

First Quarterly Report 2017

January-March

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History and context

- Looking at who is in our jail can help us understand the role of detention in public safety and inform what our needs are, both now and going forward.
- New Orleans has a history of over-incarceration: before Katrina, we jailed people at a rate five times the national average.¹
- Far from making us the safest city in America, this over-use of detention had widespread consequences for impacted people who lost their jobs, homes, and support structures, and for their families and communities.
- The data in this report will contribute to an important public conversation about how we are using our jail and how it affects safety in our community.

Note that additional detail about the data for each figure appears in the technical notes at the end of this report.

The purpose of a jail

The main function of a jail is to hold people who have been arrested and cannot safely wait for their day in court at home. Unlike prisons, jails are intended to house people short-term.² The City of New Orleans pays for the operation of the New Orleans jail with taxpayers' dollars. It is a core civic responsibility to ensure that people are only detained when necessary and that taxpayer dollars are stewarded responsibly. The main considerations for understanding how we are using our jail are as follows:

- *Appropriate detention.* People who are arrested are presumed to be innocent until guilt has been determined. Pretrial detention for a person accused of a crime is only appropriate if there is strong evidence that the defendant presents a significant risk to community safety or will flee the jurisdiction of the court if released.
- *Measuring risk.* The City of New Orleans, through its pretrial services program, uses a research-based tool to measure the risk that felony arrestees pose of being re-arrested or failing to appear in court. Research has identified several factors that predict these risks, such as a person's criminal conviction history, past missed court dates, or lack of community ties.³

This quarter's highlights

Changes in policing and prosecution practices can have broad repercussions on the criminal justice system and impact the data presented in this report. This section presents recent events that could help explain the trends that are described in the rest of the report.

- *Increase in arrests.* For years, the number of people arrested in New Orleans declined steadily.⁴ But in the first quarter of 2017, the trend reversed and arrests increased across the board for municipal, misdemeanor, and felony charges, perhaps in part due to the New Orleans Police Department (NOPD)'s strategic shift towards proactive policing.⁵ As a result of the increase in arrests, the jail population grew this quarter. This shift could ultimately undermine long-term efforts to reduce the number of people in jail.
- *State misdemeanor transfers.* In December 2016, the district attorney's office started prosecuting state misdemeanors in Orleans Criminal District Court (CDC). These cases were previously heard in municipal court, but the district attorney's office stated they were no longer able to staff municipal court due to a decrease in funding. By increasing the volume of cases processed through CDC, this shift could increase the time it takes to process someone's case, which could also increase how many people are released by paying a money bond and, possibly, how long they stay in jail.
- *Decreasing bed capacity.* In January 2011, the New Orleans City Council authorized the use of the 400-bed temporary detention center with the stipulation that it will no longer be available for use 18 months beyond completion of the 1,438-bed jail (Phase II building). On March 15, 2017, this authorization expired, bringing New Orleans closer to a right-sized jail capacity.⁶ If New Orleans incarcerated people at the national average, a 1000-bed jail would be sufficient to accommodate the jail population.⁷

The jail population remains near historically low levels

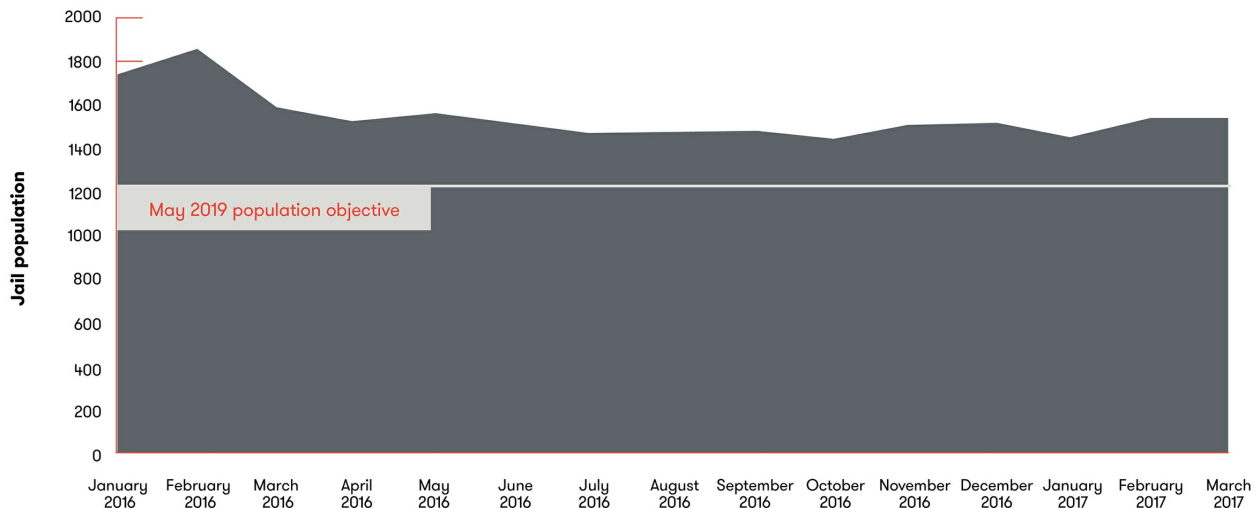
From January 2016 to January 2017, the jail population decreased by nearly 17 percent, from 1,753 people to 1,461 people. However, during the first quarter of 2017, the number of people held in the

New Orleans jail increased by more than 5 percent to 1,541 people in March 2017. Collaborative efforts to reduce the jail population through the John T. and Catherine D. Macarthur Foundation's Safety and Justice Challenge, a national initiative to change the way America thinks about and uses jails, aim to bring the population down to 1,277 by May 2019.⁸

Figure 1

Jail population in historical perspective

January 2016 to March 2017 snapshot data



Most people in the New Orleans jail have not been tried or convicted

As of February 2, 2017, there were 1,543 people in custody by the Orleans Parish Sheriff's Office (OPSO). Figure 2 demonstrates that 89 percent of people (everyone in the category of "pre-disposition") were not serving a sentence. Instead, they were waiting for their day in court. People convicted of a crime and serving a sentence in the jail were only 11 percent of the population.

