

**Report on Racial Equity Analysis:**

**Seattle Pre-Filing Diversion Program, Young Adult Mainstream Misdemeanors**

*A community diversion alternative to prosecution and detention*



## **I. Introduction**

The Seattle City Attorney's Office (CAO) acknowledges that the criminal justice system disproportionately affects communities of color. Furthermore, the CAO recognizes that the filing of a criminal charge regardless of the ultimate disposition produces life-long collateral consequences for the accused such as additional barriers to housing and employment. Reviewing law and policy scientific research suggesting that the prefrontal cortex of the brain continues to develop to age 25, the CAO is focusing its efforts on 18-24-year-olds.<sup>1</sup> The CAO seeks to implement pre-filing diversion programs that hold young folks accountable for their actions by offering them the opportunity to participate in community-based diversion with access to supportive services, rather than implementing a punitive sanction through the traditional criminal justice system.

When the CAO requested funding from City Council to embark on pre-filing diversion, we detailed plans to divert a few different case types using diversion methods appropriate for each case type. Initially, the CAO had planned to divert some misdemeanor cases using a model similar to the traditional Pre-Trial Diversion program. The general plan discussed between the CAO and Seattle Municipal Court(SMC) was that the CAO would refer cases to the SMC probation department without filing a criminal complaint and if a suspect completed a certain number of community hours and underwent a needs-based assessment, the CAO would agree to decline the case. The funding structure for pre-filing diversion did not include any plan, time, or resources for thoughtful development of the programs to include community engagement through a Racial Equity Toolkit.

Our office, with the support of City Council and Office of Civil Rights, recognized the need to engage in the Racial Equity Toolkit process. The focus of this RET is how to divert what we have come to term our "mainstream" young adult cases. Cases eligible for mainstream diversion are non-domestic violence, non-driving, and generally crimes that are not considered person-crimes such as Assault and Harassment, unless the person-crime is minimal, and there is not an added public safety concern. Our office also seeks to divert young adult non-intimate partner domestic violence cases, young adult cases involving more complexity than the mainstream cases and diversion aimed at re-licensing for Driving While License Suspended 3 cases for individuals of all ages; however, because of the unique challenges with each of those case types, we have chosen to have this RET focus on the mainstream cases only.

During the first round of community engagement, it became clear to the CAO that the community felt that it was crucial to have the pre-filing diversion occur in community. It was expressed almost unanimously that diversion should not occur as we had originally envisioned within a similar framework to the Pre-Trial Diversion program, but rather, that we had a unique opportunity to support true community diversion. As a direct result of our initial phase of community engagement, the CAO completely re-envisioned the possibility for community diversion of our mainstream cases. We struggled with the desire to begin diversion in 2017 as envisioned by the budget savings promised and the desire to complete a RET of this magnitude.

In an attempt to strike a balance, after the initial phase of community engagement, the CAO approached a Seattle-area non-profit, Choose 180, whose name had been continually brought up amongst a diverse group of people during engagement. Choose 180 is well-regarded by

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<sup>1</sup> The MacArthur Foundation Research Network on Law and Neuroscience, "How Should Justice Policy Treat Young Offenders?"; February 2017; Justice Research: National Institute of Justice; Office of Juvenile Justice Delinquency Prevention, "Young Offenders: What Happens and What Should Happen"; February 2014.

Pre-Filing Diversion Program,

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community and institutional stakeholders alike. Choose 180 has been doing diversion work with juveniles for years and has been evaluated by both the University of Washington and King County's Office of Performance, Strategy and Budget. UW's evaluation concluded that the workshop was very well-received by youth and appeared to be having a positive effect on process outcomes that are likely to be associated with decreased delinquent behaviors. King County's evaluation suggested that the workshop is more successful than other diversion in reducing juvenile recidivism and that referral and completion rates for African American youth were particularly promising.

The CAO entered into partnership with Choose 180 on a pilot program to offer young adults a pre-filing diversion opportunity in community. The RET process has shaped every aspect of the Mainstream Pre-Filing Diversion program including contracting process as detailed throughout this RET. The CAO remains committed to continuing to assess and improve on centering race and working toward eliminating racial disparities in our filing and diversion practices and division at large.

## II. Racial Equity Toolkit

### STEP 1: Set Outcomes

***What does your department define as the most important racially equitable community outcome related to the issue?***

Overall Outcomes

- Eliminate racial disparities in percentage of cases filed against young adults (18-24).
- Eliminate disproportionate criminal filings against young adults of color which will eliminate the collateral effects of criminal charges that could prevent future employment, housing, education, etc., opportunities. Namely, eliminate the disproportionate filing against individuals historically categorized in the criminal justice system as Black, Native American/Alaskan Native and those that we know are not being accounted for.
- Reform the criminal justice system so that we are encouraging a different experience and culture for young adults of color for what the criminal justice system should be.
- Provide young adults of color the opportunity to take responsibility for minor offenses and offer tools and access to resources to make better choices and stay out of jail.

Outcomes set for the Pilot:

- The rate of individuals who identify as a person of color have a rate of completion equivalent to or better than the historical rate at which the office has charged persons of color for these crimes;
- A majority of persons of color report that they found the workshop was helpful, found the CRC helpful, and plan to apply the knowledge they gained to their life;
- Decrease recidivism rates for persons of color who successfully complete the workshop at 3 month, 6 month, and 1-year intervals post workshop.

***Which racial equity opportunity area(s) will the issue primarily impact?***

The Mainstream Pre-Filing Diversion program and the anticipated outcomes will impact several racial equity opportunity areas. Most directly this opportunity provides an alternative to involvement in the criminal justice system that disproportionately and negatively affects communities of color. By providing the opportunity to avoid criminal charges, the program seeks

to eliminate collateral consequences that result from criminal charging and/or convictions, namely:

- Education: Eliminate negative impact/ban on education/training/scholarship/loan/grant application;
- Jobs: Eliminate negative impact/ban on job applications;
- Housing: Eliminate negative impact/ban on housing applications.

