



Disposition of DWI Arrests in Anchorage: Profiles, Filings and Prosecutions

Table 1. Variables Examined to Explain Differences in DWI Offender Disposition, Anchorage, 1996

Legal variables	Extralegal variables
Prior DWI conviction	Age of offender
Involved in crash	Sex of offender
Ran a stop or red light	Race/ethnicity of offender
Open container	Mode of conviction
On probation for DWI	Appointed counsel
Cited for reckless driving or leaving scene	Pretrial release
High BAC (> .15)	

Anchorage police arrested almost 2000 adults for drunk driving in 1996. What were the results of these arrests? What were the characteristics of the arrestees? The Justice Center, in conjunction with Anchorage Safe Communities, has recently completed a study of the city's 1996 DWI cases which shows that the typical individual arrested for drunk driving was a white male in his thirties, with no prior DWI conviction. He was a resident of Alaska and held a valid driver's license. His blood alcohol content was almost always above the legal limit. Most cases were prosecuted as misdemeanors and the defendant usually pleaded guilty before trial.

The Justice Center research focused on describing the disposition process; describing the legal and demographic makeup of the population of adults arrested by APD in 1996 for driving an automobile or motor cycle while intoxicated; and analyzing the predictive strength of legal and extralegal

variables on the outcomes of the adjudication process. Researchers drew upon four sources for data: the Anchorage Police Department vehicle seizure records; the Alaska Third Judicial District Court records; the Anchorage Municipal Prosecutor's Office case files; and case files of the Office of the Anchorage District Attorney. A literature review isolated the variables to be considered in the study (Table 1).

The prosecutor's case files were the principal source of data for these legal and extralegal variables. The APD vehicle seizure forms included: the APD case number, the age of the arrestee at the time of the stop, the arrest status, and the location of the ar-

rest. Court files provided information on sentences.

The study used a random sample of 400 arrest cases drawn from APD records for 1996. Researchers were able to locate satisfactory data for 361 of the cases, or 90.25 per cent of the sample. Because data collection centered primarily around the case files of the prosecutors, little information emerged on those cases in which charges

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Table 2. Characteristics of DWI Arrestees in Anchorage, 1996

		N = 400	
		Number	Per cent (excluding missing)
Sex	Male	257	76.7 %
	Female	78	23.3
	Missing data	65	
	Age		
	18 to 25	69	17.3 %
	26 to 35	159	39.8
	36 to 45	116	29.0
	46 to 55	39	9.8
	56 to 65	13	3.3
	Older than 65 years	4	1.0
Race/ethnicity	Asian	12	3.6 %
	Black	23	6.9
	Hispanic	12	3.6
	Native American	69	20.7
	White	218	65.3
	Missing data	66	
State of residence	Alaska	338	95.5 %
	Other (14 states)	16	4.5
	Missing data	46	