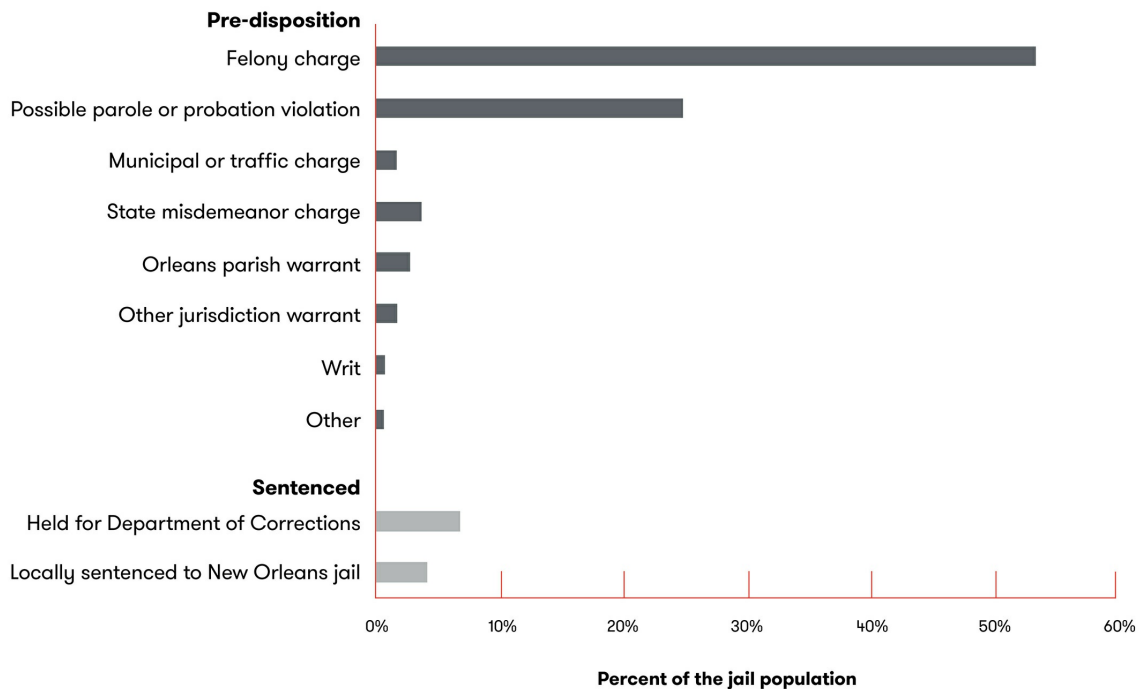
The distinction between pre-disposition and sentenced populations is an important one. People who are "pre-disposition" have been charged with a crime or with violating the terms of a previous conviction. However, their guilt has not yet been established, so they are presumed innocent. In fact,

many people who are detained have not been formally charged with a crime. State law allows the district attorney up to 60 days to accept the charges and institute prosecution.⁹ In contrast, people who are “sentenced” have been found guilty of their charges.

Figure 2

New Orleans jail population by reason for detention

N = 1,543 (as of February 2, 2017), Snapshot data



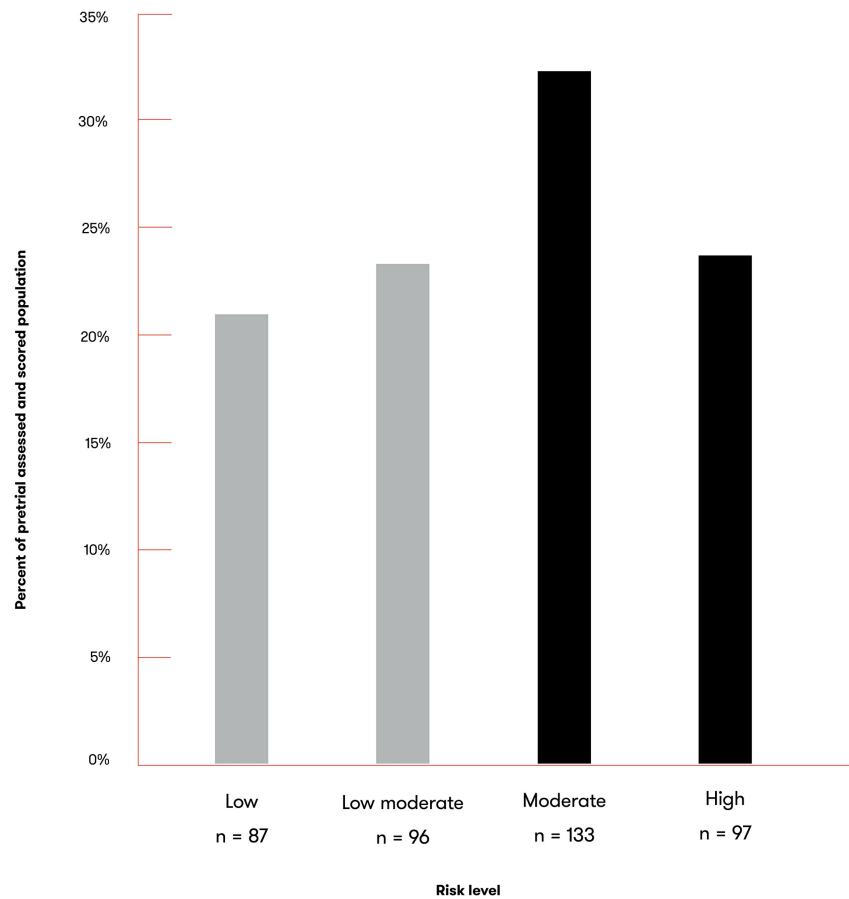
People who pose little risk are held in the New Orleans jail

