

# Seattle Municipal Court Watch Report and Analysis



## Introduction

The Northwest Community Bail Fund (NCBF) started court watching in 2020. In February 2022, we initiated a 60-day Court Watch campaign in the Seattle Municipal Court to galvanize support for our larger Court Watch program.

This campaign ran from February through April 2022 and was intended to provide transparency to Seattle Municipal Court proceedings, officers of the court, and their actions. The following report summarizes those findings and was prepared by Recidiviz, a nonprofit organization that provides decision makers with the data they need to drive better criminal justice outcomes.

## What is court watching?

Court watching is a tool that's often used in a greater campaign of criminal punishment reform. Court watchers are volunteers who visit courtrooms (in person or remotely) to observe the legal proceedings and take notes on significant details of the cases. Those details can vary based on what individual court watch programs choose to focus on.

Some programs might focus on specific laws, court actors, the duration of hearings, the severity of charges, the conditions of release, use of certain terminology, personal accounts of defendants, and so on.

## What factors did NCBF consider during the Court Watch campaign?

NCBF Court Watch volunteers looked for, among other things:

- The perceived race of the accused person (defendant)
- The charges applied to the accused person
- Whether each judge set bail for the defendant
- Whether the accused person's ability to pay the recommended bail was discussed

## Key takeaways from the report:

NCBF observed 603 total arraignment court hearings in the Seattle Municipal Court between February 2020 and April 2022. Of those hearings, 50.6% resulted in some bail amount imposed.<sup>1</sup>

The average bail amount imposed each quarter in the observed hearings was lower in recent quarters compared to early 2020 values.<sup>2</sup>

The average bail imposed was relatively similar between defendants that were perceived White and Black/African American—however, 53% of White defendants had no bail imposed compared to only 45% of Black/African American defendants.<sup>3</sup>

Defendants with lower incomes (who are often Black and brown) have a greater challenge paying bail than their higher-income counterparts (who are often white). Within the current system, bail only punishes people who cannot afford to buy their freedom.

Of the judges with more than 50 hearings observed, Judge Anita Crawford-Willis personally mentioned [Washington court rule CrR 3.2](#) the most frequently (13% of hearings) and had the most hearings where it was mentioned by the judge, prosecutor, or defense (43% of hearings).<sup>4</sup>

<sup>1</sup> Page 2 of the report.

<sup>2</sup> Page 3 of the report.

<sup>3</sup> Page 9 of the report.

<sup>4</sup> Page 6 of the report.

A judge referencing CrR 3.2 in only 13% of their hearings is concerningly low, and especially if they're the judge who mentioned CrR 3.2 the most often. In any hearing in which bail is imposed, it benefits the defendant to understand what CrR 3.2 mandates that the court do: that it "must consider the accused's financial resources in setting a bond that will reasonably assure appearance."<sup>5</sup> In other words, a defendant's bail should be an amount they can realistically pay, which will then incentivize them to appear in court so they can then get that money back.

The report findings suggest a significant racial disparity between Seattle's demographics and the perceived distribution amongst observed cases. 31% of the Court Watch observed hearings had a defendant that was perceived Black or African American, while Seattle's population is only 7.1% Black or African American.<sup>6</sup>

Unfortunately this racist treatment of Black defendants within Washington's criminal punishment system is consistent with patterns in the system throughout the country. According to [The Sentencing Project](#), Black men in the US are six times as likely as white men to be incarcerated.

Black or African American defendants had higher bail imposed for failure to appear and criminal trespassing charges, and white defendants had more bail imposed for other property and weapon related charges.<sup>7</sup>

One of NCBF's main goals in our 60-day Court Watch campaign was to determine whether a pattern of racial disparity exists within the Seattle Municipal Court in the bails imposed on defendants based on their race. The standard error is overlapping for many of the charge categories graphed in the report, but these findings make it clear that racial disparity is in fact present.

## What's the purpose of bail in Washington?

Washington Courts have interpreted state constitutional rights to bail: "The State is not primarily interested in collecting bond forfeitures but is more concerned with granting liberty to an accused pending trial while obtaining the greatest possible assurance that he will appear." – State v. Barton, 331 P. 3d 50 - Wash: Supreme Court 2014.

This means that the purpose of bail is to ensure that people return to court, rather than keep people jailed. At NCBF, we oppose pre-trial detention and cash bail. While the unjust system persists, we're committed to holding the State accountable to bail's stated purpose through efforts including our 60-day Court Watch campaign.

<sup>5</sup> Ibid.

<sup>6</sup> Page 7 of the report.