Table 3. Characteristics of DWI Stops, Anchorage, 1996

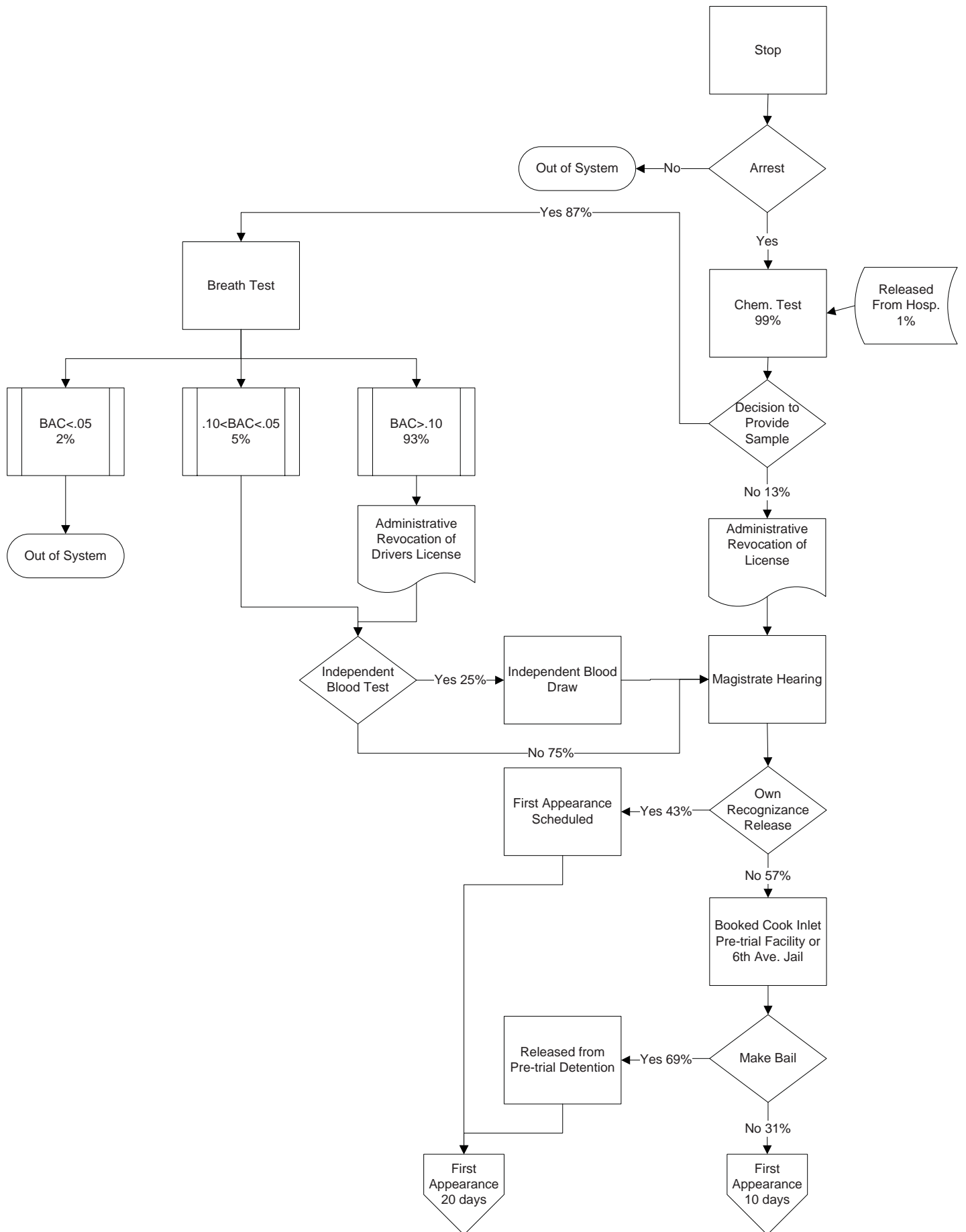
		N = 400	
		Number	Per cent (excluding missing/refusal)
Reason for stop	Crash	79	23.5 %
	Erratic driving	43	12.8
	Minor traffic	41	12.2
	Serious traffic	98	29.2
	Suspicious vehicle	66	19.6
	Slumper*	9	2.7
	Missing data	64	
Status of license at arrest	Valid	223	67.0 %
	Conditional	3	0.9
	Suspended	31	9.3
	Revoked	55	16.5
	No valid license	21	6.3
	Missing data	67	
BAC	Less than .05	8	2.4 %
	.05 to .099	16	4.8
	.10 to .149	103	30.8
	.14 to .199	98	29.3
	.20 to .249	75	22.5
	.25 to .299	20	6.0
	.30 or higher	8	2.4
	Refusals	48	
	Missing data	24	

* A "slumper" is someone slumped over in a car.

HIGHLIGHTS INSIDE THIS ISSUE

- An overview of immigration court in Alaska (page 5).
- Current Justice Center research projects (page 8).

Figure 1. Flow of Adult DWI Offenders: From Stop Through First Appearance



DWI Arrests (continued from page 1)

were not pursued. Since the decision not to pursue charges is in itself an arrest disposition, the results of this study are best viewed as pertaining to dispositions of filings rather than dispositions of arrests. (The principal reason for not pursuing charges may have been low blood alcohol content (BAC). In 17 of the 34 cases in the sample for which charges were not filed, the suspect's BAC was under .10.)

