

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/nopd-arrest-practices-during-pandemic>

Policy Issue Resources

The New Orleans criminal legal system has experience with responding to states of emergency most of them weather-related. However, as the city was hit by the COVID-19 pandemic, the community quickly became concerned with the growing threat the virus posed to people in its jail a petri dish for infection. As Vera advanced recommendations to safely release people from the jail, we also worked toward preventing people from being admitted to the jail unnecessarily. This was done by looking at who was being arrested on what types of charges and analyzing how many charges could have been handled by a summons in lieu of arrest.

Vera researchers examined felony first appearances from March 20, the date on which Mayor LaToya Cantrell issued a citywide stay-at-home order (SAHO), to May 15, the date on which Mayor Cantrell partially lifted the order (the SAHO period). First appearances are essentially bail hearings that must occur, by statute, within 48 hours of a person's arrest.

In all, 849 people made 930 first appearances before a magistrate commissioner or judge during the SAHO period. According to data provided by the magistrate court, eight out of 10 people (83 percent) who made a first appearance in magistrate court were Black, 16 percent were white, and 1 percent were people of "other" or "unknown" race or ethnicity. Note that court data on race may be imprecise. The court system in New Orleans uses racial categories that do not quite align with the categories used by the US Census: Black, White, Hispanic, Asian, American Indian, and Other. Vera assigned unknown to cases in which no race data was present. People of Asian descent and Latinx people may be undercounted. In comparison, the population of people aged 15 to 84 in Orleans Parish is 57 percent Black; 33 percent white; and 10 percent Latinx, Asian, and multiracial. During the SAHO period, Black people made first appearances in magistrate court at a rate three times greater than that of white people.

In particular, Black men were overrepresented in the group of people who made first appearances during the SAHO period. Although Black youth and men make up 32 percent of all Orleans Parish residents between the ages of 15 and 84 years, they made up 70 percent (593 of 849 people) of those who made first appearances during this period a first appearance rate nearly four times that of white men.

Of the 930 first appearances that took place during the SAHO period, felonies were the most serious charge in just over half of the cases (52.3 percent or 486 cases) and state misdemeanors were the most serious charge in 47.7 percent (444 cases) of the cases.

Looking at the 930 first appearances by charge categories, the top five most serious charges were:

Cases in which violent state misdemeanors were the most serious charge made up two-thirds of all cases that involved a violent offense as the most serious charge. Looking a little deeper, domestic- and intimate-partner violence (DV/IPV) charges accounted for 85 percent of cases in which violent state misdemeanors were the most serious charge, and DV/IPV charges made up well over half (57.2 percent, 255 cases) of cases in which a violent offense was the most serious charge.

Nearly 14 percent of people who had a first appearance during the SAHO period (117 of 849 people) had a property, drug, or other state misdemeanor as their most serious charge. For these charges, police officers may issue summonses or invoke municipal charges.

Vera researchers based their determination of the most serious charge for each first appearance by using the following hierarchy of charges, from most serious to least serious:

Vera researchers sorted all first appearance charges into these categories. For people with more than one charge associated with a first appearance, the researchers used the hierarchy to select the most serious charge.

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