. Revenues raised under this section shall be used to fund programs for probation services.
SIVF	SEX INDUSTRY VICTIMS FUND	12A.10.070 Subsection B/12A 10.040 Sexual Exploitation/Patronizing	\$1,000	12A.10.070. In 2002, the City Council passed Ordinance 120907, establishing the Care and Treatment of Sex Industry Victims Account, and designated that account to be used to pay for services designed to provide care and treatment to sex industry workers. This account has come to be known as the "Sex Industry Workers Fund." It is funded with a \$1000 fee on those charged with patronizing a prostitute.
		12A.10.070 Subsection B/12A 10.060 Permitting prostitution	\$1,000	
STDC	STD / HIV COUNSELING	SMC 12A.10.110 (patronizing only)	\$163.50	To fund the mandatory counseling program for all persons convicted of or entering a non-conviction disposition of prostitution or sexual exploitation charge.
WCFE	WORK CREW FEE	See attached Probation Fee Chart	\$25	Assessment for Work Crew.

<sup>1</sup> CRAS/DIAS may be converted to community service. \$102.50 is broken out as (\$50 + PSEA1 + PSEA2) = \$102.50. PSEA is the Public Safety and Educational Assessment and all goes to the

<sup>2</sup> DNA test not ordered if DNA on file but fee is assessed upon conviction on mandatory charges.

DNA testing mandatory for: 12A.06.035 Stalking, 12A.06.040 Harassment, 12A.10.040 Patronizing/Sexual Exploitation, 12A.10.140 Communicating with a Minor Immoral Purposes,

<sup>3</sup> Can be waived while the probationer is being supervised by another state under RCW 9.94A.745, the interstate compact for adult offender supervision. No specific mention of waiver due to indigence is provided in RCW. Fee is routinely waived due to indigence at Seattle Municipal Court.

Figure 38: SMC Fee and Fines Revenue Purpose

## Document the number and amount of each fine and fee imposed at SMC

The table below provides data on the 15 fines and fees routinely imposed on criminal cases filed at SMC between 2011 and 2015. The table shows yearly totals from \$1.1 to 1.4 million in criminal fines and fee in 2012 to 2015, while the total for 2011 was significantly less at about \$700,000. This is because LFOs are generally not imposed until time of case disposition and many of the cases filed in 2011 did not incur LFOs until years later. Similarly, there is a lower amount of money imposed in 2016 because the study sample only includes cases filed before 2016.

State law and municipal code dictate which LFOs a judge can reduce, waive, or suspend. Generally, the 15 most common criminal LFOs at SMC can be divided into the following categories:

*Mandatory LFOs:* Fines and fees that must be imposed as directed by statute or code and cannot be waived due to a finding of defendant indigence. These include: *Criminal Conviction Fee*<sup>59</sup>, *DNA Sample Fee*, *Prostitution Prevention and Intervention Account*.

The Prostitution Prevention and Intervention Account Fee is partially reducible if indigence is established, but \$500, \$833 or \$1,667 (dependent upon criminal history) must be imposed regardless.

*Mandatory Unless Indigent LFOs:* Fines and fees that must be imposed as directed by statute or code, but may be waived or reduced if defendant indigence is established. These include: *Breath Test Assessment*, *DUI Assessment Fee*, *DV Offender Assessment*, *Fine*, *Sex Industry Victims Fee*, *STD / HIV Counseling*.

The *Fine* obligation is only mandatory on DUI cases, but discretionary on others. In addition, it is only mandatory up to a specified amount (dependent upon previous criminal history and level of intoxication at time of offense).

*Discretionary LFOs:* These fees can be imposed at SMC judicial discretion and are generally used to collect user fees for provided services. These include: *Community Service Fee*, *Court Costs*, *Probation Supervision Fee*, *Public Defender Fee*, *Record Checks Fee*, *Work Crew Fee*.

Detailed information on the statutory authority for each fee can be found in the previous table, *SMC Fee and Fines Imposed on Criminal Cases* of this report, in Appendix 11, or by reviewing the associated Revised Code of Washington or Seattle Municipal Code.

The following tables provide data on the 15 most common LFOs imposed on criminal cases at SMC.

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<sup>59</sup> Many Washington State Courts have determined that the Criminal Conviction Fee, a \$43 fee imposed on every conviction, cannot be waived. SMC judges, relying on RCW 35.20.255, do not waive this fee, but routinely suspend it if a defendant is indigent.

### Number and Total Amount of LFOs Imposed at SMC by Obligation Start Date

		2011	2012	2013	2014	2015	2016
		Imposed	Imposed	Imposed	Imposed	Imposed	Imposed
BREATH TEST ASSESSMENT	Amount	\$76,250	\$200,050	\$170,623	\$135,775	\$128,493	\$62,050
	Obligations	578	1,052	857	680	644	311
COMMUNITY SERVICE FEE	Amount	\$3,545	\$9,214	\$10,511	\$8,828	\$10,418	\$3,598
	Obligations	141	346	416	348	383	131
COURT COSTS	Amount	\$17,668	\$21,769	\$14,024	\$14,292	\$6,239	\$3,028
	Obligations	118	149	76	55	45	15
CRIMINAL CONVICTION FEE	Amount	\$40,764	\$65,273	\$64,603	\$54,254	\$59,200	\$28,448
	Obligations	948	1,517	1,501	1,263	1,378	662
DNA SAMPLE FEE	Amount		\$1,300	\$5,000	\$3,875	\$7,600	\$3,850
	Obligations		13	50	41	76	38
DUI ASSESSMENT FEE	Amount	\$58,541	\$101,274	\$84,668	\$67,651	\$68,368	\$30,648
	Obligations	571	988	826	660	667	299
DV OFFENDER ASSESSMENT	Amount	\$9,900	\$9,900	\$20,700	\$24,763	\$16,575	\$4,115
	Obligations	99	99	207	247	165	41
FINE	Amount	\$149,492	\$444,465	\$466,561	\$388,058	\$414,057	\$213,051
	Obligations	362	903	1,350	1,565	2,582	998
PROBATION SUPERVISION FEE	Amount	\$254,621	\$421,210	\$390,890	\$324,285	\$302,685	\$134,660
	Obligations	746	952	825	656	600	270
PROSTITUTION PREV. & INTERVENTION	Amount	\$6,800	\$19,400	\$44,800	\$33,200	\$105,500	\$40,220
	Obligations	62	68	44	26	72	31
PUBLIC DEFENDER FEE	Amount	\$12,271	\$15,909	\$8,332	\$1,820		\$100
	Obligations	29	37	20	4		1
RECORDS CHECK FEE	Amount	\$31,410	\$70,536	\$78,018	\$55,638	\$80,900	\$42,950
	Obligations	97	241	265	222	264	138
SEX INDUSTRY VICTIMS FUND	Amount	\$31,150	\$60,150	\$38,100	\$21,250	\$54,000	\$16,667
	Obligations	32	61	39	22	54	18
STD/HIV COUNSELING	Amount	\$5,550	\$9,150	\$5,100	\$3,100	\$9,150	\$3,101
	Obligations	37	61	34	21	61	21
WORK CREW FEE	Amount	\$315	\$1,125	\$1,200	\$1,450	\$1,875	\$850
	Obligations	12	44	48	58	75	34
Grand Total	Amount	\$698,276	\$1,450,724	\$1,403,129	\$1,138,237	\$1,265,060	\$587,336
	Obligations	3,832	6,531	6,558	5,868	7,066	3,008

\* These are the 15 most common fees / fines imposed on criminal cases at SMC. Some very uncommon LFOs (*if they made up less than 0.1% of all criminal LFOs imposed*) were excluded from this analysis. These exclusions include the: Transfer Offender Fee (imposed 39x in 5 years), Crime Lab Analysis Fee (9x), Defender Recoupment Fee (8x), Incarceration Fee (6x), Vacated Finding Fee (5x), Pre-trial Diversion Fee (2x).

\* 2011 LFOs are significantly lower because the study population is all criminal cases filed between 2011 - 2015, however the data is presented by obligation start date. There is a time lag, where the fees imposed on many of the 2011 cases aren't applied until time of case disposition. This also why 2016 LFOs are also significantly lower.

\* This data cannot account for if these LFOs were converted to community service. Due to changes in the business process regarding community service conversions in the last five years, analysts are only able to provide limited information on this process, which can be found in section one of this report.

Figure 39: Number and Total Amount of LFOs Imposed at SMC by Obligation Start Date

Figure 39 lists the number of impositions and the total LFO amount imposed and suspended by year for criminal LFOs at SMC. The *Fine* and the *Probation Supervision Fee* are the two largest LFOs at SMC in terms of total imposition amount.

Figure 40 distills this data further by listing the average and median LFOs imposed at SMC from 2011 – 2016.

## Average and Median LFO Amount by Obligation Type at SMC

		2011	2012	2013	2014	2015	2016
		Imposed	Imposed	Imposed	Imposed	Imposed	Imposed
BREATH TEST ASSESSMENT	Average	\$132	\$190	\$199	\$200	\$200	\$200
	Median	\$125	\$200	\$200	\$200	\$200	\$200
COMMUNITY SERVICE FEE	Average	\$25	\$27	\$25	\$25	\$27	\$27
	Median	\$25	\$25	\$25	\$25	\$25	\$25
COURT COSTS	Average	\$150	\$146	\$185	\$260	\$139	\$202
	Median	\$150	\$100	\$143	\$150	\$120	\$124
CRIMINAL CONVICTION FEE	Average	\$43	\$43	\$43	\$43	\$43	\$43
	Median	\$43	\$43	\$43	\$43	\$43	\$43
DNA SAMPLE FEE	Average		\$100	\$100	\$95	\$100	\$101
	Median		\$100	\$100	\$100	\$100	\$100
DUI ASSESSMENT FEE	Average	\$103	\$103	\$103	\$103	\$103	\$103
	Median	\$103	\$103	\$103	\$103	\$103	\$103
DV OFFENDER ASSESSMENT	Average	\$100	\$100	\$100	\$100	\$100	\$100
	Median	\$100	\$100	\$100	\$100	\$100	\$100
FINE	Average	\$568	\$683	\$688	\$707	\$620	\$662
	Median	\$595	\$595	\$595	\$595	\$595	\$595
PROBATION SUPERVISION FEE	Average	\$342	\$443	\$474	\$494	\$506	\$499
	Median	\$250	\$600	\$600	\$600	\$600	\$600
PROSTITUTION PREV. & INTERVENTION	Average	\$110	\$285	\$1,018	\$1,277	\$1,465	\$1,297
	Median	\$150	\$150	\$1,500	\$1,500	\$1,500	\$1,500
PUBLIC DEFENDER FEE	Average	\$424	\$430	\$417	\$455		\$100
	Median	\$432	\$432	\$432	\$455		\$100
RECORDS CHECK FEE	Average	\$324	\$293	\$294	\$251	\$308	\$311
	Median	\$240	\$240	\$240	\$240	\$240	\$240
SEX INDUSTRY VICTIMS FUND	Average	\$973	\$986	\$977	\$966	\$1,000	\$926
	Median	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000
STD / HIV COUNSELING	Average	\$150	\$150	\$150	\$148	\$150	\$148
	Median	\$150	\$150	\$150	\$150	\$150	\$164
WORK CREW FEE	Average	\$26	\$26	\$25	\$25	\$25	\$25
	Median	\$25	\$25	\$25	\$25	\$25	\$25

\* These are the 15 most common LFOs imposed on criminal cases at SMC. Some very uncommon LFOs (if they made up less than 0.1% of all criminal LFOs imposed) were excluded from this analysis. These exclusions include the: Transfer Offender Fee (imposed 39x in 5 years), Crime Lab Analysis Fee (9x), Defender Recoupment Fee (8x), Incarceration Fee (6x), Vacated Finding Fee (5x), Pre-trial Diversion Fee (2x).

\* The variability in median amount imposed for the Prostitution Prevention and Intervention Account fee is due to a change to SMC 12A 10.070 in 2012.

Figure 40: Average and Median LFO Amount by Obligation Type at SMC

On an average or median basis, the sexual exploitation related LFOs are the most expensive criminal LFO levied at SMC. Many of these LFOs are statutorily mandatory. Appendix 12 provides a breakdown of the different LFOs required for sexual exploitation cases dependent upon different charge dispositions and previous defendant criminal history.

A median *Fine* amount of \$0, which occurred in 2014 – 2016, indicates that at least half of the cases with a *Fine* entered in that year had the full amount of the *Fine* suspended at time of imposition.

Judges reduce *Fines* in two ways. One way is to impose the *Fine* obligation, suspend a portion of the *Fine*, and then immediately waive the suspended portion, typically because a defendant is indigent. Data provided in Figure 40 does not account for instances where an LFO is waived by a Judge in this way.

The second way judges reduce fines is by imposing the *Fine* and then immediately suspend the full value of the obligation. The obligation remains open, but it does not have a monetary value owed. Figure 40 does include instances where the full value of the *Fine* is suspended down to \$0.

From a policy perspective, these two types of reductions have the same result as judges do not go back and reimpose fines they originally suspended the full value of. However, because the practice of suspending the full *Fine* amount, but leaving the condition open is common at SMC (it happened at least 50% of the time in 2014, 2015, and 2016), it lowers the median and average *Fine* values presented.

To account for this, Court analysts examined average and median *Fine* amounts only for defendants who had some amount of initial *Fine* imposed. The results are in Figure 41 below. This data answers a slightly different policy question: For those defendants who received a non-suspended *Fine*, what was the average and median?

#### Average and Median Amount of Fines where Initial Imposition was More than \$0

		2011 Imposed	2012 Imposed	2013 Imposed	2014 Imposed	2015 Imposed	2016 Imposed	5-year Avg. & Med.
FINE	Average	\$568	\$683	\$688	\$707	\$620	\$662	\$663
	Median	\$595	\$595	\$595	\$595	\$595	\$595	\$595

Figure 41: Average and Median Amount of Fines Where Initial Imposition Was More Than \$0

For defendants with some amount of *Fine* imposed at SMC between 2011 – 2015, the average imposition was \$715 and the median imposition was \$595. This makes sense given the *Fine* obligation is utilized most often in DUI cases, as mandated by Washington State RCW. Current DUI fine assessments called for by RCW are listed in Appendix 13 of this report.

A thorough inventory and comparative study of LFOs by defendant demographic groups only makes sense if one examines the information by type of case. Comparing the fines and fees imposed on a SMC theft case, which carries few mandatory legislative assessments versus a SMC DUI case, which has many, holds little illustrative value.

### Amount and Percent of LFOs by Obligation Type and Case Type on 2011 - 2015 Criminal Cases

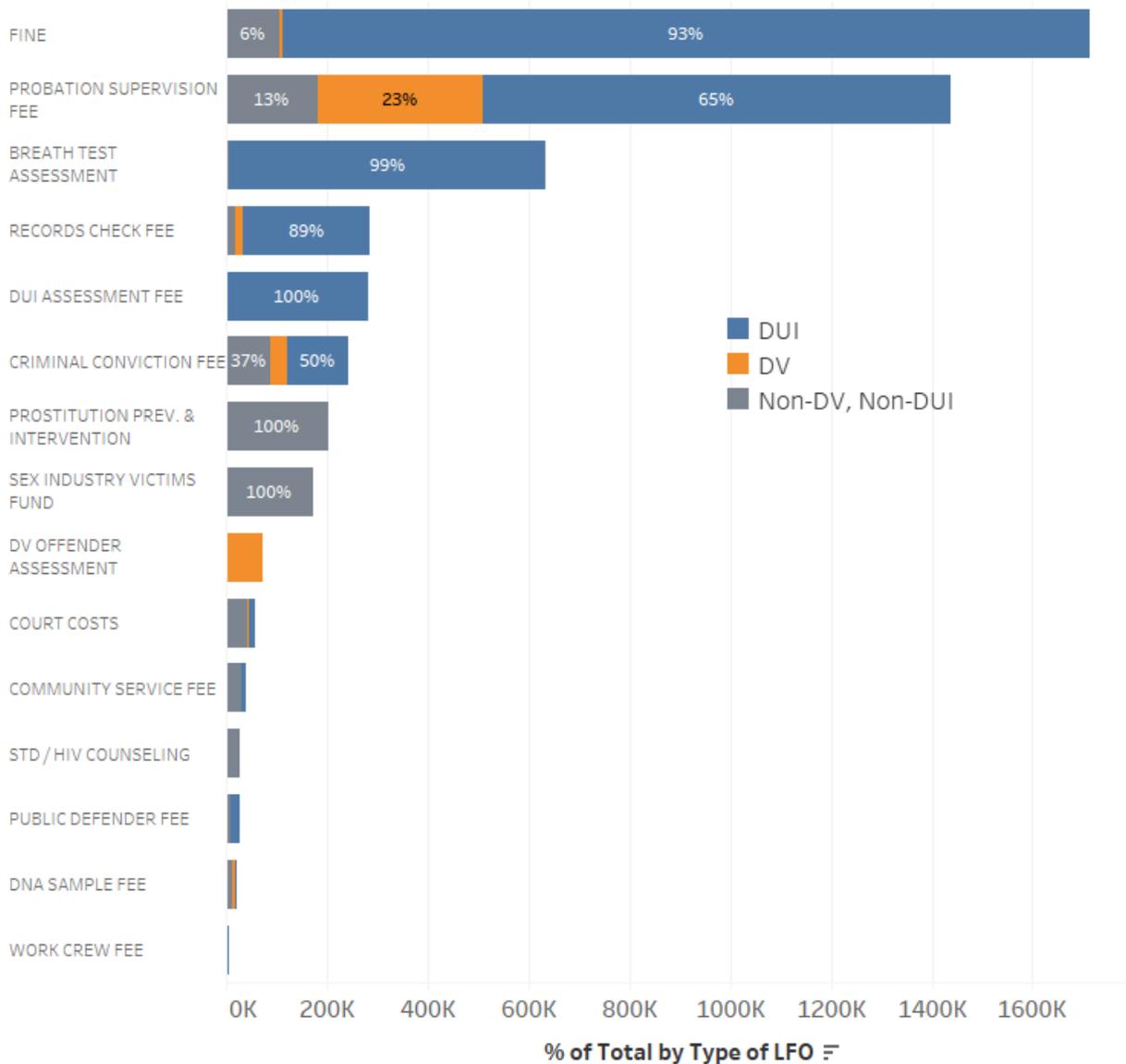


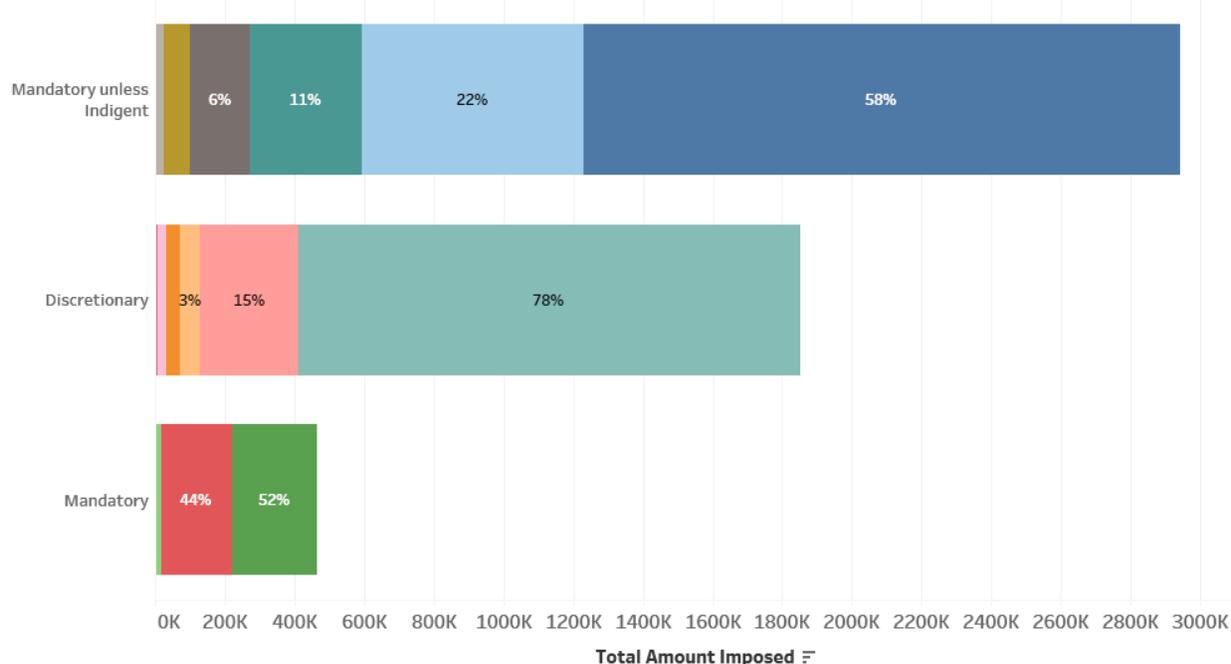
Figure 42: Amount and Percent of LFOs by Obligation Type and Case Type on 2011 - 2015 Criminal Cases

Figure 42 shows the percentage of the 15-common criminal LFOs at SMC that are a result of DUI, DV, or Non-DV, Non-DUI cases. The data is sorted by the total amount of money imposed at SMC over the five-year study period. This figure highlights that DUI cases carry the steepest monetary sanctions of the three different criminal case types at SMC.

