

New Orleans: Who's in Jail and Why?

Introduction

Everyone in New Orleans deserves to be safe. We rely on our criminal justice agencies—the police, the courts, and the jail—to ensure public safety, so we should ask ourselves regularly: how well is our system working? By looking at who we hold in our jail and why, we can begin to understand the role of detention in keeping our community safe and inform what our jail needs are, both now and going forward.

Until recently, New Orleans led the nation in jail incarceration: before Katrina, we jailed people at a rate five times the national average.¹ The consequences were dramatic for the tens of thousands of people booked into the jail each year who lost their jobs, homes, and even custody of their children. Instead of making us the safest city in America, this over-use of detention destabilized communities.

How are we using detention today? Generally, people are held in jail for any number of reasons. Therefore, unfortunately, there is no simple answer to the question of “who is in our jail?” This report aims to advance an important

public conversation about how we are using our jail and how it impacts safety in our city.

We have more than enough beds

Between April 2015 and March 2016, the jail population decreased by 15 percent, from 1,876 to 1,591 people (see figure 1).²

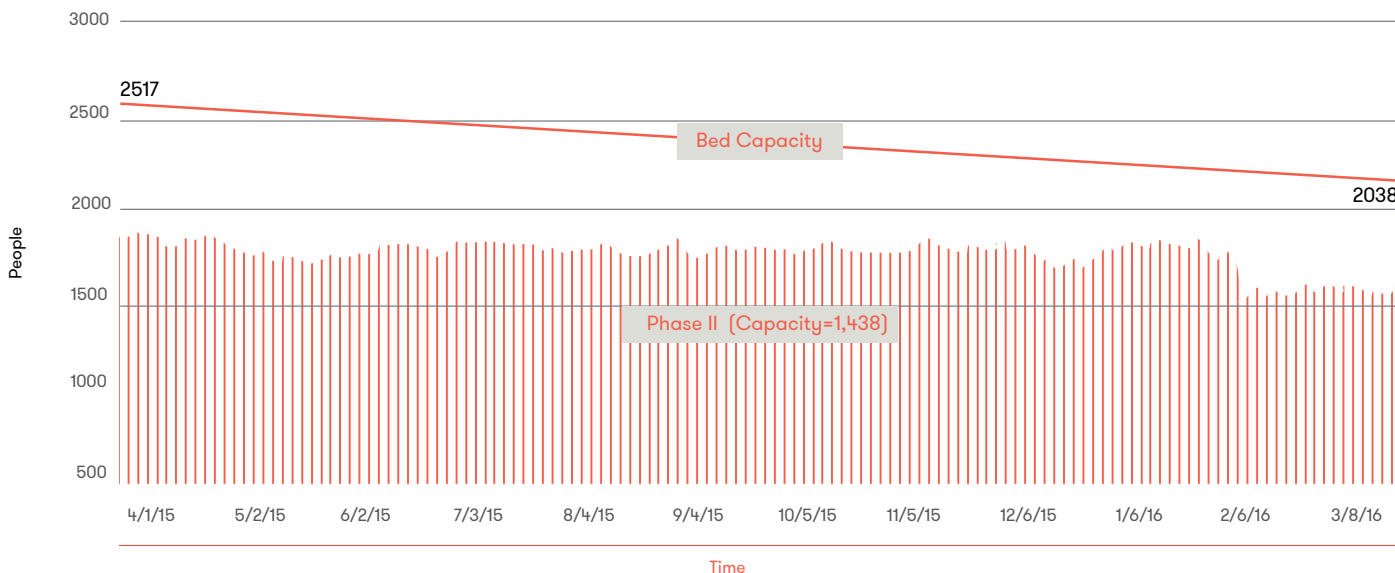
In fact, the population at Orleans Parish Prison (OPP) has been consistently decreasing since 2009.³ Over the same period, local crime rates decreased, demonstrating that the jail population can be reduced safely.⁴ The number of people in the jail decreased by 54 percent between 2009 and 2016, from 3,473 to 1,591 people.⁵

