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# The Costs and Consequences of Bail, Fines and Fees in New Orleans

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## Executive Summary

The justice system in New Orleans, like most others, is partly supported by “user-funded revenue,” meaning the money it collects from individuals charged with a crime. This practice has long been common in the United States, but an emerging body of research has begun to uncover the perverse incentives it creates for justice agencies and the depth of its impact on individuals.<sup>1</sup>

This report is an in-depth study of the costs and consequences of user-funded revenues in New Orleans, a city where the effects of this practice are likely to be particularly acute because of a poverty rate that is nearly twice the national average and a jail incarceration rate that is among the highest in the nation.

Although there are steep challenges in New Orleans, there are also factors that bode well for reform. The jail population, while still nearly twice the national average, has been declining and is now the lowest it’s been in decades. Furthermore, there are a number of new jail population reduction efforts—under the leadership of the mayor and city council—and a federal consent decree has led to an increased focus on improving conditions inside the jail.

Data is often a prerequisite for reform. So to uncover the costs and consequences of the user-funded justice system in New Orleans, Vera researchers examined agency financial reports and justice-agency administrative records to measure (1) annual justice system expenses and user-pay revenue (namely financial bail and conviction fines and fees), (2) how much justice agencies and bond agents benefit from these revenues, (3) the financial impact of bail for defendants, (4) the financial impact of conviction fines and fees for defendants, and (5) the consequences of a user-funded system, including the human cost of jail and the disparate impact on black communities.

Through analysis of 2015 financial reports and administrative court records, Vera found that:

- Law enforcement, judicial, and corrections agency expenses totaled \$265 million.
- User-funded revenues totaled \$11.5 million and comprised bond fees (\$1.7 million), conviction fines and fees (\$2.8 million), traffic court fines and fees (\$5 million), and “other” sources that include asset seizures and drug testing fees (\$1.9 million).
- User-funded costs paid to commercial bond agents totaled \$4.7 million for non-refundable bond premiums.
- User-funded revenues comprise a sizable share of the budget for four agencies: traffic court (99 percent), municipal court (18 percent), criminal district court (32 percent), and Orleans Public Defenders (41 percent).
- The cost of posting a surety bond averaged—inclusive of bond fees—\$2,408 in criminal district court and \$451 in municipal court.

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<sup>1</sup> Alexes Harris, Heather Evans, and Katherine Beckett, “Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States,” *American Journal of Sociology* 115, no. 6 (2010): 1753-1799.

- 1,275 individuals, in criminal district court, spent an average of 114 pretrial days in jail because they could not pay their bail; 1,153 individuals, in municipal court, spent an average of 29 pretrial days in jail because they could not pay their bail.
- More than 8,000 people were assessed conviction fines and fees totaling \$3.8 million.
  - In criminal district court, 2,156 individuals were assessed a total of \$2.4 million in fines and fees;
  - In municipal court, 6,175 individuals were assessed a total of \$1.4 million.
- Conviction fines and fees per individual averaged \$1,125 in criminal district court and \$228 in municipal court.
- In 2015, municipal court issued 3,014 warrants for failing to pay (or failing to appear for payment) and criminal district court issued 990 warrants. Over those 12 months, 536 people were arrested on such warrants, all but 88 of them stemming from municipal court cases. (This includes people who were sentenced well before 2015 but were arrested in that year.)
- The transfer of wealth that results from bail, fines and fees falls disproportionately on black communities: \$5.4 million of the \$6.4 million (84 percent) for bail premiums and fees and \$2.7 million of the \$3.8 million (69 percent) for conviction fines and fees were assessed to black defendants.
- Once assessed fines and fees, black defendants were issued an arrest warrant in relation to unpaid fines and fees at higher rates than white defendants for both misdemeanor cases (43 percent versus 29 percent) and felony cases (18 percent versus 14 percent).

Vera’s surveys and interviews with individuals previously involved in the New Orleans criminal justice system reveal that many relied on a number of people—including partners, parents, and children—to raise the money to pay the costs associated with justice system contact. And many still have trouble paying all their costs. This suggests that, for most respondents, raising the money for bail, fines and fees was a hardship that they either could not overcome, or one for which they had to rely on the resources of their community to meet.