Figure 43 displays the total amount of criminal LFOs imposed at SMC between 2011 and 2015 broken out by whether the LFO is mandatory, mandatory unless indigent, or discretionary.<sup>60</sup>

<sup>60</sup> For the purposes of this figure, the Prostitution Prevention and Intervention Account is categorized as a mandatory fee, even though some portion of it is reducible. The Fine is categorized as “mandatory unless indigent”, even though some portion of it is discretionary.

Percentage of LFOs Imposed at SMC Between 2011 - 2015 by Mandatory, Discretionary or Mandatory unless Indigent



Data value label not shown for fines with less than 1% of total amount imposed.

**LFO Name:**

- WORK CREW FEE
- PUBLIC DEFENDER FEE
- COMMUNITY SERVICE FEE
- STD / HIV COUNSELING
- COURT COSTS
- DV OFFENDER ASSESSMENT
- SEX INDUSTRY VICTIMS FUND
- RECORDS CHECK FEE
- PROBATION SUPERVISION FEE
- DUI ASSESSMENT FEE
- DNA SAMPLE FEE
- PROSTITUTION PREV. & INTERVENTION
- CRIMINAL CONVICTION FEE
- BREATH TEST ASSESSMENT
- FINE

Figure 43: Percentage of LFOs Imposed at SMC Between 2011-2015 by Mandatory, Discretionary or Mandatory Unless Indigent

Approximately 56% of the total fees and fines imposed between 2011 and 2015 were from LFOs that were mandatory unless indigence is determined. Within this category, the *Fine* made up 58% and the *Breath Test Assessment* made up 22%, demonstrating that DUI fees are a major contributing factor of mandatory LFOs, unless the defendant is found to be indigent.

Discretionary LFOs made up around 35% of all fees and fines imposed between 2011 and 2015, with the *Probation Supervision Fee* accounting for the largest percentage of LFOs within this group.

Mandatory LFOs made up 9% of total fees and fines levied between 2011 and 2015. The *Criminal Conviction Fee* consisted of 52% of these LFOs while the *Prostitution Prevention and Intervention Account Fee* consisted of 44%.

The above charts provide a high-level picture of the amount of monetary sanctions imposed on SMC cases, but they do not inform policy questions regarding whether differences in LFOs exist between different demographic groups. To inform these questions, the next section gives greater detail on the population of defendants in this study and the types of cases that were adjudicated at SMC.

Determine the total, average and median criminal fees and fine amounts assessed. Break out by available demographic categories and case types.

#### *Defendant Demographic Characteristics:*

Before comparing LFO imposition rates across demographic groups, it is important to identify the demographic characteristics of the study sample. Figures 44 through 48 provide the demographic makeup of all SMC defendants with at least one criminal case filed between 2011 and 2015 and at least one LFO imposed on the case.

Race of Defendant in Study				Age of Defendants in Study				Gender of Defendants in Study			
Race	# of Defts.	# of Cases	% of Total Cases	Age (group)	# of Defts.	# of Cases	% of Cases Total	Gender	# of Defts.	# of Cases	% of Total Cases
Asian/Pacific Islander	1,082	1,269	6.1%	Under 25	3,296	3,941	18.9%	Female	3,736	4,660	22.4%
Black	3,839	5,819	27.9%	25 - 34	5,285	6,809	32.7%				
Native American / Alaska Native	282	509	2.4%	35 - 44	3,521	4,741	22.8%	Male	11,920	16,146	77.5%
White	9,604	12,197	58.6%	45 - 54	2,700	3,734	17.9%				
Unknown	866	1,031	5.0%	55 - 64	1,093	1,343	6.4%				
				65 or older	222	257	1.2%	Not Provided	17	19	0.1%

*Figure 44: Race of Defendants in Study*

*Figure 45: Age of Defendants in Study*

*Figure 46: Gender of Defendants in Study*

Race and Gender of Defendants in Study

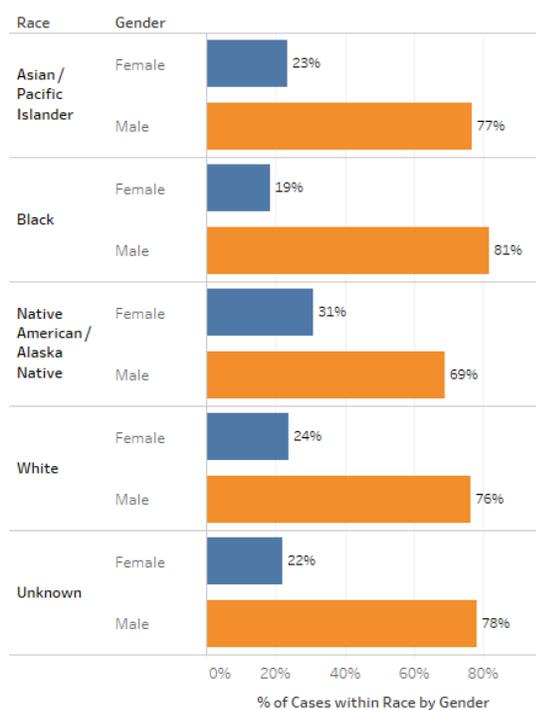


Figure 47: Race and Gender of Defendants in Study

Race and Age of Defendants in Study

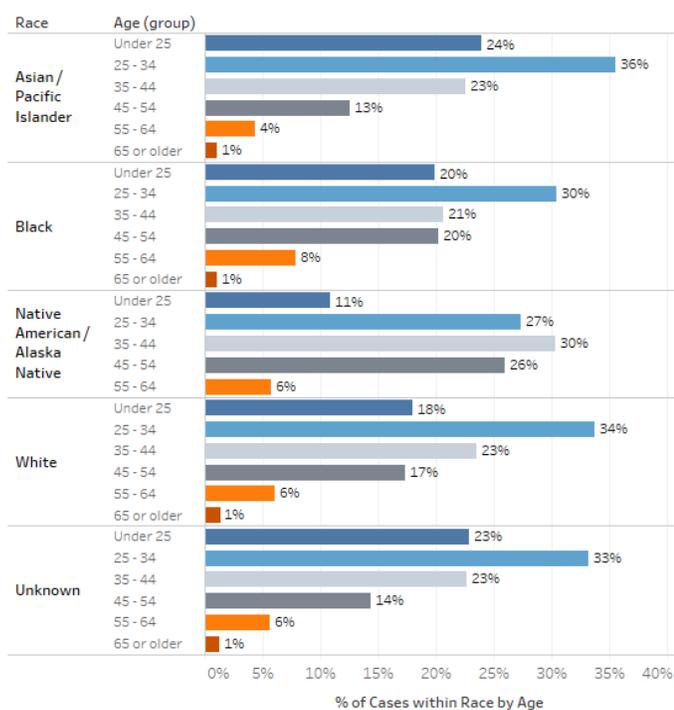


Figure 48: Race and Age of Defendants in Study

When reviewing the race, age, and gender of defendants in the study, it is also important to consider the makeup of the community at-large. The 2010 U.S. Census Estimate indicates 69.5% of Seattle's population is White, 13.8% is Asian, 7.9% is Black, 0.8% is American Indian & Alaska Native, 0.4% is Native Hawaiian or Pacific Islander, 5.1% is two or more races, and 2.4% is "Other" race.

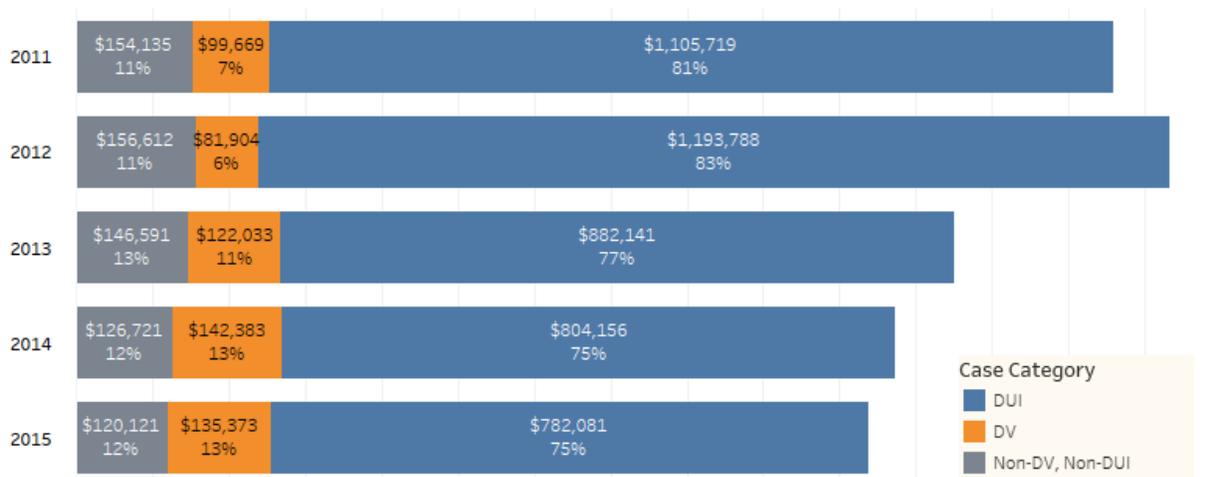
The 2014 U.S. Census Bureau American Community survey indicates that 11% of individuals in King County are between the ages of 18 – 24, 21% are between 25 – 34, 19% are between 35 – 44, 18% are between 45 – 54, 16% are between 55 – 64, and 15% are over the age of 65. These figures reinforce that people of color and people under the age of 35 are disproportionately represented in this study. This finding is not surprising given the attention being paid to the larger disproportionality that exists in the local and national criminal justice systems.

#### *Total, Average and Median Criminal LFO Imposition by SMC Case Type:*

The primary determinant of the amount of LFOs a defendant is assessed is the type of case for which he or she is convicted. Driving Under the Influence cases carry substantially higher mandatory fines and fees than Domestic Violence and general Non-DUI, Non-DV cases at SMC. To illustrate this, Figure 49 shows the total amount of LFOs imposed by case type and Figure 50 provide the average and median amounts.<sup>61</sup>

<sup>61</sup> Sexual exploitation cases are generally considered Non-DUI, Non-DV cases, but they are excluded from the Non-DV, Non-DUI results because they are the only case that carry mandatory and expensive LFOs. In terms of volume, SMC does not adjudicate a high percentage of sexual exploitation cases. The LFO results for these specific cases are shown separately, in Figure 52.

### Total and Percentage Criminal LFOs by Case Type and Filing Date



### Average and Median Criminal LFOs Imposed by Case Type and Filing Date

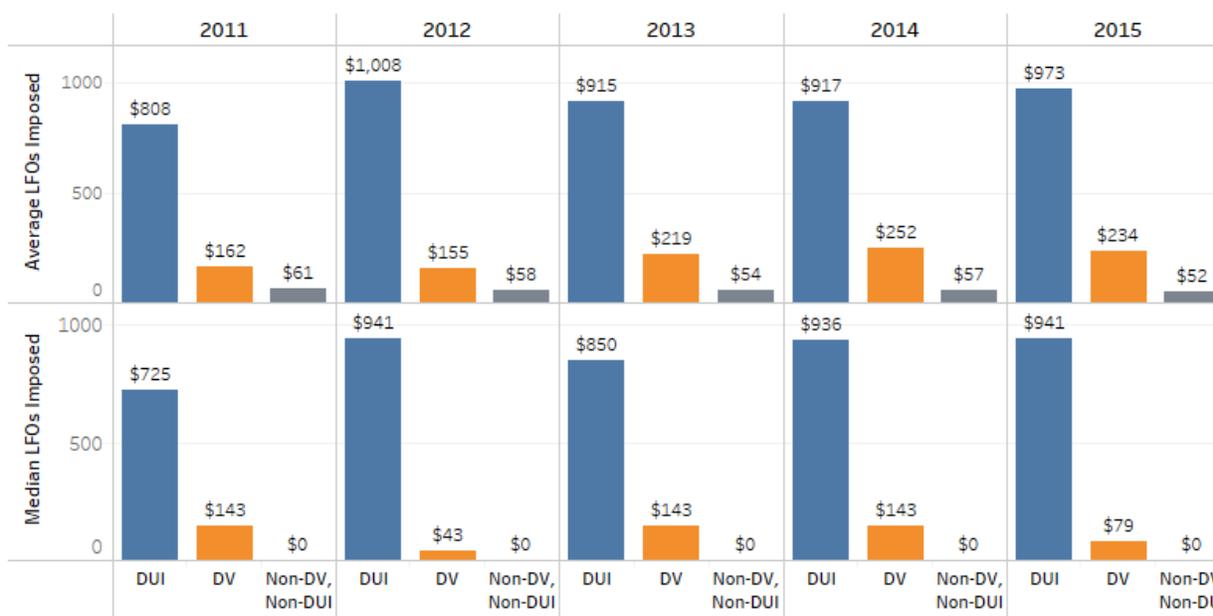


Figure 49: Total and Percentage of Criminal LFOs by Case Type and Filing Date

Figure 50: Average and Median Criminal LFOs Imposed by Case Type and Filing Date

There are significant differences in the amount of LFOs imposed depending on type of charges filed on the case. For example, in all five years of the study, the median number of fines imposed on individuals charged with DUI is never lower than \$725, while the median LFOs imposed on Non-DV, Non-DUI cases is \$0. DUI cases also appear to have a smaller variance on a percentage basis between the average and median LFO amount. This suggests average LFOs for DV and Non-DV, Non-DUI are more susceptible to a small number of cases with high LFOs skewing the averages.

Over the course of the five-year study, the data in Figure 50 suggest that DUI cases have LFOs imposed at an amount approximately 4.5 times greater than DV cases and 19 times greater than Non-DV, Non-DUI cases.

### Percentage of Defendants Receiving Different LFO Amounts by Case Category

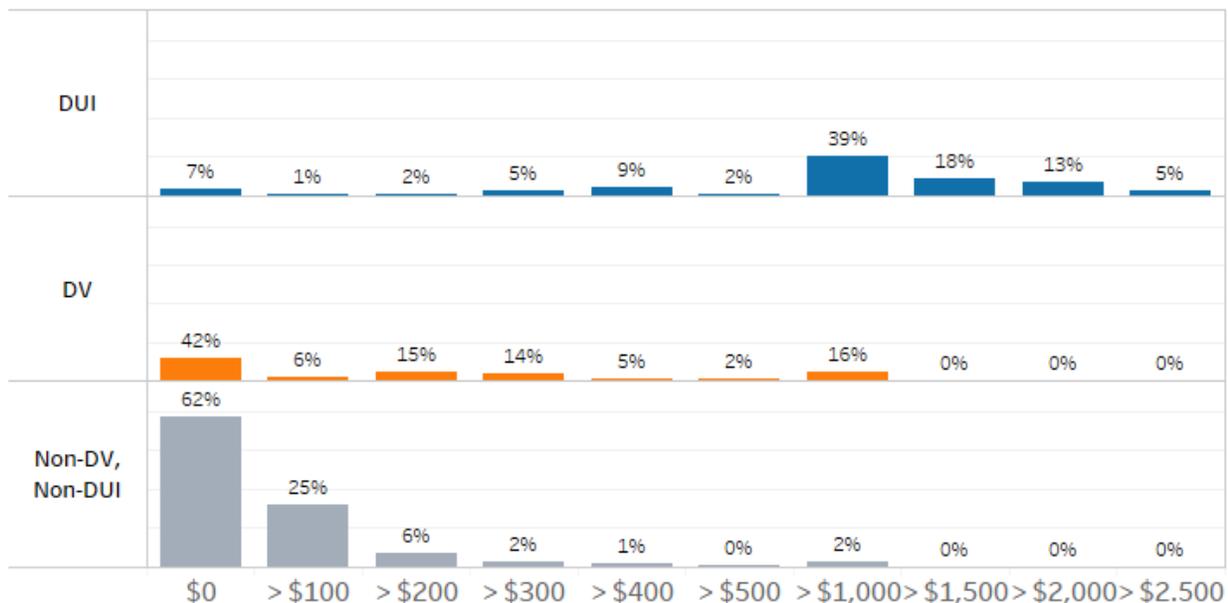


Figure 51: Percentage of Defendants Receiving Different LFO Amounts by Case Category

Figure 51 shows the percentage distribution of defendants that fall within specific LFO imposition amount categories by case type. Consistent with previous data, most defendants convicted of charges on DV and Non-DV, Non-DUI cases have either \$0 or less than \$100 imposed on the case.

### Average and Median Criminal LFOs Imposed on Sexual Exploitation Cases

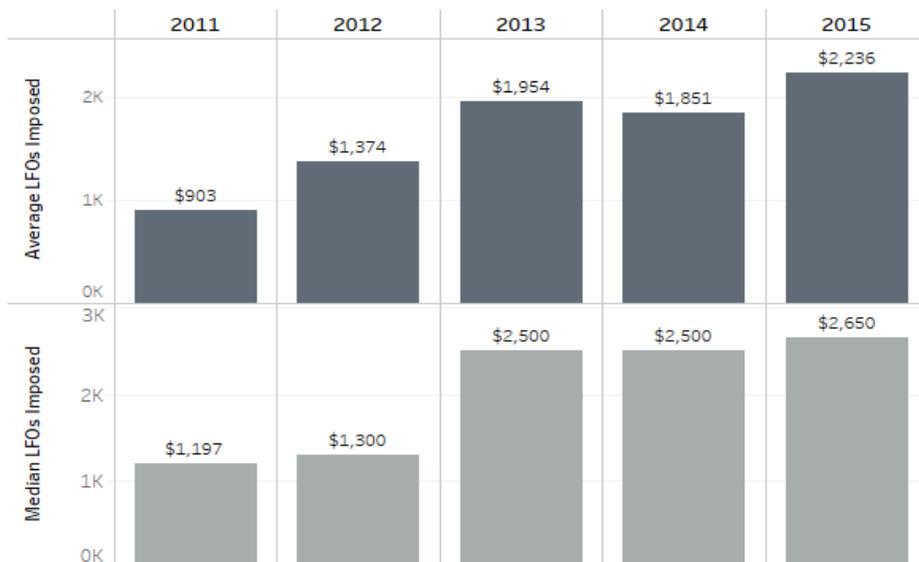


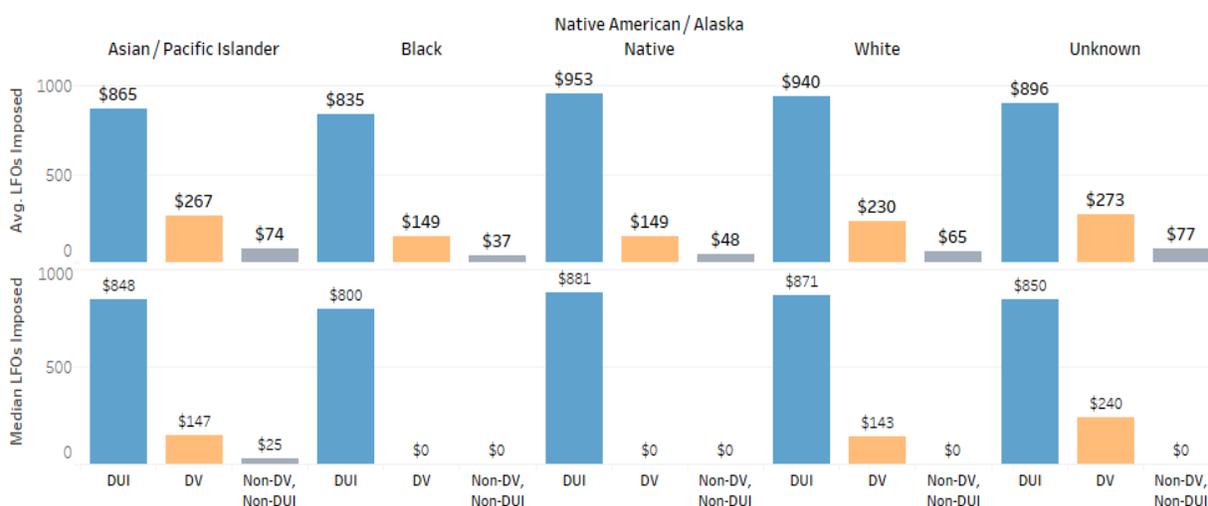
Figure 52: Average and Median Criminal LFOs Imposed on Sexual Exploitation Cases

Figure 52 details average and median LFO amounts for sexual exploitation cases. This specific charge related to a violation of SMC 12A.10.040 carries higher LFOs than any other SMC violation. Please note the average and median LFO amounts on sexual exploitation cases increased in 2013 after state legislation was passed that significantly increased the mandatory fines for the Prostitution Prevention and Intervention Account LFO<sup>62</sup>.

