



**The Anchorage, Alaska Municipal Pretrial Diversion Program:
Initial Outcome Assessment**

Prepared for
Office of the Anchorage Municipal Prosecutor

by

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Table of Contents

Index of Tables	4
Acknowledgments	5
Section I: Executive Summary	6
Counts and Charges of Defendants Offered Pretrial Diversion	6
Demographic Variations Among Defendants Offered Pretrial Diversion.....	6
Conditions of Pretrial Diversion.....	8
Length of Time for Pretrial Diversion Processes	8
Number of Court Hearings and Estimated Time Spent.....	9
Section II: Introduction.....	10
Section III: Literature Review	10
Descriptions of Pretrial Diversion	10
Pretrial Diversion in the United States	10
Description of Pretrial Diversion in Anchorage	10
Section IV: Methods.....	14
Data Collection	14
Section VI: Findings.....	15
Counts and Charges of Defendants Offered Pretrial Diversion	15
Demographic Variations Among Defendants Offered Pretrial Diversion.....	17
Conditions of Pretrial Diversion.....	20
Length of Time for Pretrial Diversion Processes	23
Number of Court Hearings and Estimated Time Spent.....	24
Section VII: Conclusion	26
References	27
Appendix: Anchorage Municipal Pretrial Diversion Data Collection Form.....	28

The Anchorage, Alaska Municipal Pretrial Diversion Program: Initial Outcome Assessment

Index of Tables

TABLE 1: PRETRIAL DIVERSION CASE (PTD) COUNTS15

TABLE 2: PRETRIAL DIVERSION OFFERS AND ACCEPTANCES16

TABLE 3: OFFENSE CATEGORY AND CHARGE.....17

TABLE 4: GENDER OF PRETRIAL DIVERSION DEFENDANTS18

TABLE 5: AGE DIFFERENCES OF PRETRIAL DIVERSION DEFENDANTS18

TABLE 6: RACE/ETHNICITY OF PRETRIAL DIVERSION DEFENDANTS19

TABLE 7: PRIOR OFFENSE DIFFERENCES OF PRETRIAL DIVERSION DEFENDANTS.....19

TABLE 8: PRETRIAL DEFENDANTS COMPARED TO POPULATION ESTIMATES20

TABLE 9: CONDITIONS OF PRETRIAL DIVERSION21

TABLE 10: SUCCESSFUL COMPLETION OF PRETRIAL DIVERSION CONDITIONS22

TABLE 11: PROCEDURAL TIME LENGTHS FOR PRETRIAL DIVERSION PROCESSES23

TABLE 12: NUMBER OF COURT HEARINGS - SUCCESSFUL PTD COMPLETION24

TABLE 13: NUMBER OF COURT HEARINGS AND TIME SPENT PER CASE - SUCCESSFUL PTD
COMPLETION24

TABLE 14: ESTIMATED TIME SPENT PER CASE - SUCCESSFUL PTD COMPLETION.....25

The Anchorage, Alaska Municipal Pretrial Diversion Program: Initial Outcome Assessment

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Section I: Executive Summary

This initial outcome assessment is the first phase of an evaluation of the Anchorage Municipal Pretrial Diversion Program. This first phase looks at the effectiveness of this voluntary program in terms of completion by offenders of the conditions of participation in the pretrial diversion program, and cost savings generated by the pretrial diversion program. Measures of cost savings included dollar amount of fines collected by the program and estimates of time savings for prosecutors. Time savings can be estimated, for example, by looking at a Driving Without Insurance (DWOI) case and the average amount of time municipal prosecutors indicate is spent in arraignments, pre-trial hearings, and change of plea hearings compared to time spent on cases handled within the pretrial diversion program. Future phases in the evaluation will focus on rates of recidivism of pretrial diversion participants.

Counts and charges of defendants offered pretrial diversion

Eligibility requirements for an offer of pretrial diversion include a minor offense and no prior convictions. Diversion is not currently available for crimes against persons, weapon crimes, crimes harmful to minors, gambling, prostitution, and offenses related to driving under the influence. During the data collection period of June 1 to August 31, 2015 there were a total of 148 cases in which offenders were offered pretrial diversion. At the end of the data collection period there were 91 cases that had started after June 1 and closed on or before August 31, 2015. The analysis in this report is for those 91 closed cases. One defendant was involved in each case. All the cases involved low-level misdemeanor offenses.

Most defendants (98%) that were offered pretrial diversion in lieu of traditional criminal court processing accepted the offer, resulting in defendants in 89 cases accepting the pretrial diversion offer. Of the 89 defendants who accepted pretrial diversion 82 (92%) successfully completed the conditions. Thus it appears that rather than having their charge adjudicated through traditional avenues, pretrial diversion is an attractive alternative to those offenders who are charged with low-level misdemeanor offenses.

The four most common offenses in these cases, accounting for 93% of the cases in which offenders accepted pretrial diversion, were driving without insurance (53%), theft over \$50 (24%), theft under \$50 (12%), and misconduct involving a controlled substance in the sixth degree (4%).

Demographic variations among defendants offered pretrial diversion

Demographic variables were collected and analyzed on the 91 offenders who were offered pretrial diversion and whose case was closed by the end of the data collection period. The sample population was made up of 51 males and 40 females. Nearly 100% of the sample population offered pretrial diversion accepted the offer. Only one male and one female declined to participate in the program.

Defendants that were offered and that accepted the offer of pretrial diversion tended to be relatively young with 86% being between the ages of 18 to 40 years old. The 21 to 40 years old age group was the most common age group for which pretrial

diversion was offered (48%) and accepted (49%), followed by defendants in the group aged 18 to 20 years old -- 37% were offered pretrial diversion and 38% accepted. It should be noted that the Anchorage Municipal Pretrial Diversion program extends to those offenders aged 14 years and older for driving offenses (including driving without insurance), but only to offenders 18 years and older for all non-driving offenses (e.g., theft, drugs).