Through the use of a research-based risk assessment tool, people arrested and accused of a felony are assessed for risk of failing to appear in court and of being re-arrested if released. Detention of defendants who are found to present low and low-moderate risk should be the carefully limited exception rather than the rule.¹⁰

Out of the 413 people in jail on February 2, 2017 who were assessed for risk and given a risk score, 183

(or roughly 44 percent) were found to present a low or low-moderate risk for re-arrest and failure to appear in court. This cohort represents 12 percent of the 1,543 people detained in jail, most of whom were held on a financial bail. While the remaining people held in jail may not have a risk score, the percentage above provides evidence that some portion of this group is likely to be low-risk as well, and therefore eligible for pretrial release. Overall, this suggests there is an opportunity to safely reduce the jail population by making release decisions based on risk, rather than a person's ability to pay a money bond.

Figure 3
Assessed felony pretrial population by risk category
N = 413 (as of February 2, 2017), Snapshot data



Most pretrial defendants released to the community return to court

This graph shows successful appearance rates for all people arrested, assessed for risk, and released during the pretrial period. The vast majority (93 percent) of defendants with low or low-moderate risk scores successfully completed their court obligations after returning to the community. (Seventy-seven percent appeared for all scheduled court dates; 16 percent missed a court date but returned of their own volition.)

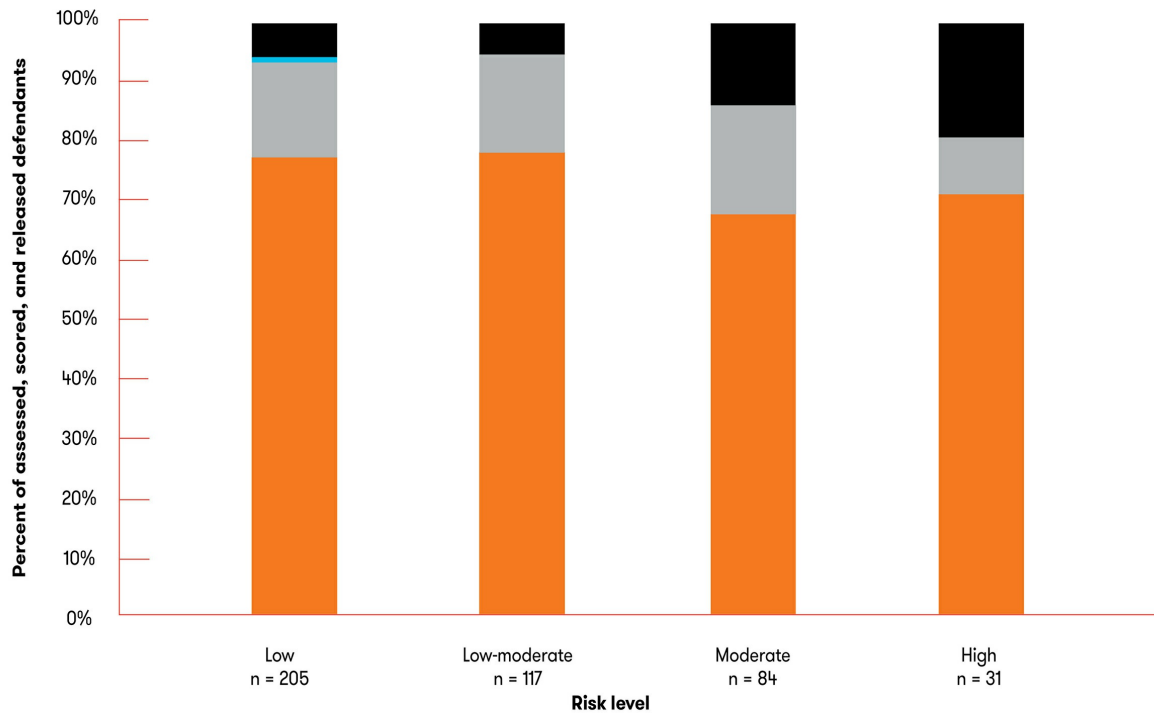
Although the reason for each failure is not explicitly provided, the court docket suggests that defendants sometimes are confused about court dates and are unsure if their presence is required. One plan, supported by the Safety and Justice Challenge, is to expand the court notification system so that the courts can clearly communicate important court date information to defendants via voicemail and text message.