*Differences in LFO Imposition Rates by SMC Case Type and Defendant Demographics:*

The next step in this report is to investigate whether race, gender or age differences exist in the amount of LFOs being imposed. The wide variance in LFO amounts that exists on different types of misdemeanor and gross misdemeanor charges necessitates that we look at each demographic category within each case type to conduct this analysis.

*Average and Median LFO Amount Imposed by Defendant Race*



*Percentage of Defendants Receiving Different LFO Amounts by Case Type and Defendant Race*

	\$0	>\$100	>\$200	>\$300	>\$400	>\$500	>\$1,000	>\$1,500	>\$2,000	>\$2,500	
<b>DUI</b>	Asian / Pacific Islander	3%	2%	2%	6%	12%	3%	42%	16%	11%	3%
	Black	17%	2%	2%	4%	6%	1%	38%	14%	10%	6%
	Native American / Alaska Native	14%		3%	6%	6%		31%	11%	26%	3%
	White	6%	1%	1%	5%	9%	2%	39%	19%	13%	5%
	Unknown	7%	1%	3%	3%	8%	1%	41%	19%	14%	3%
<b>DV</b>	Asian / Pacific Islander	31%	6%	14%	19%	6%	0%	22%			0%
	Black	52%	7%	18%	7%	2%	1%	12%	0%		
	Native American / Alaska Native	51%	3%	15%	15%	3%	4%	9%			
	White	37%	5%	14%	18%	6%	2%	18%	1%	0%	
	Unknown	29%	5%	13%	18%	8%	3%	25%			
<b>Non-DV, Non-DUI</b>	Asian / Pacific Islander	46%	34%	11%	3%	2%	1%	3%	0%	0%	0%
	Black	69%	21%	5%	2%	1%	0%	1%	0%	0%	0%
	Native American / Alaska Native	79%	17%	1%	1%	0%		1%	0%	0%	1%
	White	59%	27%	5%	2%	2%	0%	3%	0%	0%	0%
	Unknown	50%	31%	11%	3%	2%	1%	3%	0%	0%	0%

Figure 53: Average and Median LFO Amount Imposed by Defendant Race

Figure 54: Percentage of Defendants Receiving Different LFO Amounts by Case Type and Defendant Race

<sup>62</sup> RCW 9A.88.130

Figure 53 and Figure 54 suggest there is some variation in the amount of LFOs imposed on defendants of different races at SMC, but that the differences do not appear large. On average, defendants identifying as Native American / Alaska Native or White have the highest DUI-related LFOs imposed in the study. For DV cases and Non-DV, Non-DUI cases, Asian / Pacific Islander and White defendants have the highest average LFO impositions. Black defendants display the lowest average LFOs for each of the three case types.

Analyzing LFOs using the median rather than average narrows the differences between races. For DUI-related LFOs, there is an \$81 difference between the highest median LFO by race (Native American / Alaska Native) and the lowest (Black). White and Asian defendants experience slightly higher median LFOs for DV cases, and for Non-DV, Non-DUI cases (for Asian defendants only), but the differences do not appear large.

Figure 54 provides a percentage distribution of the number of cases that fall within different LFO amounts by defendant race. This data suggests that Black and Native American / Alaska Native defendants have a higher percentage of LFOs suspended on their cases.

As discussed in the Demographic Data Limitation section on page 51, there are significant limitations to Court race data collection. Not a lot can be concluded about the “Unknown” category in the charts above. It is possible some of the defendants in this group self-identified or were identified by Seattle Police at time of arrest as Hispanic, however, SPD nor SMC currently collect or record this ethnicity in their information systems.

Average and Median LFO imposition by race are descriptive statistics that explore a connection between race and monetary sanction amounts, but cannot describe a causal effect. There are numerous other factors (i.e. personal income, employment, previous criminal history) that impact whether one has the means to pay a LFO. To more thoroughly investigate or test hypotheses related to race and monetary sanction imposition, one would need a multivariate model, relying on additional data elements, and controlling for as many other potential explanatory factors as possible.

Another important factor to consider when analyzing these results is the number of defendants present in each race group. This information is provided in the table below. From a statistical perspective, the greater the number of defendants that exist in the study sample, the more likely there is a statistically significant difference between defendant races, and that the result is not due to chance.

The impact of a small study sample is seen in the results for Native American / Alaska Native defendants. The results in Figure 53 show these defendants have the highest average DUI LFOs at SMC (\$953). Figure 54 shows that 29% of the Native American / Alaska Natives had LFOs exceeding \$2,000 on DUI cases. However, when considering this data in conjunction with the information in Figure 55 below, it is clear there were only 35 DUI cases where defendants identified as Native American / Alaska Native and only 10 instances where these cases received LFOs more than \$2,000. With small numbers of cases in this defendant race group, it may be difficult to draw strong conclusions between race and LFO imposition amounts for Native American / Alaska Native defendants.

Number of Cases, Average LFO Imposition and Standard Deviation by Case Category and Race						
z	Race	# of Cases	Average Imposed	Difference from White	Standard Deviation	P-value**
DUI	Asian / Pacific Islander	402	\$ 865.48	\$ (74.99)	\$ 556.05	0.012
	Black	736	\$ 834.82	\$ (105.65)	\$ 672.70	0.000
	Native American / Alaska Native	35	\$ 952.71	\$ 12.24	\$ 670.71	0.916
	White	3730	\$ 940.47	n/a	\$ 622.35	n/a
DV	Asian / Pacific Islander	204	\$ 266.54	\$ 36.62	\$ 381.64	0.186
	Black	959	\$ 149.25	\$ (80.67)	\$ 235.95	0.000
	Native American / Alaska Native	94	\$ 148.54	\$ (81.38)	\$ 206.71	0.000
	White	1484	\$ 229.93	n/a	\$ 270.99	n/a
Non-DUI, Non-DV	Asian / Pacific Islander	616	\$ 74.46	\$ 9.65	\$ 172.98	0.196
	Black	4064	\$ 37.47	\$ (27.34)	\$ 154.29	0.000
	Native American / Alaska Native	375	\$ 48.35	\$ (16.46)	\$ 375.68	0.401
	White	6820	\$ 64.81	n/a	\$ 219.93	n/a

\* Yellow shading indicates difference is statistically significant at the 95% confidence level ( $p$ -value < .05).  $P$ -value indicates how likely observed result is due to chance.

Figure 55: Number of Cases, Average LFO Imposition and Standard Deviation by Case Category and Race

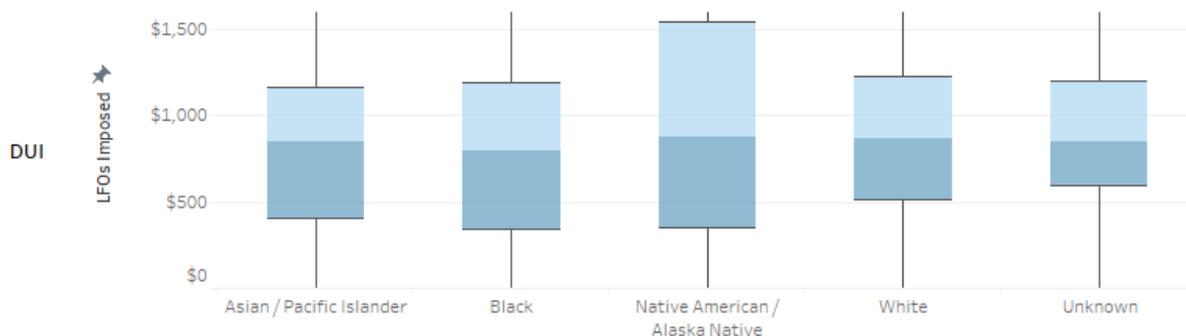
One way to gauge the impact of the size of the defendant population is to test for statistical significance. Analysts in this study relied on a t-test to measure if the difference in average LFO imposition between White defendants and each of the other three defendant race groups is statistically significant.<sup>63</sup> For each defendant race, the number of cases, average LFOs imposed and standard deviation is listed in Figure 55. Additionally, for the nonwhite race groups, information on the average difference in LFOs from Whites is listed, along with the p-values describing how statistically significant the results are. In statistical terms, one can be 99% certain the exhibited difference in average LFOs is not due to chance if the p-value is less than .01.

Figure 55 suggests the following results:

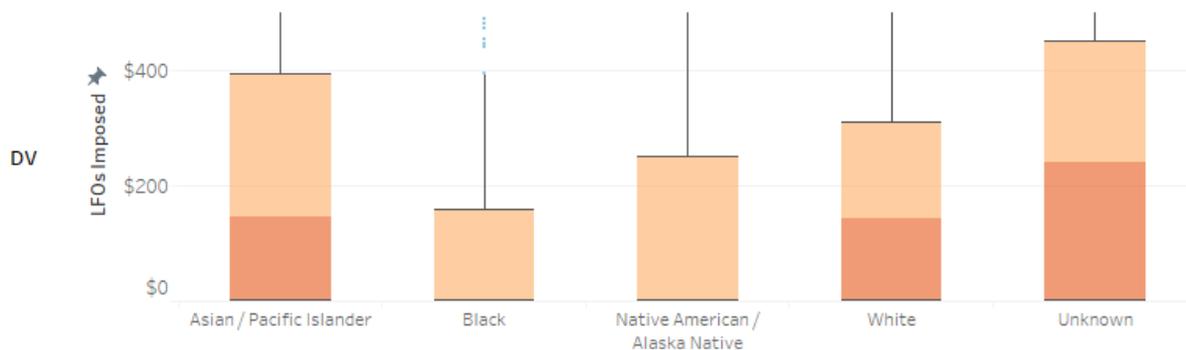
- For DUI cases, the difference between Asian and White defendants is barely significant. The difference between Blacks and Whites is significant and the difference between Native Americans and Whites is not significant.
- For DV cases, the difference between Black and White defendants and the difference between Native American and White defendants is significant.
- For Non-DV, Non-DUI cases, the only statistically significant difference in LFOs is between Black and White defendants.

<sup>63</sup> A t-test is a statistical hypothesis test that determines if two sets of data are significantly different from each other. It is most commonly applied when the test statistic is assumed to follow a normal distribution.

Distribution of LFO Impositions on DUI Cases by Race



Distribution of LFO Impositions on DV Cases by Race



Distribution of LFO Impositions on Non-DV, Non-DUI Cases by Race

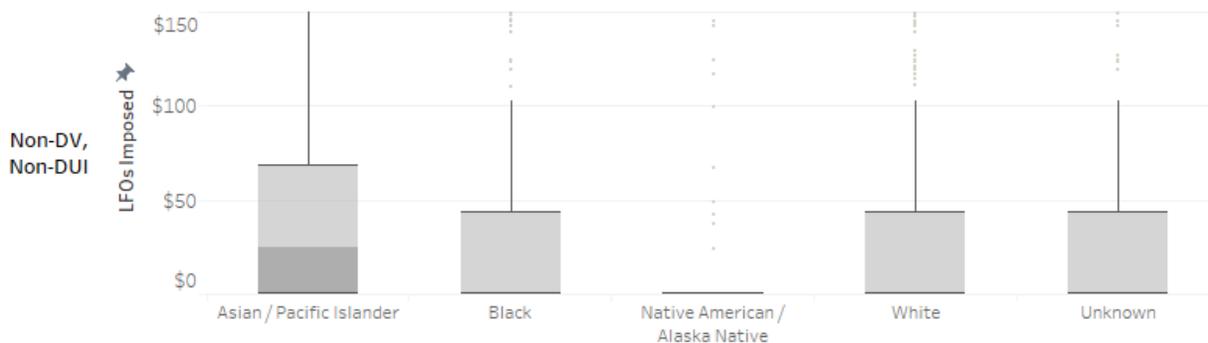


Figure 56: Distribution of LFO Impositions on DUI Cases by Race

Figure 57: Distribution of LFO Impositions on DV Cases by Race

Figure 58: Distribution of LFO Impositions on Non-DV, Non-DUI Cases by Race

An alternative approach to exploring the relationship between case type, race, and LFO imposition is to use a boxplot chart. Rather than relying on average LFOs imposed, the boxplot displays how tightly or widely dispersed LFO amounts are for each defendant race. The shaded boxes represent the interquartile range, or the area where 25% to 75% of the data fall. The point at which the shaded region changes color is the median LFO value for each race, or the point at which half the data falls above and half the data falls below.

Figure 56, Figure 57, and Figure 58 suggest the following results:

- For DUI cases, median LFOs imposed are similar between groups, however Whites have less variability in the amount imposed than other groups.
- For DV cases, at least half of the cases for Black and Native American defendants receive no LFOs imposed.
- For Non-DV, Non-DUI cases, median LFOs imposed for all groups except Asian defendants is \$0.

Figure 59 reviews the average and median amount of LFOs suspended by judges by defendant race and case type.<sup>64</sup>

### Average and Median LFO Amount Suspended by Defendant Race

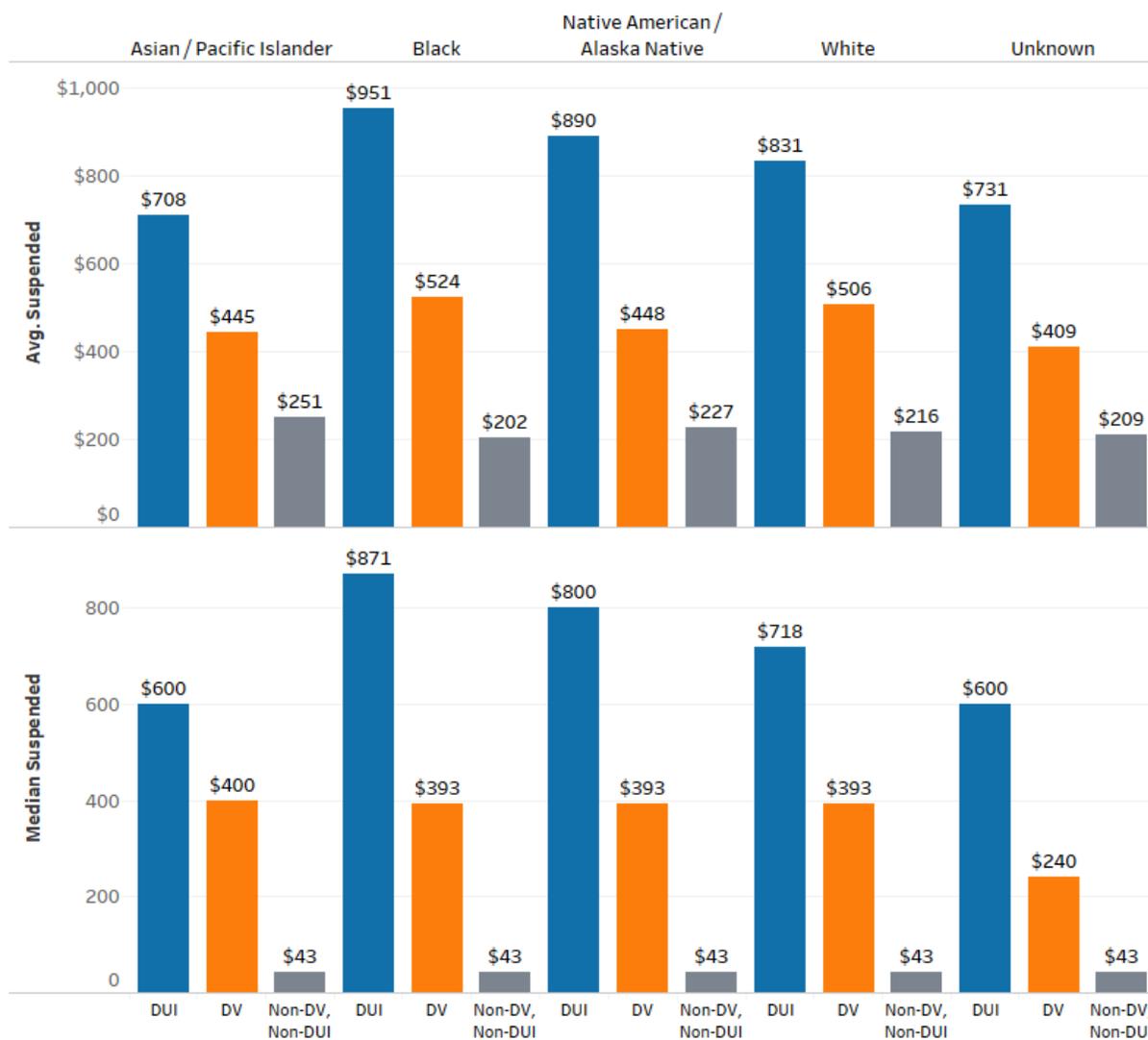


Figure 59: Average and Median LFO Amount Suspended by Defendant Race

<sup>64</sup> This data only includes instances where judges waive or suspend the obligation due to indigence or other administrative process. It does not include instances where a LFO is reduced to \$0, but the obligation remains open on MCIS.

Similar to LFO imposition rates, there are differences in the rate of LFO suspension between different defendant race categories, but the differences are not large. For the Non-DV, Non-DUI cases, the median suspension amount is \$43, likely due to judges suspending the Criminal Conviction Fee, the only common Non-DV, Non-DUI monetary sanction. For DV cases, on an average basis, Blacks have the most DV-related LFOs suspended. On average, SMC suspends two times the amount of DV-related LFOs than it imposes, irrespective of defendant race. Black and Native American defendants have the greatest number of LFOs suspended on DUI cases.

One general finding from the data is Black and Native American defendants receive less LFOs imposed on cases filed at SMC between 2011-2015. A possible explanation for this pattern is that these defendant groups likely have a higher population of underserved individuals, with less income and ability to pay fines and fees, than other defendant groups at the Court.<sup>65</sup>

In 2015, *State v. Blazina* established “a trial court has a statutory obligation to make an individualized inquiry into a defendant’s current and future ability to pay before imposing LFOs” by holding RCW 10.01.160(3) as a required duty of the sentencing court. SMC, in its practices to accept waivers of fines and fees for indigence and screen individuals for indigence before imposing LFOs, complies with the statutes and case law regarding LFO imposition and ability-to-pay inquiry.

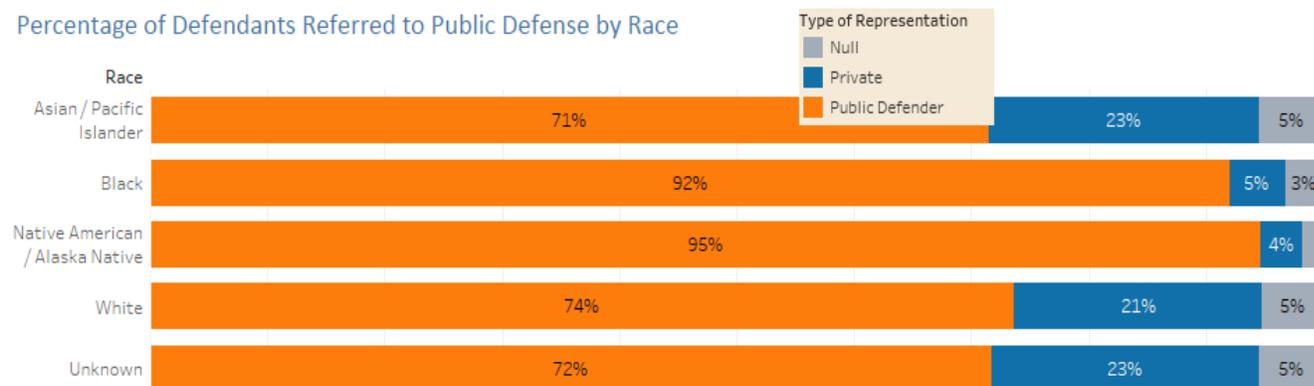
Figure 60 and Figure 61 give a little more context around monetary sanctions for defendants of different means. While SMC does not systematically collect personal income data for all defendants charged with violations, analysts used a proxy for income, by examining if individuals are assigned to a public defense agency.

Using defense representation as a proxy for income does have limitations. The most significant is that some individuals may be represented by public defense agencies even though they are able to afford private counsel.

