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Evaluation of Pre-Trial Diversion Project, State of Alaska, Department of Law

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Summary

In February 1978 the Alaska Department of Law initiated a pilot pretrial intervention (PTI) project in Anchorage directed at first-time property offenders with no history of violence and no current drug or alcohol dependency. The project was aimed at reducing recidivism and costs to the criminal justice system, and included a built-in evaluation component. This report explores the PTI project's impact by (1) comparing PTI clients with other defendants; (2) investigating compliance of PTI clients with contracts to which they agree at time of program entry; (3) comparing costs of PTI compared with those generated in ordinary criminal cases; (4) evaluating the program's administration, identifying its deficiencies, and suggesting improvements; and (5) looking at recidivism rates of PTI clients.

EVALUATION
of
Pre-Trial Diversion Project
State of Alaska
Department of Law



JUSTICE CENTER

**University of Alaska, Anchorage
Anchorage, Alaska**

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Most importantly, we must thank Chris Cobb and his staff for their assistance and openness in providing us with data and for their patience in waiting for this report.*

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* We held off issuing this report until now to increase the amount of time successfully terminated clients were "at risk" in connection with our evaluation of the project's impact on client recidivism.

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INTRODUCTION

In February of 1978 the Department of Law initiated the first pre-trial intervention project in Alaska within the Third Judicial District in Anchorage. Funded by the Governor's Commission on the Administration of Justice, the project was but one phase of a multi-faceted effort by the Department to improve the efficiency of prosecutorial services while at the same time enhancing the likelihood that justice would be served in individual cases. This effort, Project Prosecutor (PROsecutor Enhanced Charging Using Tested Options and Research), also included the development and testing of screening guidelines, the drafting of a manual of criminal law and procedure for police officers, a preliminary hearing experiment and the establishment of a police legal advisor position within the Anchorage District Attorney's office serving both state and municipal law enforcement agencies.

This report focuses on the Pre-Trial Intervention Project and explores its impact on the justice system of the Third Judicial District from five distinct perspectives.

First, the report looks at the clients of the pre-trial intervention project and compares them with defendants who were not prosecuted by the District Attorney's office as well as those who were. Our null hypothesis was that there would be no significant differences between the three groups of defendants.

On a second level, the report investigates and reports on client performance measured in terms of compliance with

contracts agreed to by the client at the time of entry into the project.

Third, the report analyzes the costs associated with pre-trial intervention and compares these costs against those generated in ordinary criminal cases.

Fourth, we have looked at the manner in which the project was administered with a view towards identifying administrative deficiencies, if any, and suggested remedial options as required.

Finally, and to the extent that a relevant lapse of time permitted, the report looks at recidivism rates among project clients. For purposes of this study, recidivism has been defined in two distinct ways. First, it refers to unsuccessful termination from the project. Second, and most importantly, it refers to subsequent client rearrest within Alaska on criminal charges.

PROJECT BACKGROUND

One of the reasons behind the Department of Law's decision to explore pre-trial diversion was a high rate of dismissals prior to trial (33.9% in 1976). Officials of the Department were of the opinion that one reason why the dismissal rate was so high was that cases were filed which should have been dealt with in a less formal manner through diversion from the system.

While not detracting from the gravity of all criminal behavior the project was designed to implement recognition that some offenses involved far more serious consequences for society than others.

The underlying premise of the program of deferred prosecution and diversion is that every technical infraction of the law does not warrant prosecution to the fullest extent. Similarly, not every offender who is processed through the justice system requires the implementation of the full range of formal procedures, much less incarceration. Some individuals accused of committing a certain level of criminal acts are not criminals. Rather, they can be considered lawbreakers; that is, their acts are a product of circumstances unlikely to recur or are of a nature readily amendable to modification by program services. Society as a whole benefits from dealing with this type of individual in a manner consistent with the problems they present.

Too frequently all offenders in the criminal justice system are routinely grouped together causing those nominally considered lawbreakers to be processed in the same manner as serious offenders. It has been hypothesized that this grouping

contributes to increased recidivism in two ways. First, the nominal lawbreaker frequently will come to see himself as a criminal because of vicarious exposure to criminal experiences and attitudes of more serious offenders. In other words, some lawbreakers "learn criminal trades" from those with whom they are grouped.

Secondly, treating both lawbreakers and serious offenders alike may engender the development of a mental attitude among lawbreakers that they are no different. Diversion (prior to formalized prosecution) of those who can legitimately be identified as lawbreakers may have the effect of reversing this trend.

It should be noted that at the time the project was initiated no conclusive evidence had been presented to support the commonly held belief that rehabilitative programs of academic or vocational training within correctional institutions were effective in reducing the rate of recidivism among offenders. See What Works? - Questions and Answers About Prison Reform, Robert Martinson, *The Public Interest*, No. 35, National Affairs, Inc., 1974, p. 25 (New York).

Similarly, the employment of treatment alternatives such as counseling, psychotherapy, etc., as post-conviction mechanisms to achieve rehabilitation had not produced much success either, whether such mechanisms were utilized in institutional settings or within the community at large. See Much Ado About Little: The Correctional Effects of Corrections, David F. Greenberg,

Final Report of the Committee for the Study of Incarceration, Sacramento, California: June 1974, p. 23.

In light of evolving attitudes towards the treatment of offenders and the generally perceived failure of the system to rehabilitate, diversion prior to trial afforded the possibility of an economically viable alternative mechanism with the potential to turn accused individuals into useful members of society. The offender who has committed his first offense, often a non-violent and casual encounter with the law, might receive more benefit from counseling and other services than by prosecution.

By diverting individuals who seemed unlikely to repeat their offenses and who might be amenable to rehabilitative treatment, other prosecution efforts could be concentrated on more serious cases. Thus, the public would benefit from a meaningful reallocation of law enforcement resources to areas where they were most urgently needed. And, diverted individuals might also benefit by being afforded the opportunity to resolve pending charges without incurring the stigma of criminality which attaches to a conviction.

It was expected that the establishment of a meaningful screening system, in conjunction with a program of pre-trial intervention and diversion, incorporating uniform guidelines and a factual adversary hearing, would lead to a more efficient, as well as a more economical and fair method of case disposition throughout the criminal justice system. As noted by the National Advisory Commission on Criminal Justice Standards and Goals:

In appropriate cases offenders should be diverted into non-criminal programs before formal trial or conviction.

Such diversion is appropriate where there is a substantial likelihood that conviction could be obtained and the benefits to society from channeling an offender into an available non-criminal diversion program outweigh any harm done to society by abandoning criminal prosecution. Task Force Report: Courts, Standard 2.1 at p. 32.

Although pre-trial diversion may often be appropriate, at the time of the project's start there were no formal procedures for diverting cases to alternative programs and few such programs in existence. Consequently, the project sought not only to establish uniform guidelines for the diversion of cases by the District Attorney's office in the exercise of its prosecutorial function, but also to establish a rehabilitative program for certain offenders as an alternative to criminal prosecution.

The present evolution in approaches to sentencing also lent support to the need for exploring the diversionary alternative. There is a nationwide trend away from indeterminate sentencing which maintains the underlying premise of offender rehabilitation towards determinate sentences and, in some cases, mandatory minimums. (At the time the project was being developed legislation had been submitted by the Governor providing for a comprehensive scheme of presumptive sentencing for serious felony offenses.) This trend reflects the belief that rehabilitation is not the primary purpose of incarcerative sentences, but rather that the primary function of incarceration should be protection of society through isolation of the offender and punishment.

Rehabilitation, however, was still thought of as fundamental to our concept of criminal justice. In that regard, it was believed that provision of rehabilitative services for certain offenders prior to their entering a prison environment was more likely to succeed than providing them after imprisonment. Rehabilitation, it was supposed, was more likely to occur for a person convicted of a reasonably minor offense if that person was not exposed to the vicarious criminal experiences and attitudes of more serious offenders with whom he or she might be imprisoned.