Figure 4

Success rates for pretrial court appearances after release, by risk level

N = 440 felony cases closed between January and March 2017

Returned to court FTA with voluntary return FTA with charges dropped FTA, no voluntary return



Most people who are released pretrial aren't arrested on new charges

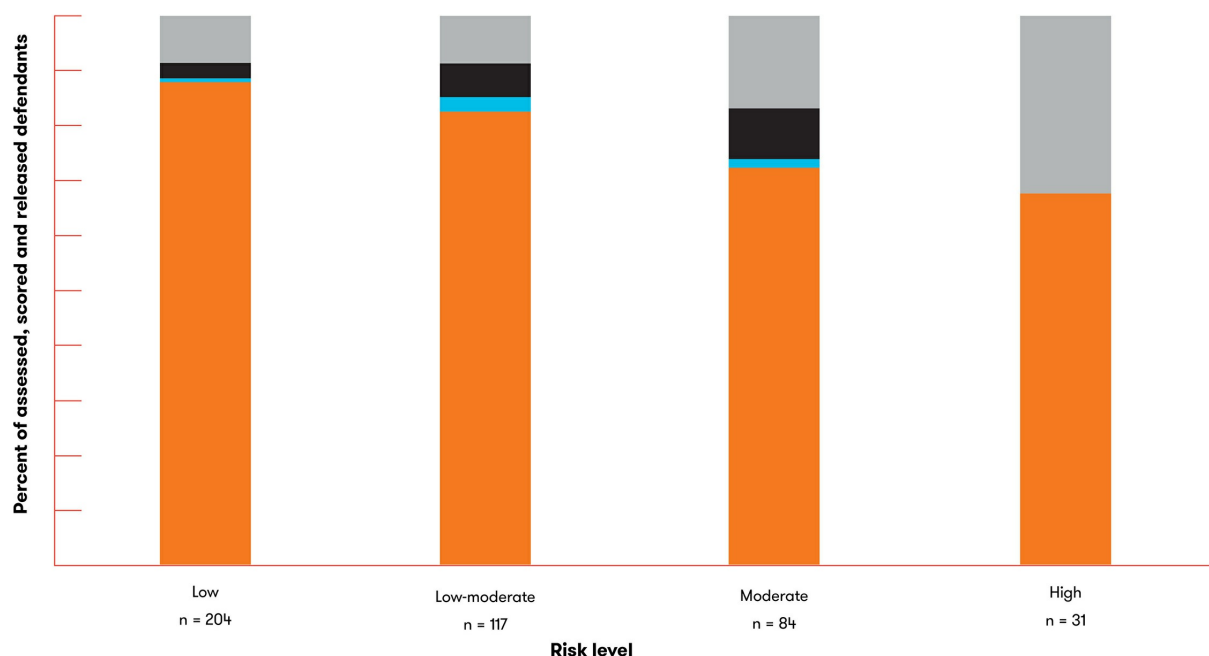
Most assessed defendants who were released to the community after first appearance were not arrested on a new charge during the pretrial period. During the first quarter of 2017, 321 defendants were assessed with a low or low-moderate risk score and released to the community during the pretrial period. Of those defendants, 277 were not arrested on a new charge of any kind.

Figure 5

Success rate for no arrests for new charges

N = 440 felony cases closed between January and March 2017

■ No rearrest with new charges ■ Traffic charge ■ Municipal charge ■ CDC charge



Many jail stays are not strictly necessary

Figure 6 displays length of stay by discharge status for those who did not receive a custodial sentence, which includes most people (81 percent) who are detained after arrest. 81 percent of those who do not receive a custodial sentence are released to the community before trial, and the remaining 19 percent are released following the resolution of their case.

Even though they represent less than one in five of those who are released to the community, people held in jail until their case was resolved had the most significant impact on the jail population because they stayed in jail longer—55 days on average. People who were released before trial stayed in jail an

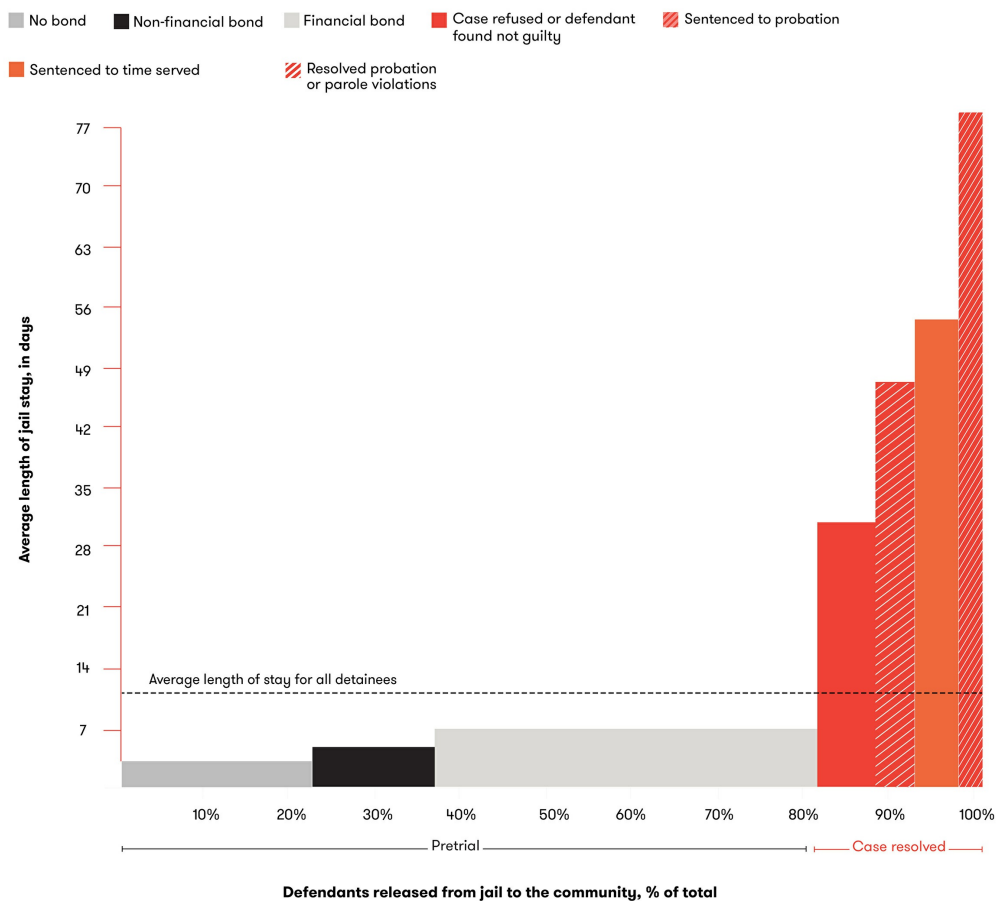
average of four days, which was still a significant driver of the jail population due to the large number of people in this group.

