

# Memorandum

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To: Susanne DiPietro  
Cc: Mary Geddes  
From: Giulia Kaufman, Alaska Judicial Council Research Analyst  
Date: November 5, 2015  
RE: Survey of Court Clerks Regarding Bail Posting

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**The following memorandum describes the bail posting processes in different court locations around the state.**

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To gain a better understanding of the bail posting process around the state, the Alaska Judicial Council (AJC) conducted semi-structured interviews with the Clerks of Court in different court locations. To conduct the interviews, the AJC created a list of questions which were used to guide the interviews, but if additional topics came up during the conversation they were also discussed. For phase one of this study the AJC focused only on court locations which also have a local DOC facility (i.e., Anchorage, Bethel, Fairbanks, Juneau, Kenai, Ketchikan, Nome, and Palmer). The AJC chose those locations because the local facilities are operated by the state's DOC. For phase two, the AJC conducted interviews with DOC staff in the facilities in the respective locations.<sup>1</sup> The following memo summarizes the general findings by agency and question; a summary table is also attached.

## **Phase 1 – Interviews with Clerks of Court**

- *Where can a defendant post in your area?/At what times during the day?*

In the majority of locations, bail can be posted at the courthouse during business hours and at the jail 24/7. However, in Ketchikan bail must be posted at the courthouse during business hours, and in Bethel there is a policy in place that during business hours bail is posted at the courthouse, unless the defendant is incarcerated and wants to post bail himself.

- *When a defendant is posting bail, what forms of payment are accepted (credit, debit cards, cash, personal check)?*

In Juneau, Kenai, Ketchikan, Nome, and Palmer the court only accepts cash, unless the judge's order specifically allows for a different form of payment. All of these court locations reported that alternatives to cash postings are rarely requested or ordered. No courthouse has an ATM in the building but they are generally in walking distance. The courts in Anchorage, Bethel, and Fairbanks also accept debit and credit card payments. Bethel is the only court that accepts money orders. No court location accepts personal checks.

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<sup>1</sup> To date (11-5-15) not response has been received from the Anchorage Correctional Complex.

The DOC facilities in Bethel and Nome only accept cash. In Anchorage, Fairbanks, and Kenai the DOC facilities also accept debit and credit card payments. Reportedly, the equipment used to process the card payments belongs to ACS, and allows for the funds to be directly transferred into court's accounts. The DOC facilities in Anchorage, Fairbanks, Ketchikan, and Palmer also accept bonds from commercial bondsmen.

- *Does the person who is posting bail have to appear in person?*

In all court locations, except Bethel, the bail depositor has to appear in person because the form has to be signed and notarized. Bethel will accept money orders from remote villages and process unsigned paper work. Court staff will note on the form that the bail depositor was unavailable to sign.

- *What kind of paperwork is required (get form number)?*

All bail related forms are the same around the state and available on the court system's website. The most commonly used form is [CR-230](#), the cash bond form. There are also forms for unsecured appearance bonds ([CR-225](#)) and surety bonds ([CR-240](#)). If the bail is higher than \$10,000, the depositor has to complete an IRS form.

The bail depositor will be considered will be presumed to be the legal owner of the bail money. Several court locations reported that this sometimes leads to problems. After the bail is exonerated, some defendants are upset that they did not get reimbursed. They had given their money to a friend or family member who posted bail for them. Because of such past experience, Ketchikan will not accept money from a bail depositor who states that they received the money from someone else. While there is a form for the authorization of the use of bail money ([CR-235](#)) which ensures that the money is reimbursed to the defendant directly it is used very infrequently. The only people who inquire about it are usually attorneys. Some locations seemed very open to offering the form at the time bail is posted together with the other documents, but other locations stated they would not want to offer it to the bail depositor as it might be misconstrued as legal advice.

- *How can a defendant post bail from a remote location?/What are the additional challenges involved?*

In most court locations, bail cannot be posted outside of the court system because the required paperwork has to be signed and notarized. Sometimes, courts will accept money orders or wire transfers from out of state, if ordered by the judge.

However, bail can be posted at any location within the court system. This means that, for example, if a defendant is incarcerated in a facility in Palmer, a bail depositor can post bail at the courthouse in Anchorage.

