



Washington State Auditor's Office

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Accountability Audit

Incarcerated Individuals Receiving Unemployment Benefits

March 7, 2016

We conducted an accountability audit to identify people receiving unemployment benefits while in a county jail in Washington. We looked at individuals in eight of the 57 jails in the state and identified 1,911 potential overpayments worth approximately \$656,000 over a 15-month period between July 1, 2013, and September 30, 2014.

The Employment Security Department began reviewing many of these payments during the course of our review and has denied benefits to many ineligible people as a result. While the Department does have access to a system containing jail records, we found the data in that system is incomplete: within the 1,911 potential overpayments we identified 163 payments, worth about \$48,000, associated with records missing from the system Employment Security uses.

The agency needs the authority to obtain the complete population of incarceration records used by other state agencies in preventing benefit overpayments.



Audit Number: 1015813

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Executive Summary

We identified potential overpayments of \$656,000 in unemployment benefits made to people in jail

People in jail or prison are almost always – by definition – unavailable to work: a key criterion for allowing unemployment benefits. Our review found 1,911 potential overpayments totaling \$655,736 related to people in jail getting Unemployment Insurance benefits. We also compared the Jail Booking and Reporting System (JBRS), a multi-jurisdictional database and search engine for criminal justice agencies across the country, used by the Employment Security Department for investigations to jail records from eight selected counties. We identified 55 jail records available from the counties that did not appear in JBRS data used by Employment Security. From our final results, we identified 163 benefit-week payments totaling \$47,644 that were potentially improper, based on the 55 incarceration records not in the jail booking system Employment Security used. These improper payments would not have been identified relying only on the jail booking system.

Identifying payments to people in jail or prison

Government assistance benefits paid out to incarcerated individuals can be a common overpayment for Washington state agencies. With the knowledge that this can occur, state agencies must prevent, or identify and recover, these overpayments where possible. The most effective method to identify these individuals is to use incarceration records from the 12 prison facilities and 57 jails across the state. The Department of Corrections maintains all data on people being held in a state prison; but obtaining a detailed history of jail records is a more difficult process because jails are run separately by cities, counties or tribes.

Employment Security's Office of Special Investigations receives prison data from Corrections, so it can compare prison inmates to Unemployment Insurance data on a regular basis. Special Investigations also has access to JBRS. However, the access allowed to Special Investigations only permits it to conduct individual searches of historical incarceration information: it cannot automate a large-scale analysis of many historical jail records at once. Because Employment Security already completes a large-scale review of prison inmates, we concentrated our review on county jail records at eight of the state's 57 county jails.

Availability of jail register data

Local jail register data, which includes the name of each person confined in a jail, the hour, date and cause of the confinement, and the hour, date and manner of discharge, is available to the public per RCW 70.48.100. Any additional information – such as Social Security numbers that could be used in a cross-match – is confidential and typically only made available to criminal justice agencies.

To assist some agencies in this matter, the 2014 State Legislature passed a bill that added the State Auditor's Office, the Health Care Authority, and the Research and Data Analysis Division of the Department of Social and Health Services as agencies able to obtain and use the confidential information associated with jail register data for the purpose of research in the public interest. This allowed our Office to obtain the information necessary to complete the cross-match conducted in this audit.

However, this bill did not include the Employment Security Department, which administers the Unemployment Insurance program that provides benefits to unemployed workers for periods of involuntary unemployment. The Unemployment Insurance program paid more than \$1.1 billion in benefits to about 250,000 people in 2014, while during that year, on average, there were 12,618 people in jail, serving an average of 15.3 days.

Recommendations

We recommend the State Legislature:

- Add the Employment Security Department to the law (RCW 70.48.100) allowing specified agencies to obtain personal jail data information necessary to cross-match Unemployment Insurance payments to incarceration records.