<sup>7</sup> Page 11 of the report.

# Washington Bail Reform Analysis

Last updated June 2022

[Bail Reform Background](#)

[Court Watch Data Analysis](#)

[Judge Analysis](#)

[Perceived Race Analysis](#)

[Most Severe Charge per Perceived Race](#)

## Bail Reform Background

Though bail is intended to simply ensure that people charged with a crime appear in court, the system contributes heavily to mass incarceration and inequalities within Washington's criminal justice system. Cash bail is not the only way to guarantee court appearances and protect public safety; a broad array of literature demonstrates the negative impact cash bail has on vulnerable communities, taxpayers, and the criminal justice system at large, while supporting the notion that pretrial detention should be assigned based on flight risk and potential threat to the community, rather than ability to make bail.

Defendants who are awaiting trial and have not received a charge constitute [65%](#) of national and 75% of Washington jail populations; it costs [\\$14B](#) annually to detain this population, most of whom are assessed as being low-risk. Pretrial detentions have increased substantially as a result of the bail system's expanding scope; between 1992 and 2006, nonfinancial releases for pretrial detainees have fallen by [32%](#), and the average bail assigned has increased by more than [\\$30K](#). Increased use of bail in the criminal justice system has disproportionately impacted vulnerable communities, as lower-income individuals are more likely to receive jail time due to inability to make bail. Long jail sentences [incentivize](#) unfavorable plea deals, and pretrial detention increases the likelihood of felony convictions, prison sentences, and long incarceration terms.

A [Colorado study](#) analyzed over 1,000 pretrial cases with varying bond requirements, and found that individuals required to post bond were no more likely to appear in court than those lacking bond requirements; furthermore, there was no difference in re-arrest rate between those groups.

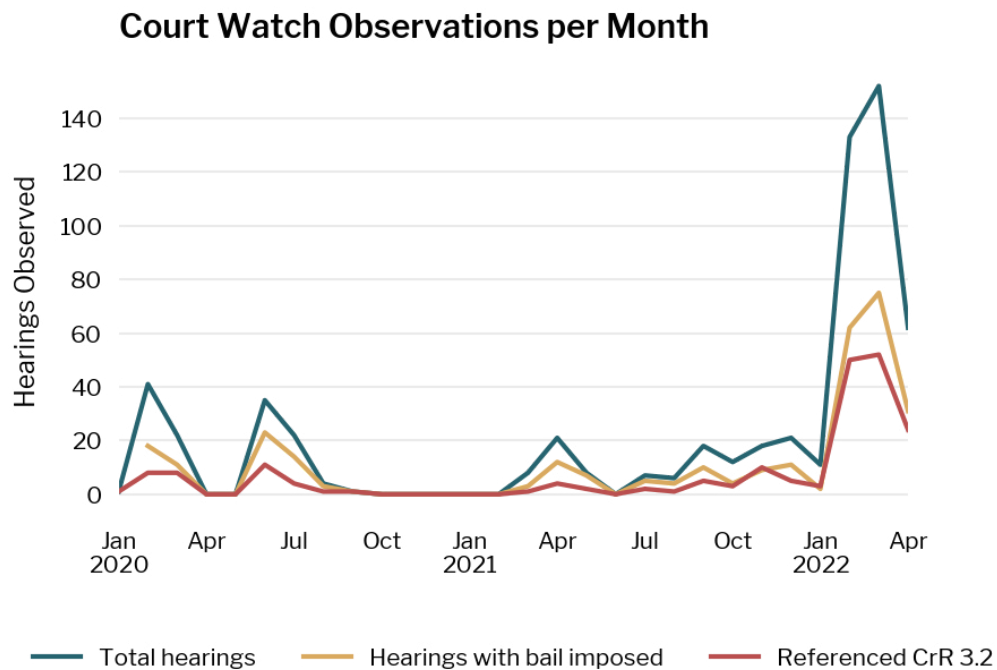
A [study in Kentucky](#) examined the 1.4M individuals arrested and booked into Kentucky jails between 2009 and 2018 and determined that pretrial detention is not consistently associated with the likelihood of failing to appear; furthermore, pretrial detention increased the likelihood of being sentenced to jail or prison and receiving a longer incarceration sentence than those released pretrial. Even those on pretrial release who were rearrested or failed to appear were

less likely to be sentenced to incarceration, and received a shorter sentence relative to those who were detained pretrial.