The Pre-Filing Diversion program is committed to using this diversion as an opportunity to develop stronger connections to the communities most impacted by the criminal justice system. A goal of this program is to provide support to the community to be able to support the young adults. The CAO recognizes that we must provide support to the community to assist individuals after the workshop to help identify and connect young adults to services and supports. Furthermore, the program is designed to provide free resource support via the Court Resource Center which provides connections to housing, healthcare (signing up for health care, substance use disorder assessments and referrals, DSHS benefit sign up), education (GED preparation), transportation (pre-loaded \$15 Orca Lift passes), job services (employment class, resume and application assistance) and more.

The CAO recognizes the importance of partnering with racially diverse organizations that have people with lived experience doing their work. Young adults are more likely to meaningfully engage with individuals that they view as credible messengers. Furthermore, contracting with organizations committed to racial diversity and staffing of people who have served time, supports the City's commitment to RSJI and supporting workforce re-entry.

By diverting cases before filing them in criminal court, we eliminate the collateral immigration consequences associated with having a criminal charge pending and possible conviction which may affect deportation or qualification for permanent legal status.

The CAO has done extensive outreach and public engagement with many different communities that are part of the larger communities most impacted by the criminal justice system. Our office is committed to not only having the diversion occur in community, but also be held accountable by the community by continuing outreach and engagement beyond development. The CAO acknowledges the importance of culturally competent engagement. We also recognize the need to provide access to interpretation at every step of the process. The CAO will ensure that access to interpretation during outreach, the workshop and follow-up is available.

***Are there impacts on geographic areas?***

The CAO has jurisdiction over misdemeanors and gross misdemeanors committed by persons over the age of 18 (with limited jurisdiction for youth 16 years-of-age and up for driving crimes) in the city limits of Seattle. Furthermore, a lot of individuals accused of committing crimes in Seattle are residing outside of the City in neighboring cities and counties. We are also aware that individuals living or visiting from other countries are greatly impacted by criminal charges. This includes international students and undocumented persons. Thus, the impact of diversion includes all of Seattle and the region.

***What are the racial demographics of those living in the area or impacted by the issue?***

**Seattle City Data:**

The CAO has also reviewed the Seattle Office of Planning and Community Development website<sup>2</sup>) for statistics regarding the population of the City of Seattle. These are primarily based on 2010 US Census data with some facts from the 2012-2016 American Community Study.

In Seattle, 33.7 % of the population identify as a person of color. Furthermore, 6.6% of persons regardless of race identify as Hispanic or Latino ethnicity. The largest population that identifies as a person of color resides in the south precinct (range from 43.7%-91.2%). The next largest group resides in the Southwest Precinct (range from 14.2% - 70.4%).

The race/ethnicity breakdown for the Seattle population from the 2010 census was: 66.3% White; 13.7% Asian; 7.7% Black; 6.6% Hispanic or Latino ethnicity (of any race); two or more races 4.4%; 0.6% American Indian/Alaskan Native; 0.4% Native Hawaiian/Pacific Islander; Other race .2%.

It is also of note to young adult diversion that 15<sup>3</sup>-24-year-olds make up 14% of the population

**Seattle Police Department Data**

The CAO has not received any data response from SPD yet.

**Seattle Municipal Court Data**

The CAO has been working with SMC since February on gathering pertinent statistics regarding young adults being prosecuted by the CAO in SMC. The SMC analysts have been extremely helpful in providing us with data.

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<sup>2</sup> <http://www.seattle.gov/dpd/cityplanning/populationdemographics/default.htm>

<sup>3</sup> 15-24-year-olds was the closest age range to 18-24-year-olds based on the Census data reporting.

**Racial Breakdown of 16-24-year-old Defendants 2011-2015 by Person and by Case<sup>4</sup>**

Percentage of Defendants and Cases by Race (16 - 24 YO)

	Defendant Race	2011	2012	2013	2014	2015	Grand Total
Defendants - Race	Asian/Pacific Is..	8%, 168	8%, 122	9%, 125	10%, 126	10%, 119	10%, 626
	Black	28%, 562	30%, 469	32%, 457	31%, 385	31%, 374	28%, 1,794
	Native America..	1%, 28	1%, 15	2%, 28	2%, 21	1%, 14	1%, 89
	White	55%, 1,084	54%, 842	51%, 742	51%, 630	50%, 594	54%, 3,534
	Unknown	7%, 140	7%, 105	7%, 96	7%, 81	7%, 87	7%, 458
Cases - Race	Asian/Pacific Is..	8%, 183	7%, 142	7%, 129	9%, 135	8%, 128	8%, 717
	Black	31%, 730	32%, 607	35%, 626	32%, 498	34%, 511	32%, 2,971
	Native America..	2%, 38	1%, 22	2%, 31	2%, 30	1%, 22	2%, 143
	White	54%, 1,280	53%, 1,017	50%, 906	51%, 782	49%, 746	52%, 4,730
	Unknown	7%, 161	6%, 118	6%, 110	7%, 102	7%, 101	6%, 592