The majority of defendants that were offered and accepted pretrial diversion were most commonly Caucasian (57% offered pretrial diversion and 56% accepted). There was no difference in the percentage of those that were offered and those that accepted the offer of pretrial diversion for the next largest racial groups: American Indians/Alaska Natives (14%), African American (9%), and Asian/Pacific Islander (8%). One in ten defendants' race was either unknown or not indicated in the data.

The majority of defendants in the pretrial diversion program did not have any prior convictions (90% of those offered pretrial diversion and 91% of those that accepted pretrial diversion, respectively). (Not having a prior conviction is normally a requirement for eligibility for the PTD.) A much smaller percentage of defendants who were offered pretrial diversion (9%) and who accepted the offer (8%) had a prior conviction. It cannot be determined from the data collected whether this group of offenders had only one prior conviction or more than one prior conviction. (However, one of the offender's prior conviction(s) was an out-of state-conviction.) This high number of offenders without a prior criminal conviction that were offered and accepted the offer of pretrial diversion demonstrates the effectiveness of the program implementation and design application.

This eligibility restriction – only offenders with low-level misdemeanor offenses and no prior convictions - also demonstrates success in flexibility. There were 9% of defendants with a prior criminal conviction who were offered pretrial diversion, and 8% of those that accepted the offer. This shows that the pretrial diversion attorneys are able to effectively use discretion in evaluating if a defendant is still a good candidate for pretrial diversion even with a prior criminal conviction. It is possible that the criminal convictions of those defendants that were offered and accepted pretrial diversion was for a misdemeanor offense, thus deeming them a good candidate in spite of a prior conviction.

When the group of defendants that accepted pretrial diversion were compared to the population estimates for the Municipality of Anchorage some demographic differences were observed. (Population estimates are from the *American Community Survey 2010-2014*.) Those in pretrial diversion tended to be younger, with a median age of 22, than in the Anchorage resident population estimate which has a median age of 32 years old. The pretrial defendants were more likely to be males than females (56% male compared to 44% female in the pretrial program) while the Anchorage population is 51% male compared to 49% female. Regarding racial composition of the pretrial defendants compared to the Anchorage population, Caucasians were 57% of the pretrial population compared to 66% of the Anchorage general population; Asian/Pacific Islanders were 8% of the pretrial group compared to 10% of the Anchorage general population. American Indians/Alaska Natives were overrepresented in the pretrial diversion group – comprising 14% of the pretrial diversion group compared to 8% in the Anchorage general population; followed by African Americans who were also overrepresented --

comprising 9% of the pretrial diversion group compared to 6% of the Anchorage general population.

When the group of defendants that accepted pretrial diversion were compared to population estimates for individuals under criminal justice system control, specifically the Anchorage Correctional Complex (ACC), differences were also noted. A cautionary note in comparing the pretrial diversion group to those in custody at the Anchorage Correctional Complex is detailed in the results; specifically the population at the Anchorage Correctional Complex is overwhelmingly made up of individuals who are charged with a crime, and also the population at the Anchorage Correctional Complex (ACC) may or may not be similar to population estimates of individuals in custody at the state or national level. This ACC population was chosen as a reference group that would most likely be composed of Anchorage area adult residents to match those in the pretrial diversion program. Those in pretrial diversion tended to be younger with a median age of 22, than in the ACC population with a median age range of 25-29 years old. There was a significant difference in the gender composition of pretrial defendants compared to the ACC population. The pretrial diversion program was composed of 56% male offenders compared to 96% male in the ACC population, and females made up 44% of the pretrial diversion population compared to 4% of females in the ACC population. Regarding racial composition of pretrial defendants compared to the ACC population, Caucasians were 57% of the pretrial population compared to 42% of the ACC population. Some other groups were underrepresented in the pretrial diversion program compared to the ACC population. American Indians/Alaska Natives were 14% of the pretrial population compared to 29% of the ACC population; African Americans were 8% of the pretrial population compared to 17% of the ACC population. Asian/Pacific Islanders were represented 8% of both the pretrial diversion population and the ACC population. (Anchorage Correctional Complex population estimates are from the *2014 Alaska Offender Profile*.)

Conditions of Pretrial Diversion

The most common condition of pretrial diversion was a fine (89%); the next most common condition was community work service (9%). It is important to note that the offenders who accept the offer of pretrial diversion *choose* the condition of a fine or community work service; the pretrial attorney does not assign the condition of pretrial diversion to them. Of those defendants that completed their conditions of pretrial diversion, the vast majority of defendants (93%) paid a fine, and the remainder (7%) satisfied a condition of community work service.

Length of Time for Pretrial Diversion Processes

The length of time for the pretrial diversion process was relatively short with 24 days as the average from pretrial acceptance by the defendant to the date of satisfaction of the conditions. Additionally, most defendants satisfied their conditions of pretrial diversion earlier than required, with an average of 9 days to completion compared to the average timeframe of 35 days that defendants were given to complete their conditions. The longest duration in the process was an average of 31 days between date of offense and screening for pretrial diversion.

Number of court hearings and estimated time spent

The Anchorage Municipal Pretrial Diversion Program appears to be very efficient in the amount of time required by the prosecuting attorney in terms of number of court hearings and amount of time devoted to each case. The majority of the cases (83%) were handled with two court hearings, and almost nine out of ten cases (89%) required less than one hour of case processing time by the prosecuting attorney. Time savings can be estimated, for example, by looking at a Driving Without Insurance (DWOI) case and the average amount of time municipal prosecutors indicate is spent in arraignments, pre-trial hearings, and change of plea hearings - 3 – 4 hours - compared to time spent on cases handled within the pretrial diversion program.