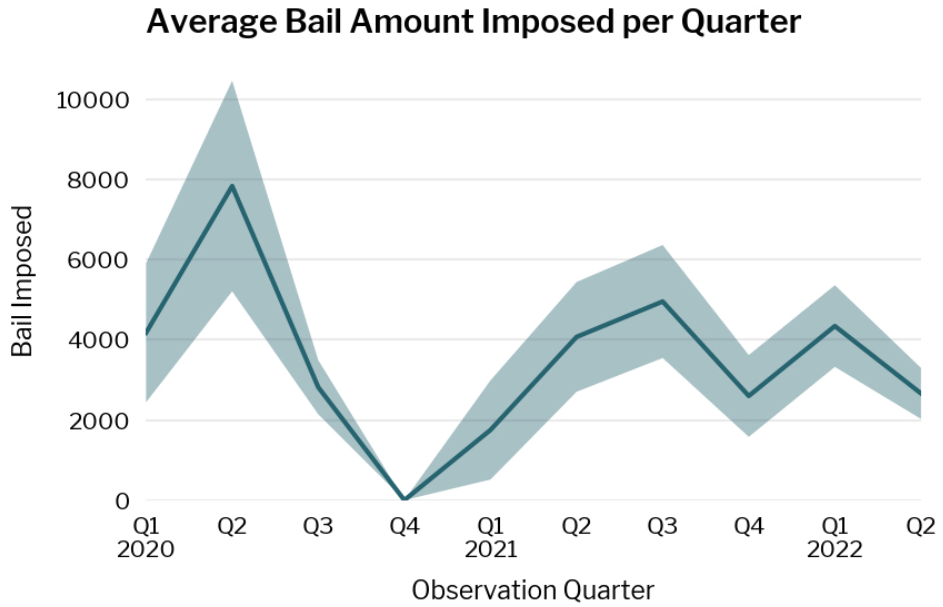
These findings are borne out by the results of enacted bail reform in the United States. For example, [Washington DC](#) (which abolished cash bail in the 1990s) currently has a court appearance rate for pretrial releases exceeding 90%, with little impact on public safety: only 2% of pretrial releases are re-arrested for violent offenses while awaiting trial. [Santa Clara County, CA](#), provides another telling example: shifting from cash bail towards a pretrial risk assessment system diverted 1,400 defendants away from pretrial detention in the span of 6 months, saving the county \$33M while maintaining a 95% court appearance rate and a 1% re-arrest rate for violent offenses among the released pre-trial population.

## Court Watch Data Analysis

There were 603 total arraignment court hearing observations in the Seattle Municipal Court taken from February 2020 to April 2022, with 50.6% of hearings resulting in some bail amount imposed.