Although it was absolutely essential for all elements of the criminal justice system to be involved in a program of pre-trial intervention and diversion, the critical role was conceived as belonging to the prosecutor who in the final analysis must decide whether to file charges in a particular case. Thus, an underlying premise of this project was that the program of pre-trial intervention and diversion would be administered under the direction of the Criminal Division of the Department of Law.

The primary objective of the diversionary component of Project Prosecutor was to provide prosecuting attorneys with a viable alternative to formal prosecution in the processing of a criminal offense according to well-defined criteria and guidelines with respect to both offenses and offenders.

A secondary objective of the diversion project was to provide rehabilitative services such as employment, job training, education, and counseling to residents of Alaska who were charged

with essentially single-count, nonviolent property crimes, providing that they were charged with their first offense. If they were previously convicted, the previous conviction could not be of a nature as to evince a pattern of antisocial behavior or habituation to crime. And, any previous conviction must have occurred far enough in the offender's past to allow a reasonable inference that the crime with which he was charged was not a manifestation of antisocial behavior or habituation to crime.

Offenders could not have been previously enrolled in a pre-trial intervention project; and they could not have a serious¹ problem with alcohol or drugs which was a cause of the offense. These guidelines were chosen because the program in Phase I would be restricted to providing short-term rehabilitative services for only those offenders who have had little prior contact with the criminal justice system. It was anticipated that, if successful, the program would be expanded in terms of eligibility criteria in subsequent funding phases.

The pre-trial intervention project was to provide screening services, intake interviews, performance contract development and referral services for approximately 175 individuals in the first year. They were to be referred to the project by the prosecutorial screening unit. In order to develop the most appropriate treatment referral for each client, project staff

1/ See Appendix A for a detailed listing of the eligibility criteria. (The criteria were later expanded to permit diversion in cases involving assaultive conduct and other appropriate crimes against the person.)

were to develop and coordinate a delivery system of community services, maintaining a high level of community and agency support.

Victim restitution was intended to be a key element in the pretrial intervention project. Victims were to be reimbursed for private property damages while the primary means of restitution for damage to public property was to be public service employment. It was felt that such restitution would have a rehabilitative effect on the individual offender when combined with a well defined treatment plan.

After initial prosecutorial screening those individuals eligible for the pre-trial intervention program would be interviewed to ascertain their willingness to participate in the project. Prospective participants had to be willing not only to accept treatment but also to waive certain procedural rights, including the right to a speedy trial.

In order to protect the rights and interests of both the defendant and prosecution, the following minimum safeguards or standards were built into the project:

- (1) the diversion program would not be utilized as a mechanism to compromise or dispose of weak cases; only cases which contain sufficient evidence to convict under a reasonable doubt standard of proof would be considered;

- (2) the defendant would have the right at any point to insist that prosecution be reinstated;

- (3) conversely, the prosecution had the right at any point to also reinstate prosecution and the defendant had to be willing to agree to this right as an initial matter;

(4) completion of the diversion agreement would occur before a reviewing judge who was to determine that there was a factual basis for the charge and that each specific of the agreement had been voluntarily, knowingly and intelligently agreed to by a defendant, including any waivers of rights that might be involved;

(5) the defendant was to be entitled to the presence of counsel to advise him or her throughout the process leading up to a diversion agreement, but defense counsel would not be permitted to present arguments with respect to why a defendant should be accepted into the program;

(6) the defendant had to be willing to waive speedy trial requirements and any applicable statute of limitations;

(7) the defendant had to be willing to agree to include in the diversion agreement itself any admissions, stipulations of facts or testimony and/or depositions or prior testimony and statements of witnesses that might be necessary to preserve the ability to initiate a successful prosecution at a later date;

(8) the reviewing judge had to determine whether any pressure to accept a noncriminal disposition constituted overwhelming inducement to surrender the right to trial in which event the diversion agreement was to be rejected and ordinary prosecution would thereafter proceed.

In order to enable the project staff to refer participants in the program to the appropriate community services, all participants were to receive an in-depth intake interview to identify employment, social, educational and family background, and also psychological problems that are to be addressed by the project's referral and diagnostic services. An individual treatment plan and program of services was to be developed for each participant. These programs would last from three to six months.

The treatment plan would include long and short-term goals mutually developed by the program staff and the individual. Short-term goals focused on the immediate needs and problems that continually disrupted the participant's life, such as family, social, financial and medical problems, while the long-term goals focused on education, restitution, employment, family and psychological problems.

Immediately following the intake interview, referrals were to be made based on the problems and goals which had been identified. Participants who had limited employment skills and/or experience would be given interest and aptitude testing before they were referred to one of the job development resources available in the community. Participants who demonstrated skills based upon their employment history or training were to be immediately referred to one of these job development resources.

All rehabilitative services rendered to individual participants were to be documented and individual progress was to be monitored by the project staff. The staff was to determine the level of restitution to be made by contacting the victim and the arresting police officer and a schedule of payments or public service employment was to be established accordingly.

Individuals accepted into the project who failed to successfully complete the program were to be terminated from the project and returned to the criminal justice system for prosecution. After an individual had completed the program the project staff was to recommend to the prosecutor's office that the criminal charges pending be dismissed under Rule 43(a) of the Rules of Criminal Procedure.

The project staff was to consist of a full-time program director, a program services coordinator, and a rehabilitation counselor. Staff training would be coordinated and developed in concert with existing community service agencies to maximize resource utilization and to reduce costs.

PROJECT CLIENTELE

Methodology Used

As we noted in our description of the project, a primary objective of the project was to divert from the criminal justice system those individuals whose circumstances suggested that prosecution would be inappropriate.

As such, we set out to determine whether those individuals who were diverted were: a) different both from individuals who were prosecuted and individuals against whom charges either were not filed or whose charges were dismissed; and b) generally met the guidelines established for eligibility.

To provide answers to both of these questions we developed a set of three data collection forms designed to capture information on three distinct populations of defendants: a) those defendants against whom charges were not filed or whose charges were dismissed prior to or at district court arraignment; b) defendants who were diverted; and c) defendants who were actively prosecuted. For purposes of this study, the term "actively prosecuted" meant that the defendants were taken at least to either the grand jury or a preliminary hearing indicating a definite preference on the part of the intake unit for prosecution.

To collect data on those individuals who were not prosecuted we looked at all cases which fit into this category during the eighteen-month period beginning in August, 1977 and ending in December, 1978 -- a total of five hundred and four (504). In order to insure an unbiased sample, each case was assigned a

consecutive number and one hundred and eight (108) were selected utilizing a table of random three digit numbers.

These files typically contained investigating officer reports, complaints (if any), pre-trial services' defendant questionnaires and reports, and bail sheets if the case had proceeded past district court arraignment prior to its dismissal.

Unlike data for group one, data on group two (the diverted defendants) was collected at the Pre-Trial Diversion Project's office. Although the data was substantially the same as that contained in the D.A.'s files, there was additionally a client/defendant form: a self reporting instrument which listed various biographical data for each client. A total of three hundred and twenty (320) clients were available for study. Each was assigned a consecutive number and a random number table was used to select a sample of one hundred and ten (110). Although the time period from which these cases were drawn was different (February, 1978 to February, 1979), the prosecutors working in the intake section of the D.A.'s office were the same as those making decisions in the first group cases.

Defendants comprising the actively prosecuted group presented some selection problems. Because of the nature of the filing system the population's exact size was unknown, although an estimate of approximately three hundred and seventy-five (375) was made by our researchers. We thus decided to sample every third file after a randomly selected number. We developed a final sample of ninety-six (96) cases, including five (5)

active cases, a number proportionate to all "open" cases from the study period. These cases covered the period November, 1977 through December, 1978. Again, the intake attorneys were the same as those making decisions in group one and group two cases.

As might have been expected, the files in these cases were the most voluminous. In addition to the material found in the files of cases in the first two groups, these files also contained grand jury and/or preliminary hearing transcripts, motions, trial transcripts and, where applicable, presentence reports and sentencing transcripts.