Bethel is the only court at which bail can be posted from a remote location. Money orders are usually sent in from family members in the villages. The clerks make a note that the bail depositor was not available to sign and they process the paperwork. Usually, it takes a couple of days for the mail to arrive but there can also be significant delays (up to two weeks) if weather conditions are rough.

- *What are common problems (that can create delay)?*

Locations which only accept cash describe the limited payment options as a problem. However, they also state that they don't know how to expand payment options because payments can be stopped on debit and credit cards and on checks. However, locations which do accept other forms of payment stated that this is rarely an issue; some have never experienced it.

Another issue which was frequently mentioned was that defendants are not reimbursed, if they did not deposit bail themselves. Clerks stated that the authorization of the use of bail money form is very infrequently used (e.g., twice a year).

Bethel and Palmer described some unique challenges. In Bethel, the delay in mail during bad weather episodes can lead to delays of up to two weeks. Also, sometimes defendants post bail but they are unable to be booked on a return flight until a couple of days later. If they don't know anybody they can stay with and don't have the funds to stay at a hotel, they end up spending additional time in jail.

Lastly, it has become common practice in Bethel for judges to require proof of a one-way return ticket to Bethel for trial. Often, defendants don't have the funds for a ticket and they are unable to meet this bail condition. The clerk described a recent case in which a defendant had a \$1,000 monetary bail requirement, a TPC requirement, and had to show proof of a one-way return ticket. Even though the defendant posted the money and was able to secure a TPC, he could not be released until one week later because he was not able to purchase a ticket right away.

The clerks in Palmer stated that there can be delays in release because defendants can only be released from the Matanuska-Susitna Pre-trial facility. Sometimes defendants incarcerated at Goose Creek or Palmer Correctional will post bail on a Friday afternoon but they will not be released until Monday because they missed the transport bus to Matsu Pre-trial which only runs once a day in the morning.

Nome described the in-person requirement as a barrier. Some locations stated that in the past, there have been problems where bail money has gone missing or been misplaced at the courthouse. Lastly, some clerks said there are sometimes delays due to a miscommunication with the jail or delays at the jail. However, most clerks described the communication with the officers at the jail as very efficient. DOC staff will be interviewed about their processes during the next phase of this study.

- *What suggestions do you have to solve the problems and make the bail posting process more efficient?*

Most courts suggested expanding the payment options, and some welcomed an online payment system. Another common suggestion was the increased use of the authorization of use of bail money form. Another suggestion was to create a statewide unified bail schedule. Bethel

suggested to remove the proof of return ticket requirement, and Palmer would like to resolve the transport issue.

## **Phase 2 – Interviews with DOC Staff**

- *Where can a defendant post in your area?/At what times during the day?*

With the exception of Ketchikan, bail can be posted 24/7 at all DOC facilities. However, the majority of officers stated that they consider themselves “the helping hand of the court” and they would prefer it, if bail depositors would go to the courthouse during business hours. Officers said that due to limited staff resources there can be backlogs and a delay in release (i.e., one to two hours).

- *When a defendant is posting bail, what forms of payment are accepted (credit, debit cards, cash, personal check)?*

The DOC facilities in Bethel, Juneau, Ketchikan Nome, and Palmer only accept cash. ATMs or banks do generally not seem to be close to the facilities.

The DOC facilities in Fairbanks and Kenai also accept debit and credit card payments. Reportedly, the equipment used to process the card payments belongs to ACS, and allows for the funds to be directly transferred into court’s accounts. The DOC facilities in Fairbanks, Ketchikan, and Palmer also accept bonds from commercial bondsmen.

- *Does the person who is posting bail have to appear in person?*

In all DOC facilities, the bail depositor has to appear in person because the form has to be signed and notarized. Family members can send in money orders issued to the defendant and then the defendant can post bail himself (see below for more detail).

- *What kind of paperwork is required (get form number)?*

ACS provides DOC with the bail forms. Hence the paperwork is the same as described in Phase 1.

As mentioned above, the bail depositor will be considered the legal owner of the bail money. Several DOC facilities also report this sometimes leads to problems. If defendants come to the DOC facilities regarding their reimbursement, officers refer them to the court system.