Over the last year, the total number of available jail beds has decreased, after the sheriff opened the new jail building and closed the temporary buildings used after Katrina. With 2,038 beds available and an average daily population of fewer than 1,600 people, the number of jail beds exceeds our current detention needs.⁶

Figure 1

Jail population and bed capacity

April 1, 2015 – March 31, 2016



Note: Capacity=1,438

Most people in OPP have not been tried or convicted

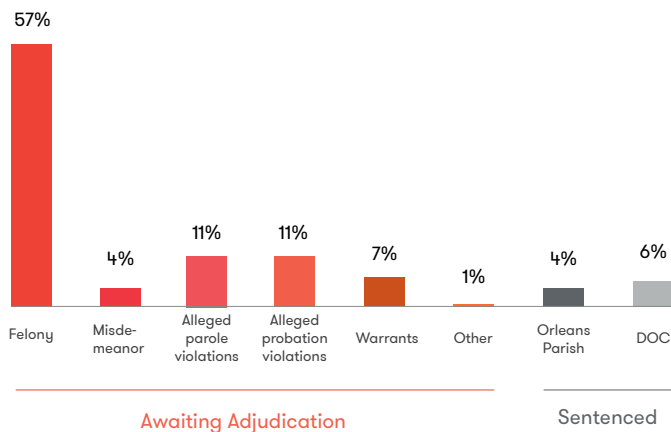
The vast majority (90 percent) of people in the jail on March 2, 2016 were not serving a sentence but waiting for their day in court. People convicted of a crime and serving a sentence at OPP were only 10 percent of the population (see Figure 2).⁷ The distinction between people waiting for trial and people serving a sentence matters, because someone accused of a crime is innocent until proven guilty. An arrest does not prove that someone committed a crime, which is why we need tools in addition to the charge used at the time of arrest to decide who should be released pending trial.

People charged with a felony represented 57 percent of people in the jail on that day and those charged with a misdemeanor represented fewer than 4 percent. It is often implied that a felony charge means a person committed a serious crime and is dangerous, but under Louisiana law simple drug possession is considered a felony. The fact that someone is accused of a felony does not necessarily indicate the seriousness of their behavior.

Figure 1

OPP population by reason for detention

Population= 1,591 (as of March 2, 2016)



The purpose of a jail

Jails are designed to hold people who have been arrested and cannot safely wait for their day in court at home, in their community. Unlike prisons, jails are designed to house people short-term.⁸ The City of New Orleans pays for the operation of the jail with taxpayers' dollars; it is a core civic responsibility to ensure that we detain people only when necessary:

> **Appropriate detention.** Detention for a person accused of a crime is only appropriate if he or she is likely to break the law in the future or to miss court dates. Before trial, release should be the norm and detention the limited exception.

> **Measuring risk.** The City of New Orleans, through New Orleans Pretrial Services, uses a research-based tool to measure the risk 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. However, research found that the charge used at the time of arrest is not an accurate predictor of risk.⁹

People who pose little risk are jailed in OPP

New Orleans is one of many jurisdictions around the country that relies on a research-based risk assessment tool to measure the risk arrestees pose of failing to appear for future court dates or of being arrested for a new offense. Full reliance on risk assessment would lead to people found to present a higher risk being held in jail, with the detention of low-risk defendants being the exception rather than the rule.

Out of the 451 people in jail who were assessed for risk and given a risk score, 216—or 48 percent—were found to present a low or low-moderate risk (see Figure 3).¹⁰ Those 216 people represented 14 percent of the entire jail population.