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<sup>65</sup> Data from City of Seattle’s comprehensive plan indicate that 24% of people of color live below the poverty line in Seattle and that the poverty rate for people of color is 2.5x that for whites.  
[http://www.seattle.gov/dpd/cs/groups/pan/@pan/documents/web\\_informational/p2580242.pdf](http://www.seattle.gov/dpd/cs/groups/pan/@pan/documents/web_informational/p2580242.pdf)

### Percentage of Defendants Referred to Public Defense by Race



### Median LFO Imposed by Case Type, Race and Type of Public Defense Representation

Race	Public Defender			Private			Null		
	DUI	DV	Non-DV, Non-DUI	DUI	DV	Non-DV, Non-DUI	DUI	DV	Non-DV, Non-DUI
Asian/Pacific Islander	\$800 196	\$143 188	\$0 496	\$871 188	\$250 13	\$75 73	\$893 18	\$143 3	\$25 47
Black	\$800 585	\$0 912	\$0 3,815	\$941 129	\$158 43	\$43 91	\$633 22	\$322 4	\$0 158
Native American / Alaska Native	\$850 27	\$0 89	\$0 364	\$943 8	\$125 4	\$38 3		\$250 1	\$0 8
Unknown	\$850 162	\$143 81	\$0 477	\$866 117	\$250 23	\$43 84	\$906 16	\$600 1	\$25 38
White	\$866 1,650	\$143 1,298	\$0 5,939	\$940 1,871	\$250 150	\$79 510	\$800 209	\$250 36	\$25 371

Figure 60: Percentage of Defendants Referred to Public Defense by Race

Figure 61: Median LFO Imposed by Case Type, Race and Type of Public Defense Representation

Figure 60 shows a difference in the percentage of Black and Native American defendants represented by public defenders in comparison to White, Asian and Unknown defendants.

Approximately three out of four White individuals in this study used a public defender on criminal cases examined, whereas that figure was more than nine out of ten for Black individuals. Unlike the data provided in section one of this report, these defense representation figures only apply to the sample of cases in this section of the report.<sup>66</sup>

<sup>66</sup> Cases where charges were dismissed, ultimately never filed or where there was no LFO ever issued are not included in this study.

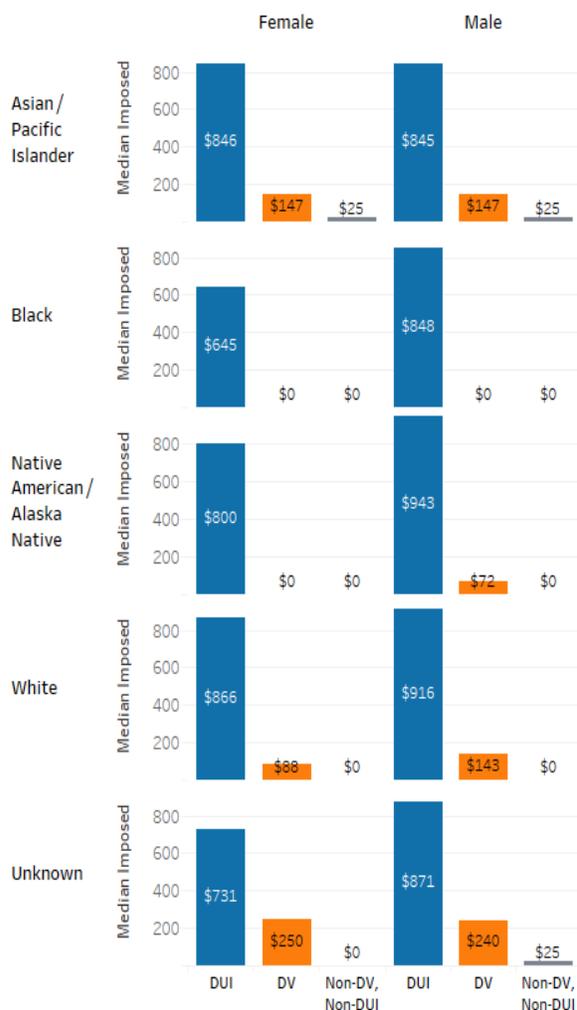
Figure 61 suggests that regardless of race or SMC case category, defendants represented by private counsel receive larger median LFOs than those represented by public defense agencies. The data also suggests that on cases filed between 2011 and 2015, defendants represented by public defenders receive some discretionary LFOs, particularly on DUI-related cases.

The next section of this report examines differences in LFO imposition by defendant gender.

Number and Percent of Cases by Case Type & Defendant Gender

	DUI			DV			Non-DV, Non-DUI			N/A
	Female	Male	N/A	Female	Male	N/A	Female	Male	N/A	
# of Cases	1,390	3,802	6	573	2,270	3	2,697	9,767	10	
% of Total	27%	73%	0%	20%	80%	0%	22%	78%	0%	

Median LFO Amount Imposed by Def. Gender and Race



Average and Median LFO Amount Imposed by Defendant Gender



LFO imposition for defendants where no gender information is available is excluded due to small sample size (19 defendants).

LFO imposition for defendants where no gender information is available is excluded due to small sample size (19 defendants).

Figure 62: Number and Percent of Cases by Case Type and Defendant Gender

Figure 63: Median LFO Amount Imposed by Def. Gender and Race

Figure 64: Average and Median LFO Amount Imposed by Defendant Gender

Figures 62 through 64 describe the relationship between gender, race, and LFO imposition on all three criminal case types at SMC. Figure 62 provides the number of cases by case type and defendant gender.

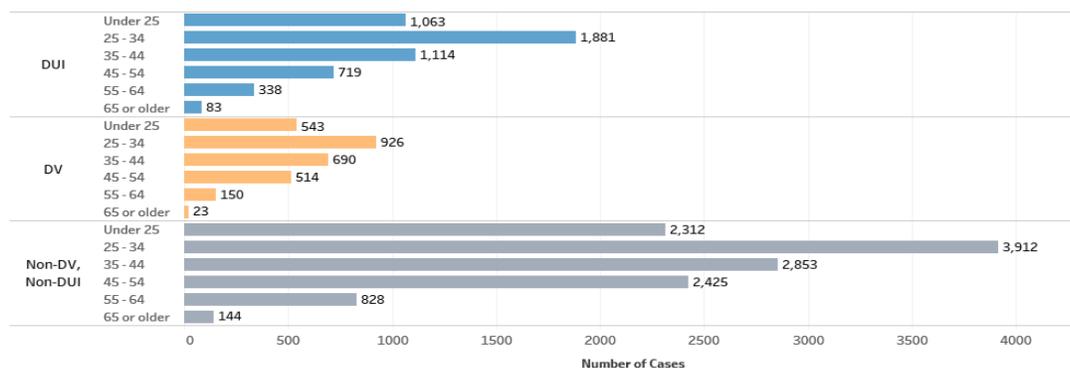
Of the three criminal case types, women are most represented in DUI cases where they make up 27% of the cases. Women are least represented in DV cases, where they account for 20% of the cases. Except for the N/A gender categories, the sample sizes of the other categories are large with no category smaller than 573 cases. Analysts used a t-test to test the statistical significance of the difference in average LFO imposition between case types and found the male and female differences for each case type to be significant.<sup>67</sup>

Figure 63 explores if there are differences in median LFOs looking at two demographic characteristics of defendants. Similar to previous findings, there are differences between gender and race categories but the differences are not large. For each racial category except Asian / Pacific Islanders, women generally receive less median LFOs imposed. For Asian / Pacific Islanders, this amount is the same for men and women. Black women with DUI-related LFOs experience the biggest discrepancy from their male counterparts in terms of median LFOs.

Figure 64 shows that women receive on average \$74 less LFOs on DUI cases, \$53 less LFOs on DV cases, and \$12 less LFOs on Non-DV, Non-DUI cases. On a percentage basis, it appears the biggest difference is with DV cases where women received around 25% less LFOs than men.

The next section of this report examines any differences in LFO imposition by age of defendant at time of case filing.

Number of Cases by Case Type & Defendant Age



Percent of Cases Within Case Type by Defendant Age

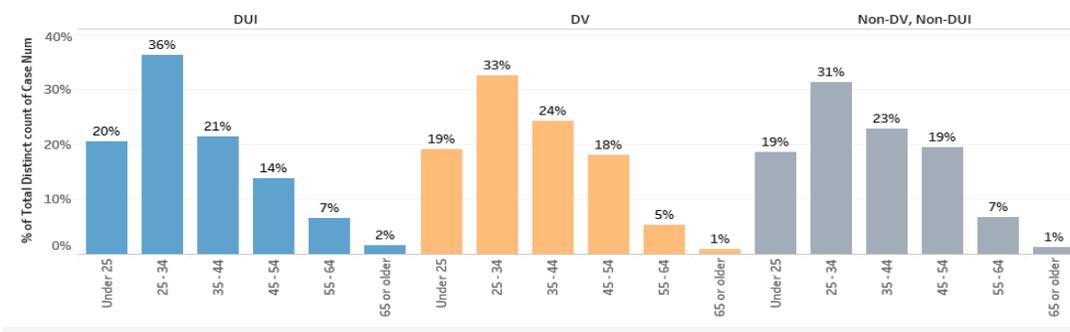


Figure 65: Number of Cases by Case Type and Defendant Age

Figure 66: Percent of Cases Within Case Type by Defendant Age

<sup>67</sup> P-value < .02 for DUI, DV and Non-DUI, Non-DV case types.

Figure 65 provide the number of defendants within each case type and age group in the study. Figure 66 shows the percentage that fall within each age category. There is not much variation in the percentage of defendants that fall within each age group for different case types. At 36%, 25 to 34-year old defendants make up a slightly larger proportion of DUI cases than DV (33%) or Non-DV, Non-DUI (31%). Younger defendants, regardless of case type, make up a disproportionately high percentage of cases in the study compared to the City of Seattle population.

Average and Median LFO Amount Imposed by Defendant Age Group

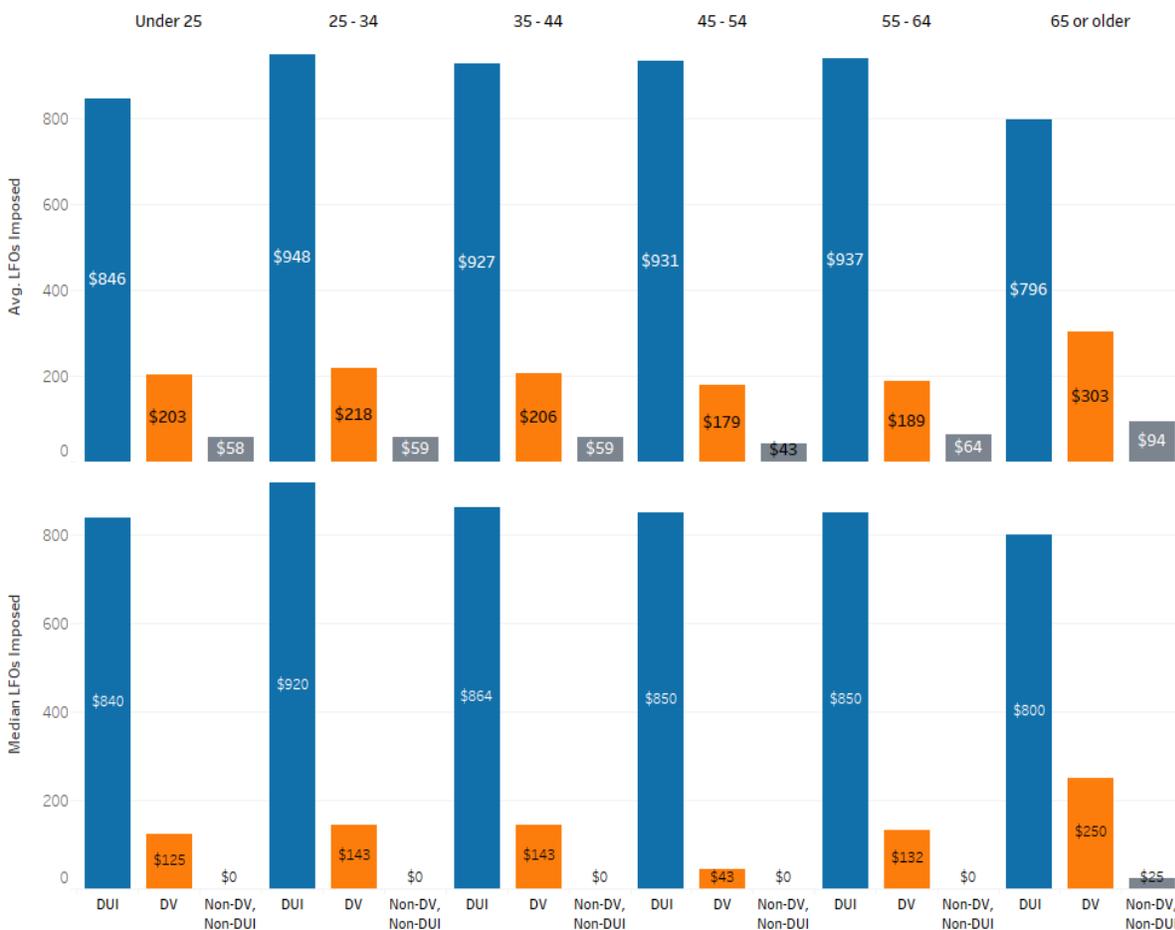


Figure 67: Average and Median LFO Amount Imposed by Def. Age Group

Figure 67 provides the average and median LFO amounts by defendant age group. On average, 25 to 34-year old defendants appear to receive slightly higher LFOs for all case types except Non-DV, Non-DUI cases. Defendants older than 65 also appear to have higher average LFOs on DV and Non-DV, Non-DUI cases. However, there are very few defendants in this category, so it is hard to draw strong conclusions from the data.

The final chart in the demographic comparison section, Figure 68, examines the impact of both age and race on median LFOs. For defendants under the age of 25 charged with a DUI case, Black defendants have the lowest median LFOs imposed at \$731, which is a substantial difference compared to other race groups in this age range. White defendants have median LFOs of \$835, Asians have median LFOs of

\$941 and Native Americans have median LFOs of \$941<sup>68</sup>. The data in Figure 68 shows results similar to other demographic findings in this study that White and Asian defendants have slightly higher median LFO impositions than defendants in other age or race categories.

#### Median LFO Amount Imposed by Defendant Age Group and Race

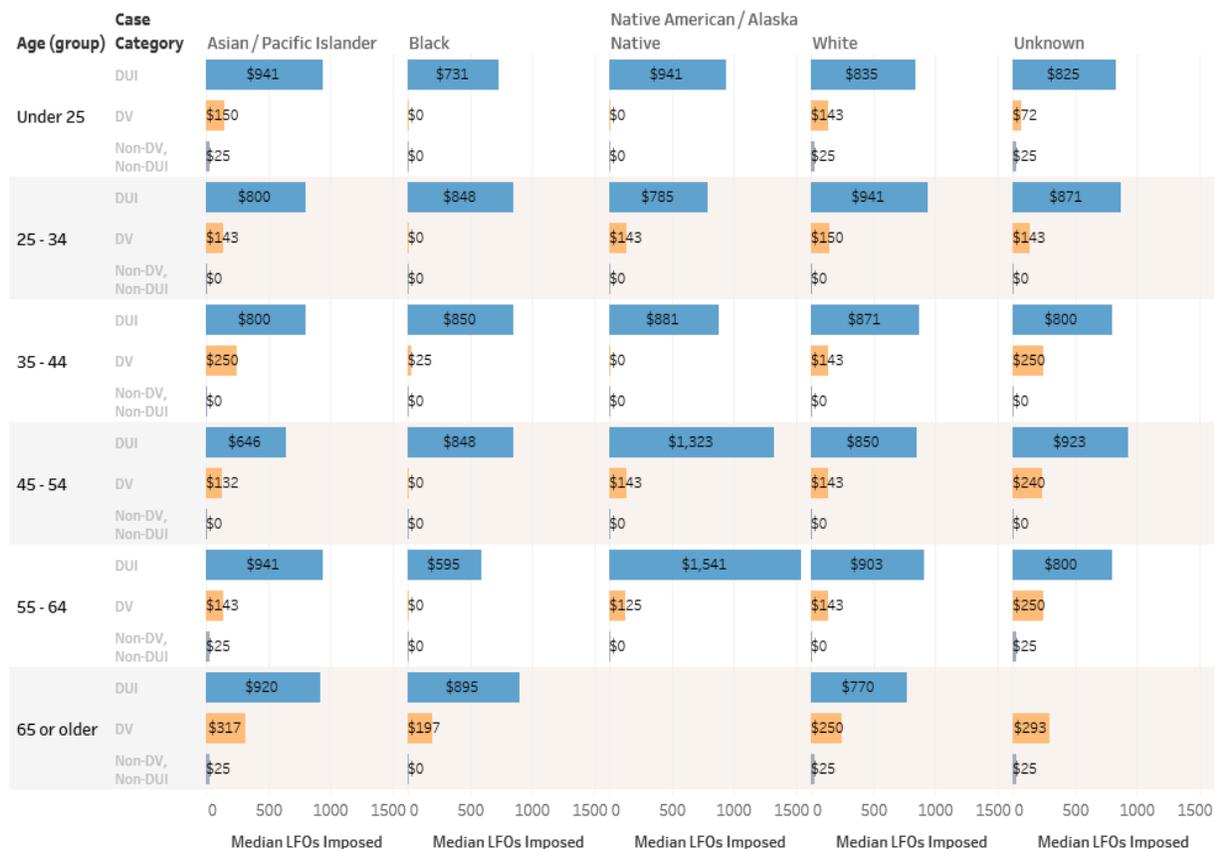


Figure 68: Median LFO Amount Imposed by Defendant Age Group and Race

Determine the amount and percentage imposed by case and defendant in comparison to the maximum amount allowed per legislative authority.

Judges are required by state and local legislative authorities to impose certain fines and fees in certain amounts on criminal cases. As noted in a previous section of this report, the rules governing criminal LFOs are complex and fragmented, specifically with regards to what LFOs can be reduced, suspended, waived due to indigence or converted to community service. These statutes are sometimes interpreted differently by different courts or judges. But generally, for courts of limited jurisdiction in the State of Washington, there are statutory minimums and maximum LFOs that should be applied to a case, depending on the type of charge. Figure 69 shows the statutory minimum and maximum for each case type, along with the average LFO imposition at SMC.

<sup>68</sup> The sample size (number of cases) for defendants under 25 by race is as follows: Asian = 100 cases, Blacks = 156 cases, Native Americans = 1 case, Whites = 731 cases, Unknown = 73 cases.

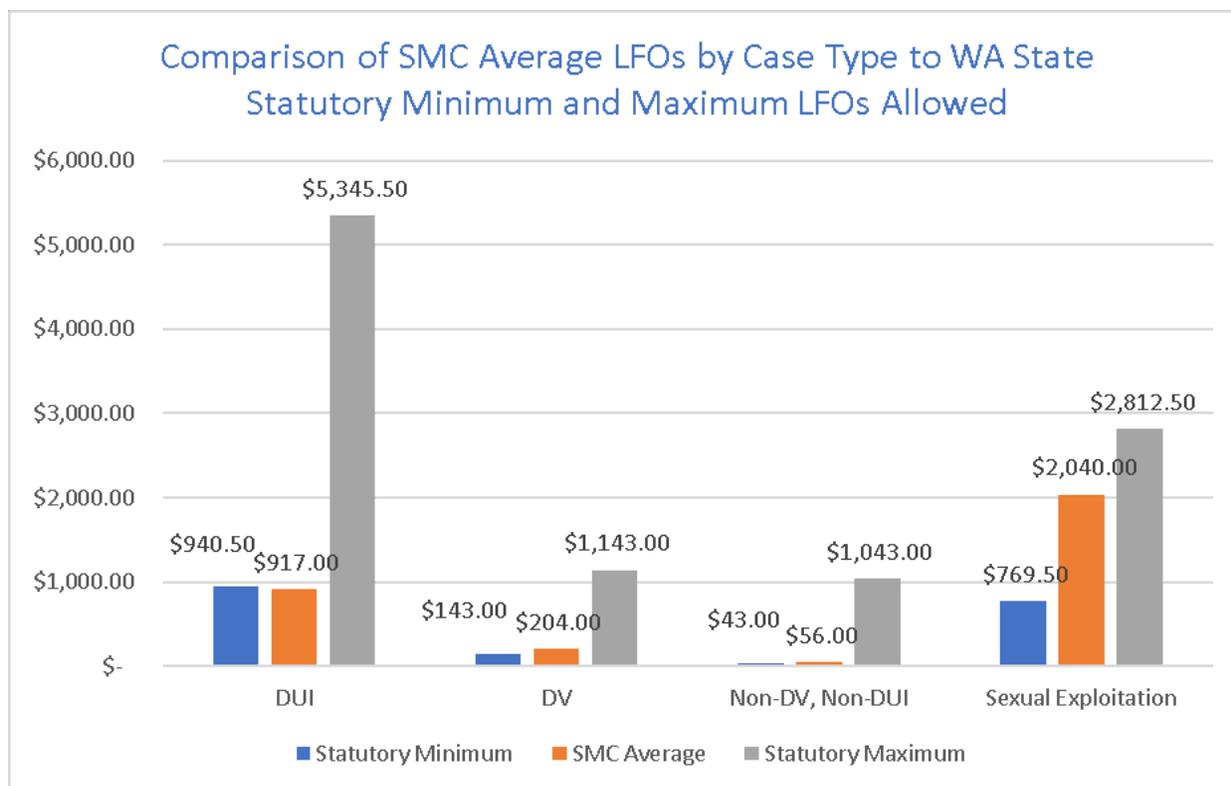


Figure 69: Comparison of SMC Average LFOs by Case Type to WA State Statutory Minimum and Maximum LFOs Allowed

Figure 69 compares SMC fine imposition to the minimum and maximum amounts permitted by state statute.<sup>69</sup>

<sup>69</sup> Statutory Maximum assumes no prior convictions for DUI and sexual exploitation case types. Statutory Minimums do not account for whether LFOs can be waived due to indigence, except for sexual exploitation LFOs. Statutory Maximum for sexual exploitation includes Sex Industry Victims Fund LFO which only applies to alternative dispositions. SMC sexual exploitation cases average is only calculated on cases filed after 2013 to account for legislative increase to Prostitution Prevention and Intervention Account LFO. Restitution is not included in these calculations. SMC median values are \$866 for DUIs, \$143 for DVs, \$0 for Non-DV, Non-DUI and \$2,650 for sexual exploitation.