As is usually the case in these types of data collection efforts, records were frequently incomplete, usually police reports. Even a search for the missing reports proved fruitless. Consequently, some cases are informationally vague. In addition, in other cases in which the data was present it was so ambiguous that we decided to classify it as "unknown." This was particularly true for bail information.

While distinct data collection instruments were used for each group of defendants, all three were identical but for the data on disposition. (See Appendix B for copies of the instruments.) Data was collected on forty-four (44) common variables. The instrument was designed to collect data compatible with that captured in the Judicial Council's evaluation of the ban on plea bargaining. Thirteen (13) of the variables dealt with offense characteristics, twenty-one (21) with defendant characteristics and ten (10) with victim characteristics.

Findings

As originally conceived, two criteria were key to entry into the project: a) first offender status or a past criminal history which did not evince a pattern of criminal behavior; and b) a single count property offense; or, if a multiple offense, the multiple counts did not permit an interference of continuing antisocial behavior.

In our sample 93.2 percent (N=96) of the diverted defendants on whom data was available had no prior felony arrests, 96.0 percent (N=96) had no prior felony convictions, 94.1 percent (N=96) had no prior misdemeanor arrests and 95 percent (N=96) had no prior misdemeanor convictions. In the cases of those with a previous criminal history, all but one individual had experienced only one arrest or conviction. Thus, for our sample it is clear that the intake attorneys were adhering to this aspect of established policy.

Our sample of one hundred and ten (110) defendants were charged with a total of one hundred and twenty-two (122) offenses. Ninety-nine (99) defendants were charged with a single (1) offense, seven (7) with two (2) offenses and three (3) defendants were charged with three (3) offenses. The mean of 1.11 charges per defendant again reflects adherence to established criteria. And, in one hundred and twelve (112) of the one hundred twenty-two (122) charges (91.8 percent) property crimes were² involved, again reflecting compliance with project criteria.

2/ The nonproperty offenses reflect an expansion of the project's criteria to include assault and battery cases and other crimes against the person which occurred as all involved with the project gained confidence in its operations.

In sum, we have concluded on the basis of data from our sample that the assistant district attorneys assigned to the intake function in the Anchorage office complied with established screening criteria for diverting defendants from formal prosecution into the pre-trial diversion program.

The fact that the intake staff diverted defendants who met established project criteria does not necessarily mean that they were diverting defendants who otherwise would have been prosecuted. Answering this question required a comparison of offense and offender characteristics for all three groups.

However, the subject is not one which avails itself of easy, precise, quantifiable resolution. We are dealing with an area involving the exercise of discretion: discretion which is at the heart of the prosecutorial function. Consequently, one must tread carefully in reviewing judgments in this area, especially when the review is based only on a limited and dated review of a "cold" record. Given those caveats, we proceed with our analysis.

Among the variables which we used in the evaluation were a number which we believed to be reasonably critical to charging decisions. Included in that group were:

- 1) arrest promptness -- the more prompt an arrest the more likely a prosecution (good evidence was likely to be associated with a prompt arrest);
- 2) total number of charges;
- 3) prior criminal history of the defendant;

and other crimes against the person which occurred as all involved with the project gained confidence in its operations.

- 4) police officer as a witness to the crime;
- 5) other eye witnesses;
- 6) a confession from the defendant;
- 7) identifiable physical evidence connecting the defendant to the crime;
- 8) recovered stolen property; and
- 9) presence of weapons.

Table One which follows provides data from all three groups for these variables.

Analysis of the data from our sample contained in Table One has led us to conclude that the vast majority of cases of individuals diverted to the project were of such nature that they would have been prosecuted had the project not been in existence.

The sample contained a large number of shoplifting cases reflecting their preponderance among property offenses in general. Thus, the data has undoubtedly been influenced by the somewhat unique circumstances which surround such cases. As an example, the arrest promptness and recovered stolen property data for diversion cases clearly reflect shoplifting apprehensions.

Before we conclude our discussion of whether the project's clientele were proper subjects for diversion we should point out that data from a number of biographical variables tends to buttress our major finding that the project was dealing with an appropriate level of clientele.

Initially, approximately one-third (1/3) of the diversion clientele were employed in professional, executive, skilled or

TABLE ONE

Comparison of Charge Sensitive Variables
Among Prosecuted, Nonprosecuted and Diversion Cases

Variables	Diversion Cases		Nonprosecuted Cases		Prosecuted Cases	
	N=110 (Mean) or % of Number Total		N=108 (Mean) or % of Number Total		N=96 (Mean) or % of Number Total	
Arrest Promptness						
2 or Less Hours	81	73.6	31	28.7	32	33.3
2-4 Hours	-	-	-	-	8	8.3
4-24 Hours	-	-	2	1.9	3	3.1
24 Plus Hours	12	10.9	5	4.6	44	45.8
No Arrest	8	7.3	62	57.4	7	7.3
Unknown	9	8.2	8	7.4	2	2.1
	110	100.0	108	100.0	96	100.0
Mean Number of Charges	(1.109)		(1.213)		(1.400)	
Prior Record	17	15.5	32	29.6	44	45.8
Number With No Prior Felony Arrests	96	93.2	20	18.5	46	47.9
Number With No Prior Felony Convictions	96	87.3	28	25.9	50	52.1
Number With No Prior Misdemeanor Arrests	96	87.3	22	20.4	37	38.5
Number With No Prior Misdemeanor Convictions	96	87.3	27	25.0	43	44.8
Police Witness	8	7.3	20	18.5	24	25.0
Other Eyewitness	89	80.9	62	57.4	60	62.5
Defendant Confessed	45	40.9	14	13.0	39	40.6
Physical Evidence	24	21.8	48	44.4	59	61.5
Recovered Stolen Property	77	70.0	19	17.6	29	30.2
Presence of Weapons	7	6.4	35	32.4	36	37.5

white collar type jobs. Two-thirds (2/3) were employed at the time of their apprehension (as opposed to a fifty-six (56) percent unemployment rate among those prosecuted). The diversion clientele were more likely to be (or have been) married than those prosecuted (forty-six (46) percent versus thirty-two (32) percent) and they included in their number a larger percentage of women (thirty (30) versus nine (9) percent). Racially the two groups (diverted and prosecuted defendants) presented a nearly identical makeup as reflected in Table Two.

TABLE TWO
Racial Characteristics
of Diverted and Prosecuted Defendants

Race	Diverted		Prosecuted	
	Number	%	Number	%
White	83	75.5	70	72.9
Native	7	6.4	9	9.4
Black	12	10.9	10	10.4
Other	7	6.4	6	6.3
Unknown	<u>1</u>	<u>0.9</u>	<u>1</u>	<u>1.0</u>
TOTAL	110	100.1*	96	100.0

*Rounding error

Summary

Analysis of the data collected on the three different groups of defendants indicates that the intake attorneys of the District Attorney's office followed established criteria in selecting

cases for diversion. The data strongly suggests that those defendants who were diverted were the types of individuals who might profit most by such a program: stable, employed, first time offenders charged with relatively minor property offenses.

As an aside, we note that the racial mix of diversion clients is quite similar with that for prosecuted defendants suggesting to us that diversion decisions have been made without regard to a defendant's race. While some difference existed between Native defendants diverted and prosecuted, a follow-up on the racial mix of all those diverted as of October, 1979 indicates that Natives composed 7.7 percent of the total, a figure somewhat closer to the percentage prosecuted in our sample.

CLIENT PERFORMANCE

Our second level of evaluation analysis looks at data related to client performance of contractual obligations. As we noted in our description of the project, each client accepted into the project could be obligated to perform community work service, make restitution, develop employment skills, get a G.E.D., etc. Failure to meet these contractual obligations could lead to an unsuccessful termination from the project and subsequent prosecution on the charges underlying the defendant's original arrest.