We recommend the Employment Security Department:

1. Work with the Legislature to amend the applicable law (RCW 70.48.100), allowing the Department to obtain personal information associated with jail register data necessary to cross-match Unemployment Insurance payments to incarceration records.
2. Utilize other sources for obtaining incarceration records for counties where the Jail Booking and Reporting System does not contain all records.
3. Follow-up on all potential improper payments identified during our testing.
4. Continue to identify and investigate potential improper payments made to people in jail, and recoup any and all confirmed overpayments.

Introduction

People in jails or prisons sometimes receive benefits they are not eligible for

In Washington, several agencies provide benefits to residents when they need help, including the Department of Social and Health Services and the Health Care Authority, which help people pay for food, health care and housing. People in jail or prison are not eligible for certain types of government assistance, but unless the agency providing the benefits is aware of their imprisonment, it cannot prevent or recover inappropriate payments. While some ineligible prisoners may be identified through outside tips or news reports, it is much more effective for the agencies to compare detailed jail and prison records with their participant population.

The 2014 State Legislature saw the importance of identifying these types of overpayments when it passed a bill (**RCW 70.48.100**) that added the State Auditor's Office, the Health Care Authority and the Department of Social and Health Services as agencies able to obtain and use the confidential information in jail registers "for the purpose of research in the public interest." However, the law did not include the Employment Security Department, which administers the Unemployment Insurance program, providing benefits to unemployed workers for periods of involuntary unemployment. The program, funded by the federal government and taxes on employers, paid more than \$1.1 billion in Unemployment Insurance benefits to about 250,000 people in 2014. The sheer size of the program may make it more susceptible to distributing benefits to ineligible people, including prisoners who are – by definition – not "able and available for work."

Audit objectives

The objective of this accountability audit was to assess the impact of improper Unemployment Insurance benefits paid by the Employment Security Department to people in jail. We designed this audit to answer the following question:

- Are improper payments for unemployment benefits being made to incarcerated people?
 - If improper payments are identified, determine:
 - The dollar amount of the improper payments.
 - How many individuals received Unemployment Insurance payments while in jail.

The Unemployment Insurance program serves as test case

With simpler rules than other state programs, results from an audit of this program could indicate the need for additional analysis at other benefit programs in the state.

Background

Using prison and jail records to identify overpayments

The most effective way to identify overpayments made to people in prison or jail is to use detailed incarceration records. The source of these records differs depending on whether the records relate to a prison or a jail. The Department of Corrections operates the 12 prison facilities in Washington, housing people sentenced to more than a year and a day in confinement. The average daily population of all 12 prisons is more than 16,000.

Jails, on the other hand, are run independently by cities, counties or tribes. They house people sentenced to serve one year or less in confinement – sometimes as little as one day. Washington’s 57 jails have an average daily population of more than 12,000 (see **Appendix A** for additional jail statistics). Although jails house fewer people than prisons on a daily basis, the shorter sentences mean that many more people will serve time in jail over the course of a year.

Some state agencies, including the Employment Security Department, have set up agreements with Corrections to obtain prison records that they can use to cross-match to their assistance payment data, allowing them to easily automate the identification of overpayments to prisoners. Identifying people in jails is not as straightforward. While most jails contribute information to the Jail Booking and Reporting System (JBRS), a multi-jurisdictional database and search engine for criminal justice agencies across the country, uniform detailed jail incarceration records cannot be procured from a single source.

Unemployment Insurance eligibility depends on “able and available”

State law requires an unemployed individual to be able and available for work in any trade, occupation, profession or business for which he or she is reasonably fitted (RCW 50.20.010). If an eligible person is available for work for less than a full week, the weekly benefit amount is reduced by one-seventh for each day he or she is unavailable for work. A person who is unavailable for work for three days or more out of seven is considered unavailable for the entire week, and will not receive unemployment benefits for that week.

What is able and available for work?

You are *able* to work if you have the physical and mental capacity and the *legal right to work* each day you claim benefits.