<sup>4</sup> SMC\_16-24GeneralStats2011-2015\_1.2.18\_12.28.17

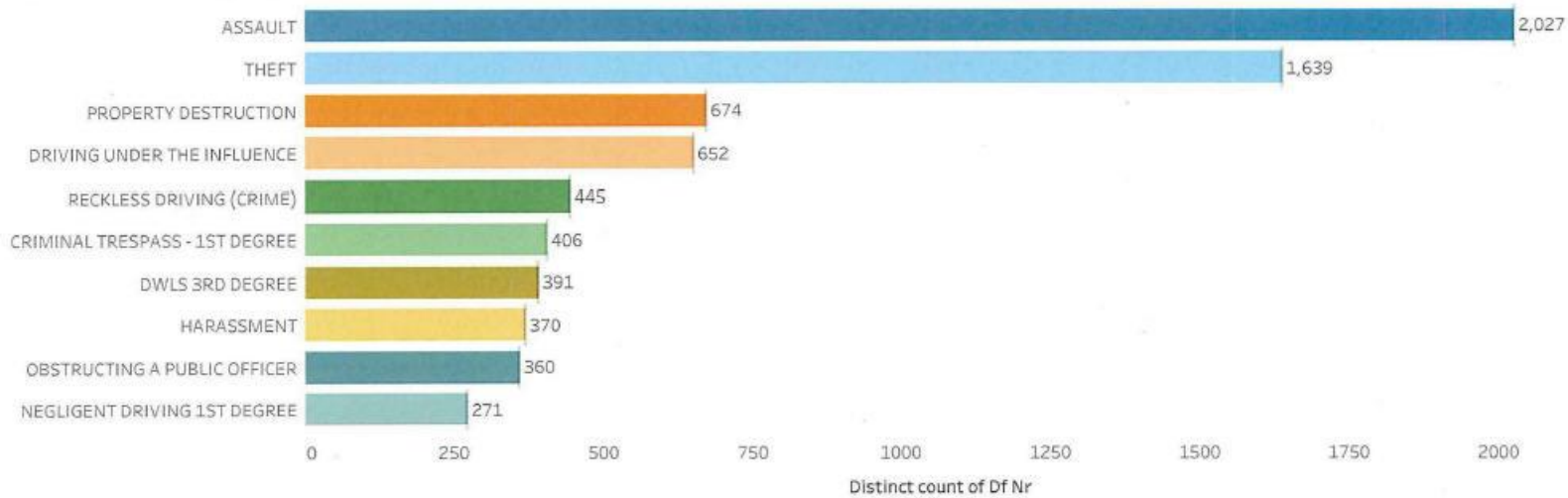
**Racial Breakdown of 16-24-year-old Pre-Trial Diversion Defendants 2011-2015 by Person and by Case<sup>5</sup>**

Percentage of PTD Defendants and Cases by Race (16 - 24 YO)

	Defendant Race	2011	2012	2013	2014	2015	Grand Total
Defendants - Race	Asian / Pacific Islander	11%, 22	6%, 10	18%, 23	23%, 21	17%, 14	13%, 90
	Black	16%, 33	29%, 46	16%, 20	22%, 20	12%, 10	19%, 129
	Native American / Alaska Native	1%, 2	1%, 1		3%, 3	1%, 1	1%, 7
	White	66%, 137	59%, 95	62%, 77	46%, 42	65%, 54	60%, 405
	Unknown	7%, 15	6%, 9	4%, 5	7%, 6	5%, 4	6%, 39
Cases - Race	Asian / Pacific Islander	11%, 22	6%, 10	18%, 23	23%, 21	17%, 14	13%, 90
	Black	16%, 33	29%, 46	16%, 20	22%, 20	12%, 10	19%, 129
	Native American / Alaska Native	1%, 2	1%, 1		3%, 3	1%, 1	1%, 7
	White	66%, 137	59%, 95	62%, 77	46%, 42	65%, 54	60%, 405
	Unknown	7%, 15	6%, 9	4%, 5	7%, 6	5%, 4	6%, 39

**Top 10 Crimes\* Charged Against 16-24-year-old Defendants 2011-2015<sup>6</sup>**

Top 10 Violations Charged Against 16 to 24 YO Defendants



\*Note that one suspect may have multiple charges

<sup>5</sup> SMC\_16-24PTD Stats2011-2015\_3.16.17, pg.1

<sup>6</sup> SMC\_16-24PTD StatsRace2011-2015\_1.3.18

**Quarter1 2016 Statistics<sup>7</sup>**

- Defendants ages of 18 to 25 appear to consistently make up about one quarter of all filed cases at SMC in any given year. In the first quarter of 2016, there was no major difference in the types of dispositions 18 to 25-year-olds were receiving versus older defendants. For most common charges, it does not appear the type of charges filed varied dramatically by age of the defendant.

**CAO Data—Historic**

The CAO does not have analysts on staff to assist in analyzing large and complex data sets. At the PFD team's request, the CAO's IT staff ran multiple data set inquiries. Unfortunately, the PFD team recognized numerous challenges with attempting to analyze our data. Namely, the CAO's case management system is automatically populated by SPD's system. While this automatic population is essential to handle the volume of incident reports that our office receives annually (generally 12,000-15,000), the systems do not communicate flawlessly. For instance, a report may be coded as "Wage Theft" but actually be "Theft-Stealing." Furthermore, incident reports are routinely referred for charging as one type of crime and determined by prosecutors to be a different crime or no crime provable beyond a reasonable doubt. Additionally, our office does not correct possible crime types when we decline incident reports. There is further complexity in the way the system handles incident report numbers vs. suspects vs. cases. The PFD team consulted with a Program Manager from Microsoft who graciously volunteered several hours to work with the team on reviewing our data. At this point, the PFD team has used our data in a limited way.

**CAO Data—Mainstream Pre-Filing Diversion Pilot**

The CAO is dedicated to capturing statistics for the Pre-Filing Diversion program that will allow us to more accurately report the racial demographics for this diversion. The CAO has compiled the data collected from the 4-month pilot project. When comparing Pre-Filing Diversion data to data from the SMC, it is important to note the differences in the categories of data (most importantly that SMC data does not denote Bi-Racial/Mixed or Latino/Latina).

To illustrate how the Mainstream Pre-Filing Diversion Pilot has reduced racial disproportionality we have compiled a series of pie graph representations.