Regardless of specific lengths of time, however, studies suggest that just a few days in jail can destabilize someone's life and further reduce resources available prior to arrest.¹¹ For example, even two or three days in jail—and thus away from work and families—could lead a defendant to lose their job, custody of their children, and more.

Figure 6

Bed days for those who did not receive a custodial sentence, by release reason

N = 3,755 people released to the community between January and March 2017



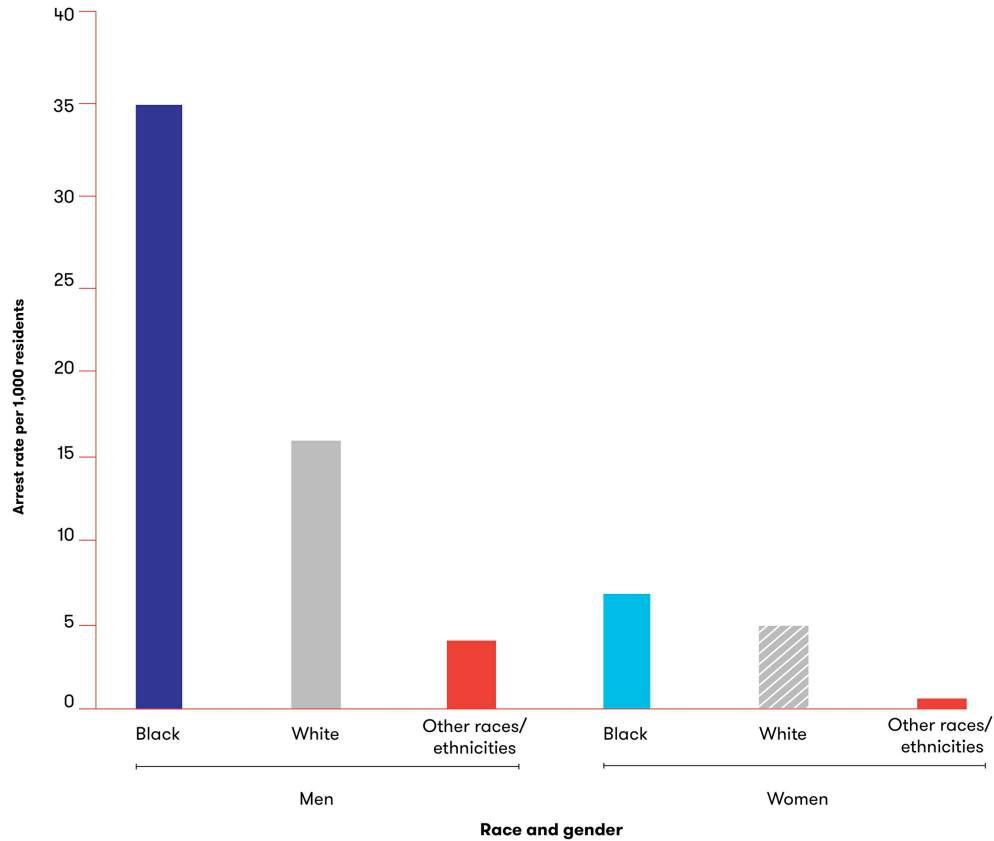
Arrests do not affect all communities equally

As January through March 2017 arrest data shows, when compared to the relative local populations, a greater proportion of New Orleans's black residents were arrested than were their white counterparts. Men of all races and ethnicities were booked at a rate of 25 per 1,000 adult men in New Orleans. However, black men were booked twice as frequently as white men: 35 black men for every 1,000 black men in New Orleans versus 17 white men for every 1,000 white men in New Orleans. Women were booked at a rate of six per 1,000 women of all adult women in New Orleans; one-fourth the rate of all men. The arrest rate for black women was seven per 1,000 adult black women residents, which was slightly higher than that for white women (five per 1,000 adult white women residents).

Figure 7

Arrest rate per 1,000 residents by race and gender

N = 4,706 arrests between January and March 2017



Black men are held in jail longer

Overall, black men are held in jail longer than other arrested populations, representing 38 percent of people arrested and released within one day but 82 percent of people who stay in jail for more than a year. While factors such as charge type and criminal history can influence a defendant's bail amount which in turn could lead to longer detention time, this data shows that black men are disparately incarcerated in the local jail.