The total range of potential criminal justice costs goes far beyond those Vera analyzed through administrative records. So it is little surprise that more than half of survey respondents reported they and their family spent over \$4,500 on costs associated with their most recent court case – including bail, fines, fees, transportation to court, attorney fees, and money put into their jail commissary account, among other expenses. The majority of people we surveyed reported that these costs had a major or moderate negative impact on their family’s financial stability. Interviews with court-involved individuals and justice system stakeholders underscored the financially detrimental impact of user-funded costs on families, the stress of ongoing financial obligations to the justice system, the role of these criminal justice costs in exacerbating justice involvement, and the ways in which these costs damage perceptions of fairness and trust. The greatest cost, however, may be the human cost of jail (such as the risk of harm in jail and the deprivation of liberty) for those unable to bail, fines and fees, which Vera estimates to be substantially greater than the cost of jail to taxpayers.

This report provides detail on Vera’s study data, methods, and findings. The companion report, *Past Due: Examining the Costs and Consequences of Charging for Justice in New Orleans*, provides a condensed version of the findings and discusses their implications in the local context.

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# Introduction

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Justice agency budgets in New Orleans, like many other cities, are partly supported by money collected from individuals charged with an offense. This practice, though poorly understood, has long been common in the United States.<sup>2</sup> But an emerging body of research has begun to uncover the breadth of this practice and the depth of its impact on the largely impoverished individuals who pass through the nation's courts and jails. The Brennan Center for Justice has catalogued the extent of this practice in 15 states, finding that criminal justice fees often create a significant debt burden for people with a criminal conviction, making it increasingly difficult for them to get back on their feet.<sup>3</sup> The ACLU found that legal financial obligations keep people connected to the criminal justice system long after their cases have ended and creates the risk of jail time for those who cannot afford their fines and fees.<sup>4</sup> And Alexes Harris, a leading researcher in this field, has found that, in Washington State, court costs disproportionately impact poor people and people of color and create a lifetime debt burden that can impact future housing, employment, and reintegration into society.<sup>5</sup>

The issue of fines and fees came to greater public attention after the release of the U.S. Department of Justice (DOJ)'s report on the Ferguson, Missouri Police Department, in response to the shooting of Michael Brown.<sup>6</sup> The report found that the collection of fine and fee revenue was a primary goal of law enforcement, leading to such practices as the issuance of an arrest warrant and the threat of incarceration for a missed payment. In 2015, the Council of Economic Advisors released a report finding that the use of fines and fees has increased in recent years, creating both financial and human costs that disproportionately harm the poor.<sup>7</sup> In early 2016, the DOJ circulated a "dear colleague" letter to local courts outlining principles for the use of fines and fees and emphasizing that a person should not be sent to jail for the inability to pay fines and fees.<sup>8</sup>

Although the harmful consequences of fines and fees are now receiving greater attention from the public, policymakers interested in reforming user-funded systems are confronted with the vexing matter

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<sup>2</sup> Alexes Harris, Heather Evans, and Katherine Beckett, "Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States," *American Journal of Sociology* 115, no. 6 (2010): 1753-1799.

<sup>3</sup> Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, *Criminal Justice Debt: A Barrier to Reentry* (New York: Brennan Center for Justice, 2010).

<sup>4</sup> American Civil Liberties Union, *In for A Penny: The Rise of America's New Debtors' Prisons* (New York: ACLU, 2010).

<sup>5</sup> Alexes Harris, *A Pound of Flesh: Monetary Sanctions as Punishment for the Poor* (New York, Russell Sage, 2016).

<sup>6</sup> Department of Justice, *Investigation of the Ferguson Police Department* (Washington: Department of Justice, 2015).

<sup>7</sup> Council of Economic Advisors, *Fines, Fees, and Bail* (Washington: Council of Economic Advisors, 2015).

<sup>8</sup> Department of Justice, *Dear Colleague Letter Regarding Law Enforcement Fees and Fines* (Washington: Department of Justice, 2016).



of the potential fiscal cost. After all, user-funded revenue presumably offsets taxpayer-funded budgets—meaning that a cost levied on criminal defendants is a cost saved from the government budget. But while user-funded revenues offer one short-term taxpayer benefit, there are also a number of short- and long-term costs that can spill over to the public, especially when unpaid fees result in a growing jail population. Furthermore, fines, fees, and other criminal-justice costs transfer resources from poor communities to the government.