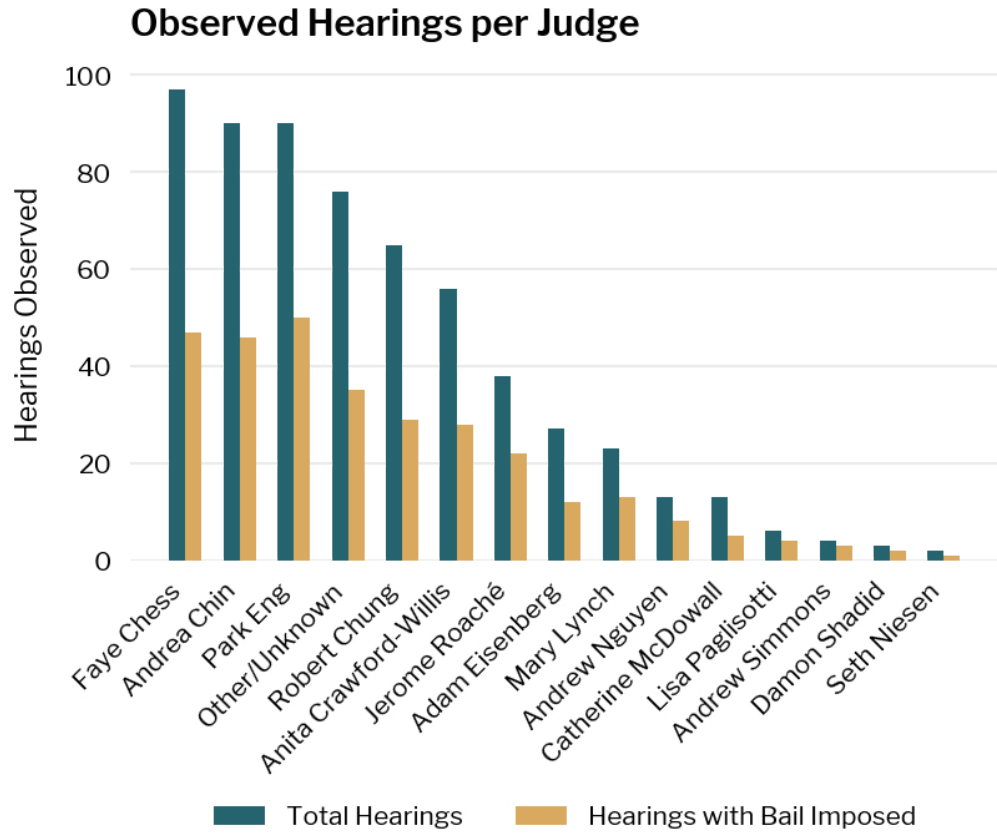


The average bail amount imposed each quarter in the observed hearings was lower in recent quarters compared to early 2020 values. The figure below includes the standard error of the mean to account for varying observations over the time period.



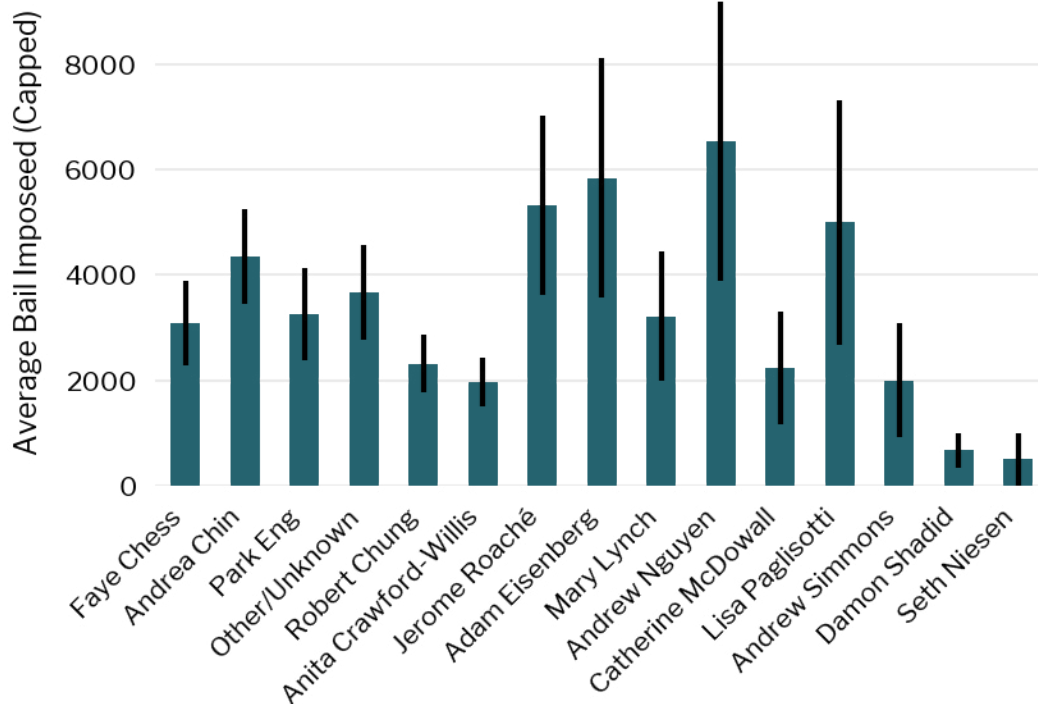
# Judge Analysis

The top three judges observed by Northwest Court Watch were Judge Faye Chess with 97 hearings, Judges Andrea Chin and Park Eng both with 90 hearings.