You are *available* for work if you are immediately ready and capable of accepting *suitable work* in your *labor market*. You must be ready to accept the work during *all customary hours* for your occupation each day of the week you are claiming benefits.

From the *Handbook for Unemployed Workers*, Employment Security Department
(*emphasis added*)

Scope and Methodology

To meet the audit objective, we needed to compare jail records to Unemployment Insurance records to identify people who would not have met Employment Security's criteria for unemployment benefits during the period of our audit, July 1, 2013, to September 30, 2014.

We selected eight counties – King, Pierce, Thurston, Clark, Spokane, Kitsap, Snohomish and Yakima – based on their population and unemployment rates. (See **Appendix B** for data about the eight counties.) We obtained more than 180,000 incarceration records associated with more than 100,000 people from the eight county jails.

We also examined Unemployment Insurance data from Employment Security for the same period; these records contained more than \$1.8 billion in payments made to more than 300,000 people.

We matched the Unemployment Insurance and jail records for each county by Social Security number and by last name and date of birth. We concentrated on only those matches where prisoners were unavailable for work for three or more days of the week, because that makes them ineligible for the entire week and would result in a denied claim for that week. We identified 2,340 matched records, which we then examined in detail.

Searching for explanations of matched records

We researched each of the 2,340 cases to see if any information was available to prove the unemployment benefit payment was correct. Our resources for this review included:

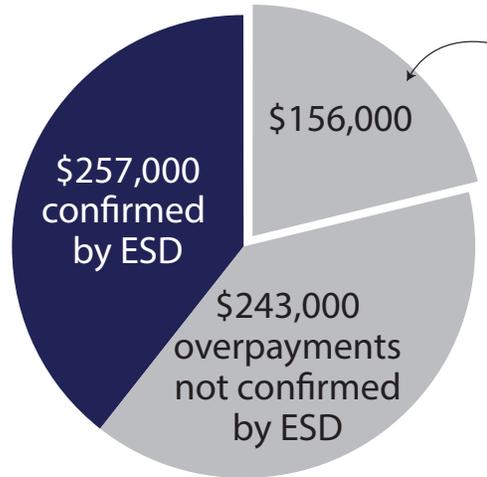
- **The Standard Occupational Classification code** related to each individual receiving Unemployment Insurance benefits. This code was received from Employment Security and indicates the most likely type of job an individual will seek. This allowed us to determine the most likely work schedule the individual would have when on the job.
- **Records in JBRS.** With the exception of Aberdeen and Hoquiam, all city and county jails in Washington are connected to this system; some counties provide additional information to the booking system that we may not have received directly in our data request, such as aliases or time spent on work release or house arrest.
- **The results of Employment Security internal investigations conducted during our review.**

Audit Results

Ineligible people in jail received unemployment benefits

Based upon 15 months of jail records from eight counties and Employment Security’s unemployment benefits records, we identified 1,911 potential overpayments worth about \$656,000. Working with Employment Security, we were able to confirm 756 of them during the audit fieldwork, constituting overpayments of about \$257,000. Employment Security will need to investigate the remaining 1,155 matches, worth around \$398,000, but of these, 736 (around \$243,000) are likely to be overpayments. The final 419 matches (around \$156,000) may be acceptable payments, depending on the individual circumstances of each case. Exhibit 1 illustrates these results. An additional breakdown of the results can be found in Appendix C.

Exhibit 1 – Overpayments confirmed or suspected
Unemployment insurance payments made to people in jail between July 1, 2013, and September 30, 2014



Depending on a person’s circumstances, such as house arrest or work release, these payments may be acceptable

Our audit found barriers to confirming matches

While many of our matches have already been confirmed as overpayments by Employment Security, or are likely to be overpayments based upon the information gathered, some cases will require additional research before they can be confirmed as overpayments. After the completion of our audit, Employment Security’s investigators will obtain information directly from both the individual and the county where the incarceration occurred. However, we found several barriers that prevent Employment Security from easily and efficiently identifying people in jail who should not be receiving unemployment benefits.