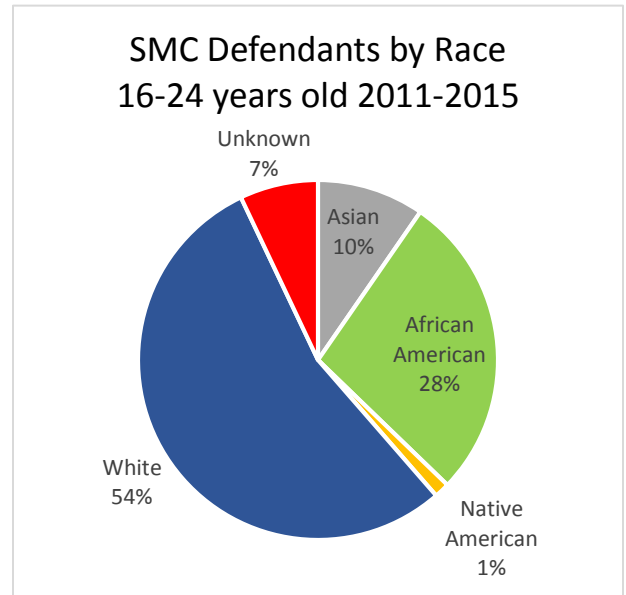
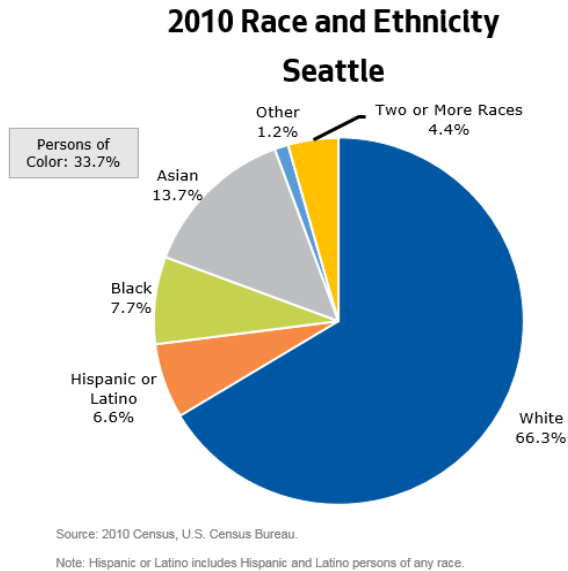
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<sup>7</sup> SMC\_Q1\_2016\_2.16.17; Statistics provided by SMC included 25-year-olds.

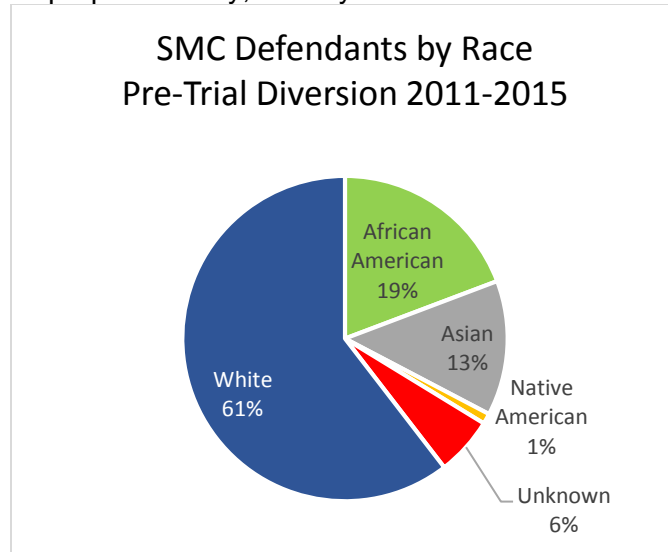


**City and Seattle Municipal Court Data**

First, we must see the Race and Ethnicity data for Seattle, for 16-24 year-old SMC defendants and for 16-24 year-old SMC defendants in the Pre-Trial Diversion program.



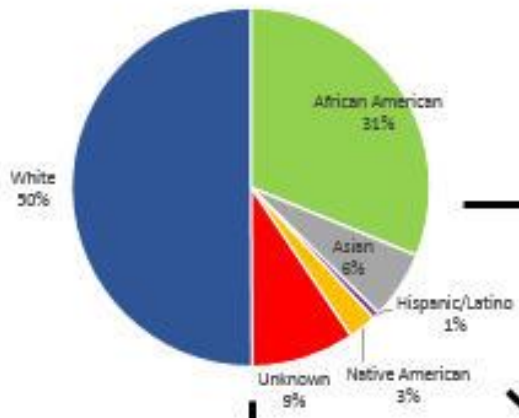
From these graphs we see that persons of color have criminal charges filed against them disproportionately, namely those identified as Black.



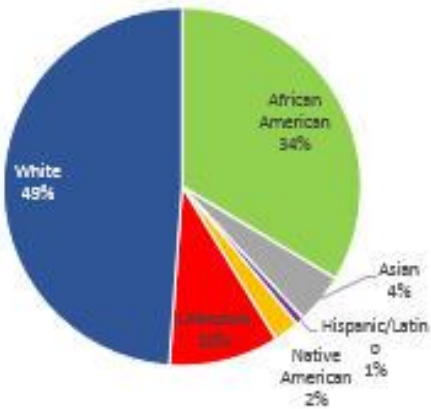
The disproportionality is further exacerbated by the fact that White and Asians disproportionately comprise the makeup of SMC's Pre-Trial Diversion Program. In summary, White people and Asians are less likely to have charges filed against them and when they do, they are more likely to take advantage of SMC's Pre-Trial Diversion Program.