Profiles

Table 2 highlights demographic characteristics of arrestees in the sample studied. The majority of arrestees were male, over 30 years old, white, and residents of Alaska. A serious traffic violation was the most frequently-noted reason for stopping a person subsequently arrested for a DWI (Table 3), and crashes were the next most frequent reason. The data suggest that DWI arrests are most frequently made incidental to other traffic enforcement duties. The majority of

those stopped had BAC levels above .10.

Table 4 presents arrest disposition information. A substantial majority of arrestees were released before trial, and about half were represented by appointed counsel. Half of those arrested had no prior DWI arrests, and less than 25 per cent had more than one such arrest. The majority of those arrested pleaded not guilty at their initial trial but changed at the point of final disposition, with 89 per cent then pleading guilty or no contest. It is noteworthy that just one arrestee of those who went to trial was found not guilty.

Process

A complex and convoluted process begins when the police officer makes the decisions to take someone into custody for driving while intoxicated. The flow of arrestees through the adjudication process was quite similar for all the demographic groups analyzed (Figures 1 and 2). Figure 1 presents the process of adult DWI offenders from when they were stopped by the police through the first court appearance; Figure 2 (on page 4) shows the process from first appearance through adjudication. Percentage breakdowns for the sample cases studied are shown for each point in the process.

Correlates of Disposition

The Justice Center study examined the relation between several legal and extralegal variables, which are listed in Table 1, and the final sentences imposed on the DWI offenders and the length of time to disposition. (The relation between these variables and the question of guilt was not explored, because only one arrestee was acquitted at trial and because for those cases in which charges were not filed, too much information was lacking.)

The average elapsed time between arrest and sentencing in the cases studied was approximately 80 days. The average time sentenced was approximately 145 days, while the average time served was 35 days. The average fine was slightly more than \$1300.

Arrestees with prior DWI convictions received longer sentences with larger fines, and it took longer to dispose of the case. The presence of appointed counsel also correlated with more severe outcomes—longer times to disposition, higher fines and longer sentences. However, the sentence served was not statistically longer, and those represented by appointed counsel were also more likely to have their fines suspended.

Finally, it is worth noting that the existence of aggravating circumstances

Table 4. Dispositions of DWI Arrests, Anchorage, 1996

		N = 400	
		Number	Per cent (excluding missing)
Prosecutor			
Municipal	351	88.2 %	
District attorney	47	11.8	
Missing data	2		
Court-appointed counsel			
Yes	172	49.0 %	
No	179	51.0	
Missing data	49		
Pretrial release			
Yes	281	85.2 %	
No	49	14.8	
Missing data	70		
Prior DWI convictions			
None	194	53.2 %	
1	87	23.8	
2	48	13.2	
3 or more	36	9.9	
Missing data	35		
Initial plea			
Not guilty	174	57.2 %	
No contest	111	36.5	
Guilty	19	6.3	
Missing data	96		
Disposition			
No contest	311	82.1 %	
Pled guilty	25	6.6	
Found guilty	6	1.6	
No filing	25	6.6	
Dismissed	11	2.9	
Acquitted at trial	1	0.3	
Missing data	21		

(involvement in a crash; running a stop sign or red light; the presence of an open container of alcohol; being on probation or having a pending DWI; recklessness or leaving the scene; BAC greater than .15) did not appear to affect case disposition. Future research might explore these factors in more depth and also examine the guilty/not guilty question.

Robert Langworthy, Director of the Justice Center, and Peter Crumm, a research analyst with the Center, conducted the research discussed in the preceding article. The project was conducted in conjunction with Anchorage Safe Communities and was funded by a grant from the Alaska Highway Traffic Safety Planning Agency, Alaska Department of Transportation. Copies of the entire report are available from the Justice Center. The report is also available at the Justice Center web site: <http://www.uaa.alaska.edu/just/>.