Section II: Introduction

Pretrial diversion programs divert certain defendants away from traditional criminal justice proceedings into other case resolution alternatives. Most pretrial diversion programs are designed to address factors that contributed to criminal behavior of the accused, provide a source of restitution to specific victims or the community, reduce costly prosecution and court resources, and free defendants from the collateral consequences of have convictions on their record (Camilletti, 2010; NAPSA, 2006). Generally, pretrial diversion programs provide options to criminal defendants and justice system personnel that provide powerful incentives to defendants, the ability to focus on conditions driving criminal behavior, and diversion from an over-taxed case processing system (Camilletti, 2010; NAPSA, 2006).

Diversion can occur at various stages in the life of a case, but as its name denotes, it will occur prior to trial. Prosecution is held in abeyance, and successfully completing the terms of the diversionary program results in dismissal of the charges (NCSL, 2015).

Section III: Literature Review

Descriptions of Pretrial Diversion

Pretrial Diversion in the United States

According to the National Conference of State Legislatures (NCSL) as of May 13, 2015, 43 states statutorily provide some form of pretrial diversion alternatives (NCSL, 2015). The 1970s became a decade of growth for pretrial diversion, and by March of 1997, there were about 248 intervention/diversion type projects operating in 37 states (Clark, 2007; Cobb, 1978). States began passing laws establishing this dispositional option, and several professional associations such as the National Association of Pretrial Services Agencies (NAPSA) were organized (Clark, 2007). NAPSA created pretrial diversion standards and hundreds of programs sprung up across the country. It was during this decade that the National Advisory Commission on Criminal Justice Standards and Goals recommended pretrial diversion programs for all jurisdictions (Clark, 2007).

Pretrial diversion programs vary in name and structure, but generally share several common characteristics. First, the programs usually seek to modify behavior and often include drug and alcohol treatment, psychological counseling, behavioral management sessions, vocational training, community service, and restitution. Second, programs typically use established eligibility criteria based upon offender characteristics and their perceived treatment needs, gleaned from assessment tools, on the type of crime committed, or a combination of the two.

Description of Pretrial Diversion in Anchorage

Alaska is one of only seven states without statutory provisions related to pretrial diversion (NCSL, 2015). While statutory authorization is not a prerequisite to exercising what has always been a discretionary function of law enforcement and prosecutors, clear codification helps cement a climate of alternative case processing, breaks through

vacillating administrative ideologies about proper forms of punishment and accountability, and can establish uniformity across local jurisdictions. Despite a lack of statutory direction, Alaska has experimented with pretrial diversion at a statewide level and with smaller localized efforts like that operated by the Municipality of Anchorage.

A. The State-Wide Pretrial Intervention Program

Alaska's Department of Law first experimented with pretrial diversion in 1978 when it started the Anchorage Pretrial Intervention (PTI) Project (Schafer, 1988). It targeted first-time property offenders with no history of violence and who were not dependent upon drugs or alcohol. The program focused on direct restitution to specific victims, community service, and compliance with a performance contract that offenders and a counsel developed to identify behavior worthy of modeling (Cobb, 1978; Schafer, 1988). Both state and Anchorage municipal prosecutors made referrals to the program. A favorable evaluation of the first year led the state legislature to fund a statewide pretrial intervention program in fiscal year 1981, which eventually extended to the communities of Barrow, Bethel, Fairbanks, Juneau, Kenai, Nome, Valdez, Ketchikan, Kodiak, Sitka, Dillingham, and Palmer by 1983 (Schafer, 1988).

As the PTI program expanded, objectives were to: (1) provide viable alternatives to formal processing within defined guidelines; (2) provide rehabilitative services to defendants charged with non-serious offenses; and (3) provide restitution either to the victim directly with monetary reimbursement or to society generally through community service. Program guidelines prevented non-prosecutable cases from program referral, and the program had extensive evaluation capabilities built in from the beginning (Schafer, 1988).

Schafer's (1988) thorough review of program outcomes from 1983 – 1986 revealed a promising program, and her study was an opportunity to study diversion from the criminal justice system in Alaska as it operates in different localities under uniform guidelines. Unlike site-specific programs that often vary in policy and practice, Alaska's statewide program allowed comparisons among different program sites operating under the same policies and assessment of how prosecutors and program staff adapted the policies to meet local concerns. Such assessment is important to Alaska which has communities that are distinctly different in size, race, and ethnicity. Schafer's evaluation showed that the most common offense categories referred into the program were theft, drug offenses, burglary/trespass, assault, and underage drinking. These accounted for 75% of all program referrals. The results also showed that the program was meeting the needs of different geographic areas and served the Alaska Native community well. Referral decisions did not appear to be racially motivated or discriminatory. If anything, minorities like Alaska Natives entered the program in excess of their representation in the total population. Except for minor consuming alcohol cases¹, the program did not result in net-widening. Program guidelines allowed for referral of felony cases and defendants with prior records, but the program was primarily intended for non-serious first offenses. Interestingly, 36.8% of those in the program were charged as felons which suggests the program did serve as an alternative to more severe sanctions. Furthermore, 36.3% of participants had prior criminal histories. Substance abuse treatment was required in

¹ Nearly 90 percent of the PTI clients charged with Minor Consuming Alcohol were located in Fairbanks and were college students (Schafer, 1988, p. 29).

about half of the referrals, and most of the participants were under the influence of alcohol or drugs at the time of their offense. About 60% of program participants successfully completed their performance contracts. The remainder was a mixture of partial completion or no participation.