These low and low-moderate risk arrestees were held in jail because a judge decided they had to pay a financial bond to get out. One-hundred and eighteen of them were held on a \$25,000 bail or less, an unaffordable sum to many: New Orleans's poverty rate is almost twice the national average.¹¹ Eighty-five percent of people who go through the criminal justice system are too poor to hire a lawyer.¹²

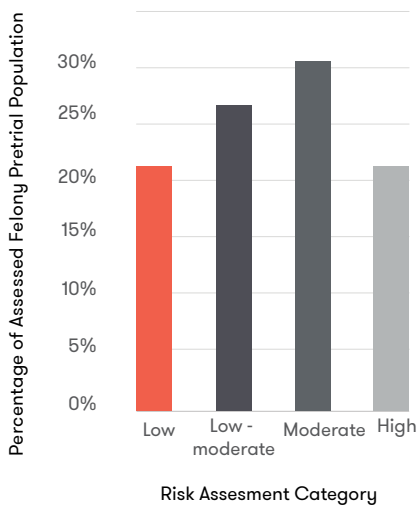
If more low and low-moderate risk arrestees were released on their own recognizance—that is, without having to pay a bond—the jail population could be safely reduced. Holding low-risk arrestees in jail is not only unnecessary, it is counterproductive. Timely release is essential because even a few days in jail for low-risk arrestees increases their chances of being arrested for a new offense while on pretrial release.¹³

With proper use of a risk assessment tool to determine pretrial release, there is ample room to safely reduce our use of detention.

Figure 3

Assessed felony pretrial population in OPP by risk category

Population= 451 (as of March 2, 2016)



Needless jail stays

Most people who spend time in OPP are released from the jail to their families and communities. Among people released to the community between January and March 2016, the people who occupied the greatest number of beds were eventually released either because the prosecutor declined to prosecute their cases, or because they received a probation or time-served sentence (see Figure 4). This group of 646 people was held for a total of 30,508 days in jail in just three months, or 47 days per person, on average.

The second largest group was people who eventually paid their bond to the court or a bail bondsman. Although released before going to trial, the 1,765 people in this group first spent nine days in jail on average. This delay explains

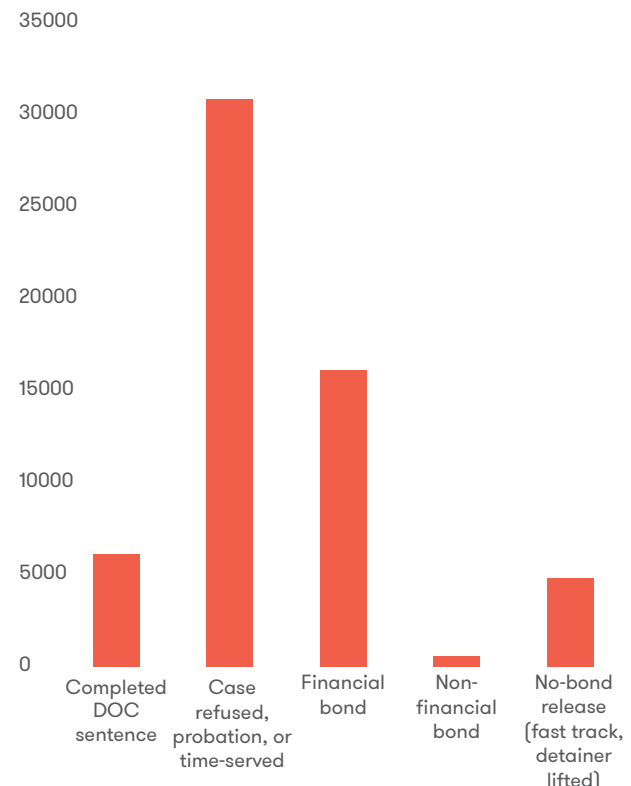
why this group was held for a total of 15,885 days in just three months.

If people who pose little risk were released pretrial without the delays associated with financial bonds, thousands of days in jail could be safely avoided.

Figure 4

Number of bed days by reason for release

Releases to the Community, January - March 2016



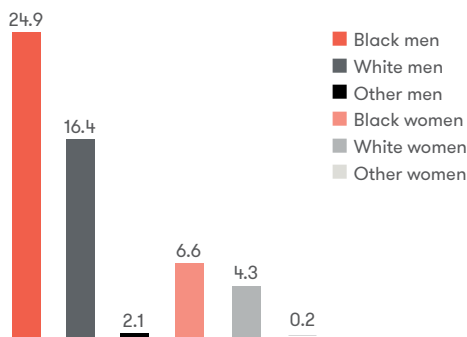
Incarceration in OPP does not affect all communities equally

Jail often destabilizes people's lives, and can negatively affect their families and communities. Yet, detention does not affect all people equally. The first quarter data indicates that the likelihood of being arrested changes depending on one's race and gender (see Figure 5). Black men were 50 percent more likely than white men to be arrested. Black women were 55 percent more likely than white women to be arrested.