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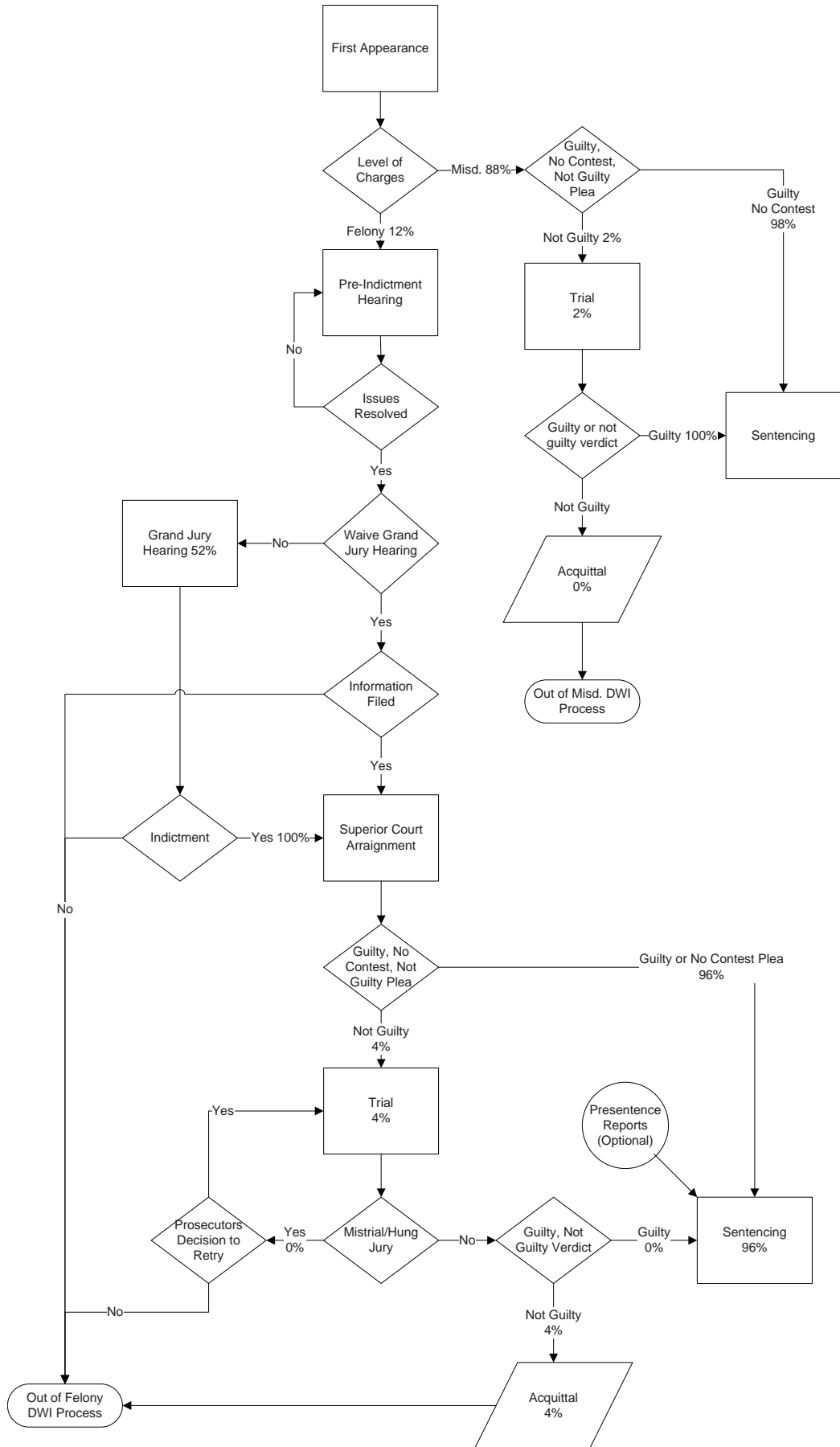
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Figure 2. Flow of Adult DWI Offenders: From First Appearance Through Sentencing



Immigration Court in Alaska: An Overview

Antonia Moras

The Executive Office of Immigration Review (EOIR) administers and interprets federal immigration laws and regulations through court proceedings, appellate reviews and individual administrative hearings. As a judicial agency, it is entirely separate from the Immigration and Naturalization Service (INS), which bears responsibility for enforcement of immigration laws. Within the EOIR, the Office of the Chief Immigration Judge administers and oversees all immigration courts throughout the country.