**Mainstream Pre-Filing Diversion Program Data**

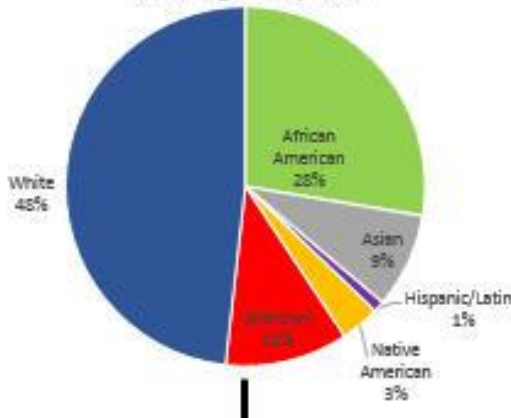
SCAO Total PFD Reviewed- By Person/Race



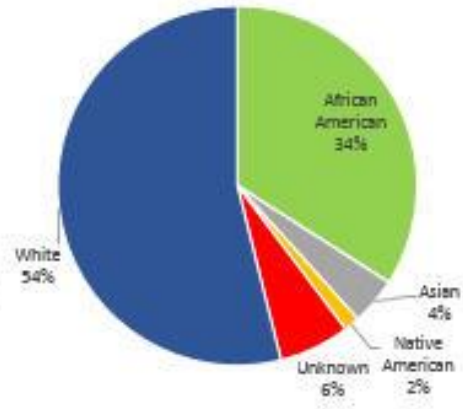
PFD Decline- Race



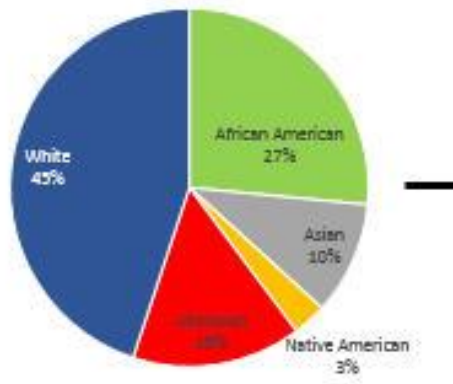
PFD Eligible by Race



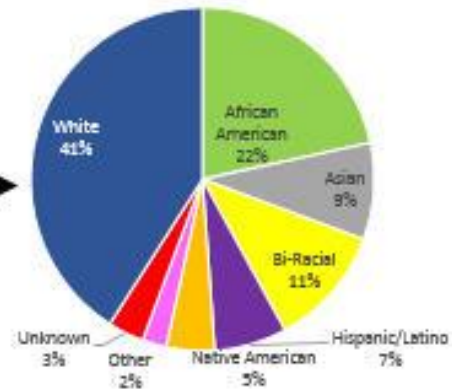
PFD Screen Out- Race



PFD Participant SPD Identified Race



PFD Participant Self-Identified Race



From these graphs we see that we are reducing the racial disproportionality that would be facing the traditional criminal justice system. Furthermore, we see that persons of color are taking advantage of the diversion opportunity at a greater rate than is being referred. This is most significant considering the exacerbation of racial disproportionality with the Court's Pre-Trial Diversion program.

***How have you involved community members and stakeholders?***

The CAO has engaged in broad outreach efforts to identify stakeholders and seek advice and suggestions regarding the creation and implementation of the Pre-Filing Diversion program. Many individuals and organizations have graciously shared their expertise with us via meetings workgroups, presentations, trainings, and celebrations. We have focused our engagement efforts on reaching communities most impacted by the criminal justice system. Through this process we have attempted to identify other local community diversion programs and the services being utilized to support these programs. The CAO has also identified system stakeholders in this process and worked to breakdown silos.

There are four main spheres of influence that the CAO has focused engagement around:

1) Sphere 1: Community Organizations/Non-Profits/Practitioners; 2) Sphere 2: Racial Justice/Community Led Organizers; 3) Sphere 3: Government Institutions; 4) Sphere 4: Individual Community Members most impacted by the criminal justice system. Please see Attachment 1 Engagement and Attachment 2 Trainings.

***What does data and your conversations with stakeholders tell you about existing racial inequities that influence people's lives and should be taken into consideration?<sup>8</sup>***

**Data**

The data supports that young adults of color are having criminal charges disproportionately filed on them compared to white young adults. It is important to note that when we are determining disproportionality in filing based on race, there are a number of factors that can contribute to inaccuracies namely that the comparison data is from the 2010 census and includes all ages and that the Court data is mainly based on SPD's original subjective determination of race using an extremely limited number of categories. It is crucial to note that there is no category for Hispanic/Latino/Latina/Spanish. Furthermore, it is important to acknowledge the substantial percentage of individuals identified as unknown.

Acknowledging the inadequacy in racial categories, the data tells us that the racial groups suffering the worst disproportionality are those individuals categorized as Black and Native American/Alaskan Native. Young adults characterized as Asian/Pacific Islander do not seem to be having criminal charges filed disproportionately.

Furthermore, the racial disproportionality is amplified within the criminal court system in terms of the people that are participating in Pre-Trial Diversions. Young adults characterized as white and as Asian/Pacific Islander, are experiencing the benefit of Pre-Trial Diversions at statistically significantly higher rates disproportionate to the number of criminal filings against them. Individuals characterized as Black and Native American/Alaskan Native are disproportionate to the number of criminal filings against them not experiencing the benefit of Pre-Trial Diversions.

It is also significant to note that the racial disproportionality of criminal case filings increases when looking at the statistics based on the number of cases filed rather than simply by defendant. Consistent with the trends described above, individuals characterized as Black and Native American/Alaskan Native are more likely to have multiple cases filed against them.

### **Stakeholders**

Stakeholders expressed what the data verifies which is that persons of color, namely those identified as Black and Native American/Alaskan Native, likely as well as groups wholly unaccounted for, are disproportionately contacted by police, disproportionately have charges filed against them and are treated worse in the system.

Stakeholders have been generally supportive of the idea of pre-filing diversion because it is intended to keep young adults from suffering life-long collateral consequences of criminal charges and getting caught up in the criminal justice system. Institutional racism is at the root of the racial inequities that lead to the disproportionate filing and negative treatment of persons of color in the criminal justice system. Thus, overwhelmingly stakeholders have been emphatic that diversion must be done by community and not within the existing criminal justice system. Stakeholders see diversion as an opportunity to affect real change in the paths of young adults, but only if the desire is genuine and not just a means to save money and check a box. Diversion must be well supported with resources and ongoing mentorship.

Resources must work to combat existing racial inequities and include access to educational opportunities (GED support, college readiness, college credits) employment readiness (learning new skills, learning how to market current skills, expungement, help with resume writing and practice interviews etc), employment opportunities (internships, jobs), health services (general health, physical health, mental health and substance abuse services), housing (availability and affordability), transportation (public transit, licensing issues), Nutrition (substance and nourishment).

To have a lasting impact, the City needs to support continued community support beyond the required diversion.

### ***What are the root causes or factors creating these racial inequities?***

Stakeholders have expressed that racial inequities are deep seated in our countries history and are shown through bias in our governmental institutions including, but not limited, our criminal justice, education, employment and housing systems.