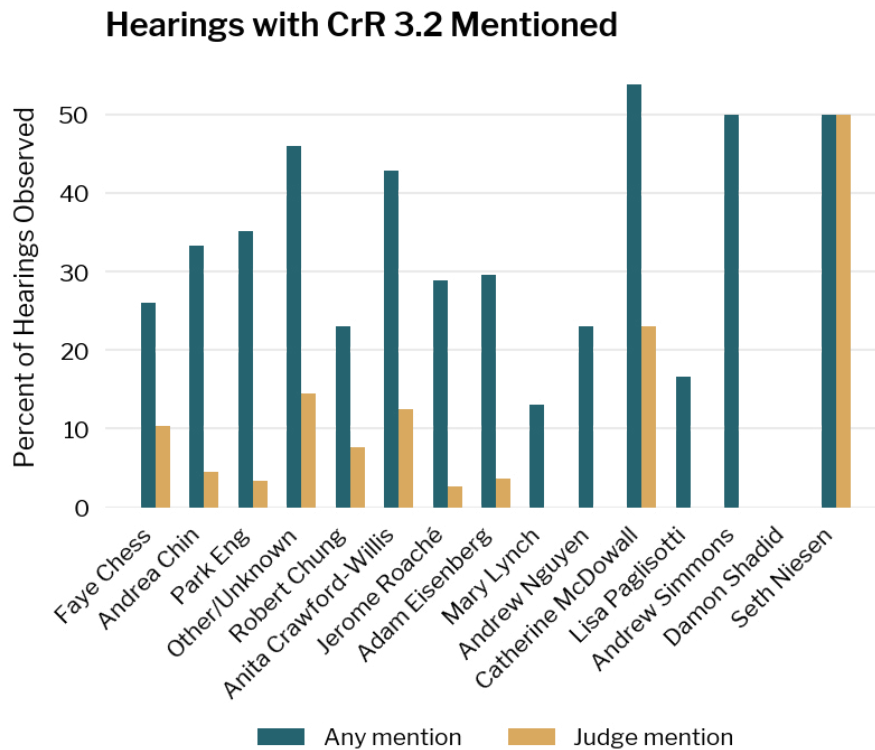
There were 5 hearings that had more than \$50,000 imposed for bail, with one hearing setting \$250,000 for bail. For the following analysis, the bail amount was capped at \$50,000 in order to restrict those outliers.

### Average Bail Imposed (Capped) per Judge



Although many of the standard error bars are overlapping, it appears that on average Judges Robert Chung (\$23K) and Anita Crawford-Willis (\$20K) set bail lower than the three most frequently observed judges, who averaged between \$30-44K.

Out of the judges with more than 50 hearings observed, Judge Anita Crawford-Willis personally mentioned Criminal Rule (CrR) 3.2 the most frequently (43% of hearings) and had the most hearings where it was mentioned by the judge, prosecutor, or defense (13% of hearings).



Under Washington bail law CrR 3.2, the accused have the presumption of release in noncapital cases while pending trial unless the court determines any of the following:

- Likelihood of court non-appearance (failure to appear)
- Likely interference with witnesses, administration of justice
- Likely commission of a violent crime

However, as [mentioned previously](#), bail requirements are not associated with a lower likelihood of failure to appear or rearrest.

CrR 3.2 also mandates the court must consider the accused’s financial resources in setting a bond that will reasonably assure appearance ([WA Courts](#)). The Washington pretrial reform task force acknowledged in their [2019 report](#) that pretrial detention negatively impacts those unable to afford bail:

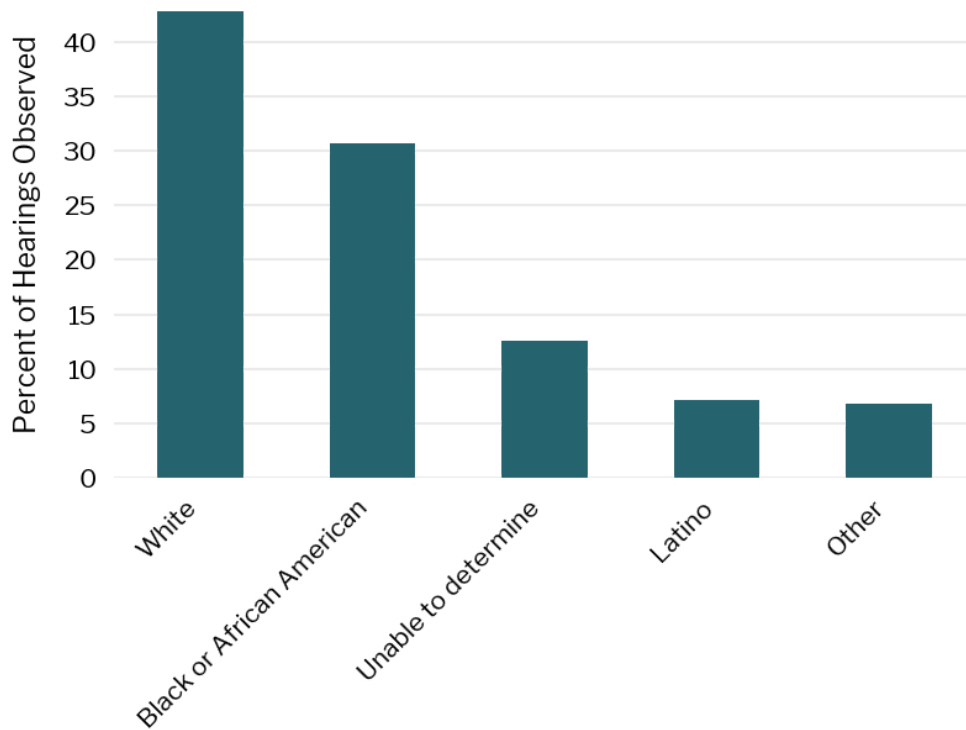
*Some studies have shown that individuals who do not have the economic resources to post a bond or bail and remain incarcerated pretrial experience far worse outcomes in the criminal justice system compared to similarly situated individuals who can afford bail and are released.*

