



# alaska judicial council

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## MEMORANDUM

**TO:** Pretrial Working Group, Alaska Criminal Justice Commission

**FROM:** Giulia Kaufman, ACJC Research Analyst, and Alaska Judicial Council Staff

**DATE:** February 3, 2016

**RE:** Selected Analysis of Pretrial Release Information from Five Court Locations in Alaska

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**Background.** As part of an investigation into the factors driving Alaska's prison growth, the Alaska Criminal Justice Commission has been assisted by the PEW Charitable Trust's Justice Reinvestment Initiative. Having identified pretrial detainees as an important but poorly understood contributor to prison growth and resource use, PEW and the Alaska Judicial Council designed conducted a study to explore pretrial release decision making in five court locations across the state.

**Methodology.** Staff from the Alaska Judicial Council and the PEW Public Safety Performance Project first determined that electronic information about pretrial release decisions was not available. It was then decided to conduct a paper file review of cases from across the state. Pew and AJC staff examined a sample of 384 criminal cases from five court locations visited in September of 2015. The sample was composed of files from Anchorage (200), Fairbanks (70), Juneau (50), Bethel (50), and Nome (30). The cases involved offenders who had been released from Alaska's prisons in July and December of 2014. The final bail conditions for each defendant were determined and the pretrial release decision was classified into four categories: released, not released, plead out, and unknown.

**Overview of Findings.** The offenders in this sample were mostly misdemeanants and some felons (78% misdemeanants and 22% felons). Initial analysis conducted by Pew researchers showed that less than half (48%) of sampled defendants were released from prison before their case was

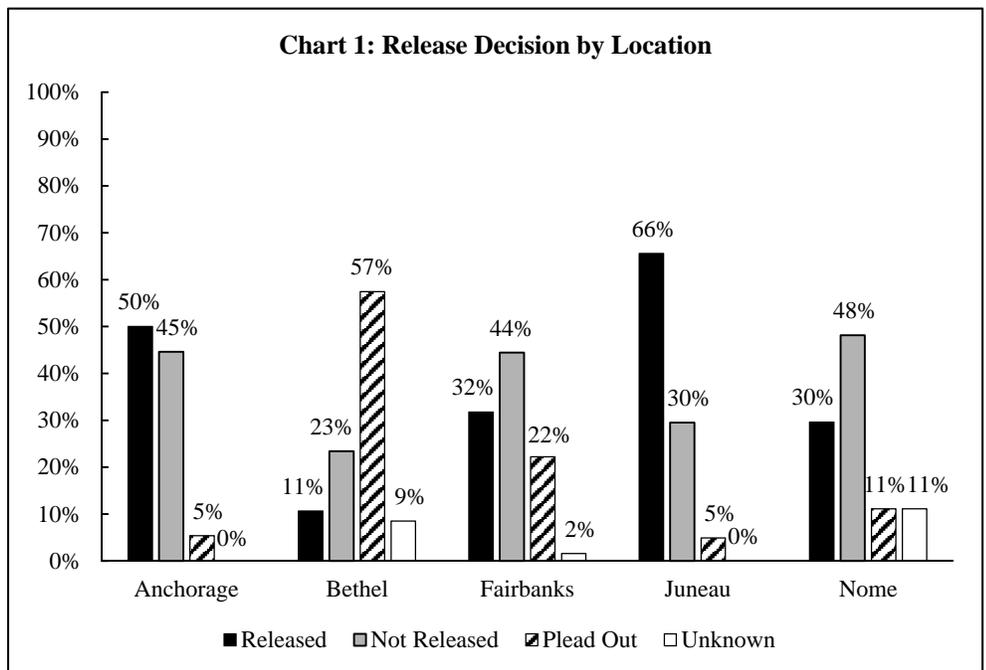
disposed, with only 12% of defendants being released on their own recognizance. An additional 10% of defendants had unsecured bond.

Pew reported that money bond was by far the most common bail situation, being required in two-thirds of cases (67%). For defendants who had a requirement to pay money, 41% of cash bonds were set at \$2,500 or more. Pew also reported that defendants with higher bond amounts were less likely to be released than those with lower amounts, and the higher-bond defendants spent more time in prison before first release than lower-bond defendants.

Finally, Pew reported that 23% of the sample defendants had a third-party custodian requirement, and all of those defendants also had money bail conditions. Perhaps unsurprisingly, three-quarters (75%) of defendants with a third party custodian requirement were not released before trial.