For this aspect of the project we collected data on eighteen (18) variables related to project performance. (See Appendix C for a copy of the instrument.) We looked at all clients who had completed the program at the time the data was collected (Spring of 1979), a total of one hundred and fifty-two (152) defendants. Once again, the data reflects the fact that nearly three-fourths (3/4) of the clients (107) had been apprehended on shoplifting charges.

Of the one hundred and fifty-two (152) defendants we looked at, eighteen (18) or 5.6 percent were required to make restitution as a condition of diversion. The eighteen (18) defendants were required to make restitution in the total amount of \$8,950 for an average of \$497.22 a person. Sixteen (16) individuals paid a total of \$7,938, an average of \$496.13 a person.

Perhaps reflecting the stability of the group, only one defendant was required (and did so) to seek counseling beyond that routinely offered by the project. Eight (8) were asked to complete work leading to a G.E.D. and seven (7) complied.

On the average, the clients were obliged to make 12.05 contacts with the project (a total of 1819) and actually made an average of 7.95 (a total of 1200).

In the area of community work service, our population was more active. One hundred and twenty-three (123), or 80.9 percent, we asked to perform some form of community work service. As a group they were obligated to 3,831 hours, an average of 31.146 per person. One hundred and fourteen (114) of the clients complied with this obligation providing Anchorage with a total of 3,699 hours.

On the average, the clients were in the project approximately four months prior to termination with a range of from one to fifteen months. (The mode was three months; N=38.)

On the basis of this data we conclude that the clients of the project by and large lived up to certain important performance aspects of their contractual obligations. Further, in so doing they "paid back" either individual victims or the community as a whole significant amounts of time and money. At a conservative hourly wage of \$5.00, the time associated with community work service alone had a value of \$18,495.

Our follow-up analysis of all project clientele, including those unfavorably terminated and those still active (October, 1979), revealed a total of 5,196 hours of community work service performed thus far. At our conservative \$5.00 hourly wage this amounts to over \$25,000 in value to the community.

COST COMPARISONS

One of the assumptions which underlies diversion projects is that they "save" the criminal justice system valuable resources. Quite obviously, the term "save" cannot be taken literally. Rather, its use implies that such projects a) permit cost avoidance, and b) increase the utility of the existing resources of the system. We set out to determine whether the pre-trial intervention project could be considered a success on these grounds.

At the very outset we must point out that accurate useful cost data related to Alaska's criminal justice system is virtually nonexistent. Only the Alaska court system has made an effort to provide useful, reliable data on various costs associated with our justice system.

Consequently, we strongly urge that far greater attention be devoted to developing comprehensive, reliable, useful and timely cost data for the criminal justice system in Alaska so that projects such as this can be properly evaluated in the future in terms of their cost effectiveness.

Given the data problems, we proceeded on the basis of the following assumptions:

- 1) The police or other law enforcement costs prior to arrest would be considered as not being relevant since they would in all likelihood be incurred whether a defendant was diverted or prosecuted. Such an assumption ignores the (probably rare) possibility that a police officer decides against arresting an individual whom he concludes would, in all probability, be diverted on the theory that if the individual is likely to succeed in diversion then why subject him to arrest in the first instance.

2) Secretarial and other administrative support services and their attendant costs would be ignored because it was (and probably always will be) impossible to break them down in any reasonably realistic fashion (the costs associated with such an effort are likely to far outweigh any benefits derived therefrom!). Nonetheless, these costs do exist and if they could be calculated would have to be added to our final figures.

3) Because they are so "soft" we decided to ignore costs associated with post-conviction proceedings such as appeals, but more importantly, those associated with the Division of Corrections. We might have developed an outcome path for all our diversion clients had accurate data been readily available on which to make such predictions. We assumed, however, that most would have been found guilty and most of them would have been sentenced to probation. In reality, that probation would likely have been largely unsupervised. Nonetheless, some costs would be associated with post-conviction processing of our clients and they would have to be added to our system cost figures.

4) We assumed that a fully funded diversion project handling all the clients the system could offer would be bound to have a positive effect on the efficient use of existing time and resources thereby reducing the average cost figures we developed. Once again the problem is identifying an appropriate order of magnitude for the reduction.

5) We assumed that there were "hidden" costs associated with observable case processing events beyond those we have already discussed. Examples include: follow-up investigation, research and preparation for in-court events by lawyers, judges, witnesses, etc. We further assumed that our estimates for these costs were very "soft."

6) Finally, we assumed that the data collection efforts we employed to get certain cost data were subject to the grossest sorts of sampling error. We had neither the time nor the funds to support methodology sound data collection techniques. Nevertheless, we checked our data against that developed by the court system and found it to be close enough to feel reasonably comfortable in using it in this evaluation.

As we have already pointed out, we had to generate a certain amount of original data to support this aspect of the evaluation. We initially placed an observer in the courtrooms in Anchorage to record in-court time in minutes for those present during arraignments, motions, preliminary hearings and trials in both felony and misdemeanor cases.

In addition we looked at a sample of sixty (60) case files for the period 1977-78 taken from the District Attorney's office and collected self-recorded case preparation and time spent data therefrom. Finally, we checked these data with that developed by the court system in its "Judicial Bench Time Study."³

To compute time into cost data we obtained salary information from the court system, the Department of Law, the Public Defender and the Anchorage Police Department. We used average data even though it probably reflects a conservative estimate of salaries.⁴ Table Three provides this salary data.

3/ Technical Operations Division, Alaska Court System, August 1978, Anchorage, Alaska.

4/ It does not, for instance, take into account overtime costs for A.P.D. officers.

TABLE THREE

Professional Cost Breakdown

	Month	Day (22 Working Days)	Hours (8 Hour Day)	Minutes
Superior Court Judge	\$4,048.00	\$184.00	\$23.00	\$.38 ⁺
District Court Judge	3,422.00	155.56	19.44	.32 ⁺
Average D.A.	3,075.20	139.78	17.47	.29 ⁺
Average P.D.	2,711.80	123.26	15.40	.26 ⁺
A.P.D.*	(Hourly Rate Only)	97.76	12.22	.20 ⁺
P.I.P. Counselors	1,886.60	85.75	10.72	.18 ⁺

* Does not include overtime.

+ Rounded, nearest cent.

In Table Four we present data on average time associated with in-court aspects of various criminal case processing events.

TABLE FOUR
Average In-Court Time
Expended on Criminal Cases

Event	Average Time (In Minutes)	Source
Arraignment	11.17	(Court Study)
Felony Plea	12.39	(Our Study)
Misdemeanor Plea	6.80	(Our Study)
Omnibus Hearing	54.20	(Our Study)
Preliminary Hearing	70.30	(Our Study)
Felony Trial	2137.20	(Our Study)
Misdemeanor Trial	652.80	(Our Study)

Our observations indicated that the judge, a District Attorney and an attorney were present throughout each of these events. In addition, at least one police officer appeared per case at the trial level and frequently at the omnibus hearing and preliminary hearing levels. Our observer witnessed between four and eighteen witnesses at trials. We have figured all police officer costs at straight time rates even though they can receive as much as double and one-half time their regular rates. We have also figured them as appearing only the minimum four hours they are entitled to on day off appearances, even though many spend longer hours in court.

Finally, we have developed our cost data on the basis of a conservative average of but two additional witnesses a case (one prosecution and one defense). For these witnesses we ascribed an hourly rate of \$5.00 in lost wages, etc., again picking a conservative number.

What Table Five tells us is that an average misdemeanor case which ends at arraignment in a plea is likely to cost a conservative average minimum of \$33.41 given the assumptions we have made. If, on the other hand, such a case was to go to trial, its costs would rise to an average of approximately \$1,250.

A defendant charged with felony who has a preliminary hearing and then goes to trial will cost the state an average minimum of \$4,360. Had he been indicted the figure would have been smaller. A plea of guilty would likely average out to costs of about \$320.