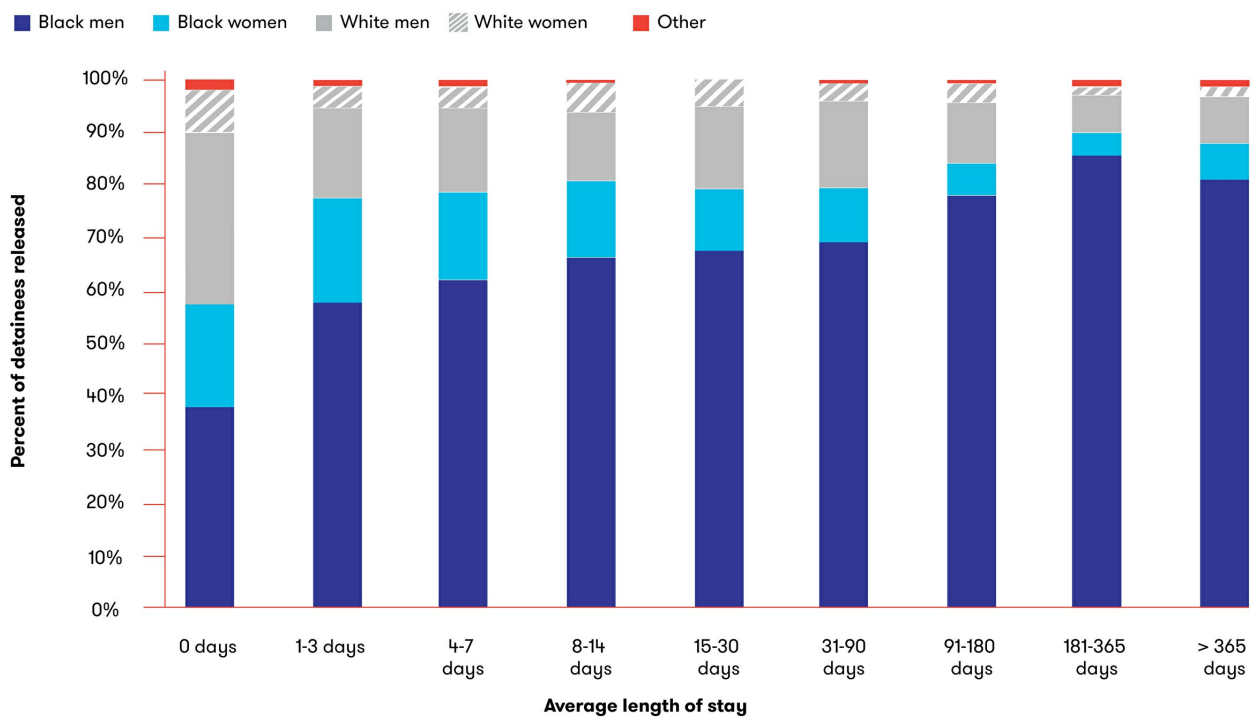
Black women represent 21 percent of people arrested and released within one day but 6 percent of

people who stay in jail for more than a year. This illustrates that disparities are not the same for black women and black men. When compared to the white population, black women are disparately impacted primarily at the arrest level whereas black men are disparately impacted at both the arrest level and in length of stay.

Figure 8

Length of stay by detainees' race and gender

N = 4,684 people released between January and March 2017



Black men are overrepresented in our jail

The combination of higher arrest rates and longer lengths of stay for black people compared to white people means that black people are overrepresented in the New Orleans jail. Although black males

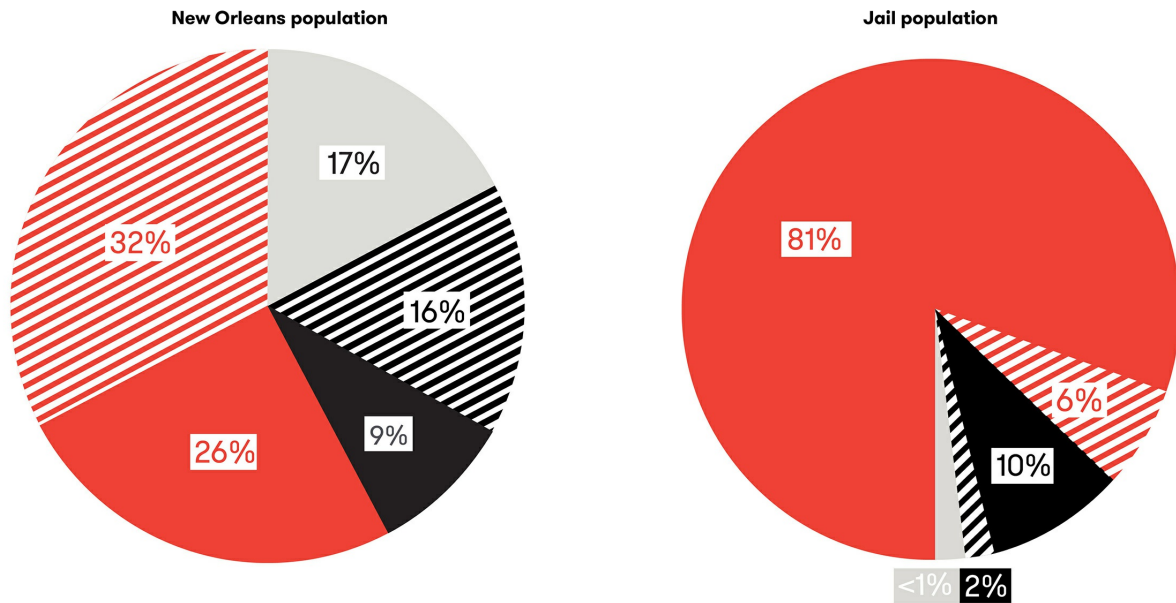
between the ages of 15 and 84 represent only 26 percent of the entire New Orleans population, they represented 81 percent of people in jail on February 2, 2017. These numbers demonstrate that black communities are disproportionately impacted by incarceration and its harms.