This article will provide an overview of the structure and operation of the Anchorage court. Very little has been written on the operation of immigration courts in general and nothing on the court in Alaska in particular. The article has been based on data obtained from EOIR and INS, as well information gained by the author through interviews with immigration judges, INS personnel and immigration attorneys and through regular attendance at court hearings since late 1997. (Except in rare circumstances where the respondent's situation seems to warrant closing hearings for matters of personal security—for example, cases in which domestic violence has been involved—all immigration court hearings are open to the public.)

The Anchorage immigration court, which is located in the Michael Building on East 10th Avenue, handles proceedings for the entire state. Alaska is part of a larger jurisdictional area which also includes Washington, Montana, and Idaho. Immigration court judges for this area are based in Seattle, with three judges handling the Alaska court on an annual rotation basis. The judge travels to Anchorage at least four times a year for a week to hold hearings on individual cases, while master calendar hearings, which essentially combine docket control with preliminary hearings, are conducted telephonically between the Anchorage and Seattle courtrooms. In 1999, seventeen master calendar days were scheduled. While the caseload of the Anchorage court is smaller than that of immigration courts in other states, it nevertheless includes the entire range of types of immigration cases.

In general, respondents appear in immigration court after being placed in removal proceedings by the INS—that is, the INS is acting to have them deported from the country. Those placed in these proceedings can contest the INS charges or seek relief from removal by appearing before an immigration judge. (Those aliens who are excluded

by the INS from admission to the country at the port of entry in general are not entitled to a hearing before an immigration judge.) Most respondents appearing in the Anchorage

courtroom are not being detained by the INS. As discussed later, those arrested and detained in Alaska usually appear in court outside the state.

Immigration judges conduct formal court proceedings and act independently. Their decisions are administratively final but can be appealed to the Board of Immigration Appeals (BIA), which is also within the Executive Office of Immigration Review. The Board conducts a de novo review. Decisions of the BIA, in turn, are subject to judicial review in the federal courts.

Legislation and Immigration Court

Since 1980 there have been over twenty-five pieces of federal legislation affecting immigration and naturalization, including several comprehensive acts passed in 1986, 1990 and 1996. The overall effect of this legislation over the last two decades has resulted in tightened controls on admission to the U.S. and increased enforcement authority granted to the INS. The legislation has been tied to, or paralleled, both national welfare reform and crime control efforts, particularly drug control—with much of the immigration legislation reflecting a concern with aliens and criminal behavior and aliens and financial responsibility.

The wide-ranging bills passed in 1996—the *Antiterrorism and Effective Death Penalty Act*, the *Personal Responsibility and Work Opportunity Reconciliation Act*, and the *Illegal Immigration Reform and Immigrant Responsibility Act*—changed exclusion and deportation procedures to expedite deportation and alien exclusion through establishing more stringent grounds for admission to the U.S. The legislation also broadened criteria for deportation for “crimes of moral turpitude” and granted state and local law enforcement officials certain powers to arrest and detain illegal aliens. Other provisions of the 1996 legislation made the financial responsibility of immi-

Table 1. Cases Completed in Anchorage Immigration Court, FY 1993-1998

Fiscal year	Master calendar	Individual hearings	Total	Number of cases with legal representation	Per cent of cases with legal representation
1993	92	160	252	99	39.3 %
1994	122	109	231	68	29.4
1995	112	132	244	80	32.8
1996	98	139	237	127	53.6
1997	68	127	195	138	70.8
1998	54	83	137	93	67.9

Source: Executive Office for Immigration Review

grants' sponsors more stringent.

The 1996 and earlier legislation have increased the scope of INS work and resulted in a proliferation of laws and regulations affecting both legal and illegal aliens. An expansion in the size of the EOIR has paralleled this. In the last three years the number of immigration judges has more than doubled—to over two hundred in 52 courts throughout the country—and the size of the Bureau of Immigration Appeals has more than tripled from 5 members to 18.