## Compare LFO imposition rates with available data from other Washington Courts of Limited Jurisdiction.

The following section compares LFO imposition practices at SMC to other courts in King County and across the country. Obtaining information on the practices in other jurisdictions is critical to evaluating internal court practices; however, there are some challenges and limitations to comparing SMC to other jurisdictions.

First, there is not much available data to which to compare. For this study, analysts utilized data obtained from King County District Court, data from a statewide Probation survey, and data pulled from the nonprofit Measures for Justice, but generally there is not a lot of published data on LFO imposition in municipal courts.

Second, SMC is the largest municipal court serving the largest city in the State of Washington. The volume of cases, the number of judges, and the diversity and needs of defendants at SMC differ substantially than most of the 200-plus other municipal courts in Washington. Analysts could use out-of-state comparable courts of limited jurisdictions, but the difference in court structure between state criminal justice systems and the different types of LFOs that are created by individual state legislatures make that approach limiting as well.

### *Criminal Conviction Fee*

To get a better picture on how SMC LFO practices compare to other jurisdictions, analysts contacted King County District Court (KCDC) to see if they could provide data on the number of times the most common criminal LFO, the criminal conviction fee, is imposed. KCDC might be the most similar court in Washington to SMC. It is charged with adjudicating misdemeanor and gross misdemeanor criminal matters that originate in unincorporated King County or 12 contracted cities within the county.<sup>70</sup> The criminal conviction fee is a \$43 fee mandated by the legislature that is to be imposed on every conviction or plea of guilty.<sup>71</sup>

KCDC provided data on the number of criminal convictions imposed on cases with a conviction or guilty finding in 2015 and 2016. SMC analysts then queried MCIS to determine this same figure for cases with a conviction or finding of guilt at SMC in 2015 and 2016. Figure 70 compares the rate of CCFE imposition between these two courts over the noted time period.

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<sup>70</sup> As of 2016, these cities include: Beaux Arts, Bellevue, Burien, Carnation, Covington, Duvall, Kenmore, Redmond, Sammamish, Shoreline, Skykomish, and Woodinville.

<sup>71</sup> RCW 3.62.085

Comparison of CCFE Imposition by Court	KCDC		SMC	
	2015	2016	2015	2016
Year				
# of convictions / guilt findings	7,728	6,177	3,429	3,519
# of CCFE imposed	5,998	4,744	1,348	1,538
# of CCFE not imposed	1,647	1,414	2,081	1,981
% of cases where CCFE was ordered	78%	77%	39%	44%

**Data Notes:** KCDC for 2016 was only provided through 12/20/2016. SMC data was also adjusted for comparative purposes. This data will not match the number of CCFEs imposed in section two of this report, because they are from a different case sample (cases with convictions in 2015 or 2016 at SMC). Judges at SMC do not waive the CCFE, but suspend it if a defendant is determined to not have the ability to pay the LFO.

Figure 70: Comparison of CCFE Imposition by Court

Figure 70 indicates judges at SMC impose the criminal conviction fee on approximately 40% of convictions or guilty findings in 2015 and 2016, while at King County District Court this rate is closer to 80%. This difference is very large given KCDC and SMC are two courts that hear similar case types in the same city. It suggests a differing judicial philosophy may exist with regards to how the criminal conviction fee is imposed.

#### *Probation Supervision Fee*

The major discretionary LFO SMC imposes on defendants is the Probation Supervision Fee (PSFE). Figure 43 on page 59 of this study indicates the PSFE accounts for 78% of all discretionary criminal LFOs imposed at SMC, and that does not include associated monitoring fees including the records check fee, work crew fee or community service fee.

If policy changes are considered to specific LFOs at SMC, the PSFE is the LFO that accounts for the largest proportion of revenue that would not require state legislative changes. Currently, SMC assesses the PSFE at a rate of \$25 per month for active probation monitoring (typically two years) or \$600 per case.

For DUI and DV cases, SMC also assesses \$10 for non-active probation / records checks, which can last up to three years after the conclusion of active probation or \$360. Both the PSFE and the non-active monitoring fees are waived if defendant indigence is determined. In 2016, the Court collected \$288,000 in monies associated with the PSFE. This money could be associated with cases filed in 2016 or any prior year.

SMC analysts do not have access to specific data on how frequently the PSFE is imposed or collected in other Washington jurisdictions. However, the court did obtain survey results from the Washington Misdemeanant Corrections Association (WMCA) detailing how much each jurisdiction charges for probation supervision.<sup>72</sup> Figure 71 provides a quick summary of the PSFEs being charged in some of Washington State's larger courts of limited jurisdiction.

<sup>72</sup> Complete results from the WMCA survey can be found here: <https://0c274a4d-a-62cb3a1a-sites.googlegroups.com/site/wamcalink/mca-file-cab/Survey->

Jurisdiction	Fees per Month*	Fees per year	% Difference
Seattle Municipal	\$25 active, \$10 monitored	\$300	n/a
Auburn Municipal	\$100	\$1,200	400%
Bellevue Municipal	\$65	\$780	260%
Kent Municipal	\$75 active, \$10 monitored	\$900	300%
King County	\$65 active, \$20 monitored	\$780	260%
Olympia Municipal	\$360 / year, \$480 / 2 years.	\$360	120%
Pierce County	\$35	\$420	140%
Puyallup Municipal	\$50	\$600	200%
Renton Municipal	\$500 flat fee	\$500	167%
Thurston County	\$20 active, \$10 monitored	\$240	80%
Tukwila Municipal	\$12.50 active, \$10 monitored	\$150	50%

\* Fees are per month unless otherwise noted.

Figure 71: Comparison of PSFEs by Jurisdiction

This table shows that SMC is on the low end of PSFE imposition, at least for jurisdictions who responded to the WMCA survey. The fourth column in the table calculates the percent difference between the jurisdiction's annual PSFE charge and the annual charge at SMC. Courts highlighted in orange charge more for probation supervision than SMC and courts in blue charge less.

#### *Measures for Justice Data Portal*

The final piece of comparative data comes from the nonprofit organization Measures for Justice.<sup>73</sup> Measures for Justice (MFJ) was founded in 2011 to develop a data-driven set of performance measures to assess and compare the criminal justice process from arrest to post-conviction across the country on a county-by-county basis. MFJ currently publishes criminal justice performance measures for six U.S. states including Florida, North Carolina, Pennsylvania, Utah, Wisconsin and Washington. Of these states, MFJ reports select county-level court fee and fine data in Pennsylvania, Florida and Washington.

This data can be filtered by race, sex, age, offense severity, offense type, and court type. While the study period MFJ uses is different than the one in this report, their results are likely the best comparative information available on LFO practices in other jurisdictions.

From the available MFJ data, SMC analysts compiled the table below to offer a comparison of the median LFOs imposed on "lower court" defendants in four jurisdictions determined to be most-similar

[ProbitonFeesandCaseload.pdf?attachauth=ANoY7cr0-aler\\_SZxGWxvHVd5qLFOxjLcGydnMd0oUCIH5iWh2jo7xVgTHCzR1\\_WB9NLhKSdXbd3QdLjt3RSfvmSkqa4dq6P0tq\\_q1SnQBUEhgPZ0efQJbO\\_Hlb1qA\\_xlpAjQ-k-C3tpmLb5WO2g1rzBxmEmcPqNNOI6tgcOiti-OLSCHzAw6aefVsQEQLziHDZDQ0bglQeWbc1IN3aIAxL5KQPumgi\\_823A4WCW\\_nCcN1LaOyiaVwmqV-R0ozMj7707OtB3J-FX&attredirects=0](http://probitonfeesandcaseload.pdf?attachauth=ANoY7cr0-aler_SZxGWxvHVd5qLFOxjLcGydnMd0oUCIH5iWh2jo7xVgTHCzR1_WB9NLhKSdXbd3QdLjt3RSfvmSkqa4dq6P0tq_q1SnQBUEhgPZ0efQJbO_Hlb1qA_xlpAjQ-k-C3tpmLb5WO2g1rzBxmEmcPqNNOI6tgcOiti-OLSCHzAw6aefVsQEQLziHDZDQ0bglQeWbc1IN3aIAxL5KQPumgi_823A4WCW_nCcN1LaOyiaVwmqV-R0ozMj7707OtB3J-FX&attredirects=0)

<sup>73</sup> <https://measuresforjustice.org/>

to Seattle<sup>74</sup>. These jurisdictions include the counties with the three largest cities in Pennsylvania and Florida for which there is available LFO data and King County, Washington.<sup>7576</sup>

Figure 72 compares the methodology and results in the MFJ study versus the results at SMC.

### Comparison of Measures for Justice and Seattle Municipal Court LFO Data<sup>77</sup>

Source	Measures for Justice					Seattle Municipal Court
Time Period	2009 - 2013					2011 - 2015
Sample	Cases with convictions					Cases with at least one LFO entered
Location	Allegheny County (Pittsburgh, PA)	Philadelphia County, (Philadelphia PA)	Hillsborough County (Tampa, FL)	King County (Not Seattle)	City of Seattle	
Population <sup>78</sup>	1,226,933	1,536,704	1,257,913	1,365,907	608,660	
# cases with convictions <sup>79</sup>	31,546	60,816	53,460	26,458	16,718	
# cases with fee imposed	26,814	59,904	52,765	25,656	8,540	
% of cases with fee imposed	85.0%	98.5%	99%	91.2%	51.1%	
Median of cases w/ fee imposed	\$1,614	\$616	\$315	\$593	\$391	

Figure 72: Comparison of Measures for Justice and SMC LFO Data

Data in Figure 72 suggest median LFOs imposed on convictions at SMC between 2011 – 2015 were lower than other jurisdictions in King County and Allegheny and Philadelphia Counties, but higher than

<sup>74</sup> “Lower courts” is defined by MFJ as courts that do not hear felony cases. In the State of Pennsylvania, MFJ did not provide a “lower court” filter, but they did allow data to be filtered by charge severity (misdemeanor / felony). For this state, RPEG relied upon median LFOs for misdemeanor cases.

<sup>75</sup> LFO data was not available in the Florida Counties with the two largest cities (Jacksonville and Miami), so analysts judged Tampa, FL to be the most similar from Florida jurisdictions for which data was available.

<sup>76</sup> Please note that MFJ relied on Washington AOC data that does not include Seattle Municipal Court when compiling King County data. This enables analysts to compare SMC data to other courts in King County (i.e. King County District and other independent King County municipal courts).

<sup>77</sup> Measures for Justice (2017). *Measures for Justice Data Portal*. (Data Release: 1.0.2, Portal: 1.0.54). Retrieved from <https://www.measuresforjustice.org> on 6/8/2017.

<sup>78</sup> Population estimates provided by MFJ based on U.S. Census Bureau, American Community Survey 5-Year estimate (2013).

<sup>79</sup> A conviction is defined as the final judgment on a case after a verdict or plea of guilty and include deferred sentences, suspended sentences and entered findings.

Hillsborough County from 2009 – 2013. Compared with all four other jurisdictions, SMC imposes no monetary sanctions on a far greater percentage of cases than in any of the other four jurisdictions.

While MFJ data provides the best available comparative fee and fine data, there are some notable limitations<sup>80</sup> and methodological differences. The limitations include:

- The study time periods between the SMC and the MFJ datasets are different, so any changes in LFO practices over time will not be reflected in this comparison.
- There are major state differences in court structure, policies and practices that courts follow to impose LFOs, and differing legislative requirements that make cross-state comparisons challenging.
- Presenting median LFO amounts without attention to type of case is not as valuable from a policy perspective because sanction amounts differ greatly depending on the case type.

Measures for Justice also relies on a slightly different methodology than SMC analysts for calculating median fees and fines. MFJ only examines median LFOs on cases where there were convictions, whereas for the broader study, SMC identified any case where an LFO is entered, including on cases with alternative dispositions, such as deferred prosecutions or stipulated orders of continuance. MFJ also does not include cases where a LFO is entered but the amount is waived or suspended in its median calculation. Throughout this report, SMC analysts include cases where an LFO is imposed, but the monetary sanction is suspended or waived.

To account for these limitations in the *Comparison of Measures for Justice and Seattle Municipal Court LFO Data*, SMC analysts did adjust our methodology, so the \$391 median LFO amount only includes convictions and does not include cases where LFOs were completely waived or suspended. If SMC did not make this adjustment for comparative purposes, the median LFO amount at SMC is \$25, regardless of case type. This difference is large because judges frequently waive or suspend all fees and fines on Non-DV, Non-DUI cases.

As mentioned above, MFJ data can be filtered by defendant race, defendant gender, defendant age, charge severity, and type of offense. Below are the median fees and fines imposed broken out by these specific variables in King County between 2009 – 2013<sup>81</sup>.

- *The median amount of fees and fines assessed was \$593.*

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<sup>80</sup> MFJ's published disclaimer about data quality states "*Measures for Justice (MFJ) works with data extracted from administrative case management systems. These data were originally collected by the sources for the purpose of tracking the processing of individual cases and not necessarily for the purpose of measurement. Nevertheless, they are suitable for measurement provided they are handled correctly. Often, these data are reliable. Just as often, they can be entered incorrectly or not at all, may be subject to errors at any stage of the recording and collection process, and may not be standardized across counties. MFJ has taken steps to account and adjust for these problems but cannot correct entirely for errors in data entry. For these reasons, and because jurisdictions use a variety of calculation methods, we encourage examining overall patterns instead of exact percentages.*"

<sup>81</sup> Measures for Justice (2017). *Measures for Justice Data Portal*. (Data Release: 1.0.2, Portal: 1.0.54). Retrieved from <https://www.measuresforjustice.org> on 6/8/2017.

- *The median amount of fees and fines assessed to nonwhite defendants was the same as for white defendants.*
- *The median amount of fees and fines assessed to female defendants were the same as for male defendants.*
- *The median amount of fees and fines assessed was \$600 for all defendant age groups.*
- *The median amount of fees and fines assessed to was \$600 for both misdemeanors and gross misdemeanors.*
- *The median amount of fees and fines assessed was \$600 on a property offense, \$600 on a public order offense, \$600 on a “other offense” and \$724 on a criminal traffic offense.*

King County is probably the jurisdiction most comparable to SMC. The results above are like data previously presented in this report; no sizable differences in LFO imposition amounts between different demographic characteristics. The median LFO amounts reported by MFJ in King County do appear higher than what is reported at SMC between 2011 and 2015.

## Section 3: Inventory of Infraction Fines and Fees Imposed at SMC

Infractions accounted for at least 93% of the monies collected at SMC in 2016. The following section provides data on the total, average and median amounts of infraction fees and fines imposed, and where available, breaks out this information by defendant demographic characteristics.

### Methodology and Data Definitions:

The study sample for this section of the report is all Seattle infractions issued between 2014 and 2016. Providing the three most recent full years of data demonstrates trends over time. Unlike the previous section, 2016 data is included because infraction cases resolve more quickly than criminal cases as prescribed by statute and court rules. At this point, most infraction cases issued in late 2016 have had enough time to resolve.

Infractions at SMC consist of traffic and non-traffic infractions, parking infractions, and traffic camera infractions. Court analysts queried MCIS to compile a dataset that included financial obligation type and amount, case and charge information including type of violation, disposition on case, and defendant demographic information (age, race, gender).

The following are definitions for court terms and business processes that relate to the SMC infraction adjudication process:

Infractions: Civil proceedings initiated in a court of limited jurisdiction, like SMC, pursuant to statutory authority such as the Seattle Municipal Code and Revised Code of Washington (RCW). In this report, the term “infractions” can refer to the broad category of all infractions such as parking, traffic camera, non-traffic, and traffic infractions. Alternatively, “infractions” could be limited to traffic and non-traffic infractions only, which are filed and charged against a well-identified person and distinguished from parking and traffic camera.

Traffic Infractions: Infractions in the traffic category are listed in the Seattle Municipal Code’s Title 11 and RCW Title 46. They typically include matters relating to operating a motor vehicle or rules of the road. Traffic infractions are initiated by law enforcement or the city prosecuting authority against a well-identified person.

Non-Traffic Infractions: Infractions in the non-traffic category are listed throughout the Seattle Municipal Code. They involve matters that do not relate to motor vehicles and rules of the road. Non-traffic infractions are initiated by law enforcement or the city prosecuting authority against a well-identified person.

Parking Infractions: Infractions in the parking category are specifically listed in the Seattle Municipal Code’s Title 11 Part 7 – Stopping, Standing, Parking and Loading. Parking infractions are issued against

the vehicle as identified by the parking enforcement officer.<sup>82</sup> The vehicle owner, as indicated by Department of Licensing records, is presumed to be responsible for parking infractions, but may present evidence of non-responsibility to the court. Parking infractions do not carry state assessed fees.

Traffic Camera Infractions: Infractions in the traffic camera category are governed by Seattle Municipal Code.<sup>83</sup> The City currently uses stationary traffic cameras to enforce red light and school zone speed violations. The camera captures electronic images and a Seattle Police officer reviews the images. If the officer concludes that a violation was committed, they issue the traffic camera infraction against the vehicle. Like parking infractions, the registered owner of the vehicle is presumed to be responsible for the infraction. Another similarity to parking infractions is that traffic camera infractions do not carry state assessed fees.

Rules that Govern Infraction Process and Procedure: Rules for infraction process and procedure are prescribed in the Infraction Rules of Limited Jurisdiction (IRLJ) at the state level and apply to all courts of limited jurisdiction in the state of Washington<sup>84</sup>. SMC Local Infraction Rules (SMCLIR) include local infraction procedure as well as penalty schedules for non-traffic and parking violations. For most traffic violations, the Court follows the amounts in IRLJ 6.2(d). For non-traffic and parking violations, the Court follows the amounts in SMCLIR 6.2(a)<sup>85</sup>.

Penalty: Unlike criminal financial obligations, there is no judicial process to suspend fees and fines. Each violation has a statutorily prescribed penalty amount. The total assessed amount for each infraction issued prior to any court adjudication includes the penalty amount plus any fee amounts assessed by statute.

Parking Bail: Similar to Penalty, Parking Bail is the penalty amount prescribed by the Seattle Municipal Code (SMCLIR 6.2(a)) prior to any court adjudication specific to parking violations.

Fine: Fine, for the purposes of infraction adjudication and as defined in the Court's case management system, is the amount adjusted and imposed from the penalty amount after court adjudication. The amount may be the same as the original penalty if the Court finds no reason or justification to mitigate the penalty amount.

Infraction Financial Obligation: For this study, a financial obligation (fine or fee) is defined as any obligation assessed by the Court on an infraction case with a monetary assessment. There were 14 different fees and fines routinely assessed on infractions at SMC. They are provided in Figure 73 on page 85.

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<sup>82</sup> SMC 11.31.080.

<sup>83</sup> SMC 11.31.090.

<sup>84</sup> [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.list&group=clj&set=IRLJ](http://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=clj&set=IRLJ)

<sup>85</sup> <http://www.seattle.gov/courts/general/rules.htm>

Well-Identified Person as Defendant: Traffic and non-traffic infractions are filed and charged against a well-identified person. These infractions typically involve a member of law enforcement initiating contact with a person, and the person is cited based on identification presented at the request of the officer. SMC assigns and maintains a unique identification number to well-identified individuals. Parking infractions are not issued to well-identified persons, but are placed on vehicles, and tracked based on vehicle's license plate number. Traffic camera infractions are issued to the registered owner of the vehicle photographed by the traffic camera.