Employment Security does not have easy access to jail records

Employment Security’s Office of Special Investigations reviews potential improper payments and determines if the payments are legitimate or if an amount should be recovered. Special Investigations receives prison data from Corrections, which allows investigators to compare prison inmates to Unemployment Insurance recipients on a regular basis. As a limited law enforcement agency, the Special Investigations Office is permitted to access JBRS. However, that only allows Special Investigations to access the incarceration history for one individual at a time: it is not able to automate a large-scale search of historical jail records.

Incomplete records in JBRS

When we compared jail records supplied by county jails to records in JBRS, we found that 55 records were not in the booking system. About 160 payments, worth about \$48,000, were associated with those 55 records. Without these records, Employment Security would not be able to identify these individuals.

Also, by comparing the records sent to us directly by jails to the data they uploaded to JBRS, we found the records in JBRS are not always as complete as the records they maintain locally. Of the eight counties reviewed in our audit, we found the records for three were not included in JBRS completely.

Certain circumstances will always require in-depth review by Employment Security

Two types of potential overpayments we found during our evaluation will require additional review by Employment Security: people serving their time under house arrest and people on work release.

Under some circumstances, people under house arrest or on work release may be available for interviews and to take up a job offer. However, counties have differing rules surrounding availability for work release, and the factors of an individual's sentence may also affect availability.

Due to these variations from county to county and case to case, even if we identified a person as being on work release, we did not have enough information to confirm that person's unemployment compensation as an overpayment. Of the 419 matches requiring additional review by Employment Security, these two issues make up 75 percent of the cases.

Another issue, affecting 78 of the matches, were those people whose cases were under investigation by Employment Security before the start of our audit. Employment Security must continue making payments to people who are under investigation until they are found to be ineligible. Conditional pay flags are placed on these records, but remain in the system regardless of Employment Security's final determination. The pay flag may or may not be associated with the incarceration identified during our audit. Employment Security will continue its investigation to decide if the flag previously identified an overpayment or not.

Employment Security is already making improvements

Employment Security's Office of Special Investigations told us during our review that any tips regarding overpayments are followed-up on as resources allow. Special Investigations began investigating cases based upon our preliminary results during the early stages of our audit, which allowed us to confirm numerous overpayments during our testing phase, and also implemented new procedures during the course of our review.

As noted earlier, the main search function of JBRS allows the user to search for one individual and see that individual's history of incarceration. During the course of our audit, Employment Security identified a report allowing it to view all recent incarcerations in the booking system. Special Investigations has now implemented a process to run this report several times a week to build a list of current incarcerations and compare those to unemployment benefit payments. This workaround will allow Special Investigations to identify possible overpayments with the help of the booking system proactively.

While this process does not provide historical records, and our results showed the booking system is not always complete for all jails, Employment Security's action should improve the identification of payments to incarcerated individuals.

Recommendations

We recommend the State Legislature:

- Add the Employment Security Department to the law (RCW 70.48.100) allowing specified agencies to obtain personal jail data information necessary to cross-match Unemployment Insurance payments to incarceration records.

We recommend the Employment Security Department:

1. Work with the Legislature to amend the applicable law (RCW 70.48.100), allowing the Department to obtain personal information associated with jail register data necessary to cross-match Unemployment Insurance payments to incarceration records.
2. Utilize other sources for obtaining incarceration records for counties where the Jail Booking and Reporting System does not contain all records.
3. Follow-up on all potential improper payments identified during our testing.
4. Continue to identify and investigate potential improper payments made to people in jail, and recoup any and all confirmed overpayments.