Please see *Immigration Court*, page 6

Table 2. Average Case Length from Receipt by Immigration Court to Judgment and Number of Appeals, FY 1993-1998

Fiscal year	Days	Number of appeals
1993	123.0	23
1994	132.9	26
1995	145.7	26
1996	172.9	37
1997	247.4	36
1998	232.4	36

Source: Executive Office for Immigration Review

Table 3. Institutional Hearing Program Cases in Alaska by Fiscal Year in Which Completed, FY 1993-1998

Fiscal year	Total	Number of cases with legal representation	Per cent of cases with legal representation
1993	6	4	66.7 %
1994	4	3	75.0
1995	10	8	80.0
1996	17	9	52.9
1997	22	9	40.9
1998	28	5	17.9

Source: Executive Office for Immigration Review

Table 4. Applications for Relief by Fiscal Year in Which Completed, FY 1993-1998

Fiscal year	Total	Number of cases with	Per cent of cases with
		legal representation	legal representation
1993	51	42	82.4 %
1994	42	28	66.7
1995	51	39	76.5
1996	95	74	77.9
1997	118	108	91.5
1998	88	66	75.0

Source: Executive Office for Immigration Review

Immigration Court
(continued from page 5)

The figures on case completions in the Alaska immigration court do not, however, show substantial increases in the overall case load since 1993 (Table 1), although the number of applications for relief from deportation and the number of appeals have increased (Table 4). Most of those placed in removal proceedings in Alaska are not detained. These figures do not reflect cases involving respondent detention by INS, even if the arrest has occurred in Alaska, because there are no federal detention facilities here, and most detained aliens are held elsewhere. The number of Institutional Hearing Program cases being heard *has* increased (Table 3). These are cases in which the respondent is in custody in a state or local facility for a criminal offense. The immigration court hearing considers the ramifications of the respondent's criminal status for his immigration status. As mentioned above, the laws affecting the immigration status of an individual convicted of certain criminal offenses have been extended.

Immigration cases can be exceptionally brief, essentially completed at the initial hearing, or much more lengthy, extending for many months in some cases. Table 2 shows the average time required for Anchorage immigration court cases, to the point of appeal. The table also indicates the number of cases which were appealed. The average length of cases has increased over the given time period, as has the percentage for which appeals are made.

Applications for Relief

As stated above, when an alien is placed in deportation/removal or exclusion proceedings the individual has the option of admitting the charges and seeking relief or of fighting the charges altogether. Although precise figures are not accessible, in the

Anchorage court it appears that the majority of respondents do not fight charges but rather admit them—that is, admit that they are in the country in violation of the law—and then seek relief from deportation. The following types of relief cases are handled most frequently in the Anchorage court: adjustment of status (for example, a respondent has married a U.S. citizen); conditional residence applications; asylum cases; cancellation of deportation cases; and voluntary departure cases. With voluntary departure a respondent is spared the imposition of certain prohibitions against re-entry which accompany official deportation or removal. In addition, there are criminal cases in which no relief is available but which may involve a constitutional issue and are taken through immigration court to preserve the right to appeal.

Asylum Claims

Asylum is a form of relief from deportation for which respondents in certain circumstances may apply. Tables 5 and 6 present basic numbers on Alaska asylum court cases for the years 1993 through 1998. An asylee is defined as an alien in the U.S. who is unable or unwilling to return to his or her country of nationality because of persecution or a fear of persecution. Criteria for granting asylum are governed by federal statutes which are consistent with international protocols in this area. Under current federal law, the immigration status, whether legal or illegal, of an applicant for asylum is not relevant to the claim. The law sets no limits on the number of individuals who may be granted asylum. The tables show that immigration court grants very few asylum claims. After a year of residency in the U.S., an asylee may apply for adjustment to permanent resident status.

Legal Representation

All respondents appearing in immigration court may be represented by an attorney, at their own expense. There is no provision for court-provided attorneys. The INS counsel will provide a list of possible sources of legal aid for indigent respondents and also a list of legal rights; proceedings will be postponed to permit the respondent to find counsel if

Table 5. Asylum Receipts for Alaska, FY 1993-1998

Fiscal year	Total	Number of cases with	Per cent of cases with
		legal representation	legal representation
1993	32	19	59.4 %
1994	17	12	70.6
1995	44	35	79.5
1996	85	67	78.8
1997	42	25	59.5
1998	18	12	66.7

Source: Executive Office for Immigration Review

desired.