Figure 5

Arrest rate per 1,000 residents by race and gender

Arrests, January – March 2016

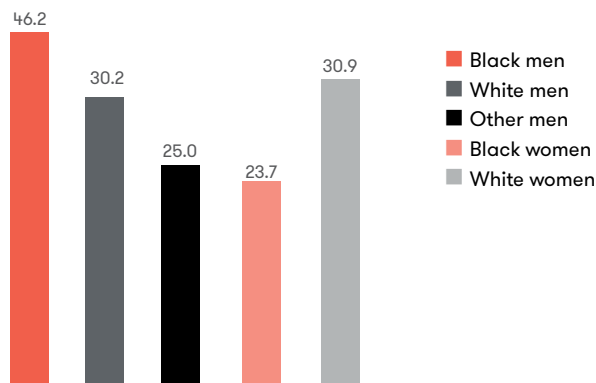


Differences across race and gender also emerge when looking at how long people were held in jail after arrest in the first quarter of 2016 (see Figure 6). Black men were 53 percent more likely than white men to stay in jail more than three days. Overall, black men tended to be held in jail longer, representing 38 percent of people arrested and released within one day but 86 percent of people held in OPP for over a year (see Figure 7).

Figure 6

Rate of detention beyond three days per 100 arrests by race and gender

Arrests, January – March 2016



Note: The rate of detention beyond three days per 100 arrests for women who are neither white nor black is 0.

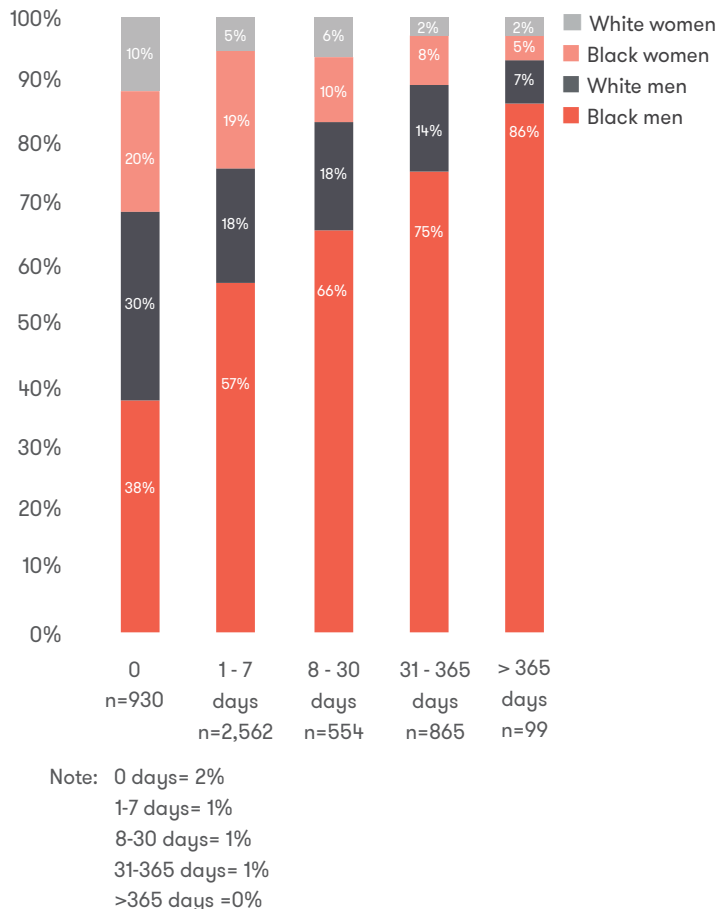
Black women, on the other hand, were 24 percent less likely than white women to stay in jail for more than three days in the first quarter (see Figure 6). Overall, black women represented 20 percent of people arrested and released

within one day but they represented 5 percent of people held in jail for more than a year (see Figure 7). This suggests that disparities are not the same for black women and black men. Black women seem to be disparately impacted primarily at the arrest level whereas black men are disparately impacted at both the arrest level and in lengths of stay.