<b>Root Causes: Existing Racial Inequities<sup>9</sup></b>
<b>Biological and Physiological</b>
Housing disparity
Homelessness
Food
General health
Transportation
<b>Safety</b>
Trauma
Citizenship concerns
Nationality discrimination
Racial profiling
Cannot turn to system when you are a victim of a crime
Police harassment
System punishes if you do not cooperate
System is all about plea bargains; they don't care who did it; its all about numbers
Financial debt
Basic job preparedness
Foundation of education (literacy, GED)
Mental health including substance abuse disorders
Incarceration rates
Dependability
Driver's licensing issues
Expungement issues
Productive lifestyle
<b>Love and Belongingness</b>
Effects of gangs on youth
Role models/mentors
Need to earn stripes
Family and community support
<b>Esteem</b>
Treatment by community
Treatment in education
Approach to job readiness and opportunities
Self-worth
<b>Self-Actualization</b>
Advanced educational opportunities
Higher paying careers
Financial planning
Support to think big

<sup>9</sup> Existing Racial Inequities categorized by Maslow's hierarchy of needs.

**STEP 3: Determine Benefit and/or Burden**

***How will the policy, initiative, program, or budget issue increase or decrease racial equity?***

**Benefits**

Stakeholder perspectives on racial equity benefits	Stakeholder recommended policy or programmatic strategies to address impacts	City policy or programmatic strategies implicated
Zero use of detention for youth.	Eliminate incarceration of youth and young adults.	Diversion must be pre-filing which eliminates opportunity for incarceration at every step except initial bookings. Work with SPD to ensure young adults eligible for diversion are not booked.
Diversion programs should be community-designed, community-owned and community-led by communities of color.	Center communities of color in the provision, creation, and use of community-based alternatives to secure confinement.	City must work in partnership with community to allow community to develop diversion program that is designed, owned and led by communities of color.
Diversion can't just be about systems. Institutional racism permeates the criminal justice system.	Pre-filing diversion should be wholly owned by community.	City must be careful not to try to direct/control community diversion. Diversion should not have a Court element.
Diversion does not work without community. This is an opportunity to support communities of color in supporting their young adults.	Community must be adequately resourced and funded.	City must ensure that community partners have the support and funding needed to genuinely affect change.
Eliminate criminal record for young adults of color.	Ensure that no charge shows individuals record.	Work with SPD to ensure that young adults who might be eligible are not booked when possible.
Eliminate disparate treatment of folks of color at every stage of the criminal justice system.	Ensure folks of color are offered diversion at the same rate as white folks. Take proactive approach to outreach.	Ensure that the crimes being diverted are not crimes disproportionately committed by white folks. Work with community partner to ensure proactive approach to outreach.
Ability to eliminate delays in the current criminal justice system which disproportionately affect persons of color due in large part to socioeconomic factors.	Diversion should be immediate-no delay.	Have assigned prosecutor(s) to prioritize quick review of eligible cases. Possibly work with SPD and loss prevention officers to provide

		invitations at the time of apprehension.
Do not let historic institutional racism prohibit folks of color from being offered diversion.	Allow people with criminal history to be diverted. Allow people with more than one charge to be diverted.	Not limit diversion to people without criminal history. Not limit diversion to one incident report.
Make the system fair for youth of color.	Treat everyone the same. Same charges, same time.	Ensure that diversion is offered to individuals of all races. Acknowledge that outreach needs to be culturally appropriate so as to ensure that the “offering” of diversion is truly inclusive.

Stakeholders do not want young adults of color incarcerated. Pre-filing diversion can reduce the number of young adults of color that are incarcerated at every stage of a criminal proceeding including initial arrest, on a warrant for failure to appear at a hearing or noncompliance of terms of release, and post-conviction.

Community stakeholders see diversion as an opportunity to vision and build an effective anti-racist community justice program where the institution, community and individual are held accountable and supported through the healing and restorative process, where racial disparities in system involvement and incarceration rates are reduced, and individuals are prevented from further involvement in the criminal justice system. Community should be empowered to design, lead and own diversion. Diversion can't just be about systems. Institutional racism permeates the criminal justice system at every step of the process. Diversion can take power from the system and give it back to community. Diversion must be well-funded to have a lasting impact.

Stakeholders explained how formal involvement in the criminal justice system results in numerous collateral consequences. Involvement in the system creates barriers in employment, housing, and education, because that involvement will likely appear in a criminal background check. Participants in pre-filing diversion will have fewer barriers to obtaining and/or maintaining employment, housing, and education because they will not be formally charged with a crime if successful.

Stakeholders have shared that the racial disproportionate treatment of folks of color in the criminal justice system is not limited to filing decisions. Defendants of color are held in custody longer at the pre-trial stage because they cannot afford bail and they do not get the same deals as white folks do.

The data shows that the racial disproportionality of filing increases when suspects have multiple cases. Thus, allowing suspects with multiple cases into pre-filing diversion should further help combat the racial disproportionality of the criminal justice system.

Similarly, the racial disproportionality of suspects in the existing SMC Pre-Trial Diversion program is significantly lower than the general racial disproportionality in filings in SMC. This means that white people are enjoying the benefit of post-file/pre-trial diversion at a higher rate than most persons of color. In summary, white people are statistically less likely to have charges filed against them and when they do they are more likely to take advantage of post-file/pre-trial

diversion. It is important to distinguish that the statistics only reflect who is entering in the post-file/pre-trial diversion program and not everyone being offered the opportunity.

There are a few ways in which Pre-Filing diversion can work to combat the further racial disproportionality that we have historically seen in the Pre-Trial Diversion program: 1) Permit people with criminal histories into Pre-Filing diversion since pre-trial diversion is generally reserved for people with no history; 2) Permit additional crime types into Pre-Filing Diversion that are not offered pre-trial diversion; and 3) Perform outreach to potential participants to alert them of the opportunity beyond simply sending a letter(s).