Counselor costs for the Pre-Trial Diversion Project worked out to about .18¢ per minute. Our observations of intake interviews and discussions with counselors lead us to conclude that the average misdemeanor intake interview runs about 22.5 minutes (cost \$4.05) while that associated with a felony runs about 37.5 minutes (cost \$6.75). Contract interviews ran about 12.5 minutes (cost \$2.25) for misdemeanors and 17.5 minutes (cost \$3.15) for felons. Data gathered from the case files of diversion clients indicates that felony clients averaged 11 contacts with the project while those charged with

TABLE FIVE

Estimated Average Costs Per
Event in Criminal Cases

Event	Police ¹	D.A. ²	P.D. ³	Judge ⁴	Wit. ⁵	Average Total
Arraignment	\$ -	\$ 6.47	\$ 5.80	\$ 8.49	\$ -	\$ 20.76
Felony Plea	-	7.18	6.44	9.42	-	23.04
Misdemeanor Plea	-	3.94	3.54	5.17	-	12.65
Omnibus Hearing	12.22	31.44	28.18	41.19	10.00	123.03
Preliminary Hearing	12.22	40.77	36.52	53.43	10.00	152.94
Felony Trial	12.22	1,260.46	1,130.06	1,642.27	20.00	4,065.01
Misdemeanor Trial	12.22	378.62	339.46	496.13	10.00	1,236.43

1/ Minimum of four hours at \$12.22 per hour.

2/ Cost includes minimum for minimum preparation costs at \$0.29 per minute.

3/ Cost includes minimum for minimum preparation costs at \$0.26 per minute.

4/ Cost includes minimum for minimum preparation costs at \$0.38 per minute.

5/ Figured at \$5.00 per hour.

misdemeanor offenses averaged seven contacts. Given this data, costs in the average misdemeanor case work out to approximately \$61.32 while those in the average felony case run approximately \$82.92. Included in both instances are costs equivalent to those associated with arraignment and an equal amount to cover the cost of a second short appearance to affirm the agreement.

On the basis of this analysis we conclude that with the exception of cases in which misdemeanant defendants plead guilty at their district court arraignments, diversion is clearly cost effective by even the most conservative of estimates.

If the October, 1979, data on felony/misdemeanor balance (60/40 percent respectively) could be maintained on a continuing basis, there could be no question but that the project would be cost effective. Even the 25/75 percent balance of our sample is quite likely to be cost effective over the long haul.

PROJECT ADMINISTRATION

While we were not obliged to evaluate the manner in which the project was administered, our association with it nonetheless exposed us to its management. Our overall impression is that the project was run in an exceptionally competent manner. The staff fully understood their roles and were quite enthusiastic in performing them. Records were easy to find and, after some discussions, changes were implemented which were designed to insure a more consistent recording of client data.

For the future we would recommend:

- 1) that the project continue under the aegis of the Department of Law;
- 2) that efforts be made to reduce overhead costs of the project by moving it into a state owned building;
- 3) that accounting services be provided to the project if restitution reimbursement continues to expand. Such action will relieve the project director of the need to deal with this matter. It should also insure that the project's record of properly handling funds is not tarnished by inadvertence as the project expands.

Our recommendation that the project remain associated with the Department of Law is based on our judgment that such a relationship will guarantee a continued reliance on the services of the project by intake staff of the District Attorney's office. As we have indicated, the project is only cost-effective when it has a sufficiently large mix of clients charged with felonies. We believe that the District Attorney's office will be more inclined to use the services of the project if it can view the project with some degree of trust and confidence.

In addition, consideration must be given to the setting within which the rehabilitative services of the project take place. It seems probable that rehabilitation will be fostered by an atmosphere which is now threatening in nature. The project as it now stands provides such an environment. However, if the staff were to be transferred to another agency, Corrections for instance, then the danger of contamination could arise.

Diversion clients might be counseled and supervised by individuals who had spent a lifetime dealing with convicted persons. Those individuals might have developed biases which would inhibit rehabilitation effects.

Further, if they terminated a diverted client, given the entry guidelines, the likelihood exists that the client would be placed on probation where he would be supervised by the same agency that had just sent him through the justice system. Clearly such a result does not hold out much hope for the development of the kind of relationship which is essential to an efficacious probation experience.

To conclude, we believe that to house the diversion project in any other agency but the Department of Law could likely lead to a slow, unnatural death.

Client Recidivism

While it is of distinct benefit to the criminal justice system that a diversion project "saves" resources, the fact remains that the clients of the project have been charged with criminal offenses (and are probably guilty as reflected by their willingness to participate in the project). As we noted in our discussion of the project's background, an underlying assumption of pretrial diversion is that it aids in rehabilitating. Or, stated somewhat differently, it leads to lessened future formal reinvolvement with the justice system.

In our evaluation we have looked at this aspect of the project from two perspectives. First, we evaluated the success of the project's clients while they were in the project. Second, we looked at what they did after they left the project.

Of the one hundred fifty-two clients in our sample, a total of 13 (8.6 percent) had to be terminated either because of a subsequent arrest or failure to meet contractual obligations. Rule violations accounted for approximately 45 percent of all terminations. This number compares favorably with the 8.7 percent failure rate⁵ among individuals released on bail, their own recognizance or other forms of pretrial release, and with an 11.1 percent failure rate⁶ among national diversion projects.

5/ Failure rate here is defined as subsequent rearrest on criminal charges. (Bail in Anchorage, 1973, Alaska Judicial Council, pp. 54-57.)

6/ Derived from averaging three intervention projects' recidivism rates found in Rovner-Pieczenick, Roberta, Pretrial Intervention Strategies: An Evaluation of Policy-Related Research and Policymaker Perception, ABA, Washington, D.C., November 1974.

On the more important issue of formal reinvolvement with the Alaska criminal justice system we took the names of the one hundred and forty clients in our sample who successfully completed the project and ran them against Anchorage Police Department's ALPIN system. Eight of the clients could not be located in the system under the names supplied by the project. The experiences of the remaining 132 are set forth in Table Six.

TABLE SIX

Diversion Project
Client Re-Arrest Rates

	<u>Misdemeanor</u>		<u>Felony</u>	
	No.	%	No.	%
Rearrested	5	4.31	2	12.50
Current Suspects	4	3.44	1	6.25
No Subsequent Contact Listed	107	92.24	13	81.25
Total	116	99.99*	16	100.00

*Rounding error.

Ignoring the current suspect classification and combining the clients back into a single group, we see that approximately 95 percent of our sample have remained "clean" or at least not come to the attention of the police. And, of the "failures" over 70 percent were rearrested on misdemeanor charges.

It should be noted that this recidivism data was collected in December of 1979, nearly two years after the start of the

project. Most of the successfully terminated misdemeanant clients had been "at risk" for over a year by that time -- some for as long as 18 months. In both instances this is a period greatly in excess of the normally accepted "risk" period of the first six months after release from supervision.

While the data is soft, and there are undoubtedly instances of information system failure at play here, we believe that it tentatively demonstrates that pretrial diversion can increase the probability that a person will not become involved in subsequent criminal conduct. Quite obviously, further follow-ups should be undertaken on our sample and other project clients to determine long term effects of the project, but even at this early date it appears to have also succeeded on this most important measure.

APPENDIX A

Note (26 Apr 2013): pages in original report appear to have been misnumbered at this point, omitting page numbers 37–38. However, no content is missing.

ELIGIBILITY CRITERIA

(A) The prosecutor screener must make the determination that there exists sufficient evidence to warrant the District Attorney's Office prosecution of the case and that no legal or constitutional constraints exist that may prejudice the case.

COMMENT: The screening by the District Attorney's Office is necessary to ensure that individuals who normally would not have been taken to trial or who may have been found not guilty because of insufficient evidence are not referred to the Project.

(B) The offense charged must be a single-count property crime, or if a multiple count property crime, the illegal acts which constitute the multiple counts can be regarded as a single continuing offense which could not give rise to an inference of manifestation of continuing antisocial behavior or habituation to crime.