Furthermore, pretrial detention is associated with an increased likelihood of being sentenced to prison or jail, and sentenced to a longer period of incarceration compared to those released pretrial.

## Perceived Race Analysis

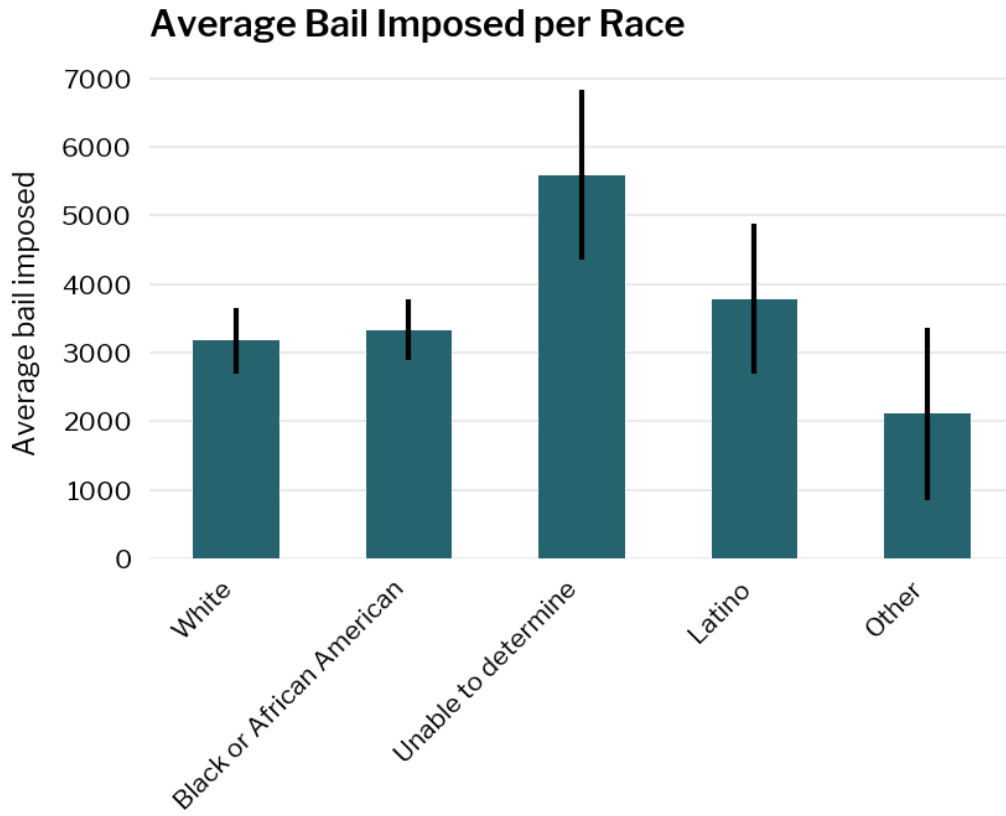
If the observed hearings represent a random sample from the total arraignment court bail hearings, then it appears there is a significant racial disparity between the Washington state demographics and the perceived distribution amongst observed cases. 31% of the Court Watch observed hearings had a defendant that was perceived Black or African American, compared to the Washington state population which is 4.4% Black or African American, and Seattle which is 7.1% ([Washington demographics](#), [Seattle demographics](#)).