Stakeholders expressed the need for a proactive approach to outreach that includes various attempts and ways to reach potential participants. Stakeholders explained the value of in person contact by people doing outreach that look like the participants. The use of social media, emails, phone calls and text messages were also discussed as ways to increase participation.

**Burdens**

Stakeholder perspectives on racial equity burdens	Stakeholder recommended policy or programmatic strategies to address impacts	City policy or programmatic strategies implicated
Working with the City can be particularly burdensome on small non-profit community partners which disproportionately affects persons of color doing this type of work.	Not require such high insurance coverage rates.	Work with community partners and FAS risk management division to determine reasonable coverage rates within the perspective of RSJI and not simply what is standardly required. When the City requires a community partner to add us as an additional insured to their insurance coverage, the City should pay for any increase to the insurance premium.
Community diversion must truly be community and not a puppet for the system.	City must commit to leaving diversion to the community. City must not act in patronizing manner with partners.	City must commit to true community diversion free from interference. City must create an atmosphere that empowers community to hold City accountable to not interfering or attempting to direct diversion.
Diversion may have an adverse effect on victims who are persons of color.	Re-envisioning of current system of incarceration must be community-centered.	Ensure victims voices are heard.
Diversion should not be more difficult than traditional system.	Folks who haven't talked to a lawyer should not be watched by the system longer than folks in court.	Diversion should not include more requirements than if the case were to have been filed.



<p>Young adults, particularly young adults of color, should be able to consult with public defender before agreeing to diversion due to reasonable skepticism and mistrust that is rooted in centuries of racism.</p>	<p>Provide access to public defender to consult.</p>	<p>Work with public defender agency on how/when/and to what degree public defenders could be consulted.</p>
<p>This is only one case. Lots of youth have cases all over.</p>	<p>Youth should have an advocate to walk them through the system.                  Global resolutions.                  Prosecutors should help.</p>	<p>CAO should try to develop relationships with other prosecutor's offices help resolve; not double punish. Possibly other jurisdictions would dismiss their cases upon completion of diversion.</p>
<p>Post-workshop confusion could happen if the diverted charge pops up during a background check.</p>	<p>There should be no record of the diverted case.</p>	<p>Ensure that when a person was booked for a case that was diverted, we make sure that the Court closes the case.                  Provide information about resources about expungement.</p>

Community stakeholders expressed that working with the City can be difficult. When it comes to contracting, the City has the power; the City gets to determine what the requirements are going to be to contract with the City and if you don't meet those requirements, you do not get the contract. This power imbalance ends up being another way in which institutional racism negatively and disproportionately affects communities of color. A lot of the non-profits led and staffed by communities of color are small and the City's standard requirements are burdensome.

Community stakeholders have emphasized the importance of genuine community diversion as opposed to systems meant to look like they are community driven, when they are being controlled by the institution. Institutions must be committed to redirecting their power back to community.

Stakeholders have raised a concern that many victims of crimes are also persons of color. The extent of this impact is unknown and will require further investigation. Given that the vast majority of the cases being referred to the Mainstream Pre-Filing Diversion program are retail thefts from large corporations, that burden should not be pervasive, but it certainly worth continuing to evaluate and reason to ensure that victims voices are heard.

Community stakeholders have expressed concern that diversion will have more requirements than the traditional criminal justice system. They do not want to see a diversion system created that keeps young adults being watched longer and more intensely than the current system.

Stakeholders appreciate the advocacy that public defenders bring for young adults of color and they would like to see a diversion system that still allows for that resource.

Community stakeholders have expressed how confusing navigating the system can be. Young adults can be facing charges in courts all over the area and each court has its own set of

requirements. Everyone needs to have their own punishment. Young adults should have advocates to help them navigate everything. There should be global resolutions. The CAO should work with other jurisdictions to try to see if any would agree to dismiss their cases upon successful completion of diversion.

“How are you supposed to have faith in the system when they lie to you and say that your charges would be dropped if you attend a class and then your charges aren’t dropped?” Community stakeholders have expressed that young adults are told that their cases will be dropped if they do something, but then the case still shows up. With pre-filing diversion this could be an issue if the person was originally booked on the charge that was diverted. The CAO can make sure that SMC closes the case, but the fact that the person was booked on the charge does not go away. Unfortunately, there are statutes that govern non-conviction arrest data and a two-year minimum wait period for the deletion of that data.

#### **STEP 4: Advance Opportunity or Minimize Harm**

##### ***How will you address the impacts (including unintended consequences) on racial equity?***

The decision to divert cases pre-filing will have an immediate impact in that participants will not ever have that potential criminal charge on his/her/their record. Given the racial disproportionality of the criminal justice system, pre-filing diversion will reduce racial inequity in the formal institution as long as we divert at the same rate as we traditionally file charges. Furthermore, in partnering with community and expanding the criteria for diversion, we hope to see an even greater positive effect on reducing disproportionalities seen in the various stages of the criminal justice system including, but not limited to, reduction of young adults of color in jail pre-and-post adjudication, reduction of young adults of color having warrants, and an increase in young adults of color taking advantage of diversion opportunities.

As an integral part of diversion, it is crucial to support community in providing ongoing services to those young adults who have completed diversion. Young adults must be connected to services. Through partnership with community and the Court Resource Center, pre-filing diversion can provide immediate access to resources to support participants commitments to positive change.

Support systems are crucial to genuine lasting change. Parents and connected adults will be encouraged to take part in the diversion process in order to help them on how best to support their young adult.

Diversion must be prioritized there should be dedicated pre-filing diversion prosecutors to eliminate lag time for referrals. Additional racial disproportionality due to socioeconomic considerations such a stability of address and phone numbers occurs when there is delay.

All City employees must attend training centered on issues of race and social justice. The commitment to these types of trainings is amplified for employees associated with the Pre-Filing Diversion program and should include trainings which provide exposure to alternatives to traditional criminal justice. Please see Attachment 2 Trainings for trainings attended so far.

Similarly, community partners must be supported by providing opportunities for advanced training. Especially in the case where situations arise that present a race and/or social justice issue where specific training could be useful, the community must be supported in this professional development that will directly benefit the young adults being served.