This report is a study of the costs and consequences of the user-funded justice system in New Orleans, a place where the effect of user costs is especially acute because nearly a quarter of city residents live in poverty—at a rate 59 percent higher than the national rate—and are vulnerable to significant financial harm from user costs.<sup>9</sup> And in New Orleans, the impact of any practice that penalizes the poor falls most heavily on black residents, who are more likely to live in poverty. The median income of black households in New Orleans is \$26,819, which is only 69 percent of the median income for all households in the city.<sup>10</sup>

To uncover the costs and consequences of user-funded revenues in New Orleans (namely financial bail and conviction fines and fees), Vera researchers examined data from agency financial reports, administrative records, and surveys and interviews with impacted individuals and justice-agency stakeholders. Through this mixed-methods research, Vera answered the following questions:

1. What are the annual justice agency expenses and user-pay revenues?
2. How much user-pay revenue is paid to each justice agency and the commercial bond industry?
3. What is the financial impact of financial bail on defendants?
4. What is the financial impact of conviction fines and fees on individuals?
5. What are the non-financial consequences of a user-funded system, including the human cost of jail and the disparate impact on black communities?

The report begins with a description of the research methodologies used for this study, followed by the results of this research—namely the justice system’s expenses and revenues (research questions #1 and #2), the individual cost of user-funded revenues (research questions #3 and #4), and the consequences of user-funded costs on individuals and families (research question #5). The appendices provide further detail on the cost analyses. A summary of the findings and discussion of their implications are in the Vera publication *Past Due: Examining the Costs and Consequences of Charging for Justice in New Orleans*.

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<sup>9</sup> In New Orleans, 23.4 percent of residents live in poverty, compared to 14.7 percent nationwide. Census Bureau, American Community Survey 2015 1-year estimates.

<sup>10</sup> The median income of all households in New Orleans is \$39,077. Census Bureau, American Community Survey 2015 1-year estimates.

## Key Terms

**Bail:** the requirement(s) the judge imposes on a defendant to secure release until disposition. Bail can be financial (for example, cash or a commercial surety bond) or non-financial (for example, release with a condition of being supervised by a pretrial services agency).

**Bail premium:** the money paid to a licensed bond agent to purchase a bail bond.

**Bond:** the mechanism that satisfies the bail and leads to a person's release. Depending on the requirement the court imposed on a person's release, a bond could be simply a written promise to return to court. In New Orleans, bail is most commonly satisfied through commercial bail bonds.

**Fine:** a financial form of punishment imposed after conviction for a crime. Fines generally may be imposed at the judge's discretion but convictions for certain crimes carry a mandatory fine. Fines are intended to serve the same purposes as other forms of sentencing.

**Fee:** an amount of money, usually authorized by state law, which the court imposed on a defendant at the time of posting a bond or at sentencing.

Fees may be earmarked to cover a particular system cost, such as a fee of up to \$100, called "court costs" payable to the court to cover the court's expenses, and a processing fee imposed on bonds. Some fees may also be imposed at the judge's discretion, such as a \$14 fee to pay for transcripts for indigent defendants.

**User-funded costs (also Bail, Fines and Fees):** the range of costs required of defendants, which are the subject of this analysis, including the commercial bail bond premium and bail bond fees required before trial and the fines, fees, and court costs imposed at conviction.

**Attachment:** warrant issued in municipal court.

**Criminal district court (CDC):** the state court in New Orleans that handles felony cases.

**Municipal court:** the city court in New Orleans that handles violations of the municipal criminal code and misdemeanor violations of state law. The city attorney prosecutes the former and the district attorney the latter.

**Release on recognizance (ROR):** a form of bail in which the court orders the defendant released from jail without having to pay money up front, on a promise to appear in court when required.

**Disposition:** the act of resolving a criminal case, generally when a judge accepts a defendant's guilty plea or a judge or jury finds a defendant guilty or not guilty after trial, or when the prosecutor refuses the case for prosecution or dismisses a case it had been prosecuting. A disposition of guilty is called a conviction and leads to a sentencing.