Approximately 33% of the participants were rearrested (for any offense) between two and four and one-half years after they were admitted into the program which mirrored the recidivism rates in other states' pretrial diversion programs. Age was the strongest predictor of program failure. Offenders under 25 were twice as likely to be rearrested as those over 35. Female clients were rearrested about 10% less than males, and those without a high school diploma or its equivalent recidivated at a rate of 41.3% compared to the 30% with a high school diploma. Race also seemed to be associated with rearrest. Alaska Natives and Blacks were more likely to be rearrested than whites, but this may have been more of a rural vs. urban distinction than an indicator of discrimination. A little more than half of the Alaska Natives in the PTI sample lived in rural areas (51.9%) while only 20.7% of the whites in the sample lived in rural areas.

Despite the fact the program was meeting its objectives, the effort was "phased out" during the economic recession caused by low oil prices and was totally discontinued by the Department of Law in 1986 (Schafer, 1988). This is most ironic because many jurisdictions adopt pretrial diversion programs, in part, for the financial savings they provide. Ultimately, 1,964 cases entered the pretrial intervention program before it was discontinued. Resources savings do not appear to have been a program goal because it didn't surface as a data point in evaluation tools. Schaffer's (1988) evaluation did not measure the extent to which cost savings to the State of Alaska were realized. We can only speculate on the degree, if any, this statewide program was saving prosecutorial and court time and money.

B. The Municipality of Anchorage Pretrial Diversion Program

Anchorage reinstated pretrial diversion (PTD) alternatives in the mid-1990s when it codified a pretrial diversion program into its municipal ordinances at AMC 08.05.060. It is a modest effort that refers fewer types of cases and fewer types of offenders into the program. Anchorage seeks to primarily divert first time offenders with a specific range of offenses from traditional case processing. The code states that pretrial diversion is available for any criminal or traffic offense except for those specifically identified. Diversion is not currently available for crimes against persons, weapon crimes, crimes harmful to minors, gambling, prostitution, and offenses related to driving under the influence.

Defendants are offered PTD independent of whether they are in custody or not. The Municipality operates three kinds of diversion: pre-charge, pretrial, and deferred sentencing. Pretrial diversion agreements under AMC 08.05.060 typically require the defendant to pay a fine or do community work service (CWS). Pretrial diversion participants are usually expected to complete their conditions within one month. The Municipality obtains fines from all three diversion programs.²

² See Sentencing Alternatives Workgroup Proposals to the Commission for Recommendations Regarding: Pretrial Diversion and Deferred Prosecution (April 25, 2015), available at <http://www.ajc.state.ak.us/acjc/proposals/ptd-dis4-15.pdf>.

There has been no formal evaluation of the program design, its operation, or its outcomes. Some data about overall fines received in a given year have been collected by Anchorage municipal prosecutors, and that financial information, and some estimates about the program, were reported to the Alaska Criminal Justice Commission's Sentencing Alternatives work group during their 2015 meetings.³ It was at that time that the Sentencing Alternatives work group invited the University of Alaska to help evaluate the municipal pretrial diversion program.

Estimates reported to the Sentencing Alternatives workgroup staff stated that about 70% of people offered PTD accept it, and about 70% of those who accept the offer complete the program and obtain diversion. Municipal Prosecutor Seneca Theno estimated that the Municipality on average earns between \$250,000 to \$260,000 per year from the three programs; the totals vary from year to year depending on police and prosecutor staffing levels. In 2014, a year when both police and prosecutor staffing was reduced, all three diversion programs took in \$133,000. In 2014, there were about 350 PTD participants. At an average fine of \$250 each, the program took in \$87,500 in fines.⁴

³ The Alaska Criminal Justice Commission was formed by the Alaska Legislature in 2014. The Commission consists of thirteen members. The Commission was tasked with evaluating and making recommendations to improve criminal laws and practices in Alaska. See information available at <http://www.ajc.state.ak.us/alaska-criminal-justice-commission>.

⁴ See Sentencing Alternatives Workgroup Proposals to the Commission for Recommendations Regarding: Pretrial Diversion and Deferred Prosecution (April 25, 2015), available at <http://www.ajc.state.ak.us/acjc/proposals/ptd-dis4-15.pdf>.

Section IV: Methods

The research method employed for this component of the evaluation was an initial outcome assessment of the Anchorage Municipal Pretrial Diversion Program. The goal of this assessment was to determine effectiveness of the program for completion of the conditions of participation in the pretrial diversion program, and in cost savings generated by the pretrial diversion program. Measures of cost savings include dollar amount of fines collected by the program and estimates of time savings for prosecutors. Time savings can be estimated, for example, by looking at a Driving Without Insurance (DWOI) case and the average amount of time municipal prosecutors indicate is spent in arraignments, pre-trial hearings, and change of plea hearings compared to time spent on cases handled within the pretrial diversion program.

Data Collection

Data collection for the evaluation employed a convenience sampling methodology. The Municipal Prosecutor's office collected data on all defendants that were offered pretrial diversion from June to August 2015. It was estimated that the Municipal Prosecutor's office offered pretrial diversion, on average, to five defendants per day for an estimate of 25 offers per week. Based on the 12 weeks of data collection it was estimated that data on 300 defendants would be collected. Data collection points included case characteristics (e.g., sanction, completion, outcome), dates for each point in the process of pretrial diversion, and participant demographics. As of August 31, 2015, the end of the data collection period, the sample size was 148 cases; of these 148 cases, the outcome results include data on the 91 closed cases in the sample.

Section VI: Findings

Counts and charges of defendants offered pretrial diversion

Tables 1-3 outline the number of defendants with closed and open cases in pretrial diversion, the number of defendants that accepted pretrial diversion, and the categories of charges associated with the defendants whose pretrial diversion case was closed at the end of the data collection period.