- *How can a defendant post bail from a remote location?/What are the additional challenges involved?*

At all DOC facilities, the bail depositor has to appear in person. Sometimes people will send in money orders from remote villages, which can be put on the defendant’s books. The defendant can then post bail himself. However, it can take up to ten days until the money order clears and hence, this delays the release.

If there are other issues that arise around posting bail remotely, DOC officers refer defendants and bail depositors to the courts.

- *What are common problems (that can create delay)?*

As well as the court clerks, the officers in locations which only accept cash described the limited payment options as a problem. The main concern regarding cash payments was the associated liability. Although, none of the facilities have had issues in the past with money gone missing, the money has to pass through a lot of hands (i.e., accepting officer, shift supervisor, transport, bank). In the past, Fairbanks has had issues with bail money gone missing and DOC officers had to prove that the money did not go missing while DOC handled it.

Officers in Bethel, Juneau, Ketchikan, and Nome described the in-person requirement as a barrier. In particular, officers referred to the issue of prisoner transport. Often defendants are flown in from small villages to post very small amounts of bail. For example, a defendant is held at the holding facility in Aniak and his bail is set at \$100. Since bail cannot be posted remotely but a defendant cannot be denied the opportunity to post bail, DPS has to fly the defendant to Bethel. After the defendant posts bail, DOC now has to pay for the defendant's accommodations and return flight. This cost could be avoided if there was an opportunity to post bail remotely (e.g., online).

Another frequent problem the officers described are delays in release due to miscommunications with the courts. Whereas the courts rarely mentioned this problem, the officers frequently described by described it as an issue. Problems mentioned included, discrepancies in the paperwork, unclear paperwork, not all court cases addressed, and case number mix-ups. In addition, officers expressed concerns about the fact that sometimes the courts will send people to DOC in order to post bail, even though bail processes are primarily primary responsibility of the courts.

Palmer officers described the same unique challenges as the Palmer court clerks. Defendants can sometimes not be released on the same day they post bail because they cannot be released from Goose Creek or Palmer Correctional. Those facilities were originally not intended to hold pre-trial inmates and are not equipped to process pre-trial paperwork. Instead, pretrial defendants have to be transported to the Matanuska-Susitna Pretrial facility to be released. The transport bus only runs once a day; if a defendant posts bail after the departure, they have to wait until the next business day.

- *What suggestions do you have to solve the problems and make the bail posting process more efficient?*

Like most clerks, officers suggested the expansion of payment options and the ability to be able to post bail from a remote location. In addition, officers liked the idea of a unified interactive bail computer system between the courts and DOC. This way, the courts and DOC would have real time knowledge of a case. It would be easier and faster to resolve discrepancies and update information. In Palmer, officers would like to see other correctional facilities be able to process pretrial release paperwork to minimize a delay in release.

		Payment Location/Time	Form of Payment	In Person Signature Required	Common Problems	Suggestions
<b>Anchorage</b> <sup>2</sup>	CH	Business Hours	Cash, debit/credit card	Yes	<ul style="list-style-type: none"> <li>- Bail misplaced</li> <li>- Delay in processing at the jail</li> </ul>	<ul style="list-style-type: none"> <li>- N/A</li> </ul>
	J	24/7	Cash, debit/credit card, corporate bond			
<b>Bethel</b>	CH	During business hours bail is usually posted at the courthouse.	Cash, debit/credit card, money orders	No	<ul style="list-style-type: none"> <li>- Delay in mail (up to 2 weeks)</li> <li>- Proof of return ticket</li> <li>- After posting bail defendants are eligible to be released but their flight is two days later and they don't have anywhere to stay; so they stay at the jail</li> <li>- Defendants wanting their money back, when someone else posted bail for them</li> </ul>	<ul style="list-style-type: none"> <li>- Online payment system</li> <li>- Offer CR-235 (use of bail money) and PG-195 (change of address) at the time bail is posted</li> <li>- Eliminate proof of return ticket requirement"</li> </ul>
	J	24/7	Cash only	Yes	<ul style="list-style-type: none"> <li>- Prisoner transport</li> <li>- Discrepancies in paper work</li> </ul>	<ul style="list-style-type: none"> <li>- Ability to post bail from a remote location</li> <li>- Unified computer system between DOC and the courts</li> </ul>
<b>Fairbanks</b>	CH	Business Hours	Cash, debit/credit card	Yes	<ul style="list-style-type: none"> <li>- Defendants wanting their money back, when someone else posted bail for them</li> </ul>	<ul style="list-style-type: none"> <li>- Statewide unified bail schedule</li> <li>- Online payment system</li> </ul>

<sup>2</sup> Anchorage jail information is based on the clerk's of court information because the officer in Anchorage did not respond to this survey.