Agency Response

The Employment Security Department appreciates the feedback received from the State Auditor's Office. The Office of Special Investigations (OSI) is committed to preserving the integrity of the Unemployment Trust Fund. OSI conducts many types of audits throughout the year on unemployment claims to ensure the accuracy of benefit payments made. Individuals found to have committed fraud are assessed penalties (**RCW 50.20.070**), are required to repay the amount identified as overpaid (**RCW 50.20.190**), and are subject to possible state or federal criminal prosecution.

The Department accepts the Auditor's recommendations that we continue to identify and investigate all potential improper payments identified through this audit. As of December 29, 2015, OSI has completed its investigation of the 1,911 potentially improper payments identified in the audit. Of those payments, 1,264 were partially or fully denied, resulting in \$420,363 of overpayments established and now in collections; to date, nearly \$100,000 of this amount has been recovered.

The Department welcomes all efforts to strengthen and improve our abilities to detect and prevent improper payments to ineligible claimants. The Office of Special Investigations regularly reviews available incarceration records against existing claims, but as the audit notes, we do not have access to all available information for these investigations. We also concur with the observation that the data we do have access to may vary widely in quality and accuracy. We agree with the Auditor's recommendation to add the Department as an authorized agency under **RCW 70.48.100**. OSI also continues to identify and utilize other sources for incarceration data to better enhance our ability to detect and prevent these improper payments.

Appendix A: 2014 Washington State Jail Statistics

| County jail | Average daily population | Percentage of use | Average length of stay (days) |
|--------------|--------------------------|-------------------|-------------------------------|
| Adams | 26 | 93% | 16 |
| Asotin | 58 | 252% | 38 |
| Benton | 686 | 93% | 15 |
| Clallam | 125 | 104% | 14 |
| Clark* | 761 | 93% | 18 |
| Columbia | 10 | 125% | 21 |
| Cowlitz | 291 | 82% | 13 |
| Ferry | 33 | 63% | 30 |
| Franklin | 192 | 123% | 15 |
| Garfield | 10 | 63% | 12 |
| Grant | 211 | 114% | 20 |
| Grays Harbor | 145 | 82% | 26 |
| Island | 54 | 93% | 20 |
| Jefferson | 48 | 98% | 19 |
| King* | 2,031 | 78% | 22 |
| Kitsap* | 435 | 89% | 20 |
| Kittitas | 92 | 40% | 8 |
| Klickitat | 47 | 96% | 10 |
| Lewis | 205 | 58% | 17 |
| Lincoln | 23 | 92% | 8 |
| Mason | 115 | 111% | 14 |
| Okanogan | 166 | 91% | 21 |
| Pacific | 42 | 145% | 18 |
| Pend Oreille | 28 | 90% | 12 |
| Pierce* | 1,133 | 66% | 30 |
| San Juan | 2 | Not reported | 0 |
| Skagit | 238 | 287% | 21 |
| Skamania | 25 | 53% | 13 |
| Snohomish* | 1,028 | 83% | 18 |
| Spokane* | 893 | 133% | 16 |
| Stevens | 41 | 103% | 8 |
| Thurston* | 414 | 101% | 21 |
| Wahkiakum | 7 | 50% | 20 |
| Walla Walla | 71 | 62% | 8 |
| Whatcom | 408 | 137% | 22 |
| Whitman | 41 | 121% | 13 |
| Yakima* | 792 | 67% | 29 |

Note: * indicates counties selected for review.