EOIR figures show that overall the percentage of cases in which the respondent has been represented has increased substantially since 1993 (Table 1), but a significant number of individuals still handle their own cases. The figures on representation for those cases in which the respondent filed for relief from removal have remained fairly steady over the given period. (It should be noted that representation has not always involved an attorney. For several years a non-attorney employee of Catholic Social Services, who was accredited by the court, represented many respondents in court proceedings.)

As Table 3 indicates, the level of representation for those respondents who are in custody is significantly lower than the overall level of representation, and the percentage has declined as the number of these cases has grown. Since the interface between state criminal law and immigration statutes is complex, legal representation in these cases is particularly necessary. Tables 5 and 6 indicate that a sizeable number of asylum claims are also made without legal representation.

Relatively few attorneys practice immigration law in Alaska. A report from the Access to Civil Justice Task Force of the state court system due to be released in December 1999 states that there are only three attorneys experienced in immigration law

Table 6. Asylum Completions for Alaska, FY 1993-1998

Fiscal year	Decisions			Total	Number of cases with	Per cent of cases with
	Denied	Granted	Other		legal representation	legal representation
1993	17	1	8	26	20	76.9 %
1994	14	1	4	19	10	52.6
1995	13	2	4	19	14	73.7
1996	31	2	27	60	40	66.7
1997	17	7	30	54	47	87.0
1998	15	9	27	51	31	60.8

Source: Executive Office for Immigration Review

in private practice in Alaska. All reside in Anchorage. In addition, three attorneys work with Catholic Social Services in Anchorage, which is the only agency in the state providing legal assistance to indigent or low-income immigrants. The task force report states that the program receives an average of 600 phone calls each month for legal assistance.

Alaska Legal Services is now prohibited by federal law from offering legal assistance to non-citizens in most situations, although the Pro-Bono Program has conducted immigration clinics in Anchorage, Juneau and Kodiak.

Detainees and Immigration Court

The arrest and detention of an alien in Alaska by the INS often results in the transportation of the individual outside the state, since there are no INS detention facilities within the state. Court hearings are then held where the individual is being detained.

Interpretation and Translation

Respondents in immigration court hearings in Anchorage are always provided a translator, at government expense, if their English is not adequate to understand and participate actively in the proceedings. Proceedings can be delayed for a shorter or longer period while adequate translation or interpretation services with which all parties are comfortable are located. In general, the court tries to anticipate as far in advance as possible what the language needs in a particular case will be and arrange for the presence of a translator in the courtroom during individual hearings. With some languages, this can mean obtaining a translator from outside the state. The court employs a variety of services in handling the language demands of cases, including Berlitz and the AT&T telephone translation service. The phone translation service is used primarily during master calendar hearings.

Table 7 lists the various languages which

Table 7. Languages of Anchorage Cases by Fiscal Year in Which Completed

	FY93	FY94	FY95	FY96	FY97	FY98	Total
Albanian	2	7	2	3	3	5	22
Amharic	-	-	-	-	1	-	1
Bengali	-	1	-	-	2	1	4
Bulgarian	1	-	-	-	-	2	3
Czech	-	1	-	-	-	-	1
English	47	40	50	50	59	44	290
French	1	-	-	-	-	-	1
German	-	1	-	-	-	-	1
Greek	-	-	1	-	-	-	1
Ilocano	-	1	-	-	-	-	1
Japanese	1	-	-	-	-	-	1
Korean	5	3	2	2	5	-	17
Lao	-	-	1	1	-	1	3
Mandarin	2	-	1	1	-	-	4
Mien	-	-	-	-	-	1	1
Norwegian	1	-	-	-	-	-	1
Polish	3	7	7	12	6	1	36
Portuguese	-	-	3	-	-	-	3
Punjabi	1	-	-	2	1	-	4
Romanian-Mold	1	-	-	1	1	2	5
Russian	5	8	-	11	7	9	40
Samoan	1	1	1	-	2	1	6
Serbo-Croatian	1	-	-	1	-	-	2
Spanish	179	149	171	142	103	64	808
Tagalog	-	8	4	4	2	6	24
Thai	-	-	-	2	1	-	3
Tongan	-	1	-	1	-	-	2
Turkish	-	-	-	1	-	-	1
Unknown	1	2	1	1	1	-	6
Urdu	-	1	-	-	-	-	1
Total	252	231	244	235	194	137	1293

Source: Executive Office for Immigration Review

have been needed in Anchorage cases since 1993. Other than English, the language most commonly used is Spanish; over the period studied over 60 per cent of the hearings have required a Spanish translator. Russian, Albanian, Polish, and Tagalog—a language used in the Philippines—are also used fairly often.