COMMENT: The experimental nature of this program requires limitation of offenders referred to the Project. Property crimes provided sufficient numbers from which base line control data can be accumulated, and the nature of these crimes were not physically dangerous to society, this class composes the majority of referrals by the District Attorney's Office. Consideration was given to limiting this criterion to single-count offenses as multi-count offenses would evidence a pattern of criminal behavior. Although this rationale is appropriate for most of the cases, a blanket exclusion is inappropriate as inconsistent with the purpose of the program. For example, a person charged with burglaries from two or more separate dwellings is excluded but shoplifting charges based on the theft of two different items from a single establishment at the same time is included. The analysis found in Whitton v. State, 479 P. 2d 102, with respect to sentencing for multiple offenses provides some helpful guidelines in this area.

(C) The offender must be a first offender, or if the offender has been previously convicted, no previous convictions may be of a nature as to evince a pattern of antisocial behavior or habituation to crime and any previous conviction must have occurred far enough in the offender's past so as to be sufficiently stale to allow a reasonable inference that the instant crime is not a manifestation of habituation to crime or antisocial behavior.

COMMENT: Prior convictions for motor vehicle theft or fish and game violations when taken in conjunction with the instant crime cannot be said to evince a pattern of habituation to crime.

Similarly, offenses committed far enough in the offender's past may be regarded as stale and do not relate to a behavior pattern when considered conjointly with the instant offense. If a period of one year has elapsed from the termination of the prior offense sentence, the offender is deemed potentially eligible for the Intervention Project. The guidelines here are purposely broad to allow staff sufficient latitude in making the decision on behavior patterns. The nature of the previous crime, the disposition received and the ensuing period are all factors that are considered by Project staff in making the eligibility determination.

(D) The offense charged must not involve the use or threat of violence and if the offender has been previously convicted, the crime cannot have involved the use or threat of violence.

COMMENT: A previous conviction involving a family dispute are considered; however, the severity and nature of the violence are taken into consideration in the Project's determination of eligibility. Similarly, violence evolving from an offense which appears situational

and spontaneous, such as a disruption between a shoplifter and a floor walker, will be considered.

(E) The offense charged did not result from the offender's reliance on alcohol or drugs.

COMMENT: Determination of this criteria is the most difficult to ascertain. In examining the offender's background, staff needs to look for patterns of drug and alcohol abuse which can lead to a reasonable inference that they were the cause or a leading attributor of the offense. If doubt exists as to abuse, offenders will be requested to submit to testing to ascertain that fact.

(F) The offender may not have been previously enrolled in a pre-trial intervention project which resulted in successful completion or unsuccessful termination.

COMMENT: The underlying premise of the program to provide short-term rehabilitation for susceptible offenders would be undermined if an offender was allowed to return to this type of program upon commission of a subsequent offense. Permitting an offender who has successfully completed such a program to re-enter the program would ultimately engender an "easy out" attitude towards the program.

(G) The offender may be of either sex, unemployed or employed, or of any age provided that he or she has been charged as an adult.

COMMENT: Employment and the development of employable skills are a major objective of the program, other factors such as mental and social disfunction are also addressed. The underlying premise here of amenability to intensive short-term rehabilitation cannot be furthered by sex or age limitation.

(H) The offender must be a resident of the state and be willing to maintain a permanent place of residence within the judicial district for the duration of his or her individual performance contract program.

Exceptions are made only when a well thought-out living, training, and employment package is present.

COMMENT: Requiring potential participants to be residents for the duration of their individual programs operates to eliminate transients and facilitates the extensive bi-weekly contacts which ensue. Additionally, this requirement provides a more stable base of clients from which the results of the program will be evaluated. For those clients approved for moving out of state, written reports are required and, often times, referral is made to a counseling program in the jurisdiction they are moving to.

(I) The offense of assault and battery involving members of a family, same household, neighbors or individuals with on-going relationships are considered "potentially eligible" for the Pre-Trial Intervention Project. Offenses involving hospitalization of the victim or cases having a weapon involved will be referred at the discretion of the District Attorney's Office.

COMMENT: Offenses not involving family members or individuals with on-going relationships are not considered, i.e. individuals charged with fighting in bars are not considered. Assault and battery offenses that resulted in hospitalization or that involved a weapon are referred at the discretion of the District Attorney's Office utilizing the criteria of "maintaining public safety".

(J) The offender must volunteer for the Project and be willing to enter into a performance contract with the Project outlining specific behavior for the duration of his or her program.

COMMENT: All offenders served by the Project must volunteer for initial Project interviews, Project participation and certain legal waivers. An effort is made to see that all offenders have the advice of counsel to ensure all legal rights are protected.

March 13, 1978

James V. Gould
Assistant District Attorney

Chris A. Cobb
Project Coordinator

Pre-Trial Intervention
Eligibility Criteria

The Pre-Trial Intervention Project will allow the selective diversion of eligible offenders from the traditional court process under prosecutorial discretion. The project represents Alaska's first experience in pre-trial intervention and has been developed with stringent research guidelines to allow for the determination of the project's long range effectiveness. The research orientation of the project will make it necessary to maintain a consistent conformance to the project's offender eligibility criteria outlined below.

ELIGIBILITY CRITERIA

(A) The prosecutor screener must make the determination that there exists sufficient evidence to warrant the District Attorney's Office prosecution of the case and that no legal or constitutional constraints exist that may prejudice the case.

COMMENT: The screening by the District Attorney's Office is necessary to ensure that individuals who normally would not have been taken to trial or who may have been found not guilty because of insufficient evidence are not referred to the project.

(B) The offense charged must be a single count property crime, or if a multiple count property crime, the illegal acts which constitute the multiple counts can be regarded as a single continuing offense which could not give rise to an inference of manifestation of continuing anti-social behavior or habituation to crime.

COMMENT: The experimental nature of this program requires limitation of offenders to a narrow crime class. As property crimes provided sufficient numbers from which base line control data could be accumulated, and the nature of these crimes were not physically dangerous to society, this class was thought proper. Consideration was given to limiting this criterion to single-count offenses as multi-count offenses would evidence a pattern of criminal behavior. Although this rationale is appropriate for most of the cases, a blanket exclusion is inappropriate as inconsistent with the purpose of the program. For example, a person charged with burglaries from two or more separate dwellings

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would be excluded but shoplifting charges based on the theft of two different items from a single establishment at the same time would be included. The analysis found in Whitton v. State, 479 P.2d 102, with respect to sentencing for multiple offenses provides some helpful guidelines in this area.

(C) The offender must be a first offender, or if the offender has been previously convicted, no previous convictions may be of a nature as to evince a pattern of anti-social behavior or habituation to crime and any previous conviction must have occurred far enough in the offender's past so as to be sufficiently stale to allow a reasonable inference that the instant crime is not a manifestation of habituation to crime or anti-social behavior.

COMMENT: Prior convictions for motor vehicle theft or fish and game violations when taken in conjunction with the instant crime cannot be said to evince a pattern of habituation to crime.

Similarly, offenses committed far enough in the offender's past may be regarded as stale and do not relate to a behavior pattern when considered conjointly with the instant offense. If a period of one year has elapsed from the termination of the prior offense sentence the offender will be deemed potentially eligible for the intervention project. The guidelines here are purposely broad to allow staff sufficient latitude in making the decision on behavior patterns. The nature of the previous crime, the disposition received and the ensuing period are all factors that will be considered by project staff in making the eligibility determination.

(D) The offense charged must not involve the use or threat of violence and if the offender has been previously convicted, the crime cannot have involved the use or threat of violence. Offenders who's past or present crime involves the use of a weapon will not be considered.

COMMENT: A previous conviction involving a family dispute will be considered; however, the severity and nature of the violence will be taken into consideration in the project's determination of eligibility. Similarly, violence evolving from an offense which appears situational and spontaneous, such as a disruption between a shoplifter and a floor walker, will be considered.

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(E) The offense charged did not result from the offender's reliance on alcohol or drugs.