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						<ul style="list-style-type: none"> <li>- Move away from cash payments because of liability (transport; money has gone missing in the past)</li> </ul>
	J	24/7	Cash, debit/credit card, corporate bonds	Yes	<ul style="list-style-type: none"> <li>- Miscommunication between DOC and courts (described as adversarial relationship)</li> <li>- Staff shortages</li> <li>- Courts sending people to DOC to post bail</li> </ul>	<ul style="list-style-type: none"> <li>- Online payment system</li> <li>- Unified computer system between DOC and the courts</li> </ul>
<b>Juneau</b>	CH	Business Hours	Cash or bonds	Yes	<ul style="list-style-type: none"> <li>- Cash only</li> <li>- Defendants wanting their money back, when someone else posted bail for them</li> </ul>	<ul style="list-style-type: none"> <li>- Expand methods of payment</li> <li>- Offer CR-235 (use of bail money)at the time bail is posted</li> </ul>
	J	24/7	Cash only	Yes	<ul style="list-style-type: none"> <li>- Cash only</li> <li>- Discrepancies in paperwork</li> </ul>	<ul style="list-style-type: none"> <li>- Expand payment options</li> </ul>
<b>Kenai</b>	CH	Business Hours	Cash only	Yes	<ul style="list-style-type: none"> <li>- N/A</li> </ul>	<ul style="list-style-type: none"> <li>- N/A</li> </ul>
	J	24/7	Cash, debit/credit cards, bonds	Yes	<ul style="list-style-type: none"> <li>- In-person requirement</li> <li>- No bail bondsmen</li> <li>- Staff shortages</li> </ul>	<ul style="list-style-type: none"> <li>- Online payment system</li> <li>- Better access to bail bondsmen</li> <li>- Additional staff</li> </ul>
<b>Ketchikan</b>	CH	During business hours bail must be posted at the courthouse	Cash only	Yes	<ul style="list-style-type: none"> <li>- Cash only</li> </ul>	<ul style="list-style-type: none"> <li>- N/A</li> </ul>
	J	24/7	Cash or bonds	Yes	<ul style="list-style-type: none"> <li>- In-person requirement</li> <li>- Prisoner transport</li> </ul>	<ul style="list-style-type: none"> <li>- Ability to post bail from a remote location</li> </ul>

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<b>Nome</b>	CH	Business Hours	Cash only	Yes	<ul style="list-style-type: none"> <li>- In person requirement</li> <li>- Cash only</li> <li>- No access to cash</li> </ul>	<ul style="list-style-type: none"> <li>- Online payment system</li> <li>- Offer the option to post bail in the villages (but there have been problems in the past)</li> </ul>
	J	24/7	Cash only	Yes	<ul style="list-style-type: none"> <li>- Prisoner transport</li> </ul>	<ul style="list-style-type: none"> <li>- Ability to post bail from a remote location</li> </ul>
<b>Palmer</b>	C	Business Hours	Cash only	Yes	<ul style="list-style-type: none"> <li>- Delay of release because defendants have to be transported to a the Matsu Pre-trial facility</li> <li>- Cash only</li> <li>- Defendants wanting their money back, when some else posted bail for them</li> </ul>	<ul style="list-style-type: none"> <li>- Resolve transport issue</li> <li>- Expand methods of payment</li> <li>- Increase use of CR-235 (use of bail money)</li> </ul>
	J	24/7	Cash only	Yes	<ul style="list-style-type: none"> <li>- Discrepancies in paperwork</li> <li>- Transport tissue</li> </ul>	<ul style="list-style-type: none"> <li>- Unified computer system between DOC and the courts</li> <li>- Enable to GCC and PCC to process pretrial paperwork</li> </ul>