Table 1: Pretrial Diversion Case (PTD) Counts

STATUS	PTD STATUS	REASON	TOTAL
Closed	Offered PTD		91
	Accepted PTD		89
	PTD Successful		82
		No bench warrant (BW) or continuances	61
	PTD Complete		
		BW involved after acceptance of PTD	5
		BW involved after acceptance of PTD offer and additional continuances granted	4
		BW involved before acceptance of PTD offer	4
		BW involved before acceptance of PTD offer and after accepting PTD	1
		Continuances (1), no BW	5
		Rejected initially by defendant but allowed into PTD later	2
		PTD Unsuccessful	
		Allowed into PTD, but ultimately pled out to underlying charge	5
	Rejected by Defendant		
		By way of BW at out of custody arraignment (OCA) or other reason, and not allowed to participate later	2
	Dismissed for Various Reasons		
		Before PTD offer or acceptance	2
Open			57
	Accepted into PTD and Now Awaiting Completion		13
	Rejected by Defendant		
		Because of BW at OCA or other reason, and not allowed to participate later. Prosecution ongoing	6
	Bench Warrants		
		Bench Warrants and NEVER in PTD. PTD would have been offered but defendants failed to show up for OCAs. (For internal record purposes, these cases are listed as PTD rejected, but defendants may be offered PTD at next OCA if they appear.)	21
		Bench Warrants and accepted into PTD, but then got subsequent BW (For internal record purposes, these cases are listed as PTD accepted and PTD rejected for BW.)	17
TOTAL OPEN AND CLOSED CASES			148

Legend

PTD: Pretrial Diversion

BW: Bench Warrant

OCA: Out of Custody Arraignment

Table 1 outlines the status of all 148 cases. Further analyses on the measures of success were analyzed on the 91 closed cases. There were 91 defendants that accepted pretrial diversion and had completion of their case by the end of the data collection period, August 31, 2015. The table includes the status of the open cases at the end of the data collection period. The table shows that there are a number of reasons for the status of closed and open cases. The explanations of the pretrial diversion status include bench warrants being issued at some time point during the defendants' time in the pretrial diversion program. The table displays the reasons as described by the municipal prosecutor collecting the data for the evaluation. Eighty-nine defendants accepted the PTD offer and 82 (92%) defendants successfully completed the conditions.

Table 2: Pretrial Diversion Offers and Acceptances

	PTD Offered	PTD Accepted
Cases	91	89

Table 2 concisely delineates the number defendants that were offered pretrial diversion and the number of defendants that accepted the offer of pretrial diversion. Of the 91 closed cases that data were collected on through August 31, 2015, a significant number (98%) of defendants that were offered pretrial diversion accepted the offer. While the number of defendants that accepted the offer of pretrial diversion itself is not a measure of success of the program, it does indirectly suggest that the Municipal Pretrial Diversion Program is appealing to those defendants who receive the offer of diversion. This could be due to the fact that the municipal prosecutor's office diligently reviews each of the cases before making an offer of pretrial diversion. Thus those defendants that are deemed good candidates for pretrial diversion by the municipal prosecutor's office may have a direct impact on the number of defendants that accept the offer. If the municipal prosecutor's office does not reason that a defendant is an appropriate candidate for pretrial diversion, an offer likely was not made; so that those defendants that are offered pretrial diversion have been prescreened resulting in a higher likelihood that the offer would be accepted.

Table 3: Offense Category and Charge

Offense Category/Charge		
	N	%
Driving without insurance	48	52.7%
Theft Under \$50	11	12.1
Theft Over \$50	22	24.2
Misconduct involving controlled substances in the 6th degree	4	4.4
Contributing to the delinquency of a minor	1	1.1
Hit and run, leaving the scene of a crash	2	2.2
Driving a motor vehicle with a screen device operating	1	1.1
Purchase or delivery to persons under the age of 21	1	1.1
Trespass	1	1.1
Total	91	100.0%

Table 3 describes the offenses and charges of the sample of closed cases of defendants that were offered pretrial diversion. Defendants that were offered pretrial diversion were charged with relatively minor offenses. This is in line with the parameters of eligibility requirements of the pretrial diversion program: minor non-violent offenses. The vast majority of defendants (93%) were charged with one of four crimes in ascending order: 1) driving without insurance (DWOI), 2) theft under \$50, 3) theft over \$50, and 4) misconduct involving a controlled substance in the sixth degree (i.e., AMD 9.28.303(A) (MICS 6)). The prosecutor’s office stated that in most cases the controlled substance indicated in this charge is marijuana. The remaining charges include contributing to the delinquency of a minor (CDM) (AMC 8.50.050(A)(1)), hit and run leaving the scene of a crash (HAR) (AMC 9.10.020(C)), driving a motor vehicle with a screen device operating (D/wSDO), purchase or deliver to persons under the age of 21 and access of persons under the age of 21 to licensed premises (DPU21), and trespass.

Demographic variations among defendants offered pretrial diversion

Tables 4-8 outline the demographics of the 91 defendants that were offered pretrial diversion. For comparisons of the demographics, the results are displayed in the order of those that were offered pretrial diversion, those that accepted pretrial diversion

and those that did not accept pretrial diversion. A comparison of the pretrial defendants is made to the population estimates within the Municipality of Anchorage.

Table 4: Gender of Pretrial Diversion Defendants

Gender	Offered PTD		Accepted PTD		Did Not Accept PTD	
	N	%	N	%	N	%
Male	51	56.0%	50	56.2%	1	50.0%
Female	40	44.0	39	43.8	1	50.0
Total	91	100.0%	89	100.0%	2	100.0%

Table 4 describes the gender of the defendants that were offered pretrial diversion, those that accepted pretrial diversion, and those that did not accept the offer of pretrial diversion. For those defendants offered pretrial diversion and those that accepted pretrial diversion, the proportion of males to females was very similar; a little over half were male and a little less than half were female. This shows that there were not substantial gender differences between those offered pretrial diversion, nor was there disparity in the gender of those defendants that accepted pretrial diversion compared to those offered. There was an equal split of the gender variable of the two defendants that did not accept the offer of pretrial diversion, one male and one female.