# Methodology

Vera researchers used 2015 data to examine the two key aspects of the user-funded justice system in New Orleans: (1) financial bail and bond fees and (2) fines and fees levied at conviction.<sup>11</sup> Understanding the costs and consequences of user-funded revenues demands a mixed-methods approach. An analysis of agency budgets is a critical first step to uncover how much the justice system relies on these revenues, which agencies are most dependent on them, and the financial and non-financial benefit of keeping people out of jail. The budget analysis can point to the system’s reliance on user-funded revenue, but analysis of administrative records—which provides case-level information—is necessary to uncover the number of these costs, the cost per individual, and the time individuals spend in jail when they cannot pay them. Lastly, qualitative research is required to uncover the wide range of consequences of user revenues that go far beyond the information on dollars and cents we can glean from budgets and justice agency databases.

## Cost analysis

Vera’s cost analysis explores (1) annual justice-system expenses and revenues (in 2015), (2) the marginal taxpayer cost of jail, and (3) the human cost of jail, meaning the financial and non-financial cost of jail to justice-involved individuals and their families. This section provides an overview of the data and methods used for each analysis. Information on key assumptions is provided with the findings. The specific calculations to derive these findings are included in the appendix.

**Justice system expenses and revenues.** Vera researchers examined justice system expenses and revenues for eight agencies: municipal court, criminal district court (CDC), the clerk of the criminal district court, traffic court, the Orleans Parish District Attorney (OPDA), Orleans Public Defenders (OPD), the criminal division of the Orleans Parish Sheriff’s Office (OPSO), and the New Orleans Police Department (NOPD). This analysis was conducted using data from 2010 to 2016—from each agency’s audited financial statement and reports, called “budget templates”—that each agency provides to the city council with their annual budget request.<sup>12</sup> Vera’s analysis of agency expenses and revenues largely draws on data from the budget templates because these documents provide the greatest detail on user-funded revenue.<sup>13</sup> For example, the 2014 audited financial report for the OPSO indicates revenue from “release

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<sup>11</sup> Vera did not examine administrative records in traffic court, which was outside the scope of this research. However, given the finding that traffic court revenue comprise 50 percent of user-funded revenue highlights this is an important area for future research.

<sup>12</sup> Vera obtained these “budget templates” for 2014, 2015, and 2016. Because the templates require five prior years of revenue and expenditure information, the data series Vera analyzed begins in 2010 (five years prior to 2014).

<sup>13</sup> The total amount of user-generated revenue reported in the audited financial statements was within five percent of the total reported in the budget templates for 2014. Audited Financial Statements for the municipal court are available only for the Judicial Expense Fund. Total expenditures as reported in the audited financial statements for

processing fees” in the amount of \$500,909.<sup>14</sup> But data from the budget templates clarifies that this includes revenue from both bond fees and release processing fees. Similarly, the audited financial statement for the CDC collapses all user-funded revenue into a single line item called “charges for services,” but the budget templates disaggregate this revenue into 15 different user-funded revenue categories.

**Marginal taxpayer cost of jail.** The marginal cost of jail, meaning the cost or savings associated with incremental changes in the jail population, is derived through a “bottom-up” methodology that tallies both variable costs (e.g., food and contracted medical care) and step-fixed costs (e.g., deputies’ salaries and benefits) that vary when there is a change in the jail population that necessitates either adding or subtracting a housing unit (called a “pod”).<sup>15</sup> The marginal taxpayer jail cost therefore depicts the amount that can be saved, per jail bed, when the jail population declines.

The marginal cost calculated by Vera reflects the amount that can potentially be saved. Budget savings, however, are not realized until the jail consolidates excess capacity (meaning, for example, to consolidate two half-empty pods) and downsizes the payroll attendant to each pod that is vacated. This analysis draws on data from a recent jail cost study by the PFM Group, the recently negotiated health care contract with Correct Care Solutions, the city’s table of employee fringe benefits, the pension fund’s financial audit, a staff coverage plan and housing plan for the New Orleans jail, and the OPSO website.<sup>16</sup>

**Human cost of jail.** An estimate of the marginal jail cost is necessary to measure the financial impact of changes in jail population from the perspective of taxpayers. But the cost of incarceration is incomplete without a proper accounting of the true cost to individuals and their families.<sup>17</sup> For those behind bars, the harms of incarceration start with foregone earnings, fees while in jail, and the expense of child care for parents who are incarcerated. But these tangible costs pale in comparison with the intangible costs that include heightened risk of violence and the deprivation of liberty. For more than a decade, criminal justice researchers have drawn on the “cost of crime” literature to estimate the benefits of crime desistance.<sup>18</sup> Vera’s general approach is to derive the human cost of jail—for incarcerated individuals—using the same methods that have long been used to measure community crime costs. Specifically, Vera researchers calculate the human cost of jail through the cost-of-illness (COI), or

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the other courts, public defender, and district attorney are consistent with total expenditures reported in the budget templates. The total expenditures in the audited financial statement for the sheriff, exclusive of capital, debt retirement and expenditures for the civil functions of the sheriff’s office is consistent with expenditures reported in the budget templates. The police department does not have an audited financial statement.