Figure 9

New Orleans population and jail population by race and sex

Jail population: 1,543 (as of February 2, 2017), Snapshot data; New Orleans Population, Age 15-84: 307,565 (U.S. Census 2015 population estimate)

■ Black men ■ Black women ■ White men ■ White women ■ Other



Summary

In the first quarter of 2017, money bonds were the most common form of release, even for people assessed as lower risk of failing to appear at subsequent court hearings or of being re-arrested. Low-to-moderate-risk people who were eventually released from detention by paying a money bond or by being sentenced to probation could have returned to the community much sooner if their release was determined by their risk and did not require a financial bond.

It is also clear that arrest and detention decisions do not affect everyone equally. Black men were found to be disproportionately impacted by arrests and unnecessary jail stays, as they were overrepresented among those booked in jail and then detained for lengthy periods of time.

By examining unnecessary jail stays and discussing their disparate racial impact, Vera identified opportunities to further reduce the jail population and highlight the impact that the overuse of jail has on our communities, especially our black communities. With a bed capacity that decreased at the end of this quarter, there is an urgent need to revisit how detention is used. In this context, the success of ongoing efforts in New Orleans to safely and sustainably reduce the use of jail and to eliminate racial disparities is particularly crucial.

Technical Notes

Figure 1 – The jail population remains near historically low levels

Sources: Orleans Parish Sheriff's Office (OPSO), Daily Population Snapshots, January 2016-March 2017.

Figure 2 – Most people in the New Orleans jail have not been tried or convicted

Source: OPSO, Daily Population Snapshot, February 2, 2017.

"N" refers to the number of people in the dataset used for this figure.

In the "pre-disposition" populations, people were defined by their most serious open charge(s): felony, state misdemeanor, etc. Alleged probation and parole violators might also have open felony charges or other open holds. A hold is any open item aside from the primary reason for detention that might contribute to a person's detention time. Someone in the felony pretrial population might have additional less serious charges (determined by charge severity where possible: state felony, state misdemeanor, municipal, and traffic).

The sentenced population in the New Orleans jail is designated 'DOC' if any charge was given a sentence to the Department of Corrections. A person is only in the New Orleans jail category if they are serving a parish jail sentence and are not serving a DOC sentence.

Figure 3 – People who pose little risk are held in the New Orleans jail

Sources: OPSO, Daily Population Snapshot, February 2, 2017; New Orleans Pretrial Services, Risk Scores of Pretrial Felony Defendants, 2017.

New Orleans Pretrial Services administers a risk assessment to people who are booked into jail for a felony charge. When possible, staff also conduct in-person interviews to collect information about residence and employment and verify the information provided.

As of February 2, 2017, 413 of the 1,543 people detained in the jail had been assessed. People with no risk assessment score, people with probation and parole detainers, and people who were arrested prior to the risk assessment tool being implemented are not included in this analysis. Roughly 2 percent of eligible felony defendants are not assessed for risk, either because they were processed through booking too quickly or because too many defendants needed to be processed at once. For people arrested on very serious charges (first- and second-degree murder, aggravated rape, and armed robbery with a firearm), a score is not assigned.

The current risk assessment tool assigns a risk score that corresponds with a risk category. It is based on a person's criminal record, seriousness of the current charge, the presence of an existing open case, prior failures to appear, residential stability, and employment. People who score between 1 and 4 are considered to be low-risk; between 5 and 7 are low-moderate risk; between 8 and 11 are moderate-risk; and 12 or above are high-risk.

Figure 4 – Most pretrial defendants released to the community return to court

Sources: Criminal District Court, Disposition Data, January–March 2017; Orleans Parish Sheriff's Office, Release data, January–March 2017; New Orleans Pretrial Services, Risk Scores of Pretrial Felony Defendants, 2017.

The figure relies on all cases that were resolved within the first quarter of 2017. Using closed cases to examine success rates for appearance in court allows Vera to capture complete information about people who fail to appear in court after release from jail. This analysis includes people who completed the risk assessment when they were booked into jail on a felony charge and whose cases were resolved (accepted, refused, or referred to municipal court) during the first quarter of 2017.

"Success rate" is the percentage of people who were released pretrial and subsequently returned to court for all pretrial court dates. "Failure to appear with no voluntary return" describes people who did not return to court of their own volition and were re-arrested for failure to appear. "Failure to appear with voluntary return" describes people who did not appear in court at an appointed date but returned of their own volition at a subsequent court date. "Failure to appear, charges dropped" refers to people who did not return to court, but for whom the failure to appear is rendered moot because their charges were dropped.

Figure 5 – Most people who are released pretrial aren't arrested on new charges

Sources: Criminal District Court, Disposition Data, January–March 2017; OPSO, Release data, January–March 2017; New Orleans Pretrial Services, Data on Risk Scores of Pretrial Felony Defendants, 2017.