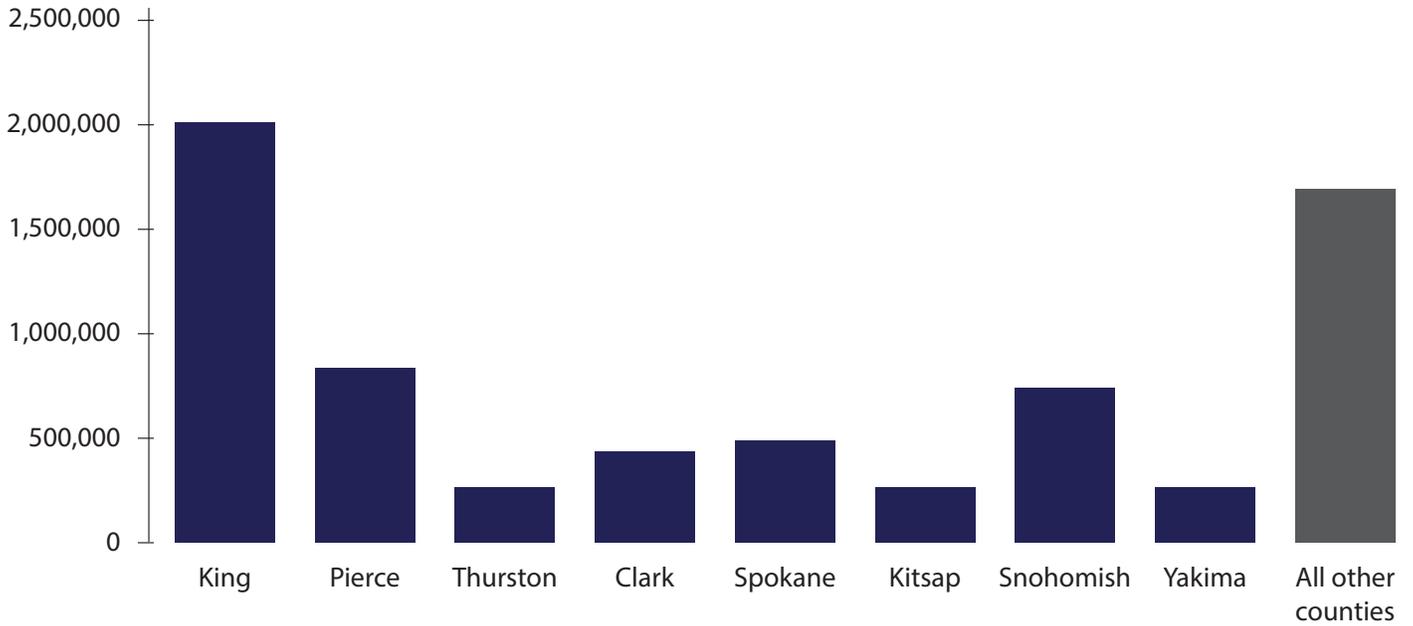
| Multi-jurisdiction facility | Average daily population | Percentage of use | Average length of stay (days) |
|---------------------------------------|--------------------------|-------------------|-------------------------------|
| Chelan County Regional Justice Center | 265 | 69% | 18 |
| SCORE South Correctional Entity | 618 | 77% | 8 |

| City or tribal jail | Average daily population | Percentage of use | Average length of stay (days) |
|---------------------|--------------------------|-------------------|-------------------------------|
| Aberdeen | 12 | 57% | Not reported |
| Enumclaw | 20 | 80% | 7 |
| Fife | 203 | 564% | 11 |
| Forks | 28 | 70% | 30 |
| Grandview | 8 | 50% | 5 |
| Issaquah | 62 | 100% | 9 |
| Kent | 117 | 89% | 11 |
| Kirkland | 16 | 133% | 2 |
| Lynnwood | 40 | 87% | 6 |
| Marysville | 44 | 77% | 11 |
| Nisqually | Not reported | Not reported | Not reported |
| Oak Harbor | Not reported | Not reported | Not reported |
| Olympia | 25 | 89% | 5 |
| Puyallup | 49 | 94% | 5 |
| Sunnyside | 45 | 53% | 11 |
| Toppenish | 20 | 36% | 8 |
| Wapato | 59 | 88% | 16 |
| Yakima | 60 | 76% | 17 |