**Percent Hearings per Perceived Race**

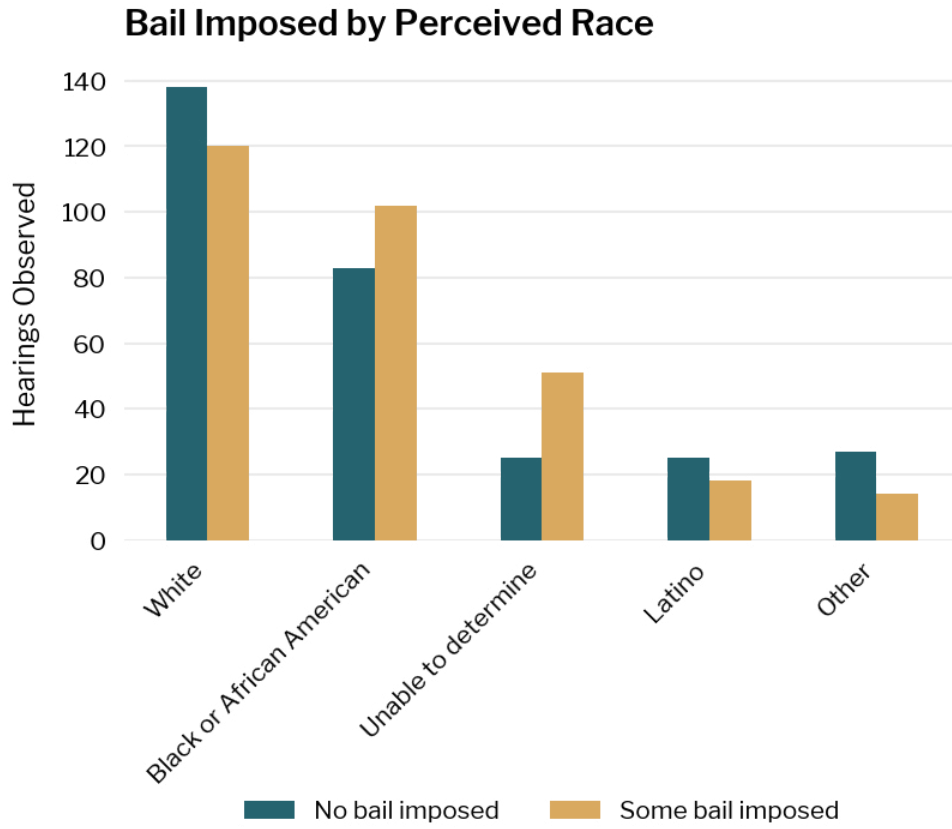




The average bail imposed was relatively similar between defendants that were perceived White and Black/African American.



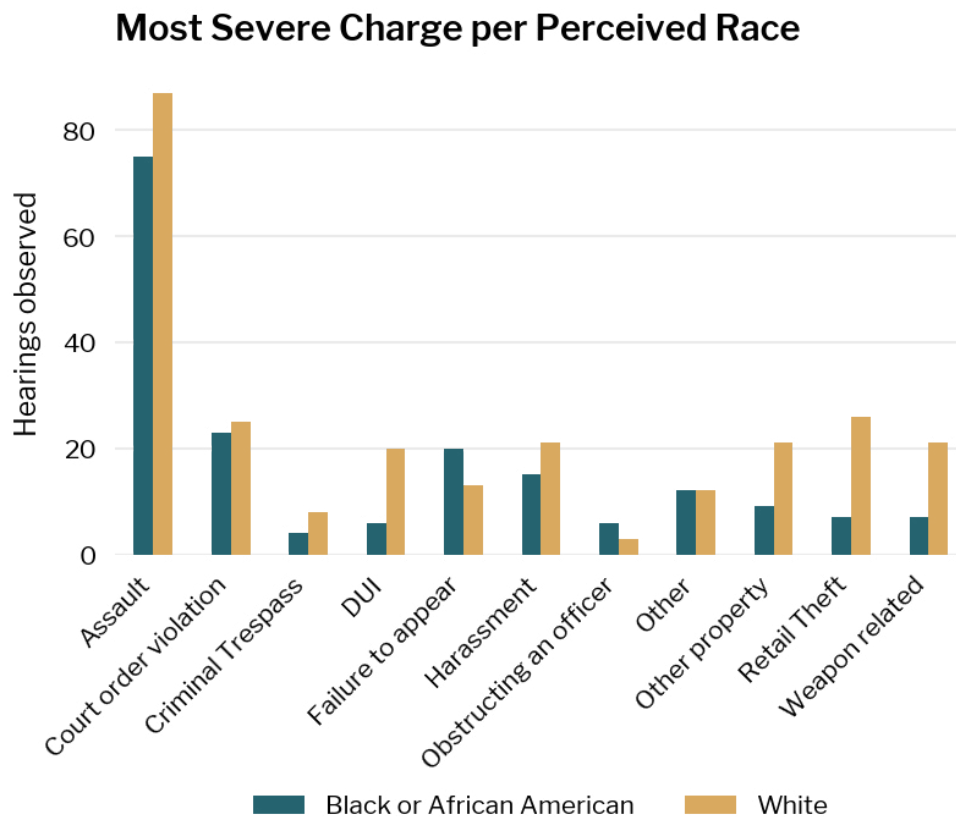
However, the majority of White defendants had no bail imposed (53%) compared to only 45% of Black or African American defendants. Though, the distribution of charges is different between these two races, as examined next.