Figure 7

Length of stay by detainees' race and sex

January Releases; Population= 1,591 (as of March 2016)

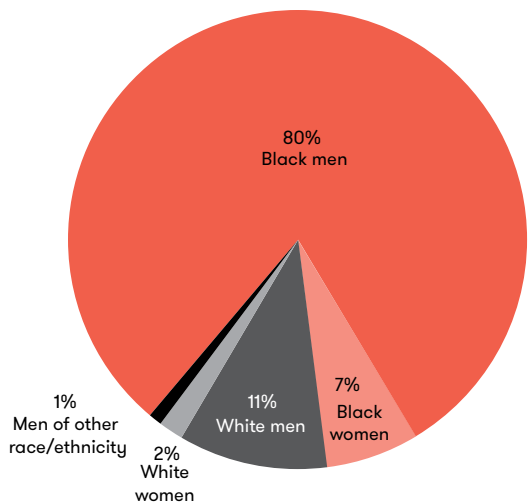
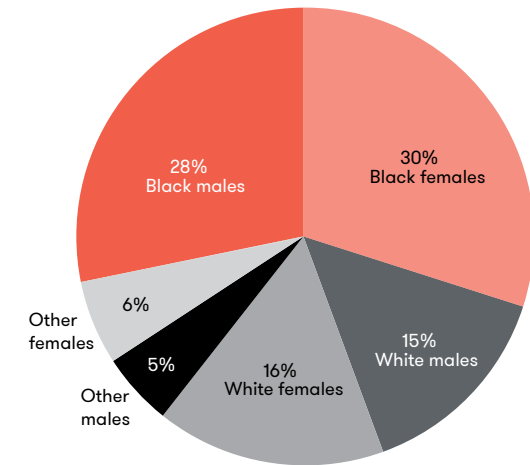


As a result of these high arrest and detention rates, black people are overrepresented in OPP (see Figure 8). Although black males represent 28 percent of the entire New Orleans population, black men made up 80 percent of people in OPP on March 2, 2016. What is evident in this data is that the current use of detention disproportionately harms black people in New Orleans. Coupled with evidence that detention is used unnecessarily for low and low-moderate risk arrestees, it is essential to coordinate strategies to eliminate racial disparities and safely reduce the jail population.

Figure 8

New Orleans population and OPP population by race and gender

New Orleans Population: U.S. Census, 2014; OPP Population: 1,591 (March 2, 2016).



Conclusion

Although New Orleans is no longer the national leader in incarceration, there is still much room for improvement in how we use our jail. One in seven people held in OPP were assessed as low or low-moderate risk. In the first quarter of 2016, dozens of people who were eventually released on probation or had their cases refused spent weeks in jail at great cost to them, their families, their community, and taxpayers. For those fortunate enough to make bond, it took an average of nine days to gather the funds needed to secure release. Black people were disproportionately affected by these unnecessary jail stays, as they were over-represented among those booked in jail and detained for lengthy periods of time.

Because of this opportunity for further jail population reduction and with more beds than we have inmates, we do not need additional jail beds. Multiple efforts are ongoing in New Orleans to reduce the use of jail safely and sustainably and to tackle racial disparities. Through these efforts, experts have projected that the jail population not only can but will be reduced in the coming months and years.¹⁴

For more details about the jail population in New Orleans and technical notes that supplement this report, visit www.vera.org/publications/new-orleans-jail-population-quarterly-report.