The initial analysis by Pew researchers did not examine variations by court location or other factors. This memo further analyzes information collected from the case files to explore pretrial decision-making variations related to two factors: court location and ethnicity of defendants. Readers are cautioned that breaking down the statewide findings by location caused the sample sizes for some court locations to be small, and therefore potentially not representative.

**Location and Pretrial Release.** Chart 1 shows the distribution of release decision outcome by location. There was a significant association between release decision outcome and location. For example, whereas 66% were released in Juneau, 30% were not released, and 5% plead out at arraignment. In contrast, only 11% were released in Bethel, 23% were not released, and over half (57%) plead out at arraignment.



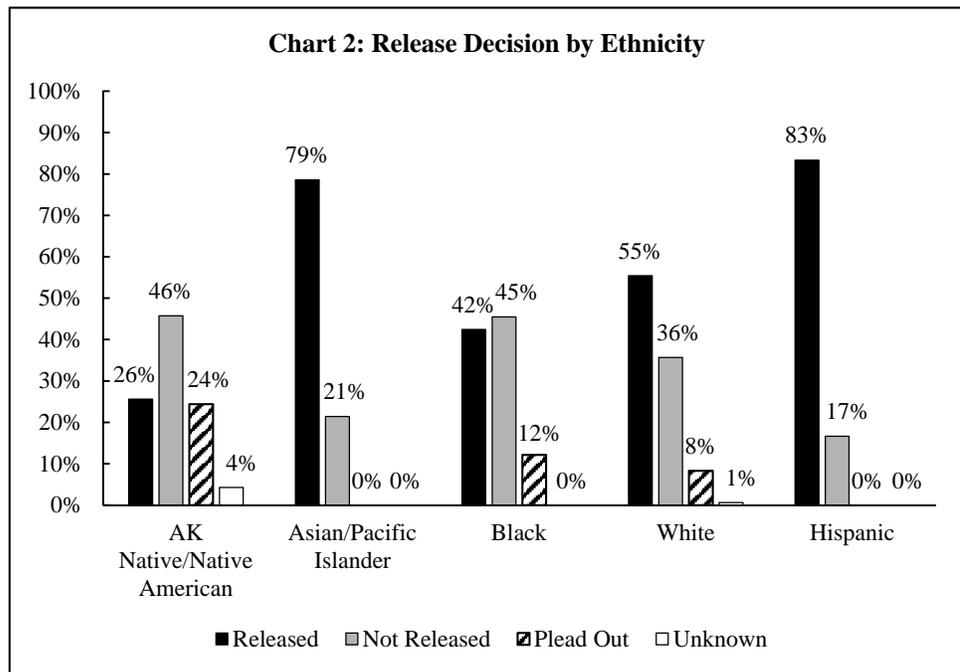
**Ethnicity and Pretrial Release.** AJC staff conducted additional analyses to explore association between release decision and ethnicity. This inquiry was suggested by findings in a 2004 Alaska study that “being of any ethnic minority group (as compared to being Caucasian) was associated

with spending more days in predisposition incarceration.”<sup>1</sup> The 2004 study, which analyzed felony cases filed in 1999, found the differences were most pronounced between Caucasians on the one hand, and Blacks and Natives on the other hand. The study took into account a large number of other factors that might have explained or accounted for the ethnic-related differences, such as type of charge, defendants’ prior convictions, age, gender, substance abuse and mental health problems, and type of attorney, and still found differences.<sup>2</sup>

The Judicial Council’s analysis of the more recent cases from the current bail study revealed an apparent association between release decision and ethnicity. Chart 2 shows these differences. For example,

whereas 55% of Whites were released and only 8% plead guilty at arraignment, only 26% of Alaska Natives/Native Americans were released and 24% plead out at arraignment.

Readers are cautioned that these differences could be due to a variety of



factors, including financial resources, cultural factors, seriousness of the charges, criminal history of the defendant, or other factors. This limited analysis did not take into account such factors, or other factors addressed in the earlier 2004 study. Taken together, however, the findings from the two studies suggest that ongoing monitoring, study, and analysis of pretrial release and ethnicity is warranted.

**Conclusion.** This analysis revealed disparities in pretrial outcomes across the state. One possible explanation of these regional differences is variance in pretrial release decision making practices. Whatever the cause(s) of the differences, implementing policies to standardize pretrial release decisions around the state could help erase those differences and ensure equal justice across Alaska, while at the same time reducing the pretrial population.

<sup>1</sup> Alaska Judicial Council, ALASKA FELONY PROCESS: 1999 (2004) at page 164. The study analyzed a statewide representative sample of felony cases filed in 1999.

<sup>2</sup> *Id.* at page 165.