In partnering with community, the institution has great power. There must be a commitment to acknowledging the power imbalance and being careful to ensure that a true partnership is developed. The institution must not control community diversion once it has been offered to a participant. Furthermore, contracting decisions must value that we are intentionally partnering with small non-profit businesses. The institution should not place the same blanket contracting requirements on small non-profit businesses as they would if they were partnering with a multi-million-dollar corporation. For instance, if the City requires to be listed as an additional insured on the non-profit's insurance, the City must compensate for that actual cost. And the City must work with the Finance and Administrative Services diversions to determine Risk Assessment with RSJI considerations.

**STEP 5: Evaluate. Raise Racial Awareness. Be Accountable.**

***How will you evaluate and be accountable?***

The CAO is committed to continually evaluating the Mainstream Pre-Filing Diversion program and ensuring that stakeholders are part of that evaluation process to ensure long-term positive change. If the impacts are not aligned with desired community outcomes, the CAO will work hard with community to identify what is causing the undesired outcomes and work with community on strategies to address.

The CAO acknowledges that our office is unable to report thorough statistics given the constraints of the data provided to our office by SPD and our current case management system. Thus, the PFD program will maintain our own system of capturing many data points that we would not otherwise be able to report on. Decisions made about what to capture has been heavily influenced by this Racial Equity Toolkit process.

As described in the Outcomes section, the CAO wants to immediately reduce the amount of disproportionate criminal filings against young adults of color. For the pilot project, the CAO aims to have the rate of individuals who identify as a person of color have a rate of completion equivalent to or better than the historical rate at which the office has charged persons of color for these crimes. Furthermore, the CAO wants to see a decrease in the recidivism rate for persons of color who successfully complete the workshop 3 months, 6 months, and 1-year post workshop. And we aim to have a majority of persons of color report that they found the workshop helpful, found the CRC helpful, and plan to apply the knowledge they gained to their life.

The CAO believes it is important to be transparent with our data collection to continue to build on the relationships that we developed with stakeholders during the RET process. As discussed above we are committed to evaluation of the program with community. Honest feedback from stakeholders will be crucial to the success of this program and should be sought, frequently.

Most Seattleites seem to acknowledge that there is racial disparity in the criminal justice system; however, it is unclear how many people are aware of the extent of disparity in our own municipal system. Given that race is a central focus of the purpose for this Mainstream Pre-Filing Diversion program, the CAO hopes to identify more clear statistics on race and be a catalyst for conversation about racial inequity in Seattle's criminal justice system. The CAO would like to explore how our office may be able to partner to conduct some sort of workshop, not directly tied to a diversion, but instead aimed at providing education regarding the criminal justice system to youth. The CAO needs to find a way to target youth of color in a way that deters them from these crimes.

***What is unresolved?***

The CAO acknowledges that we need to continue to work with SPD and SMC to ensure that we as the main institutional partners for Seattle's Municipal Criminal Justice System can more accurately capture statistics especially related to race. We recognize that there are constraints to this goal namely capacity, technology and funding.

We recognize that we need to continue to work to build strong relationships with community stakeholders to be able to truly impact those individuals being diverted. Furthermore, we hope that these relationships will reach far beyond this Mainstream Pre-Filing Diversion program. We need to create space for honest feedback and the ability to work together on other areas of criminal justice reform. The CAO also wants to support and where appropriate lead educational opportunities with youth of color before they enter the system; knowledge is power.

Furthermore, we understand that for us to have genuine relationships, we must honor people's time and expertise financially and go to community. There are many more stakeholders that the CAO wants to engage with around diversion and the criminal justice system in general.

We heard from numerous stakeholders about the need to support community post-diversion so that the community can support individuals after the formal diversion. We need to continue to work with community and other City departments on how to develop, coordinate, and maintain this support.

We should work to build relationships with other prosecutor's offices around potential global resolutions and possibly even having an agreement to dismiss cases upon successful completion or Seattle's Pre-Filing Diversion program.

We need to work to have a goal that no one being offered pre-filing diversion will be booked. This will take coordination and buy in from SPD. If individuals are booked, we need to explore what help we may provide to expunge that arrest. Furthermore, we need to explore the ability to provide notice of the opportunity of pre-filing diversion to individuals at the time they are being contacted while still maintaining the ability to decline.

**STEP 6: Report Back**  
***Share analysis and responses***

**III. Conclusion**

As a result of our community engagement efforts, the CAO has transformed our initial plan for the Young Adult Mainstream Pre-Filing Diversion program. Originally our office and the Court had planned for the program to be diverted solely through Seattle Municipal Court's Court Resource Center. However, after listening to the community we recognized and acknowledged the importance of community-based diversion to the success of meaningful change. Although a community-based element of the mainstream diversion program was not specifically allocated by the 2017-2019 budget, we felt strongly that a community component was necessary, and we found funding within the constructs of that budget allocation.

We took to heart what we learned through community engagement and strove to develop a genuine partnership with a non-profit community organization to do the diversion in community. Also, as suggested by community, we did not try to reinvent the wheel when we discovered that there was already a community nonprofit that was highly touted by others in the community,

diverting cases for juveniles in a manner that might work for young adults. That organization had been evaluated and found to be more successful than other diversion in reducing juvenile recidivism and that referral and completion rates for African American youth were particularly promising. Also, the Seattle Office for Civil Rights had recently partnered with that organization.

We are guided by the principle that this will be true community diversion and the CAO does not direct the diversion beyond providing the names of the individuals referred for diversion. Throughout the contract process we owned the institutional power that we possess and did our best to be aware of any burdens that we were creating. When we discovered that it was common practice to require consultants to add the City as an additional insured to their insurance, we committed to paying that fee in full.

Furthermore, based on stakeholder engagement we have made the intentional decision to provide extra funding to the community organization to support the organization in engaging youth around providing support and resource connections post-workshop.

We are committed to continuing to build on relationships that we have started to develop through this process and we seek to develop the ability to work in partnership on other areas of criminal justice reform.