Table 5: Age Differences of Pretrial Diversion Defendants

Age	Offered PTD		Accepted PTD		Did Not Accept PTD	
	N	%	N	%	N	%
Under 18	3	3.3%	3	3.4%	0	0.0%
18 to 20	34	37.4	34	38.2	0	0.0
21 to 40	44	48.4	44	49.4	0	0.0
41 to 60	8	8.8	6	6.7	2	100.0
61 and over	2	2.2	2	2.2	0	0.0
Total	91	100.0%	89	100.0%	2	100.0%

Table 5 describes the variations in age between those offenders that were offered pretrial diversion, those that accepted the offer, and those that did not accept the offer. The most common age group that received and accepted the offers of pretrial diversion were offenders between the ages of 21 to 40 years old, followed by offenders aged 18 to 20 years old. Thus relatively younger offenders between the ages of 18 to 40 years old constitutes 85% of those offered pretrial diversion, and of those offered pretrial diversion in this age group a vast majority, 87%, accepted the offer.

Table 6: Race/Ethnicity of Pretrial Diversion Defendants

Race	Offered PTD		Accepted PTD		Did Not Accept PTD	
	N	%	N	%	N	%
White	52	57.1%	50	56.2%	2	100.0%
African American	8	8.8	8	9.0	0	0.0
American Indian/Alaskan Native	13	14.3	13	14.6	0	0.0
Asian/Pacific Islander	7	7.7	7	7.9	0	0.0
Hispanic	1	1.1	1	1.1	0	0.0
Unknown	10	11.0	10	11.2	0	0.0
Total	91	100.0%	89	100.0%	2	100.0%

Table 6 shows the race/ethnicity of offenders that were offered pretrial diversion, those that accepted and those that did not accept pretrial diversion. (Offenders self-reported race/ethnicity.) A little over half (57%) of those offered pretrial diversion were white, and again a little over half (56%) of those that accepted pretrial diversion were also white. The next largest racial groups that were offered and accepted pretrial diversion were American Indian/Alaska Native (14% offered, 14% accepted), African American (9% offered, 9% accepted), and Asian/Pacific Islander (8% offered, 8% accepted). It should be noted that the racial identity of about one in ten offenders that were offered and accepted pretrial diversion was unknown. It cannot be discerned from the data whether this was due to multi-racial identity or the offender opting not to identify with a specific racial group.

Table 7: Prior Offense Differences of Pretrial Diversion Defendants

Were there prior offenses?	Offered PTD		Accepted PTD		Did Not Accept PTD	
	N	%	N	%	N	%
No priors	82	90.1%	81	91.0%	1	50.0%
Prior convictions	8	8.8	7	7.9	1	50.0
No priors (but may have out-of-state charges)	1	1.1	1	1.1	0	0.0
Total	91	100.0%	89	100.0%	2	100.0%

Table 7 describes the criminal record of those defendants that were offered pretrial diversion, and those that did or did not accept the offer of pretrial diversion. The vast majority of offenders that were offered pretrial diversion did not have any prior convictions (90%), and similarly those that accepted the offer of pretrial diversion also did not have any prior convictions (91%). This supports the program requirement of offender eligibility for offers of pretrial diversion; the Anchorage Municipal Pretrial Diversion program has a target population of low level first-time offenders.

Table 8: Pretrial Defendants Compared to Population Estimates

Variable	Median/Percentage	Anchorage Population Estimate	Anchorage Correctional Population Estimate
Age	22 ¹	32.6 ¹	25-29 ²
Gender			
Male	56%	50.8%	96%
Female	44	49.2	4
Race			
Caucasian	57.1%	66%	42%
African American	8.8	5.6	17
American Indian/Alaska Native	14.3	7.9	29
Asian/Pacific Islander	7.7	10.1	8

¹Median Age

² Most Common Age Group

Source: Municipal Pretrial Diversion Evaluation, *American Community Survey 2010-2014 Estimates, 2014 Alaska Offender Profile*

Table 8 compares demographic data of offenders in the Anchorage Municipal Pretrial Diversion program during the data collection period, as compared to the demographic variables of adult residents in the Municipality of Anchorage, and compared to those in custody at the Anchorage Correctional Complex as of June 30, 2014. There is a nearly equal division of male and female adult residents (51% and 49% respectively) living in Anchorage. There was slightly more variation in the sample of offenders in the Anchorage Municipal Pretrial Diversion program, 56% male compared to 44% female. There were vast differences in the percentage of males and females in the Anchorage Municipal Pretrial Diversion Program compared to the percentage of male and female individuals in custody at the Anchorage Correctional Complex (96% and 4% respectively).

Regarding the adult racial composition in Anchorage, Caucasians represent 66% of the population, followed by Asian/Pacific Islander residents (10%), American Indians/Alaska Natives (8%), and African Americans (6%). In the sample of Anchorage Municipal Pretrial Diversion Program offenders, Caucasians represented over half of the population sample (57%). Compared to the Anchorage Municipal population estimates, American Indian/Alaska Native offenders in pretrial diversion were overrepresented by 6% in that population, and African American offenders were overrepresented by 3%. Conversely, Asian/Pacific Islander offenders in pretrial diversion compared to those in the Anchorage general population were underrepresented by 2% in the pretrial diversion

population. There were fewer Caucasians and Asian/Pacific Islanders in the pretrial diversion program compared to their representation in the Anchorage general population, and there were more American Indian/Alaska Native and African American offenders in the pretrial diversion program compared to their representation in the Anchorage general population.