**Table IN1: SMC Fines and Fees Imposed on Infraction Cases**

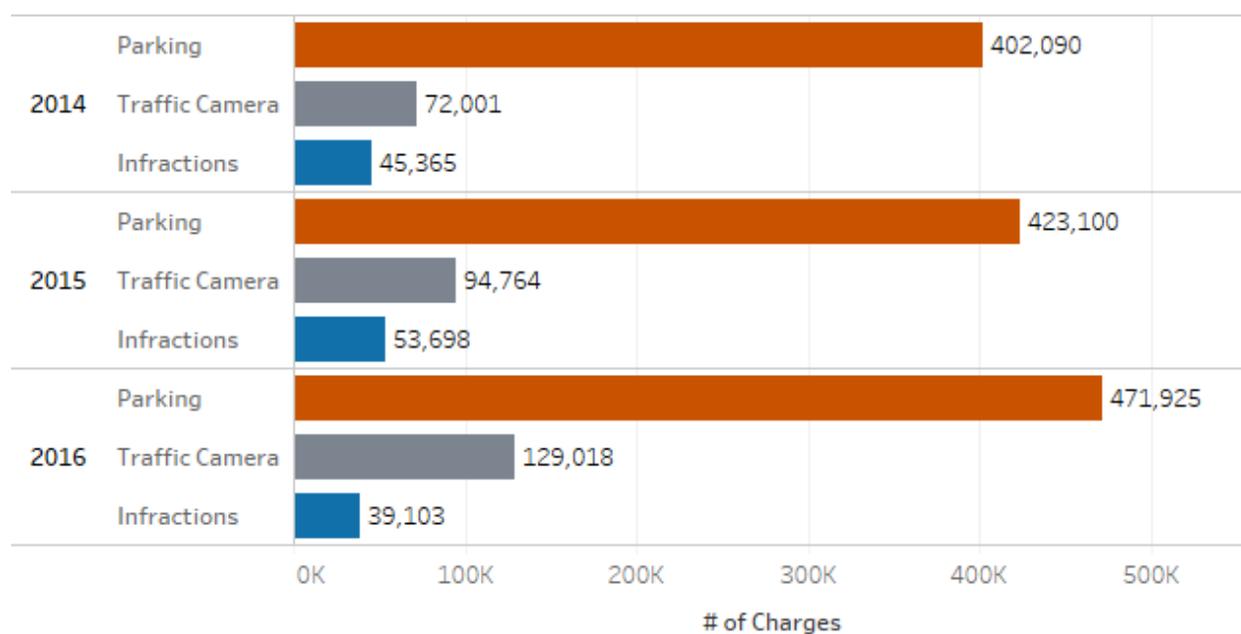
<b>MCIS Obligation</b>	<b>Fee / Fine Name</b>	<b>SMC/RCW/IRLJ Authority</b>	<b>Fee Amount</b>	<b>Able to Suspend due to indigency Y/N?</b>	<b>Where \$ goes</b>	<b>%</b>
ACCP	Traffic Infraction Accident Fee	\$51 - IRLJ 6.2(d)	State \$51	Y	State/City	45%/55%
ATPA	Auto Theft Prevention Authority	RCW 46.63.110(7)(b)	\$10	N	State	100%
CFEE	Cancellation Fee	SMC 11.20.345, RCW 46.30.020(2)	\$25	Y	State/City	2%/98%
CINT	Collection Interest	RCW 46.63.110(6)(b)	12% of ticket amount	Y	State/City	100%
DFAF	Deferred Finding Administrative Fee	SMC 11.31.050(E)	\$124	N	City	100%
DFLT	Default - Failure to Respond Fee	RCW 46.63.110(4), SMC 11.31.120(B)	\$25 / \$52	Y	State/City	45%/55%
FINE	Fine Amount	SMC 11.31.120, 11.31.070	Varies	Y	City	100%
JISF	JIS Fee	Supreme Court Order No. 25700-A-712; RCW 2.68.040(1), 46.63.110	\$47	Y	State/City	77%/23%
LASS	Legislative Assessment	RCW 46.63.110(8)(a)	\$20	Y	State/City	62%/38%
PSEA	Public Safety Education Assessment	RCW 3.62.090	105% of base penalty	Y	State/City	32%/68%
PRKB	Parking Bail	SMC 11.31.121	\$29 to \$250	Y	City	100%
PRKD	Parking Default Penalty (also applies to TC)	RCW 46.63.110(4), SMC 11.31.120(B)	\$25	Y	State/City	45%/55%
PTLY	Penalty	RCW 3.50.100, SMC 11.31.115, 11.31.120, IRLJ 6.2(d), SMCLR 6.2(a, b)	Varies by violation	Y	State/City	32%/68%
TBIA	Traumatic Brain Injury Fee	RCW 46.63.110(7)(c), 74.31.060	\$2	Y	State	100%
TCSS	Trauma Care System	RCW 46.63.110(7)(a), 70.168.040	\$5	N	State	100%

*Figure 73: Table IN1 - SMC Fines and Fees Imposed on Infraction Cases*

**Infraction Demographic Data Limitations:** In addition to the demographic data limitations already described in the criminal fee inventory section that involve how the Court captures data on defendant race, there are legal and procedural factors that further limit the analysis of demographic data for parking and traffic camera infractions.

Figure 74 shows the total number of charges in the three infraction categories filed and processed at SMC. There are between 500,000 to 600,000 infraction charges issued each year. However, the Court can only collect demographic data on the smaller subset of traffic and non-traffic infractions, which make up only 6 to 9% of all infraction types issued at SMC each year.

**Number of Charges in Parking, Traffic Camera, and Traffic/Non-traffic Infractions at SMC, by Year, 2014 - 2016**



'Infractions' include traffic and non-traffic infraction filings.

*Figure 74: Number of Charges in Parking, Traffic Camera, and Traffic/Non-traffic Infractions at SMC by Year, 2014-2016*

This is because traffic and non-traffic infractions are issued to a well-identified person and as such, demographic data is recorded by Seattle Police and tracked by the Court in MCIS. Parking and traffic camera infractions, which make up around 90% to 94% of all infractions at SMC, are issued to vehicles rather than persons, and as such there is no demographic data associated with these tickets.

A complete inventory of SMC infraction fines and fees addresses the following four research areas:

1. Define the different fees and fines imposed on infraction cases at SMC. Provide the legislative authority, whether the fee or fine is mandatory or discretionary, the associated policy goals of the fee or fine, and where the revenue generated from the fee or fine is directed.
2. Document the number and amount of each fine or fee imposed at SMC.
3. Determine the total, average and median infraction fine and fee amounts assessed. Examine the number of infractions filed and amounts imposed for available demographic groups.
4. Review the infraction disposition process at SMC and the various paths an infraction goes through to result in a legal financial obligation.

Define the different fines and fees imposed on infraction cases at SMC. *Provide the legislative authority, whether the fine or fee is mandatory or discretionary, the associated policy goals of the fine or fee, and where revenue generated from the fine or fee is directed.*

SMC Magistrates are required or authorized to impose a variety of different fees and fines on infraction cases. Each fine or fee has different legislative authority with different details regarding whether it is mandatory or discretionary. The revenue collected from these legal financial obligations are also directed to different State of Washington funds or to the City of Seattle General Fund, depending on legislative direction.

Figure 73 of this study lists the 15 infraction fines and fees imposed at SMC and the associated legislative authority for each fine or fee. The table also identifies whether the fine is mandatory or can be waived due to indigence and whether the money is directed to the State or the City. In terms of policy goals, Figure 75 below provides a little more information regarding the general purpose of the funding, if applicable.

<b>Table IN2: Infractions Fines and Fees, Revenue Purpose</b>		
<b>MCIS Obligation</b>	<b>Fee / Fine Name</b>	<b>Revenue / Policy Purpose</b>
<b>ACCP</b>	Traffic Infraction Accident Fee	If an accident occurs in conjunction with any rules of the road infractions or speed too fast for conditions infractions, this amount is added to the infraction.
<b>ATPA</b>	Auto Theft Prevention Authority	Monies are deposited in the Washington auto theft prevention authority account for its use. The agency's mission is to prevent and reduce motor vehicle thefts in the state.

<b>CFEE</b>	Cancellation Fee	The state legislature by enacting HB 1576 (2003) allowed the court to assess an administrative fee in occasions when the driver cited with failure to provide proof of insurance subsequently presents proof that he or she was in fact covered by insurance at the time of the infraction. The legislation allows for the court to recover costs that are incurred when processing such dismissals.
<b>CINT</b>	Collection Interest	RCW 3.50.100 directs 25% of collection interest to be deposited in state general fund, 25% in a judicial information systems account to fund statewide court technology projects, 25% in City's general fund and 25% to City general funds to specifically fund local courts.
<b>DFAF</b>	Deferred Finding Administrative Fee	Seattle Municipal Code 11.31.050(E), and the state statute RCW 46.63.070(5)(a), afford the court the ability to offer deferrals and recover administrative costs that goes to tracking the defendant's violation activity and processing the final result of the infraction deferred.
<b>DFLT / PRKD</b>	Default - Failure to Respond Fee	This fee is imposed if a defendant fails to respond 19 days or more after receiving a citation or fails to appear in court after requesting a hearing. The default serves as a disincentive to encourage timely response when an individual receives a citation.
<b>FINE</b>	Fine Amount	The fine amount is the penalty or parking bail after court adjudication or mitigation.
<b>JISF</b>	JIS Fee	The money collected from this fee goes to the state's Judicial Information System Committee (JISC) account to fund statewide court technology projects.
<b>LASS</b>	Legislative Assessment	The state legislature enacted SB 5309 (2001-02) to provide funding for local government criminal justice agencies.
<b>PRKB</b>	Parking Bail	City prescribed penalty for specific violation. Penalty amounts vary by type of violation and serve as the monetary disincentive to encourage individuals to park legally. Money goes to City general fund.
<b>PSEA</b>	Public Safety Education Account	PSEA 1 requires all non-parking infractions to collect an assessment equal to 70% of the penalty. PSEA 2 requires the collection of an amount equal to 50% of PSEA 1. PSEA 1 funds are split between the City and State in the same fashion as the original penalty. PSEA 2 goes to the state, with 50% directed to the general fund and 50% to a fund dedicated to reimbursing judicial trial court salaries and funding statewide public defense services.

<b>PTLY</b>	Penalty	Statutorily prescribed penalty amount for the specific violation set by State. 32% of funds go to State general fund, 68% go to City general fund.
<b>TBIA</b>	Traumatic Brain Injury Fee	Monies in the account may be spent and used only to support the activities in the statewide traumatic brain injury comprehensive plan, to provide a public awareness campaign and serves relating to brain injury under RCW 74.31.040 and 74.31.050.
<b>TCSS</b>	Trauma Care System	Monies are used only for the purposes of the state trauma care system, including emergency medical services, rehabilitative services, and the planning and development of related services and for reimbursement by the health care authority for trauma care services provided by designated trauma centers.

Figure 75: Table IN2 - Infractions Fines and Fees, Revenue Purpose

Document the number and amount of each infraction fine or fee imposed at SMC.

Figure 76 provides data on the 12 fines and fees imposed on traffic and non-traffic infraction cases filed at SMC between 2014 and 2016.

#### Traffic/Non-Traffic Infractions Fines & Fees Imposed at SMC, by Year, 2014 - 2016

		2014	2015	2016
<b>Accident (Traffic Infraction) Fee</b>	# of Obligations	2,020	2,013	2,042
	Imposed Amount	\$146,527	\$119,468	\$120,882
<b>Auto Theft Prevention Authority</b>	# of Obligations	36,886	43,411	32,854
	Imposed Amount	\$438,240	\$546,682	\$421,443
<b>Cancellation Fee</b>	# of Obligations	902	1,009	331
	Imposed Amount	\$29,231	\$37,475	\$14,975
<b>Collection Interest</b>	# of Obligations	1,947	1,999	572
	Imposed Amount	\$50,214	\$30,602	\$4,413
<b>Default - Failure to Respond</b>	# of Obligations	13,229	17,020	13,176
	Imposed Amount	\$780,925	\$984,278	\$773,345
<b>Deferred Finding Admin Fee</b>	# of Obligations	3,941	4,373	2,413
	Imposed Amount	\$508,276	\$572,012	\$318,308
<b>Fine Amount</b>	# of Obligations	11,153	12,238	9,059
	Imposed Amount	\$763,310	\$795,287	\$575,943
<b>JIS Fee</b>	# of Obligations	37,242	45,750	34,997
	Imposed Amount	\$1,536,711	\$2,195,416	\$1,914,610
<b>Legislative Assessment</b>	# of Obligations	36,592	43,397	32,850
	Imposed Amount	\$870,662	\$1,093,025	\$842,752
<b>Penalty</b>	# of Obligations	27,304	35,784	27,897
	Imposed Amount	\$4,623,281	\$6,093,076	\$5,110,345
<b>Trauma Care System</b>	# of Obligations	37,020	43,426	32,858
	Imposed Amount	\$219,965	\$273,465	\$210,765
<b>Traumatic Brain Injury Fee</b>	# of Obligations	36,880	43,398	32,845
	Imposed Amount	\$87,648	\$109,308	\$84,252

Figure 76: Traffic/Non-Traffic Infraction Fines and Fees Imposed at SMC, by Year 2014-2016

For traffic and non-traffic infractions, a single case has several fine and fee obligations that add up to the total amount for which a Seattle Police officer writes the ticket. For example, a typical \$136-dollar traffic infraction has the following six fines and fees adding up to the total amount owed on the ticket<sup>86</sup>:

<sup>86</sup> Please note that when individuals pay traffic tickets, they are generally unaware of the break out of fine amount versus additional state assessments. They are simply issued a ticket in the full amount of \$136.

Penalty Amount	\$25
JIS Fee	\$47
Auto Theft Prevention	\$10
Legislative Assessment	\$20
Trauma Care System	\$5
Traumatic Brain Injury Fee	\$2
Public Safety Education Account 1	\$18
Public Safety Education Account 2	\$9
<b>Total ticket amount</b>	<b>\$136</b>

For parking infractions, there are, with limited exception<sup>87</sup>, no fees and assessments attached to the original penalty amount. Figure 77 shows the number of money obligations imposed by type for all parking violations issued between 2014 and 2016 and the aggregate amount imposed for each obligation.

#### Parking Fines & Fees Imposed at SMC, by Year, 2014 - 2016

		2014	2015	2016
<b>Collection Interest</b>	# of Obligations	\$45,419	\$34,757	\$29,052
	Imposed Amount	\$253,378	\$148,504	\$60,209
<b>Fine Amount</b>	# of Obligations	\$23,462	\$20,727	\$23,495
	Imposed Amount	\$734,931	\$667,221	\$739,941
<b>Parking Bail</b>	# of Obligations	\$402,223	\$423,299	\$472,167
	Imposed Amount	\$19,443,347	\$20,522,239	\$22,982,557
<b>Parking Default Penalty</b>	# of Obligations	\$179,582	\$181,365	\$208,974
	Imposed Amount	\$4,490,685	\$4,536,647	\$5,226,977

Figure 77: Parking Fines and Fees Imposed at SMC by Year, 2014-2016

Typically, the Parking Bail amount is the only fine on a parking infraction and there are no other assessments. The most common parking ticket amount is \$47.00, although parking bail varies by type of violation. If a defendant fails to respond to the parking ticket within 19 days of it being issued, a \$25.00 default penalty is added to the ticket amount. Collection interest is added to the bail and default penalty amounts if the defendant fails to respond to additional notices and the ticket is sent to collections. SMC sends tickets to collections if there is no defendant response 45 days after ticket issuance. This accounts

<sup>87</sup> There are municipal assessments added to handicap placard violations, SMC 11.72.065, the revenue of which is directed to a City of Seattle fund that focuses on pedestrian safety infrastructure improvements.

for the initial 19 days defendants have to respond to the ticket and an additional 26 days where the ticket is in pre-collection status. If a vehicle owner chooses to contest or mitigate a ticket at the court, the monetary sanction that results from that process is the fine amount, taking the place of the original parking bail amount.

Traffic camera infractions are treated like parking infractions in that the violation is issued against the vehicle and registered owner and not the driver. Figure 78 shows the number of money obligations imposed by type for all traffic camera tickets issued between 2014 and 2016 and the aggregate amount imposed for each obligation. The business rules that govern collection interest, default penalty, bail amount and fine amount for parking tickets apply the same way for traffic camera tickets.

#### Traffic Camera Fines & Fees Imposed at SMC, by Year, 2014 - 2016

		2014	2015	2016
<b>Collection Interest</b>	# of Obligations	4,438	4,152	3,710
	Imposed Amount	\$54,974	\$37,168	\$15,124
<b>Fine Amount</b>	# of Obligations	8,346	10,241	14,426
	Imposed Amount	\$813,200	\$1,059,055	\$1,557,455
<b>Traffic Camera Bail</b>	# of Obligations	56,923	74,359	98,046
	Imposed Amount	\$8,987,834	\$12,788,269	\$19,305,984
<b>Traffic Camera Default Penalty</b>	# of Obligations	25,196	31,559	42,939
	Imposed Amount	\$629,954	\$788,975	\$1,073,554

Figure 78: Traffic Camera Fines and Fees Imposed at SMC, by Year, 2014-2016

Determine the total, average and median infraction fees and fine amounts assessed.

*Examine the number of infractions filed and amounts imposed for available demographic groups.*

#### Parking Infractions

In 2016, parking infractions made up over 75% of all infractions issued at SMC. However, approximately 90% of parking tickets issued are paid by vehicle owners without ever requesting a court proceeding to contest or mitigate the ticket amount. With a total of between 400,000 and 460,000 parking infractions each year from 2014 to 2016, only about 44,000 to 50,000 are addressed in court. Below, Figure 79 displays total parking infraction filings per year from 2014 to 2016. The bar differentiates between the number of parking infractions that were paid with no court proceedings and the ones that went through court proceedings.

Number of Parking Infractions Filed at SMC, 2014 - 2016

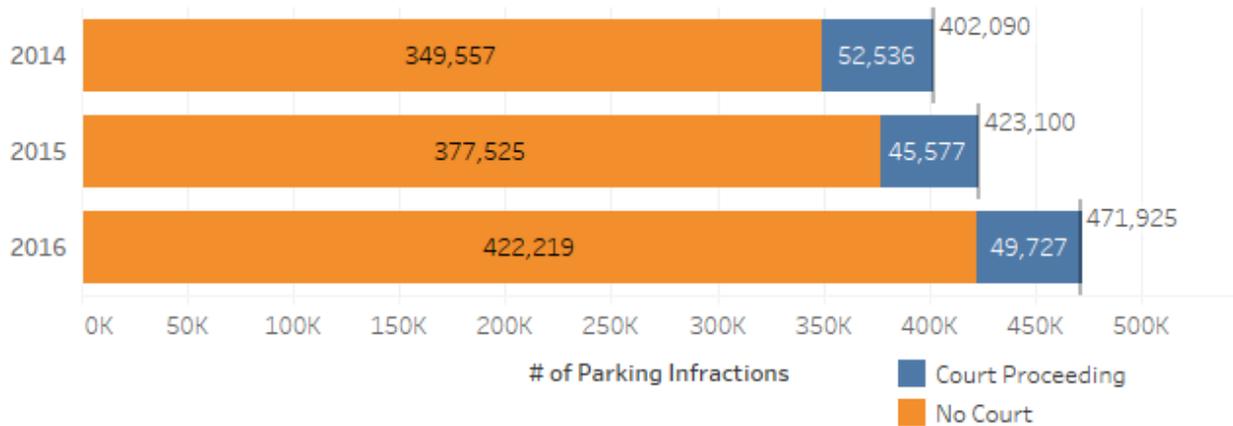


Figure 79: Number of Parking Infractions Filed at SMC, 2014-2016

Figure 80 presents the total average, and median amounts imposed at SMC on parking infraction cases filed between 2014 and 2016. This figure accounts for the total monetary value assessed on the ticket or in other words, the sum of the individual assessments for each ticket. The average and median parking ticket amounts remained constant throughout the three-year study period. The most common parking ticket bail amounts are \$44 and \$47. The higher average amount per citation is a result of some tickets having more costly charges issued, added default penalties and collections interest.<sup>88</sup>

Parking Fines & Fees Imposed at SMC, by Year, 2014 - 2016

	2014	2015	2016	Grand Total
Imposed Amount	\$24,930,761	\$25,932,640	\$29,041,366	\$79,904,767
Average Amount (per Infraction)	\$62	\$61	\$62	\$62
Median Amount	\$44	\$44	\$44	\$44

Figure 80: Parking Fines and Fees Imposed at SMC, by Year, 2014-2016

Traffic Camera Infractions

The filing numbers for traffic camera infractions grew 30% year-over-year from 2014 to 2016. The growth is attributable to additional camera installations throughout Seattle in this period. Like parking infractions, a large portion of traffic camera infractions are paid without the defendant engaging in court proceedings. Figure 81 shows the rate at which individuals adjudicate traffic camera tickets at SMC.

<sup>88</sup> The three most common parking violations issued at SMC in any given year are: Parking Payment Devices (\$44 bail), Expired / Improper Plates (\$47 bail), and Sign Posted Locations (\$47).