"Success rate" is the percentage of people who were not arrested on new charges of those released to

the community during the pretrial period. The most serious charge in cases where people were arrested on multiple new charges after pretrial release were counted. Cases in the “CDC” category include people charged with new felonies and state misdemeanors, as well as those with charges in CDC and/or municipal and traffic courts. Those in the “municipal” and “traffic” categories were charged with new misdemeanors and traffic violations, respectively.

Figure 6 – Many jail stays are not strictly necessary

Source: OPSO, Release data, January–March 2017.

A “bed day” refers to each day a person spends in the New Orleans jail; to determine the number of bed days for a group of people with similar release outcomes, the total number of days each member of the group spent in the New Orleans jail is added together.

Category definitions:

Resolved probation or parole violations: People who were released after a detainer on an alleged probation violation was lifted, either because the violation was dismissed or a short sentence was served to satisfy the violation.

Sentenced to time served: People who remained in detention during the entire pretrial period and were sentenced to the time that they had already served.

Sentenced to probation: People who remained in detention during the entire pretrial period and were released upon being sentenced to probation.

Case refused or not guilty: People who were released at the time of screening because their cases were refused or dismissed; and people who were released at the time of case adjudication with the disposition of not guilty.

Financial bond release: People who paid some type of financial bond (cash, surety bond, or property bond) to secure their pretrial release.

Non-financial bond release: People who were released on their own recognizance (ROR) without having to pay as a condition of their release. Judges have discretion to impose other conditions on release, such as pretrial supervision or enrollment in substance abuse treatment.

No-bond release: People who were released by the courts after their arrest was deemed to have ‘no probable cause.’ This category also includes people with minor municipal charges who were released without paying a bond. Some of the municipal releases might be ROR releases but the available data does not provide this detail.

Figure 7 – Arrests do not affect all communities equally

Sources: OPSO, Arrest Data, January – March 2017; U.S. Census Bureau, Population Division, *Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for the United States, States, and Counties: April 1, 2010 to July 1, 2014, 2015.*

The arrest rate figure provides the relative rate of arrests by race and gender (per 1,000 New Orleans residents, aged 15 - 84).

Figure 8 – Black men are held in jail longer

Sources: OPSO, Release data, January – March 2017.

This figure represents a breakdown of all people released during the first quarter of 2017, by race, sex, and length of stay.

Figure 9 – Black men are over-represented in our jail

Sources: OPSO, Daily Population Snapshot, February 2, 2017; U.S. Census Bureau, Population Division, *Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for the United States, States, and Counties: April 1, 2010 to July 1, 2014, 2015*.

1. For 2005 jail population numbers, see William J. Sabol, Ph.D. and Todd D. Minton, "Jail Inmates at Midyear 2007," Bureau of Justice Statistics Bulletin (Washington, DC: Office of Justice Programs, 2008), www.csdp.org/research/jimo7.pdf. For residency population data, see U.S. Census Bureau, Population Estimates Program, *Annual Estimates of the Resident Population for Counties: April 1, 2000 to July 1, 2009, 2010*.
2. Ram Subramanian, Ruth Delaney, and Stephen Roberts, et al., *Incarceration's Front Door: The Misuse of Jails in America* (New York: Vera Institute of Justice, 2015), <https://www.vera.org/publications/incarcerations-front-door-the-misuse-of-jails-in-america>.
3. Cynthia Mamalian, *State of the Science of Pretrial Risk Assessment* (Gaithersburg, MD: Pretrial Justice Institute, 2011), https://www.bja.gov/publications/pji_pretrialriskassessment.pdf.
4. James Austin, *Orleans Prison Population Trends and Facility Options* (Presentation to New Orleans City Council, July 2015), 5.
5. Mayor's Office of Criminal Justice Coordination, Jail Population Management Subcommittee of the Sanford "Sandy" Krasnoff Criminal Justice Council, May 23, 2017, (New Orleans: Mayor's Office of Criminal Justice Coordination, 2017), 4-5. Chief Noel of the New Orleans Police Department (NOPD) shared that the department is shifting to the strategy of "proactive policing," which implies an increased police presence and more frequent arrests for less serious crimes.
6. It is important to note that many of those detained are not housed in the New Orleans jail, but

instead are held in Hunt Correctional Center and other detention centers across the state.

7. In 2016, there were an estimated 391,495 New Orleans residents. The national average for jail incarceration is 2.34 per 1,000. There would be 916 people in jail if New Orleans's incarceration rate was at the national average. See U.S. Census Bureau, Cities and Towns (Incorporated Places and Minor Civil Divisions), Annual Estimates: April 1, 2010 to July 1, 2016 (Washington, DC: U.S. Census Bureau, 2017); and Todd D. Minton and Zhen Zeng, "Jail Inmates at Midyear 2014," Bureau of Justice Statistics Bulletin (Washington, DC: U.S. Bureau of Justice Statistics, 2015), <https://perma.cc/4PHV-UJYL>.

8. The goal to reduce the jail population to 1,277 was mandated by the John D. and Catherine T. MacArthur Foundation's Safety and Justice Challenge. It is a 21 percent reduction from the baseline population.

9. Louisiana law mandates that an indictment or information shall be filed within 45 days of the arrest for misdemeanors, and 60 days of the arrest if the defendant is being held in custody.

10. *United States v. Salerno*, 794 F.2d 64, 74 (2d Cir. 1986), rev'd, 107 S. Ct. 2095 (1987).

11. Christopher T. Lowenkamp, Marie VanNostrand, and Alexander Holsinger, *The Hidden Costs of Pretrial Detention* (Houston: The Laura and John Arnold Foundation, 2013).