In looking at the in custody population at the Anchorage Correctional Complex, Caucasians comprised 42% of that population, and 57% of the Anchorage Pretrial Diversion Program population. American Indians/Alaska Natives comprised 29% of the ACC population compared to 14% of the Anchorage Pretrial Diversion Program population. African Americans comprise 17% of the ACC population compared to 9% of the Anchorage Pretrial Diversion Program population. Asian/Pacific Islanders made up 8% of both the ACC population and the Anchorage PTD program population.

Caution should be taken when interpreting the comparisons of the Anchorage Pretrial Diversion Program population to the population of individuals at the Anchorage Correctional Complex. First, the Anchorage Correctional Complex population is predominately composed of defendants charged with a crime awaiting trial (69%), and far fewer inmates that have been sentenced (30%). Secondly, the population at the Anchorage Correctional Complex was chosen as a reference group of in custody individuals in the criminal justice system, and the population estimates may be different than estimates of in custody individuals in the State of Alaska correctional system as whole or nationwide estimates. However, since the focus of this project was the Anchorage Pretrial Diversion Program, a criminal justice reference group specific to Anchorage was deemed appropriate.

Conditions of Pretrial Diversion

Tables 9-10 outline the conditions imposed on those defendants that were offered pretrial diversion. Table 9 specifies the conditions of pretrial diversion, and Table 10 describes the types of conditions that were completed by those defendants who successfully completed pretrial diversion during the data collection period.

Table 9: Conditions of Pretrial Diversion

Conditions of PTD		
	N	%
Fine	81	89.0
Community Work Service	8	8.8
N/A (due to defendant failing to show to Out of Custody Arraignment)	2	2.2
Total	91	100.0

Table 9 outlines the frequency and percentage of the conditions of pretrial diversion for those that were offered and accepted the offer of pretrial diversion during

the data collection period. The vast majority of the conditions were a fine (89%), and a much smaller percentage of offenders chose community work service (9%) as a condition. The most common fine amount, as reported by the Municipal Prosecutor, was a \$250 fine, and the most common amount of CWS was 40 hours. This demonstrates that for most participants in the pretrial diversion program, a small monetary fine was much more popular than the time spent doing community work service.

Table 10: Successful Completion of Pretrial Diversion Conditions

Successful Completion of PTD Conditions		
	N	%
Fine	76	92.7%
Community Work Service	6	7.3
Total	82	100.0%

Table 10 describes the pretrial sanctions for those offenders that completed the conditions of pretrial diversion during the data collection period. As with the prior table, by far the most common completed condition was payment of a fine (93%) compared to those that completed a condition of CWS (7%). Outside of the discussion of the amount of time saved by municipal attorneys and the judiciary through the use of pretrial diversion, this demonstrates a successful measure of the Anchorage Municipal Pretrial Diversion program in revenue generation. If the most common fine amount was \$250 and 76 offenders completed the financial condition of pretrial diversion, a rough estimate of \$19,000 could be established.

Additionally it can be estimated that during the data collection period, the Anchorage Municipal Pretrial Diversion program generated 240 hours of community work service. Some opponents of the use of a pretrial diversion program argue that the program is coercive in nature and those that have financial means are able to “pay their way out” of a criminal adjudication. A possible counter explanation against the coercive nature of the program is two-fold. First, the majority of the offenses were driving without insurance which is a prima facie offense that would result in a guilty conviction; either the offender had insurance or they did not. Secondly, had the offender not accepted the offer of pretrial diversion, specifically for the offense of driving without insurance, and opted for traditional adjudication likely resulting in a guilty finding, the going rate for disposition would be a \$250 fine with two years of probation. Thus, the financial penalty of the most common offense in the pretrial diversion program, driving without insurance, is paid at the front end of the system rather than the back end via adjudicatory disposition, thus negating the argument of socio-economic disparity for pretrial participants.

As noted earlier, it is important to point out that the offender chooses the condition of pretrial diversion. Thus if finances were an issue, there is still a mechanism, community work service, to participate in pretrial diversion. Additionally, by accepting the offer of pretrial diversion, the offender would likely not have the additional sanction

of a probationary disposition in traditional case processing, saving additional resources for the probation department.

Length of Time for Pretrial Diversion Processes

Table 11 shows that average amount of time that elapsed for the pretrial defendants for each procedural process in the pretrial diversion process. This information is provided to highlight areas in the process that are quicker or longer than others when making estimates of time spent in the process by both the defendants and for the attorneys.

Table 11: Procedural Time Lengths for Pretrial Diversion Processes

Time Points in PTD Processes							
	Date of PTD Acceptance to Date of Condition Completion	Date of Offense to Date of Screening for PTD	Date of Screening to Date PTD Offered	Date PTD Offered to Date PTD Accepted	Date PTD Accepted to Due Date for Condition Completion	Date PTD Accepted to Date PTD Conditions Completed	Date PTD Conditions to Date Case Closed
Average Number of Days	24.5	31.6	9.0	6.7	35.6	9.8	3.3
Cases	63	82	82	82	81	79	62

Table 11 shows the relative swiftness in case processing as a measure of success for the Anchorage Municipal Pretrial Diversion program. The mean (average) time spent, in days, during the different process point of the program is highlighted. An average of 24 days elapsed from the date pretrial diversion was accepted until the date that the conditions of pretrial diversion were satisfied. The time between the date of the offense and the time that a municipal attorney screens the case for pretrial eligibility was on average 31 days, and only 9 days from the time the case was screened until the day that the offer of pretrial diversion was made. Defendants, on average, took 6 days to accept an offer of pretrial diversion. Once accepted, defendants had on average 35 days to complete the conditions of pretrial diversion, most often either through payment of a fine or completion of community work service. (Pretrial diversion participants are generally expected to complete their conditions within a one-month time frame. Municipal prosecutors have the discretion to extend the 30 days if necessary.) Many defendants took much less time (a little over 9 days) than the 35 days offered to complete the conditions of pretrial diversion. This demonstrates the swiftness, or success, of pretrial diversion in attainment of compliance. Once the conditions of pretrial diversion were satisfied it took an average of 3 days for the municipal prosecutor’s office to close the case. Taken as a whole, this mechanism of case diversion is a much quicker process, for both the offenders and more importantly for attorneys (both prosecution and defense) and the court system, than traditional case processing.