<sup>14</sup> The fiscal year in New Orleans runs from January to December.

<sup>15</sup> For more on marginal costs, see Christian Henrichson, Sarah Galgano. *A Guide to Calculating Justice-System Marginal Costs* (New York: Vera Institute of Justice, 2013.); and Christian Henrichson, Joshua Rinaldi, and Ruth Delaney, *The Price of Jails: Measuring the Taxpayer Cost of Local Incarceration* (New York: Vera Institute of Justice, 2015.)

<sup>16</sup> See the Appendix, page 47, for more on these data sources.

<sup>17</sup> See Michael Tonry. *The Fog Around Cost-of-Crime Studies May Finally Be Clearing: Prisoners and Their Kids Suffer Too*. (Criminology & Public Policy, Volume 14, Issue 4, 2015)

<sup>18</sup> For example, Kathryn E. McCollister, Michael T. French, and Hai Fang, “The Cost of Crime to Society: New Crime-Specific Estimates for Policy and Program Evaluation,” *Drug and Alcohol Dependence* 108, No 1-2 (2010): 98-109.

“bottom-up” approach.<sup>19</sup> Data was collected from the extant “cost of crime” literature (to estimate the cost of violence in jail), research on pre-jail earnings, OPSO budget documents, the market rate of childcare, and statutes that establish a cost the government is obligated to pay as a remedy for wrongful incarceration.

Vera’s procedure was to (1) catalogue the full range of the harms of jail, (2) calculate the cost per incident of each harm (when estimation was feasible), and (3) calculate the likelihood an individual incurs each given cost that is monetized. Incarcerated individuals, of course, experience very different levels of harm. For example, unemployed individuals do not lose wages and childless individuals do not experience disruption to child care. In order to account for this diversity yet arrive at a single average cost per day estimate, we estimate the average cost per incident of harm (e.g. child care costs, sexual assault or lost wages) and multiply by the likelihood of that event across the jail population.

$$\text{Cost Per Incident} \times \text{Likelihood within the Jail} = \text{Average Cost Per Person}$$

Vera’s estimate of the human cost of jail comprises costs for five categories: (1) violence and physical harm; (2) loss of liberty; (3) lost pay; (4) fees during incarceration; and (5) replacement child care. The key assumptions are presented with the findings. The supporting data, and calculations, are presented in the Appendix.

## Administrative records analysis

Vera researchers used 2015 data to examine two aspects of the user-funded justice system in New Orleans: (1) financial bail and (2) fines and fees levied at conviction. The administrative records analysis draws on data from New Orleans criminal justice agencies. In particular, Vera analyzed data for defendants (demographics), sentencing (fines, fees, incarceration, probation), court events (payment-related failures and warrants issued), arrests (warrant and new arrests), and jail bookings (lengths of stay in jail associated with pretrial detention). Through these data, Vera researchers examined how many people were ordered to pay financial bail to secure release, in what amount, and how much jail time ensued for both those that could and could not afford financial bail; as well as how often sentencing fines and fees were assessed, in what amount, and what court-related consequences people faced, such as payment hearings or jail stays.

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<sup>19</sup> This methodology, in contrast with a “top-down” approach—that generally employs contingent valuation surveys—presents the disadvantage of undercounting costs through potential errors of omission, meaning that specific components of the cost are valued as \$0 either because they are omitted from the analysis or a dollar value cannot be reasonably estimated. This methodological deficit, however, might be considered a benefit, in some contexts, as it is oriented towards a more conservative, lower-bound, estimate. Furthermore, the COI approach has the benefits of detailing the component costs which allows for an analysis of the specific harms of jail (e.g., lost wages, risk of violence) that most influence the total cost.

Vera examined records for two court systems: (1) the Orleans Parish Criminal District Court (CDC) which hears state felony cases, and (2) the New Orleans Municipal Court which hears municipal charges and state misdemeanors.<sup>20</sup> Because these courts are two distinct bodies with different practices—and different databases—Vera employed different methods for the analysis of each. Figure 1 summarizes the differences in the available data. The remainder of this section describes the methods used for the administrative records analysis in greater detail for each of these courts.