Appendix B: Selected Counties By Population and Unemployment Rate

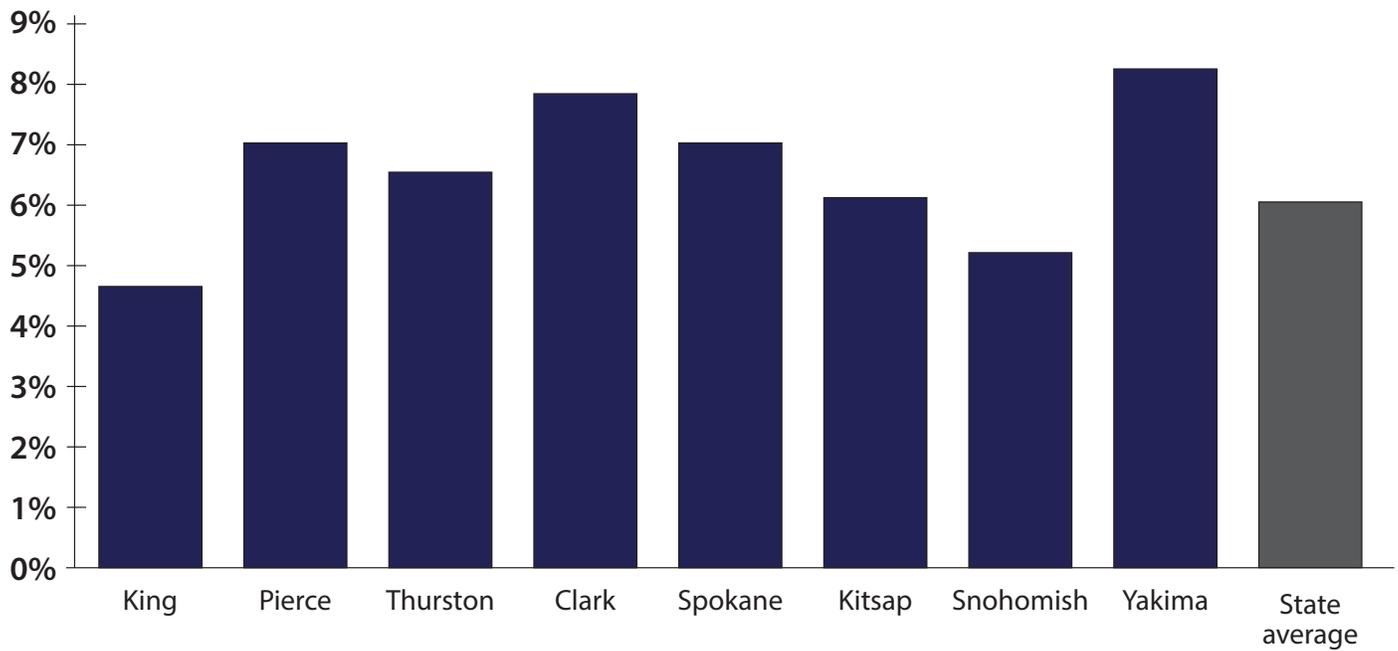
Population estimates of eight Washington counties in this audit

As of April 1, 2014



Unemployment rates in eight Washington counties in this audit

Percent of county population, August 2014



Appendix C: Detailed Breakdown of Audit Results

Summary of Potential Overpayments by Category

| Category | Number of payments | Dollar amount | Percentage of total payments |
|--|--------------------|---------------|------------------------------|
| Likely overpayments based on Social Security Numbers or name/date of birth match | 736 | \$242,568 | 37% |
| Overpayments confirmed during audit fieldwork by Employment Security | 756 | \$257,251 | 39% |

Overpayment Categories Needing Additional Analysis by the Department

| | | | |
|--|-------|-----------|------|
| Individuals on home incarceration | 158 | \$57,438 | 9% |
| Individuals on work release | 156 | \$63,086 | 10% |
| Payments made during prior Employment Security reviews | 78 | \$20,612 | 3% |
| Social Security numbers matched but not name | 27 | \$14,781 | 2% |
| Totals | 1,911 | \$655,736 | 100% |