Number of Traffic Camera Infractions Filed at SMC, 2014 - 2016

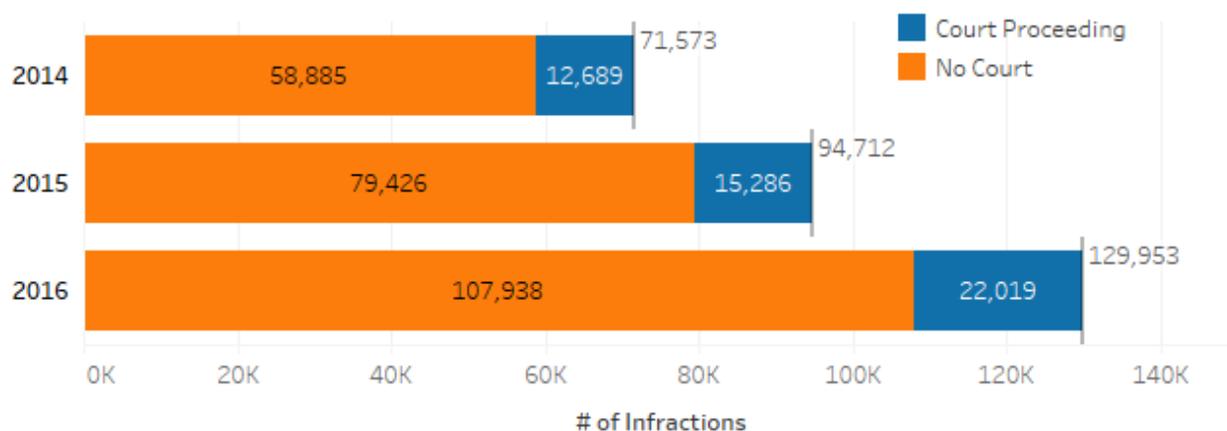


Figure 81: Number of Traffic Camera Infractions Filed at SMC, 2014-2016

As previously discussed, traffic camera infractions are handled similarly to parking infractions in that they are charges filed against the vehicle caught on camera and the responsibility is attributed to the registered owner of the vehicle. The registered owner is not a well-identified individual like a defendant issued a traffic or non-traffic infraction citation.

Figure 82 displays total, average and median ticket amounts for traffic camera infractions issued between 2014 and 2016. These amounts are substantially higher than parking infractions because the typical traffic camera violations have bail amounts of \$124 or \$136, more than double the typical \$44 or \$47 parking tickets. The higher average amount per citation is a result of some tickets having more costly charges issued, added default penalties and collections interest.

Traffic Camera Fines &amp; Fees Imposed at SMC, by Year, 2014 - 2016

	2014	2015	2016	Grand Total
<b>Imposed Amount</b>	\$10,485,962	\$14,673,467	\$21,952,117	\$47,111,546
<b>Average Amount (per Citation)</b>	\$161	\$174	\$195	\$180
<b>Median Amount</b>	\$124	\$124	\$136	\$136

Figure 82: Traffic Camera Fines and Fees Imposed at SMC, by Year, 2014-2016

### Traffic and Non-Traffic Infractions

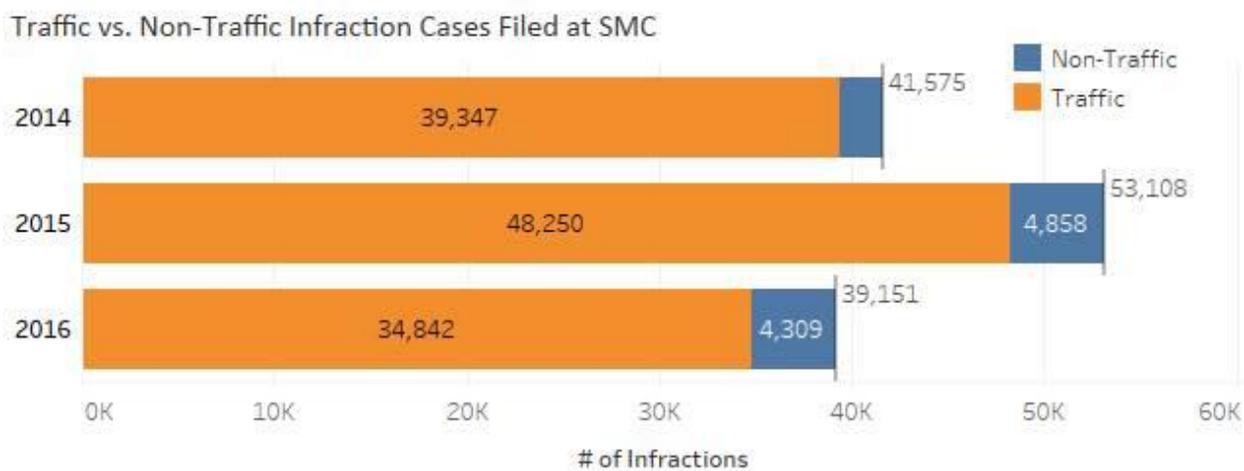
Penalties for traffic and non-traffic infractions are set statutorily by the Washington State legislature. Unlike parking tickets, the state legislature mandates many assessments to these types of infractions. Individuals receiving tickets are generally unaware of individual infraction assessments, which are not broken out on a ticket. Instead, individuals simply see the aggregated full-ticket amount, which is the sum of penalties and assessments.

The typical traffic infraction ticket is \$136, with the penalty amount consisting of \$25 or 18% of the full ticket amount. The four most common traffic violations at SMC include speeding, failure to obey traffic

control devices, driving without vehicle insurance, and inattentive driving.<sup>89</sup> Quoted bail amounts can vary widely on traffic infractions, particularly for speeding violations, where penalties increase, the greater number of miles per hour one is alleged to be over the posted limit.

Compared to other types of infractions, very few non-traffic tickets are issued by SPD every year. There were less than 5,000 issued each of the last three years. Like traffic infractions, Non-traffic infractions also vary widely in ticket amounts. The most common issued tickets are \$27 for consuming liquor or marijuana in public.<sup>90</sup> The costliest tickets issued are \$1,539 for operating a commercial vehicle without an appropriate license.

Figure 83 displays the number of infraction tickets issued by year and case type. On average, over the past three years, traffic infractions accounted for about 91% of tickets issued to well-identified individuals at SMC.



2,228 Non-Traffic Infractions in 2014.

Figure 83: Traffic vs. Non-Traffic Infraction Cases Filed at SMC

Figure 84 displays the total, average, and median traffic and non-traffic infractions filed at SMC. Traffic and non-traffic infractions are grouped together. Average amounts significantly higher than median amounts suggest that a smaller number of costly infraction tickets skew the average amount per citation.

**Traffic/Non-Traffic Infraction Fines & Fees Imposed at SMC, by Year, 2014 - 2016**

	2014	2015	2016	Grand Total
Imposed Amount	\$10,063,225	\$12,889,461	\$10,480,754	\$33,433,440
Average Amount (per Citation)	\$266	\$266	\$293	\$274
Median Amount	\$146	\$146	\$146	\$146

Figure 84: Traffic/Non-Traffic Infraction Fines and Fees Imposed at SMC, by Year, 2014-2016

<sup>89</sup> Data based on sample of all tickets pulled between 1/1/2017 and 6/11/2017.

<sup>90</sup> Data based on sample of all tickets pulled between 1/1/2017 and 6/11/2017.

Traffic and non-traffic infractions are issued to individuals and as such, allow for fines and fees imposition comparisons between demographic groups. Figure 85 presents enforcement trends in terms of the number traffic and non-traffic infraction filings against each race group from 2014 to 2016.

Traffic/Non-Traffic Infraction Cases Filed at SMC, by Race

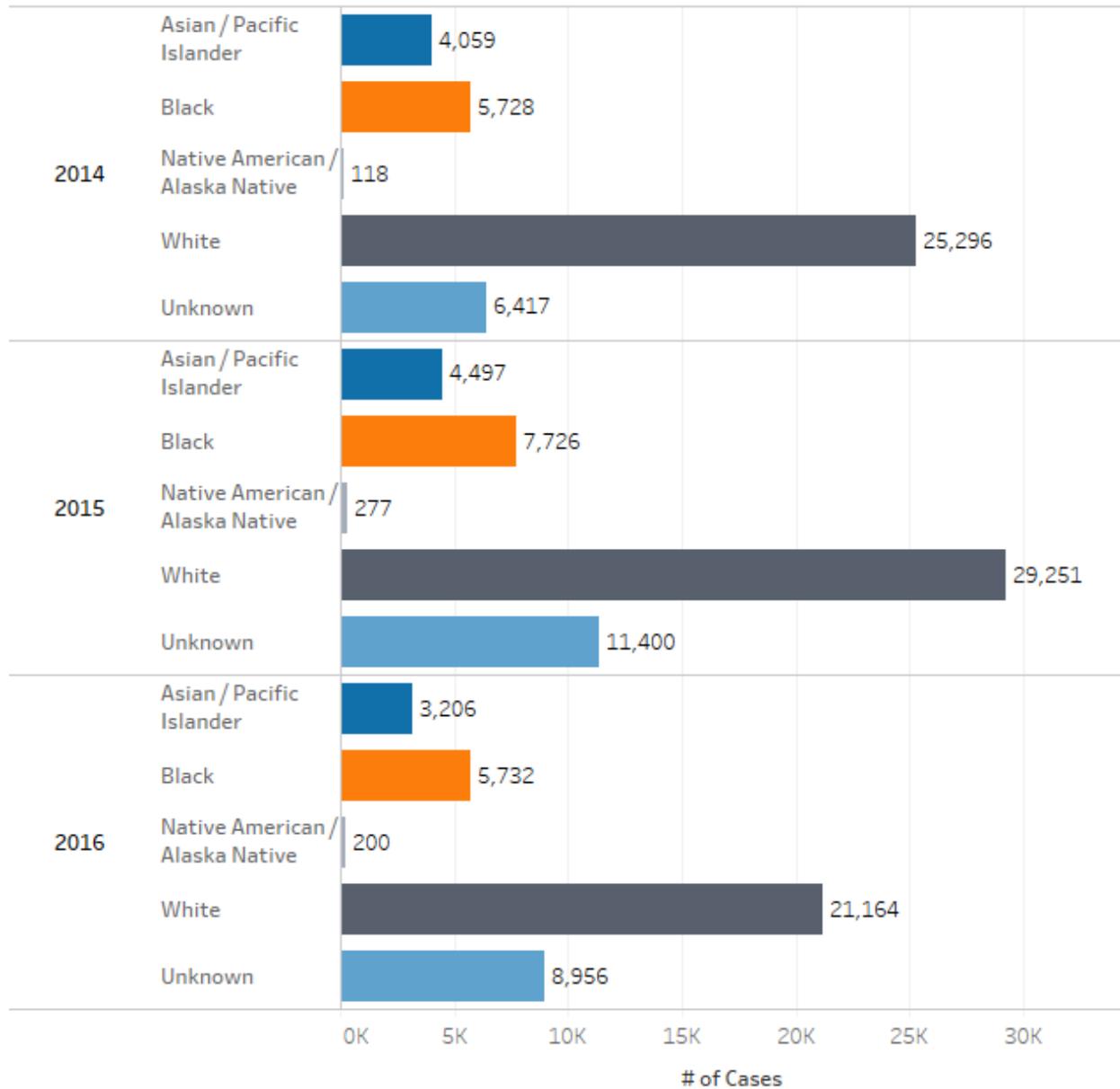


Figure 85: Traffic/Non-Traffic Infraction Cases Filed at SMC, by Race

Asian / Pacific Islander defendants received 9% of infractions, Black defendants received 14%, Native Americans / Alaska Native defendants received 0.4%, White defendants received 56% and no information is known for approximately 20% of individuals receiving traffic and non-traffic infractions.

These figures differ considerably from the sample of criminal defendants identified in section two of this report. Demographic rates by criminal case were 6% for Asian / Pacific Islanders, 28% for Blacks, 2% for Native American / Alaska Natives, 59% for Whites and 5% Unknown.

Figure 86 displays the total amount of infraction fines and fees imposed on traffic and non-traffic cases broken out by race groups from 2014 to 2016.

#### Traffic/Non-Traffic Infraction Fines & Fees Imposed at SMC, 2014 - 2016, by Race

	2014	2015	2016
Asian / Pacific Islander	\$838,131	\$985,727	\$751,477
Black	\$2,196,591	\$2,925,021	\$2,436,512
Native American / Alaska Native	\$33,126	\$57,136	\$67,816
White	\$5,433,762	\$6,119,459	\$4,972,400
Unknown	\$1,561,615	\$2,802,119	\$2,252,550

Figure 86: Traffic/Non-Traffic Fines and Fees Imposed at SMC, 2014-2016, by Race

The amounts imposed for each race group generally correspond to the number of infractions issued for each respective race group. Figure 87 compares the rate of infractions filed to the total monetary sanctions imposed by defendant race.

#### Comparison of Traffic/Non-traffic Infractions Issued and Fine and Fee Amounts Imposed, by Race

	% of Infractions Issued	% of Total Fines & Fees Imposed	% Differential: Infractions vs Fines & Fees
Asian / Pacific Islander	8%	9%	-1%
Black	23%	16%	7%
Native American / Alaska Native	0%	0%	0%
White	49%	55%	-6%
Unknown	20%	20%	0%

Figure 87: Comparison of Traffic/Non-Traffic Infractions Issued and Fine and Fee Amounts Imposed by Race

For the Asian / Pacific Islander, Native American / Alaska Native, and the Unknown group, the percent difference between the number of charges filed and the amount of fines and fees imposed were within 1%. This means, for those groups, they were imposed amounts in proportion to the number of charges filed against them, and the charges filed against them resulted in ticket amounts near the average amount provided in the above Figure 87.

Black defendants were charged 16% of all traffic/non-traffic infractions within 2014 and 2016, and were imposed 23% of the fines and fees obligations. In the same period, White defendants were charged 55% of the traffic/non-traffic infractions and were imposed 49% of the overall penalty amounts. It is difficult to say why Black and White defendants experienced this differential, but possible reasons could include different rates of response to initial infraction or different types of charges filed with higher- or lower-than average amounts of penalties within each race group.

Figure 88 displays average and median fines and fees by defendant race. The table supports the finding above that Black defendants receive costlier traffic and non-traffic infractions than other race groups.

Traffic/Non-Traffic Infractions Cases, Fine and Fee Amounts, Average, Median at SMC, 2014 - 2016, by Race

		Asian / Pacific Islander	Black	Native American / Alaska Native	White	Unknown
<b>2014</b>	Amount Imposed	\$838,176	\$2,193,156	\$33,456	\$5,427,073	\$1,571,956
	# of Cases	3,684	5,141	107	23,043	5,918
	Average Amount	\$228	\$427	\$313	\$236	\$266
	Median Amount	\$134	\$176	\$124	\$134	\$134
<b>2015</b>	Amount Imposed	\$989,830	\$2,922,171	\$55,822	\$6,116,912	\$2,807,915
	# of Cases	4,087	7,028	255	26,533	10,486
	Average Amount	\$242	\$416	\$219	\$231	\$268
	Median Amount	\$136	\$175	\$50	\$136	\$146
<b>2016</b>	Amount Imposed	\$750,179	\$2,432,160	\$68,336	\$4,975,477	\$2,258,931
	# of Cases	2,911	5,286	201	19,195	8,213
	Average Amount	\$258	\$460	\$340	\$259	\$275
	Median Amount	\$146	\$188	\$50	\$146	\$146

Figure 88: Traffic/Non-Traffic Infraction Cases, Fine and Fee Amounts, Average, Median at SMC, 2014-2016, by Race

The root cause of this appears to be that Black defendants are issued costlier original violations. Two common and expensive infractions at \$478 per ticket are Driving Without Motor Vehicle Insurance<sup>91</sup> and Driving without a Valid License<sup>92</sup>. For Asian and White defendants in the study, these violations made up about 5% to 6% of all traffic and non-traffic infractions issued. However, for Black defendants this percentage nearly tripled to 18%.

The final two charts in this section examine the amount of traffic / non-traffic infractions imposed on different genders and ages of defendants at SMC.

### Infractions by Defendant Gender

Figure 89 displays the number, penalties, average and median infractions imposed on traffic and non-traffic infraction cases by defendant gender.

<sup>91</sup> SMC 11.20.010(B)

<sup>92</sup> SMC 11.20.340

Traffic/Non-Traffic Infractions Cases, Fine and Fee Amounts, Average, Median at SMC, 2014 - 2016, by Gender

		Female	Male	Unknown
<b>2014</b>	Amount Imposed	\$3,291,013	\$6,748,789	\$24,015
	# of Cases	13,273	24,519	101
	Average Amount	\$248	\$275	\$238
	Median Amount	\$134	\$134	\$149
<b>2015</b>	Amount Imposed	\$4,148,839	\$8,719,050	\$24,760
	# of Cases	16,662	31,594	133
	Average Amount	\$249	\$276	\$186
	Median Amount	\$136	\$136	\$124
<b>2016</b>	Amount Imposed	\$3,289,477	\$7,067,222	\$128,383
	# of Cases	11,841	23,644	321
	Average Amount	\$278	\$299	\$400
	Median Amount	\$146	\$146	\$187

Figure 89: Traffic/Non-Traffic Infractions Cases, Fine and Fee Amounts, Average, Median at SMC, 2014-2016, by Gender

The average and median fine and fee amounts do not appear to be dramatically different by gender. The issuance rates to different genders do vary significantly for criminal cases versus infraction tickets. Approximately one out of five defendants in a SMC criminal matter are female, whereas that figure is one out of three for traffic and non-traffic infraction violations.

### Infractions by Defendant Age

Before analyzing data on infractions by defendant age, it is important to acknowledge that SMC offers a special program for teenage drivers who are charged with their first traffic violation. Seattle Youth Traffic Court allows defendants between the ages of 16 – 17 to appear in a Court of their peers and potentially have their charges dismissed in exchange for completing community service and / or participating as a juror in a future Youth Court proceeding<sup>93</sup>.

Figure 90 displays the number, penalties, average and median infractions imposed on traffic and non-traffic infraction cases by defendant age.

<sup>93</sup> More information about Seattle Youth Traffic Court can be found here: <http://www.seattle.gov/courts/youthcourt/youthcourt.htm>

## Traffic/Non-Traffic Infractions Cases, Fine and Fee Amounts, Average, Median at SMC, 2014 - 2016, by Age

		Under 25	25 - 34	35 - 44	45 - 54	55 - 64	65 or older	Unknown
<b>2014</b>	Amount Imposed	\$1,835,808	\$3,035,133	\$2,156,839	\$1,677,800	\$921,039	\$433,049	\$4,148
	# of Cases	4,833	10,418	8,769	7,020	4,436	2,397	20
	Average Amount	\$380	\$291	\$246	\$239	\$208	\$181	\$207
	Median Amount	\$176	\$154	\$134	\$134	\$124	\$124	\$165
<b>2015</b>	Amount Imposed	\$2,445,992	\$3,938,706	\$2,696,510	\$2,074,805	\$1,190,110	\$536,971	\$9,557
	# of Cases	6,185	13,540	10,888	9,007	5,755	2,989	25
	Average Amount	\$395	\$291	\$248	\$230	\$207	\$180	\$382
	Median Amount	\$175	\$146	\$136	\$136	\$134	\$134	\$248
<b>2016</b>	Amount Imposed	\$2,129,479	\$3,215,420	\$2,057,551	\$1,648,785	\$1,015,918	\$406,151	\$11,778
	# of Cases	4,697	10,338	7,940	6,349	4,307	2,159	16
	Average Amount	\$453	\$311	\$259	\$260	\$236	\$188	\$736
	Median Amount	\$187	\$166	\$146	\$146	\$136	\$136	\$146

Figure 90: Traffic/Non-Traffic Infractions Cases, Fine and Fee Amounts, Average, Median at SMC, 2014-2016, by Age

Average and median amounts appear to generally decrease as defendant age increases. Defendants under the age of 25 have higher average and median amounts imposed on their traffic and non-traffic infractions than other defendants. Court analysts looked more closely at the root cause of this trend. Like the finding for Black defendants above, it appears younger individuals are issued a higher proportion of more costly traffic and non-traffic violations, particularly for the \$478 Driving Without a License and Driving Without Motor Vehicle Insurance violations.

Review the infraction disposition process at SMC and the various paths an infraction goes through to result in legal financial obligations.

The final topic in section three identifies trends and demographic differences in infraction fines and fees, based on how an individual chooses to respond to the notice of infraction. As discussed above, upon receiving any type of infraction citation, the defendant has 19 days to respond. If the defendant fails to respond within the time allowed, the Court assesses a failure to respond (default) penalty and eventually engages with a third-party collection agency to collect unpaid amounts.

#### *Payment of Infractions Without Court Proceeding*

Whereas criminal fines and fees are subject to the Court entering a judgment after a finding of the defendant's guilt, infraction fines and fees are immediately payable at the committed finding, or at the

end of the statutorily prescribed time for which a defendant can respond. Remitting payment to the Court constitutes a plea of committed to the infraction. Below, Figure 91 shows infraction amounts that are paid as the defendant's direct response to the infraction without request for court proceedings.