## Most Severe Charge per Perceived Race

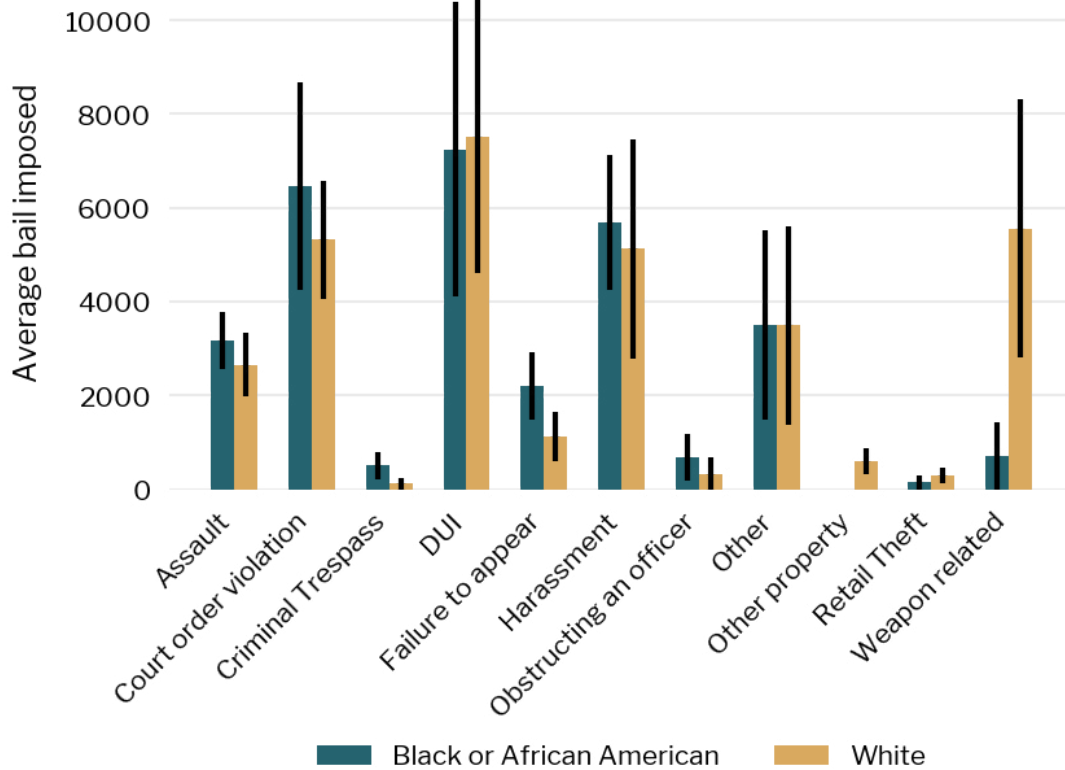
In the Court Watch observation form observers entered all of the charges applied. For comparison purposes, the most serious charge was chosen for defendants with multiple charges. This priority was determined using the average bail imposed from the 10 most frequent charges as a proxy for charge severity:

1. DUI [DUI]
2. Failure to comply with conditions of release/probation (violation of court order) [VIO]
3. Harassment [HRS]
4. Weapon related charges [WPN]
5. Assault [ASLT]
6. Failure to Appear or Report [FTA]
7. Obstructing an officer or interfering with reporting [OBS]
8. Other property [PRP]
9. Retail Theft [THF]
10. Criminal Trespass [TRS]



Black defendants were more likely than White defendants to have the most severe charge of failure to appear or obstructing an officer compared to White defendants.

## Average Bail Imposed per Charge



Although the standard error is overlapping for many of the charge categories, Black defendants had higher bail imposed for failure to appear and criminal trespassing charges, and White defendants had more bail imposed for other property and weapon related charges.

## **NCBF's mission statement**

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*We believe in the presumption of innocence and work to end pre-trial detention. We seek to disrupt the criminal legal system that targets and punishes Black and Indigenous people and people of color. We believe that impacted communities are in the best position to determine what their community members need to be free. We support community organizations to create alternatives to pre-trial detention. We seek to reduce harm without propping up the system.*

## **How can I get involved?**

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NCBF participates in Court Watch all year long. Read more about the program and get prepared for a session [here](#).