COMMENT: Determination of this criteria will be the most difficult to ascertain. In examining the offender's background, staff will need to look for patterns of drug and alcohol abuse which can lead to a reasonable inference was the cause or a leading attributor of the offense. If doubt exists as to abuse, offenders will be requested to submit to testing to ascertain that fact.

(F) The offender may not have been previously enrolled in a pre-trial intervention project which resulted in successful completion or unsuccessful termination.

COMMENT: The underlying premise of the program to provide short-term rehabilitation for susceptible offenders would be undermined if an offender was allowed to return to this type of program upon commission of a subsequent offense. Permitting an offender who has successfully completed such a program to re-enter the program would ultimately engender an "easy out" attitude towards the program.

(G) The offender may be of either sex, unemployed or employed, or of any age provided that he or she has been charged as an adult.

COMMENT: Employment and the development of employable skills are a major objective of the program, other factors such as mental and social disfunction will also be addressed. The underlying premise here of amenability to intensive short-term rehabilitation cannot be furthered by sex or age limitation.

(H) The offender must be a resident of the state and be willing to maintain a permanent place of residence within the judicial district for the duration of his or her individual performance contract program.

COMMENT: Requiring potential participants to be residents for the duration of their individual programs operates to eliminate transients and facilitate the extensive bi-weekly contacts which will ensue.. Additionally, this requirement will provide a stabler base of clients from which the results of the program will be evaluated.

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(I) The offender must volunteer for the project and be willing to enter into a performance contract with the project outlining specific behavior for the duration of his or her program.

COMMENT: All offenders served by the project will have to volunteer for initial project interviews, project participation and certain legal waivers. An effort will be made to see that all offenders have the advice of counsel to ensure all legal rights are protected.

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APPENDIX B

41. Number of Prior Felony Convictions. (9 = Unknown.)
42. Number of Prior Misdemeanor Arrests. (9 = Unknown.)
43. Number of Prior Misdemeanor Convictions. (9 = Unknown.)
44. Type of Pre-Trial Release. (1 = No release; 2 = API; 3 = Full cash deposit; 4 = 10% cash deposit; 5 = Secured bond; 6 = Unsecured bond; 7 = O.R.; 8=no arrest; 9=unknown)
45. Type of Attorney. (1 = None; 2 = Public defender; 3 = Public defender requested, disposition unknown; 4 = Private attorney; 9 = Unknown.)
46. Did Police Officer Witness Crime? (1 = Yes; 2 = No; 9 = Unknown.)
47. Other Eyewitness to Crime? (1 = Yes; 2 = No; 9 = Unknown.)
48. Did Defendant Make a Statement? (1 = Yes, 2 = No; 9 = Unknown.)
49. Did Defendant Make a Confession? (1 = Yes, 2 = No; 9 = Unknown.)
50. Was a Search Warrant Used in Case? (1 = Yes; 2 = No; 9 = Unknown.)
51. Was there Identifiable Physical Evidence Connecting Defendant to Crime, Other Than Stolen Property (cars, fingerprints, weapons, hair samples, etc.)? (1 = Yes; 2 = No; 9 = Unknown; Describe: _____.)
52. Did Police Recover Identifiable Stolen Property? (1 = Identified cash-marked bills; 2 = Other Identified property; 3 = Property not involved; 4 = no; 9 = unknown)
53. Value of Property Stolen, Damaged, Destroyed, or Taken by Fraud (whole dollars). (0 = None; 1 = 1-100; 2 = 101-250; 3 = 251-500; 4 = 501-1000; 5 = 1001 - 5000; 6 = 5001-10,000; 7 = 10,001 - 25,000; 8 = 25,001 and above; 9 = Unknown.)
54. Value of Property Recovered (same breakdown as 53).
55. Weapon Used. (1 = Firearm; 2 = Knife; 3 = Club; 4 = Poison; 5 = Other, explain: _____; 6 = Hands, feet, etc.; 7 = None; 9 = Unknown.)
56. Number of Victims. Unknown = 9

57. // Was Primary Victim Person or Organization? (Primary is most severely injured or has highest property value cost incurred.) (1=person; 7=organization; 8=no victim)
58. // Condition of Primary Victim. (1 = Dead; 2 = Hospital; 3 = Bleeding wound, or had to be carried from scene of crime; 4 = Other visible injury; 5 = No visible injury, but victim momentarily unconscious or complained of pain; 7 = No personal injury; 8 = no victim; 9 = unknown)
59. // Age of Primary Victim. (1 = Under 18; 2 = 18-25; 3 = 26-55; 4 = over 55; 7 = Victim is organization; 8 = No victim; 9 = Unknown.)
60. // Primary Victim's Sex. (1 = Male; 2 = Female; 7 = Victim is organization; 8=no victim; 9=unknown)
61. // Primary Victim's Race. (1 = Black; 2 = Native American; 3 = Caucasian or other; 7 = Victim is organization; 8 = No victim; 9 = Unknown.)
62. // Was Primary Victim Severely Handicapped? (1 = Victim had severe physical handicap; 2 = Victim was of low intelligence or had other severe mental handicap; 3 = Victim was under influence of drugs or liquor to extent that he was unable to defend self; 4 = Victim not unusually handicapped; 7 = Victim is organization; 8 = No victim; 9 = Unknown.)
63. // Are Primary Victim and Defendant Related? (1 = Husband and wife; 2 = Other family relationship; 3 = Friends or acquaintances; 4 = No relationship; 5 = Employment relationship; 6 = Divorced; 8 = No victim; 9 = Unknown)
64. // Did Primary Victim's Own Behavior Facilitate or Provoke the Crime? (1 = Victim's conduct evidenced some provocation; 2 = Crime arose out of some criminal conduct on the part of the victim himself; 3 = Defendant claims victim provocation unsubstantiated; 4 = No clear relationship between victim's action and defendant's conduct; 8 = No victim; 9 = Unknown.)
65. // Did Defendant Make Restitution to Victim? (1 = Yes, on own initiative; 2 = Yes, prior to case disposition; 3 = Yes, part of judgement; 4 = No; 8 = No victim; 9 = Unknown.)
66. /// If Drug Offense Charged, Indicate Type of Drug.
- | | |
|------------------------|-------------------------------------|
| 01 = Not drug offense; | 07 = Hashish or synthetic cannabis; |
| 02 = Opiates; | 08 = Marijuana; |
| 03 = Cocaine; | 09 = Other, specify: |
| 04 = Hallucinogens; | |
| 05 = Amphetamines; | |
| 06 = Barbituates; | 99 = <u>Unknown.</u> |

68. / / / / Amount of Marijuana seized. (In grams, an ounce = 28 grams.) If no marijuana enter 000. Unknown enter XXX
71. / / / / Amount of other drugs seized. (Indicate number of pills capsules or other dosage units.) If none enter 000. If unknown enter XXX.
74. / / / - / / / - / / / Date of Complaint
80. / / End of Card First Card enter 1.