Endnotes

- 1 For 2005 jail population numbers, see William J. Sabol and Todd D. Minton, “Jail Inmates at Midyear 2007,” Bureau of Justice Statistics Bulletin (Washington, DC: Office of Justice Programs, 2008), <https://perma.cc/S5YY-A2D8>. 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 Comparing monthly averages for April 2015 and March 2016, Orleans Parish Sheriff’s Office, “Daily Inmate Count, 2015-2016.”
- 3 “Orleans Parish Prison” is the historic term used to describe the New Orleans jail complex (including the various buildings used to house inmates).
- 4 Based on FBI Uniform Crime Reports. See Calvin Johnson, Mathilde Laisne, and Jon Wool, *Justice in Katrina’s Wake: Changing Course on Incarceration in New Orleans* (New York: Vera Institute of Justice, 2015), p. 4.
- 5 Comparing June 30, 2009 data to March 2, 2016 data from Bureau of Justice Statistics, “Annual Survey of Jails,” 2009; Orleans Parish Sheriff’s Office, “Daily Inmate Count,” 2016. This report captures every person in the custody of the Orleans Parish Sheriff’s Office, regardless of where they are physically housed.
- 6 Includes beds in the “Phase II” building, the Temporary Detention Center, and the McDaniels Center. Note that the McDaniels Center is not a secure facility and is not able to accommodate all types of inmates.
- 7 Although people serving a Department of Corrections sentence previously represented close to a third of our jail, technically in state custody but housed at OPP, they now represent fewer than 6 percent of people in OPP (31 percent on average in 2011); see Orleans Parish Sheriff’s Office, “Daily Inmate Count,” 2011.
- 8 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).
- 9 Cynthia Mamalian, *State of the Science of Pretrial Risk Assessment* (Gaithersburg, MD: Pretrial Justice Institute), 2011, <https://perma.cc/L2LB-F7HM>.
- 10 New Orleans Pretrial Services only assesses people arrested on a felony. On March 2, 2016, there were 772 people in jail who had been assessed for risk (out of 1,591 inmates total). This analysis focuses on the 451 people who had a risk score and excludes people who were assessed for risk but not scored due to the nature of their charge (321 people from the March 2, 2016 snapshot).
- 11 Allison Plyer, Nihal Shrinath, and Vicki Mack, *The New Orleans Index at Ten: Measuring Greater New Orleans’ Progress toward Prosperity* (New Orleans: The Data Center, 2015), p. 41. In 2013, the poverty rate in New Orleans was 27 percent compared to 16 percent for the national average.
- 12 Orleans Public Defenders, “Gideon is Rising,” September 10, 2014, <http://www.opdla.org/news-and-events/media-coverage/241-gideon-is-rising>.
- 13 “When held 2-3 days, low-risk defendants are almost 40 percent more likely to commit new crimes before trial than equivalent defendants held no more than 24 hours;” see Christopher Lowenkamp, Marie VanNostrand, and Alexander M. Holsinger, *The Hidden Costs of Pretrial Detention* (Houston: The Laura and John Arnold Foundation, 2013), <https://perma.cc/JNA8-UXSJ>.
- 14 For jail population projections, see James Austin, *Analysis of Current Orleans Population Trends and Bed Capacity Options* (Washington DC: The JFA Institute, 2016).

For more information

The Vera Institute of Justice is a justice reform change agent. Vera produces ideas, analysis, and research that inspire change in the systems people rely upon for safety and justice, and works in close partnership with government and civic leaders to implement it. Vera is currently pursuing core priorities of ending the misuse of jails, transforming conditions of confinement, and ensuring that justice systems more effectively serve America’s increasingly diverse communities.

In 2006, Vera came to New Orleans at the request of the city council which saw an opportunity for the city to reduce unnecessary detention and thus change its approach to fostering public safety. As a city in recovery, New Orleans could not fiscally or morally afford its pre-Katrina level of jail incarceration.

For almost 10 years, Vera New Orleans has served as a nexus of initiatives that advance forward-thinking criminal justice policies. Vera works with its partners to build a local justice system that embodies equality,

fairness, and effectiveness in the administration of justice. Using a collaborative data-driven approach, Vera New Orleans provides the high-quality analysis and long-range planning capacity needed for the city to articulate and implement good government practices.

For more information about this or other publications from Vera’s New Orleans Office, contact Corinna Yazbek at cyazbek@vera.org.