* * *

Within this overview of the structure of immigration court in the Anchorage and its operations are points which deserve more exploration—the exact nature of asylum

cases in Alaska; the nature of cases in which the respondent is also under a criminal charge; the availability of legal representation in immigration court proceedings in these and other cases; the problems posed by the intersection of the Alaska criminal code and current federal immigration law; and the particulars of the situation faced by those arrested in Alaska and detained elsewhere. Examination of these points and others could clarify public understanding of the ramifications of immigration policies.

Antonia Moras is the editor of the Alaska Justice Forum.

ANTARC Meeting

Representatives from four Alaska villages and the Justice Center met from October 31 through November 5 to continue work on the ANTARC project. ANTARC—the Alaska Native Technical Assistance and Resource Center—is being funded by a grant from the U.S. Bureau of Justice Assistance to the Justice Center. The project focuses on doing workshops with village residents in community problem-solving techniques and providing guidance in

obtaining access to outside resources and additional support. This was the second time the group met as a whole.

Vern White of the Royal Canadian Mounted Police guided participants in the application of CAPRA, a model for community problem solving used extensively by the RCMP in rural Canadian communities. Julie Roberts, Executive Director of the Tanana Tribal Council, provided training in response design and

program development. Representatives from Kotlik, Wainwright, Gulkana, and Yakutat are participating in the project, which is in its first year. It is projected that ANTARC will grow to include additional villages in future years and the original group of participants will in turn train representatives from the new villages. A video on the project, “Building Partnerships: A Beginning,” was produced by the Justice Center last spring.

Justice Center Project Highlights

The following is a list of some of the current Justice Center research and public education projects. The Justice Center Web Site presents further information and findings from many of these projects at <http://www.uaa.alaska.edu/just/research/>.

Arrestee Drug Abuse Monitoring Project (ADAM) (JC 0001)—Robert H. Langworthy, Cassie Atwell	Spatial Justice: Alaska's Application for the 1999 State Justice Statistics Program for Statistical Analysis Centers (JC 0011.02)—Robert H. Langworthy
Judicial Candidates Evaluation Surveys (JC 9207)—Richard W. Curtis	Alaska Native Technical Assistance and Research Center (JC 9915)—Robert H. Langworthy, Lisa Rieger, Darryl Wood, Michael Jennings
Alaska Natives: Careers in Corrections (JC 9501.05)—John Riley	The Effect of the DARE Program Upon Rural Alaska Students (JC 9921)—Darryl Wood
Turnover Among Alaska Village Public Safety Officers (VPSO): An Examination of the Factors Associated with Attrition (JC 9901)—Darryl Wood	The Changing Legal Environment and ICWA in Alaska: A Regional Study (JC 0012, proposal pending)—Lisa Rieger
Community Jails Statwide Research Consortium (JC 9902)—N.E. Schafer	Emmonak Elders' Group Juvenile Accountability Project (JC 0009)—N.E. Schafer
Juvenile Justice and Delinquency Prevention Jail Monitoring Project (JC 0002)—N.E. Schafer, Cassie Atwell	Evaluation of Kids Are People Too Electronic Monitoring Program (JC 0010)—N.E. Schafer
Child Welfare and Alaska Native Tribal Governance: A Pilot Project in Kake, Alaska (JC 9910)—Lisa Rieger	Spatial Concordance of DWI Arrest and Alcohol-Related Traffic Accidents (JC 0014)—Robert Langworthy
State Justice Statistics Program: Sex Offender Research (JC 9911)—Allan R. Barnes	

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