Number of court hearings and estimated time spent

Tables 12, 13 and 14 describe the number of court hearings for the 82 defendants in the 82 cases that successfully completed the conditions of pretrial diversion during the data collection period. Additionally estimates of time spent (in hours) are detailed for each court hearing, and estimates of time spent (in hours) for the entire case by the attorney are detailed.

Table 12: Number of Court Hearings - Successful PTD Completion

Number of Court Hearings Per Defendant		
Number of hearings	N	%
0	1	1.2%
1	24	29.3
2	44	53.7
3	9	11.0
4	2	2.4
5	1	1.2
8	1	1.2
Total	82	100.0%

Table 13: Number of Court Hearings and Time Spent Per Case - Successful PTD Completion

Number of Court Hearings and Time Spent Per Case	
Mean Number of Hearings	1.95
Mean Hours Per Hearing	0.85

Table 12 and 13 extends the findings of process efficiency as reported in the previous table from the perspective of the municipal prosecutors handling pretrial diversion cases. The majority of pretrial cases needed only one or two court hearings (83%) to process the case. Additionally the time of the municipal prosecutors was

efficiently used, with less than one hour spent on average for each of the two court hearings.

Table 14: Estimated Time Spent Per Case - Successful PTD Completion

Estimated Time Spent in Hours Per Case		
	N	%
.50	3	3.7%
.75	58	70.7
1.00	12	14.6
1.25	5	6.1
1.50	2	2.4
1.75	1	1.2
2.15	1	1.2
Total	82	100.0%

Table 14 illustrates another measurement of time efficiency for municipal prosecutors with the use of pretrial diversion. Nearly nine out of ten (89%) cases used less than one hour of municipal prosecutors' time for case processing. Arguably, without pretrial diversion, it could reasonably be estimated that municipal prosecutors would spend more than one hour on each case in traditional adjudicatory processing.

Section VII: Conclusion

The initial outcome assessment of the Anchorage Municipal Pretrial Diversion Program indicates positive outcomes of the program in reaching the goals of savings, both in money and time, by diverting offenders out of the traditional criminal adjudication process. The program saves time for various justice system agencies involved with minor criminal offenders, time savings that can be more efficiently directed towards involvement and processing of more serious criminal offenders. The agencies that directly benefit from time savings include the Municipal Prosecutor's Office, and the Anchorage District and Superior Courts. Additional system savings for the Municipal Prosecutor's Office come from reduced costs associated with the private law firm, Denali Law Group, that contracts with the Municipal Prosecutor's Office to provide representation for indigent defenders.

Additionally, the defendants benefit from time savings in diversion rather than the process involved with traditional adjudication. Quite often criminal cases cause an arduous amount of time requirement for offenders (e.g., court hearings, continuances) that is often viewed as more burdensome than the actual sanction for the offense. Defendants often have to take time off work to appear at court, may have to find child care, may have to find transportation, and are often unaware of court locations and proceedings, which leads to the process of court adjudication being perceived as more burdensome than the sentence for an offense (Feeley, 1992). This could be another of the attractive aspects of pretrial diversion from the offenders' perspective. According to the Municipal Prosecutor, it is likely that the sanctions imposed in the pretrial diversion program would be similar to sanctions imposed in a traditional adjudication process for the same types of cases. However, it is likely that two years of probation would have been imposed in traditional adjudication -- a condition that is not imposed in the pretrial diversion program. The absence of probation conditions can also result in additional resource savings. The Anchorage Pretrial Diversion Program can be an appealing option for minor criminal offenders and demonstrates positive outcomes for both the offender and the justice system. Future phases in the evaluation of the pretrial diversion program will examine recidivism reduction rates of program participants.

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Helpful Resources:

National Criminal Justice Association Center for Justice Planning has a section of their website devoted to Pretrial with resources such as risk assessments and other tools at <http://www.ncjp.org/pretrial/state-law>

National Conference on State Legislature has a Pretrial Policy Law Database at <http://www.ncsl.org/research/civil-and-criminal-justice/pretrial-policy.aspx>

National Institute of Corrections has a section of their website devoted to Pretrial with information on assessment tools and diversion at <http://nicic.gov/pretrial>.

National Association of Pretrial Services Agencies has a website that provides suggested standards, several evaluations, and reports at <https://napsa.org/eweb/DynamicPage.aspx?Site=napsa&WebCode=Diversion>.

Appendix: Anchorage Municipal Pretrial Diversion Data Collection Form

Data Points Information Sheet

Case Information

Offense Category/Charge:

Date of Offense

Screening Date

Defendant's Name

Date offered PTD

Date accepted PTD

Date prosecution reinitiated if moved out of PTD

Conditions of PTD

Due date for PTD Performance Agreement Completion

Outcome of Performance Agreement

Completed, Partially completed, not completed

What was completed if only partially completed

Date completed PTD

If not completed, why?

Date case closed

Estimated time spent on the case

Number and type of court hearings involved

Defendant's Demographics

Name

Age

Race

Gender

First offense (prior convictions?)

Residence (city and zip code as identified in APSIN or police records)