#### Payment as Response to Infraction - No Request for Court Proceedings

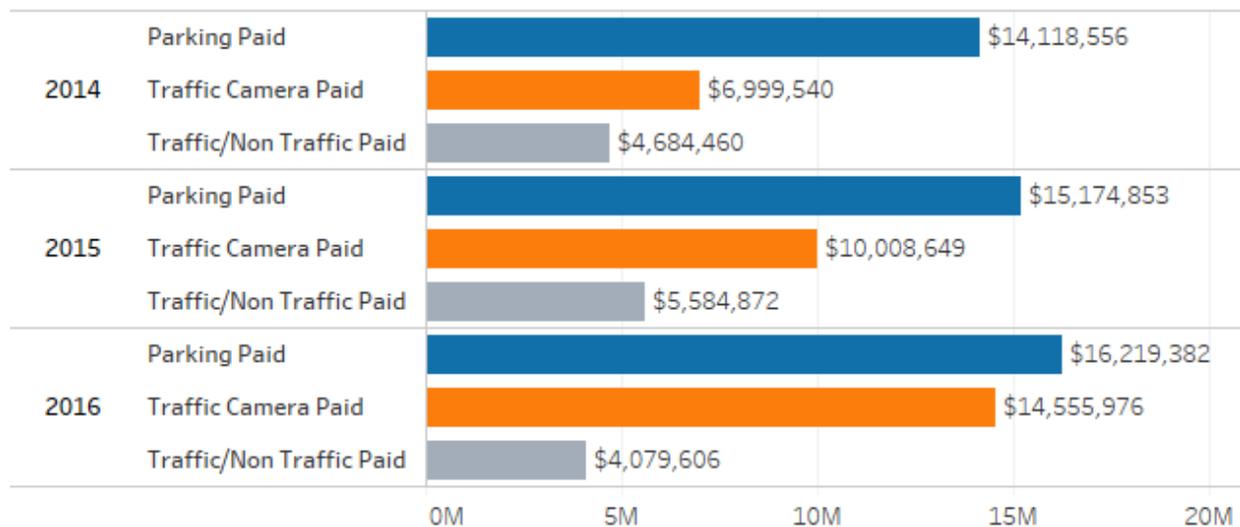


Figure 91: Payment as Response to Infraction - No request for Court Proceedings

If payment cannot be made in full, a defendant may request a time payment plan from Court Payments staff without a court hearing. There is a one-time \$10 administration fee placed on infraction-related time payment plans.

#### Court Proceedings

If an individual chooses not to respond to an infraction by paying the amount, he or she has one of three options to request a court proceeding. The individual may dispute the infraction and request a contested hearing. The individual may admit to the violation and request the Court schedule a mitigation hearing. The individual may seek a deferred finding. Each of these processes is described in more detail below.

#### Contested Process at SMC

Upon receiving the notice of infraction, a defendant can choose to request a contested hearing to dispute the violation. This is viewed as an "all or nothing" approach where an SMC magistrate either finds the infraction was committed and the defendant is assessed the full value of the infraction, finds the defendant did not commit the infraction based on the facts of the incident, or finds legal or procedural issues with how the ticket was issued and dismisses the charges. In instances when the Court makes a "not committed" finding or dismisses the charges, fines and fees are not imposed.

Procedurally, before the Court holds a contested hearing, a pre-hearing settlement conference is scheduled. The goal of the pre-hearing conference is for the defendant to resolve their case without the

formality and expense of a contested hearing. If the pre-hearing settlement is waived by the defendant or is held without resolution, the case proceeds to a contested hearing, which is like a criminal bench trial, where the judge is both trier of law and of fact. Figure 92 shows the number of cases dismissed through the contested hearing process at SMC by type of infraction and stage in the process.

Cases Dismissed in the Contested Hearing Process - In Court Hearing vs. Settlement Conference

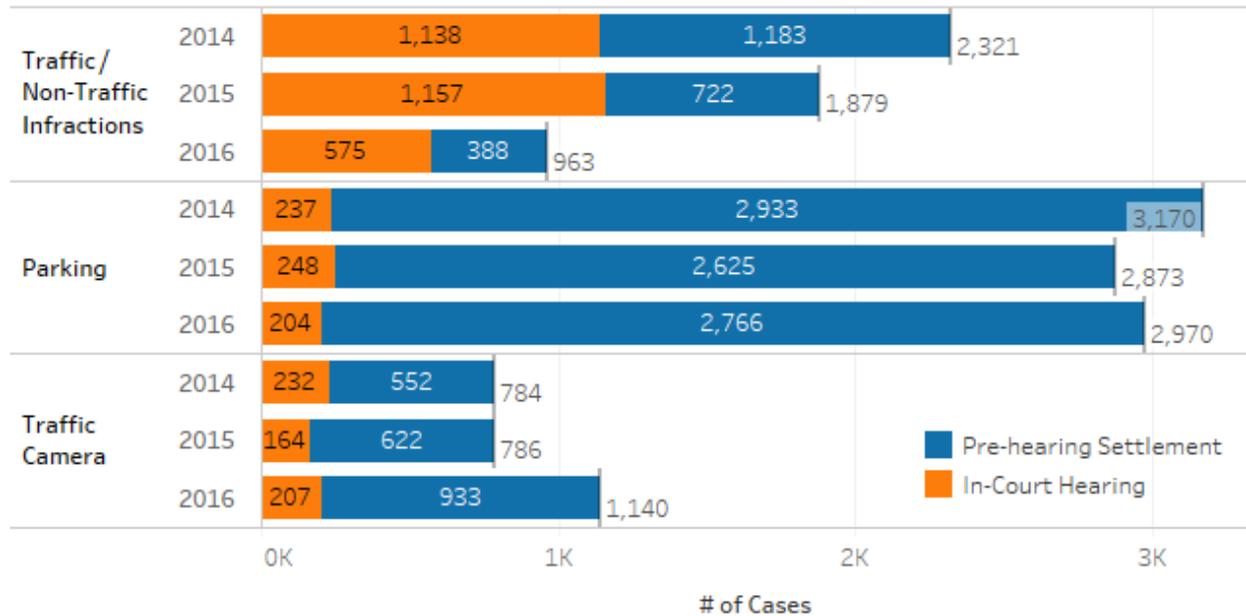


Figure 92: Cases Dismissed in the Contested Hearing Process - In Court Hearing vs. Settlement Conference

Traffic and non-traffic infraction cases are dismissed in contested hearings almost as much as, if not more than, in pre-hearing settlement. This differs from parking and traffic camera cases where most dismissals occur at the pre-hearing settlement conference. This is likely due to the complexity of issues raised in traffic and non-traffic infractions versus parking and traffic camera violations.

Figure 93 limits the data to traffic and non-traffic infractions so that court analysts can illustrate the number and outcome of contested hearings for different defendant races.

Dismissal Rate of Traffic/Non-Traffic Cases with Number of Contested Hearing/Pre-Hearing Settlement Held from 2014 to 2016 at SMC, by Race

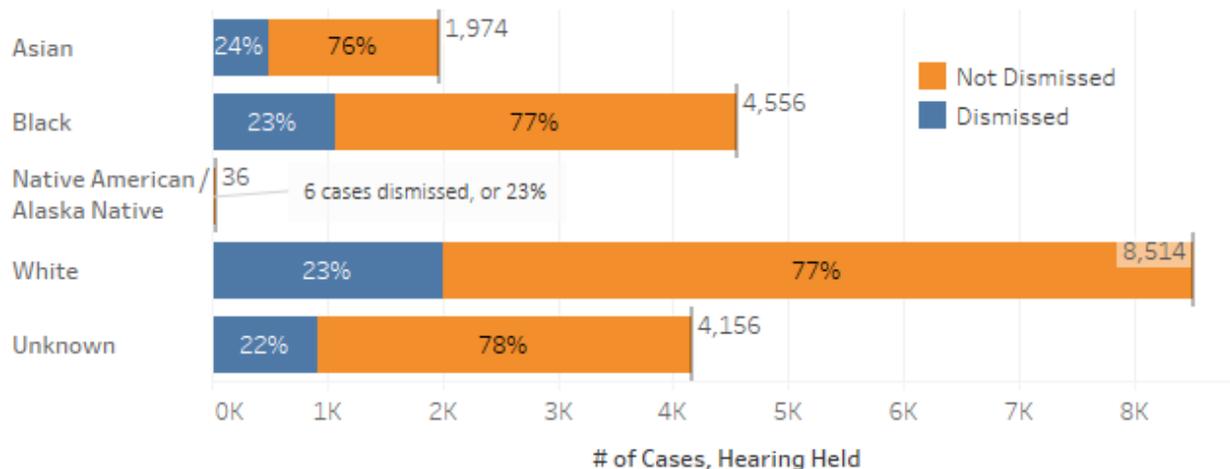


Figure 93: Dismissal Rate of Traffic/Non-Traffic Cases with Number of Contested Hearing/Pre-Hearing Settlement Held from 2014-2016 at SMC, by Race

Figure 93 shows two trends. The first trend details the number of defendants who contest hearings by defendant race. Comparing this data with the number of traffic and non-traffic tickets issued to defendants of different races illustrates that Asians account for 10% of infraction tickets and 9% of all contested tickets. Blacks receive 24% of infraction tickets, but only 14% of contested tickets. Whites account for 44% of infraction tickets, but 56% of contested tickets. Native American defendants accounted for 0.2% of infraction tickets and 0.4% of contested tickets.<sup>94</sup>

The second trend details what percentage of defendants for each race have tickets dismissed after contesting the ticket. There does not appear to be large differences in dismissal rates by defendant race with 22% - 24% of defendants, regardless of race, receiving dismissals.

Fines and Fees Mitigation at SMC

Rather than the “all or nothing” approach of contested hearings, many defendants choose the mitigation process. Mitigation hearings may be held in person or in writing via mail. In these cases, defendants elect to plead committed to the infraction, but seek leniency from the Court by presenting mitigating factors or circumstances as to why they committed the violation. At the mitigation hearing, SMC magistrates determine whether the defendants’ explanation of the events justify a reduction of the monetary penalty.

Figure 94 displays the total original obligation amounts of traffic/non-traffic infraction cases entering the mitigation process, the amounts reduced by the Court on those cases, the remaining amounts, and the percentage of reduction for each year from 2014 to 2016.

<sup>94</sup> The Unknown defendant race category accounted for 22% of infraction tickets issued and 20% of tickets contested.

### Fees / Fines Mitigation at SMC by Year, 2014 - 2016

	2014	2015	2016
Original Obligation	\$9,267,239	\$10,587,364	\$10,302,993
Reduced Amount	\$5,000,789	\$5,658,561	\$5,415,717
Obligation After Reduction	\$4,266,450	\$4,928,803	\$4,887,276
Reduction %	54%	53%	53%

Figure 94: Fees/Fines Mitigation at SMC by Year, 2014-2016

Isolating Figure 94 to traffic and non-traffic infractions allows analysts to examine any differences in mitigated penalty amounts for different defendant demographic groups. Figure 95 identifies the original ticket amount, reduction amount, average reduction per ticket and overall percentage reduction by defendant race.

### Traffic/Non-Traffic Infraction Fines and Fees Mitigated at SMC from 2014 to 2016, by Race

	Original Amount	Reduction Amount	Average Reduction	Reduction %
Asian / Pacific Islander	\$1,888,621	\$836,629	\$87	44%
Black	\$3,640,392	\$1,517,002	\$107	42%
Native American / Alaska Native	\$56,484	\$27,614	\$157	49%
White	\$10,103,647	\$4,184,004	\$79	41%
Unknown	\$14,771,586	\$9,812,952	\$167	66%

The court does not capture data on Hispanic ethnicity. Data is provided by unique defendant.

Figure 95: Traffic/Non-Traffic Infraction Fines and Fees Mitigated at SMC, by Race, 2014-2016

For defendant groups for which there is race information available in MCIS, mitigation reductions appear to be between 41% and 49%. Asian / Pacific Islander, Black and White defendants display similar mitigation reduction rates of 44%, 42%, and 41% respectively. It is unclear why defendants marked as race "unknown" have significantly higher reduction rates.

### Deferred Finding

During either the contested or mitigation process, a defendant who is adjudicating a traffic infraction may be offered a deferred finding. This finding calls for the defendant to pay a \$124 administrative processing fee and avoid acquiring an additional traffic violation in the following year. One year later, if the terms of the deferral are successfully completed, the defendant’s charge is dismissed and not reported on his or her driving record. Defendants are eligible for one deferred finding every seven years.

Amount and Rate of Traffic/Non-Traffic Infraction Cases Deferred by Race

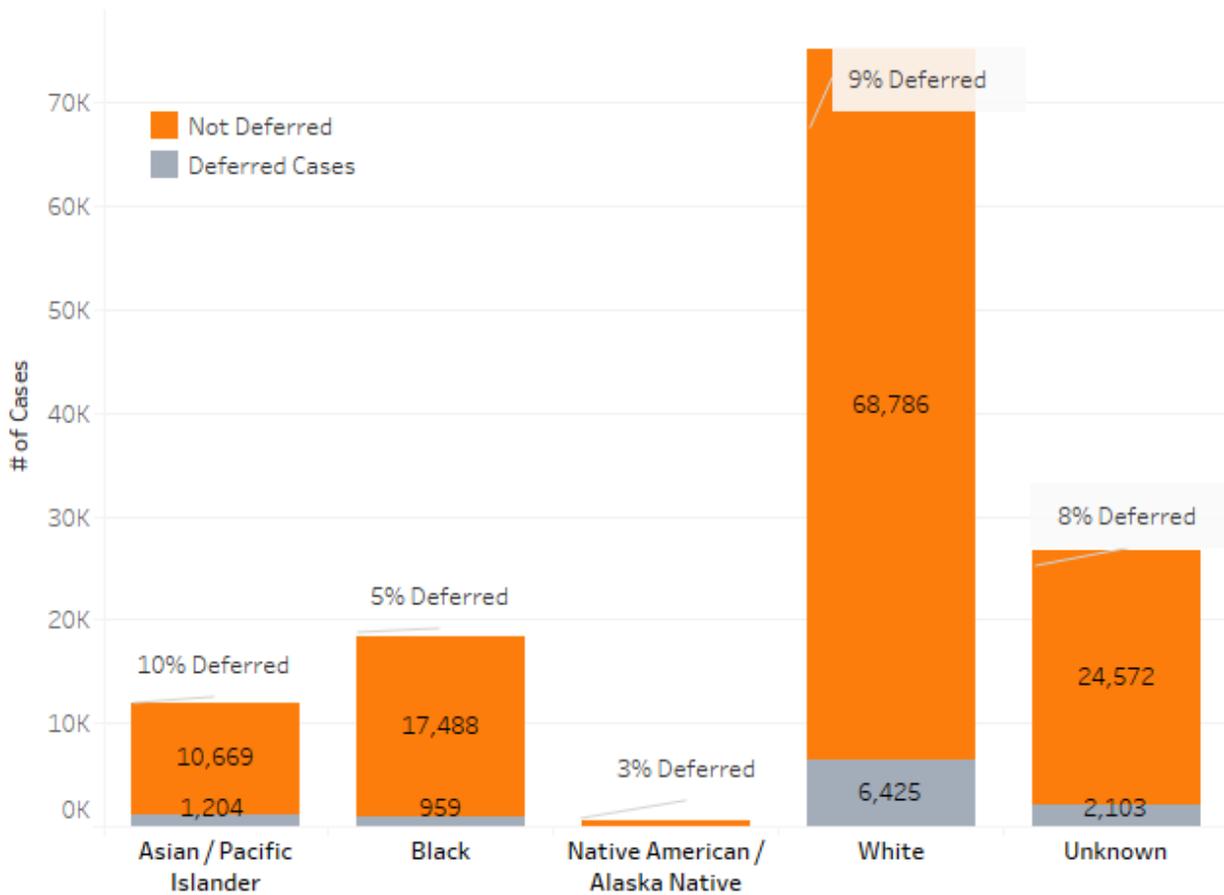


Figure 96: Amount and Rate of Traffic/Non-Traffic Infraction Cases Deferred by Race

Figure 96 shows the number of cases where a deferred finding is entered by defendant race. Data suggests that Native American / Alaska Native and Black defendants defer lower percentages of 3% and 5% respectively, while the Unknown, White and Asian / Pacific Islander groups defer 8% to 10%.

## **Section Four: How Court LFO Practices Align with Broader Policy Goals.**

This study provides an inventory of legal financial obligations imposed on criminal and infraction cases at SMC. As requested by SOCR, the last section of this report discusses the consistency of SMC LFO practices with the Court's mission and broader policy goals.

### *SMC's Mission and Policy Goals*

SMC's mission is to provide a forum to resolve alleged violations of the law in a respectful, independent and impartial manner.

The Court works closely with the Seattle Police Department, the Seattle City Attorney's Office and the Defense Bar toward a safe and vital community. SMC tries to do more than simply process lower level criminal cases. The Court uses innovative approaches to administer justice, including specialty courts, alternatives to confinement, and a Court Resources Center. SMC aims to address the root causes of an individuals' criminal behavior, and provide resources to assist and engage people with complex needs.

### *Balancing Compliance and Financial Stability*

Assessing legal financial obligations requires careful balancing by the Court. On one hand, SMC is bound by regulations on fines and fees imposed by the Washington State Legislature and Seattle City Council which implement their legislative policy decisions. On the other, we are sensitive to the impact of LFOs on marginalized populations. Many SMC defendants' experience homelessness, mental illness, and chemical dependency issues. As they work toward greater stability, they often do not have the means to afford LFOs.

Consistent with our mission and broad policy goals, SMC's priorities regarding imposing LFOs are the following:

1. **Comply with state and local statutes regarding mandatory LFO imposition.**

There are a staggering number of regulations mandating the amount, type and situation where LFOs should be applied. SMC diligently reviews state and local regulations in order to comply, when imposing mandatory LFOs.

2. **Make ability- to-pay determinations before the imposition of fines and fees.**

*State v. Blazina*<sup>95</sup> reiterates what is an important priority for SMC: making equitable defendant ability-to-pay decision determinations when imposing costly legal financial obligations. Data in this study suggests SMC judges not only make ability-to-pay decisions, but often they use using the results to

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<sup>95</sup> [http://scholar.google.com/scholar\\_case?case=16801131650335009437&hl=en&as\\_sdt=6&as\\_vis=1&oi=scholar](http://scholar.google.com/scholar_case?case=16801131650335009437&hl=en&as_sdt=6&as_vis=1&oi=scholar)

suspend or waive all fines and fees on a case. This is particularly true when judges impose LFOs on DV and Non-DV, Non-DUI cases.

### 3. Provide options for individuals to meet legal financial obligations.

To balance statutory requirements to impose LFOs with sensitivity to the financial impact of LFOs on marginalized populations, SMC offers a variety of ways for people to satisfy outstanding fines and fees: time payment plans, community service options, work crew, and community-based resources.

First, the Court offers time payment plans, and indigent defendants receive more lenient terms. Second, the Court forged partnerships with more than 200 community service sites, food banks, shelters, and other charitable organizations, allowing defendants to complete service to meet their monetary sanctions. Third, the Court recently allowed work crew as an option to pay off outstanding tickets that are preventing relicensing. And fourth, the Court works with community-based organizations (e.g., Road to Housing or Neighborhood Financial Empowerment Center) to address individual challenges facing certain defendants with LFOs.

### 4. Hold individuals accountable for infractions and parking violations.

SMC provides an impartial forum for individuals to contest, mitigate, or defer infraction citations. If individuals choose not to contest infraction tickets, or are found to have committed the infractions after a Magistrate hearing, the Court holds them accountable for these penalties. Monetary penalties are the primary way defendants are held accountable for violations of parking and traffic ordinances. As with criminal LFOs, time payment plans are available to any defendant. Furthermore, those receiving government assistance may work at any of the previously mentioned community service organizations instead of paying. If defendants do not resolve their tickets, the Court places their monetary obligations in collections.

### 5. Impose user fees for some court services.

The Court imposes some discretionary user fees on criminal cases because we believe individuals should be financially responsible for some portion of the costs associated with the services the Court provides them. These discretionary user fees include the probation supervision fee, community service fee, work crew fee, and record checks fee. Please note SMC typically waives discretionary LFOs on indigent defendants.

SMC uses the five priorities above to impose, monitor and collect fines and fees in an environment that is respectful, fair and offers accessible ways for individuals to meet outstanding court-ordered obligations.

## Appendix

1. Seattle City Council Resolution 31637
2. Financial Screening Bench Card
3. Full Financial Screening Form
4. Payment Options
5. State Local Assessments Effective March 2017
6. List of Community Service Sites
7. Victim Impact Statement
8. Restitution Packet
9. Pre-Collection Notification from AllianceOne
10. Race Data in MCIS
11. Fines and Fees Background
12. Patronizing MCIS Codes
13. DUI Fine Assessments Effective April 2017