SECOND CARD

1. / / / / Defendent code number
4. / / / / Charges on Complaint
 / / / /
 / / / /
16. / / / - / / / - / / / Date of Preliminary Hearing (If none=00-00-00)
22. / / / / Charge(s) for which defendent held to answer. If no preliminary hearing enter XXXX, if less than three charges enter 0000 in noncharge space.
 / / / /
 / / / /
34. / / / - / / / - / / / Date of Indictment or Information
(If none enter 00-00-00)
40. / / / / Charge on indictment or Information. (If none enter 0000.
 / / / /
 / / / /
52. / / / - / / / - / / / Final Date set for Trial
58. / / Was motion to supress evidence, confession, testimony or identification filed by defense? (1=yes, motion granted, 2=yes, motion denied, 3=yes, nothing happened, 4=no motion, 9=unknown.)
59. / / Type of Trial (1=no trial, 2=jury trial, 3=judge trial, 9=unknown.)
60. / / / - / / / - / / / Date of Final Disposition
66. / / / / Charge(s) at Final Disposition
 / / / /

41. Number of Prior Felony Convictions. (9 = Unknown.)
42. Number of Prior Misdemeanor Arrests. (9 = Unknown.)
43. Number of Prior Misdemeanor Convictions. (9 = Unknown.)
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53. Value of Property Stolen, Damaged, Destroyed, or Taken by Fraud (whole dollars). (0 = None; 1 = 1-100; 2 = 101-250; 3 = 251-500; 4 = 501-1000; 5 = 1001 - 5000; 6 = 5001-10,000; 7 = 10,001 - 25,000; 8 = 25,001 and above; 9 = Unknown.)
54. Value of Property Recovered (same breakdown as 53).
55. Weapon Used. (1 = Firearm; 2 = Knife; 3 = Club; 4 = Poison; 5 = Other, explain: _____; 6 = Hands, feet, etc.; 7 = None; 9 = Unknown.)
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57. // Was Primary Victim Person or Organization? (Primary is most severely injured or has highest property value cost incurred.) (1=person; 7=organization; 8=no victim)
58. // Condition of Primary Victim. (1 = Dead; 2 = Hospital; 3 = Bleeding wound, or had to be carried from scene of crime; 4 = Other visible injury; 5 = No visible injury, but victim momentarily unconscious or complained of pain; 7 = No personal injury; 8 = no victim; 9 = unknown)
59. // Age of Primary Victim. (1 = Under 18; 2 = 18-25; 3 = 26-55; 4 = over 55; 7 = Victim is organization; 8 = No victim; 9 = Unknown.)
60. // Primary Victim's Sex. (1 = Male; 2 = Female; 7 = Victim is organization; 8=no victim; 9=unknown)
61. // Primary Victim's Race. (1 = Black; 2 = Native American; 3 = Caucasian or other; 7 = Victim is organization; 8 = No victim; 9 = Unknown.)
62. // Was Primary Victim Severly Handicapped? (1 = Victim had severe physical handicap; 2 = Victim was of low intelligence or had other severe mental handicap; 3 = Victim was under influence of drugs or liquor to extent that he was unable to defend self; 4 = Victim not unusually handicapped; 7 = Victim is organization; 8 = No victim; 9 = Unknown.)
63. // Are Primary Victim and Defendant Related? (1 = Husband and wife; 2 = Other family relationship; 3 = Friends or acquaintances; 4 = No relationship; 5 = Employment relationship; 6 = Divorced; 8 = No victim; 9 = Unknown)
64. // Did Primary Victim's Own Behavior Facilitate or Provoke the Crime? (1 = Victim's conduct evidenced some provocation; 2 = Crime arose out of some criminal conduct on the part of the victim himself; 3 = Defendant claims victim provocation unsubstantiated; 4 = No clear relationship between victim's action and defendant's conduct; 8 = No victim; 9 = Unknown.)
65. // Did Defendant Make Restitution to Victim? (1 = Yes, on own initiative; 2 = Yes, prior to case disposition; 3 = Yes, part of judgement; 4 = No; 8 = No victim; 9 = Unknown.)
66. // If Drug Offense Charged, Indicate Type of Drug.
- | | |
|------------------------|--------------------------------------|
| 01 = Not drug offense; | 07 = Hashish or synthethic cannabis; |
| 02 = Opiates; | 08 = Marijuana; |
| 03 = Cocaine; | 09 = Other, specify: |
| 04 = Hallucinogens; | |
| 05 = Amphetamines; | |
| 06 = Barbituates; | 99 = <u>Unknown.</u> |

68. Amount of Marijuana Seized. (In grams; 28 grams = 1 ounce.) If no marijuana enter 000, if unknown enter XXX.

71. Amount of Other Drugs Seized. (Indicate number of pills, capsules or other dosage units seized. If none enter 000, if unknown enter XXX.)

74. Charge Status.

- 1 = All charge(s) dismissed.
- 2 = No charge(s) filed by D.A.
- 3 = Felony charge(s) dropped.
- 4 = Felony(s) dropped, prosecuted misdemeanor charge(s).
- 5 = Misdemeanor charge(s) increased to felony by D.A.
- 6 = Misdemeanor charge(s) dropped, prosecuted as misdemeanor.
- 7 = Felony reduced to misdemeanor.

75. Primary Reason for Not Prosecuting.

- 01 = Defendant pled guilty to another charge.
- 02 = Defendant assisted state in prosecuting another defendant.
- 03 = Victim declines to prosecute unavailable.
- 04 = Witness unavailable.
- 05 = Inadmissible evidence.
- 06 = Insufficient evidence.
- 07 = Case investigation incomplete.
- 08 = Referred to Municipal Attorney's office.
- 09 = Interest of Justice.
- 10 = Dismissed by D.A. under Rule 43a, but no reason given.
- 11 = Lack of probable cause.
- 12 = Essential evidence suppressed.
- 13 = Convicted of other felony.
- 14 = Defendant not criminally responsible.
- 15 = Mistrial/hung jury.
- 16 = Inadequate evidence of essential element _____.
- 17 = Prosecuted as charged.
- 18 = Other, explain: _____.
- 99 = Unknown.

41. Number of Prior Felony Convictions. (9 = Unknown.)
42. Number of Prior Misdemeanor Arrests. (9 = Unknown.)
43. Number of Prior Misdemeanor Convictions. (9 = Unknown.)
44. Type of Pre-Trial Release. (1 = No release; 2 = API; 3 = Full cash deposit; 4 = 10% cash deposit; 5 = Secured bond; 6 = Unsecured bond; 7 = O.R.; 8=no arrest; 9=unknown)
45. Type of Attorney. (1 = None; 2 = Public defender; 3 = Public defender requested, disposition unknown; 4 = Private attorney; 9 = Unknown.)
46. Did Police Officer Witness Crime? (1 = Yes; 2 = No; 9 = Unknown.)
47. Other Eyewitness to Crime? (1 = Yes; 2 = No; 9 = Unknown.)
48. Did Defendant Make a Statement? (1 = Yes, 2 = No; 9 = Unknown.)
49. Did Defendant Make a Confession? (1 = Yes, 2 = No; 9 = Unknown.)
50. Was a Search Warrant Used in Case? (1 = Yes; 2 = No; 9 = Unknown.)
51. Was there Identifiable Physical Evidence Connecting Defendant to Crime, Other Than Stolen Property (cars, fingerprints, weapons, hair samples, etc.)? (1 = Yes; 2 = No; 9 = Unknown; Describe: _____.)
52. Did Police Recover Identifiable Stolen Property? (1 = Identified cash-marked bills; 2 = Other Identified property; 3 = Property not involved; 4 = no; 9 = unknown)
53. Value of Property Stolen, Damaged, Destroyed, or Taken by Fraud (whole dollars). (0 = None; 1 = 1-100; 2 = 101-250; 3 = 251-500; 4 = 501-1000 ; 5 = 1001 - 5000; 6 =5001-10,000 ; 7= 10,001 - 25,000 ; 8 = 25,001 and above; 9 = Unknown.)
54. Value of Property Recovered (same breakdown as 53).
55. Weapon Used. (1 = Firearm; 2 = Knife; 3 = Club; 4 = Poison; 5 = Other, explain: _____; 6 = Hands, feet, etc.; 7 = None; 9 = Unknown.)
56. Number of Victims. Unknown = 9

57. // Was Primary Victim Person or Organization? (Primary is most severely injured or has highest property value cost incurred.) (1=person; 7=organization; 8=no victim)
58. // Condition of Primary Victim. (1 = Dead; 2 = Hospital; 3 = Bleeding wound, or had to be carried from scene of crime; 4 = Other visible injury; 5 = No visible injury, but victim momentarily unconscious or complained of pain; 7 = No personal injury; 8 = no victim; 9 = unknown)
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- 5 = Misdemeanor charge(s) increased to felony by D.A.
- 6 = Misdemeanor charge(s) dropped, prosecuted as misdemeanor.
- 7 = Felony reduced to misdemeanor.
- 8 = Prosecution deferred