**Figure 1**  
**Data availability, criminal district court (CDC) and municipal court**

Court	Bail Amount Levied	Bail Amount Paid	Fines and Fees Levied	Fines and Fees Paid	Warrants Issued
Criminal District Court	Yes	No	Yes	No	Yes
Municipal Court	No	Yes	Yes	Yes	Yes

**Criminal district court (CDC).** CDC administrative records contain data for whether an individual posted bond, but not the amount posted. The records do, however, indicate the initial bail set, and modifications to the bail amount during the case. To determine the amount of the bond posted, we assume the bail amount paid is the amount initially set, for defendants released on bond *prior* to arraignment. For defendants who post bond *after* arraignment, we assume that the bail amount paid is the revised amount set at arraignment or later.

The pretrial length of stay in jail was measured by calculating the number of days between jail admission and discharge or the date on which a defendant’s time in jail converts from pretrial detention to a city sentence. When calculating the average length of stay for those that *did not* pay bail—so as not to over-estimate the time defendants spend in jail *because* of financial bail—we excluded the defendants that likely would be held in jail because of other circumstances even in the absence of financial bail. The excluded group includes individuals with high bail (\$100,000+), and individuals who had probation or parole holds and out-of-state warrants, which are factors that prevent release even if the defendant is able to pay bail.<sup>21</sup>

Vera researchers determined the amount of conviction fines and fees by examining the court’s records for all individuals sentenced in 2015. Only the amount *levied* was studied because the CDC database—in contrast to the municipal court—does not include data on payments. A further limitation of

<sup>20</sup> State misdemeanor charges on cases that also include state felony charges are heard in the CDC. There is a third court in New Orleans—traffic court. We examine traffic court expenses and revenues in the budget analysis, but the analysis of traffic court administrative records was outside the scope of this research.

<sup>21</sup> In New Orleans, judges almost never order people detained without bail and instead set very high bail amounts, which keeps the vast majority of defendants in jail. For this reason, researchers used bail of \$100,000 or more as a proxy for the judge’s intention to detain the person pretrial.

the database is that the numeric field that includes the total amount levied does not differentiate between fines and fees, a limitation it shares with the municipal court data. The breakdown of the component fines and fees, however, can be found in the court's docket master. These data are in a free response text field and thus cannot be systematically analyzed, but a review of the master docket confirmed that the total fine/fee for each case includes both fines and fees.

The analysis of the amount of fines and fees levied reveals the financial impact borne by individuals. But conviction fines and fees can lead to further costs because when individuals are unable to pay their court costs they are then subject to warrant, arrest, and potential jail time. The CDC database notes failures to appear in the record of court events.<sup>22</sup>

To determine the number of individuals arrested on a warrant for non-payment or failure to appear, we examined all arrests on a warrant (with or without new charges), except where the text clearly states that the arrest was on a warrant for a purpose other than non-payment or failure to appear (e.g. missed drug test, probation or parole violation, or a warrant from another jurisdiction). Because it is not possible to know whether an individual whose arrest included new charges would have been arrested on the new charge(s) alone—for instance, for a traffic violation—we present a range of results—with arrests on warrant only as a lower-bound, and arrests on warrant and other charges as an upper-bound. We then examine jail data based on the booking number from the arrest to determined admission date, release date, and length-of-stay.

**Municipal court.** The municipal court hears cases for state misdemeanor charges and violations of the municipal criminal code. Only state misdemeanor and municipal cases that do not also have a concurrent felony charge in CDC, which are captured in the CDC analysis, are examined in the analysis of municipal court bail and bond fees. When examining the proportion of individuals that post bond, and the length of stay in jail for those that do not, we exclude individuals with a parole or probation hold or out-of-state warrants. In contrast to the CDC data, the municipal court data provides the amount of cash or surety bond *posted*. The municipal case data includes a folder number, which uniquely identifies a booking, and booking date for all defendants who were booked into jail. The folder number is matched to the jail data to access other booking information such as release date to determine the period of time individuals are held on bail.

Vera researchers tallied conviction fines and fees by examining cases filed in 2015 in the municipal court database, which includes data for amounts levied *and* paid. As with the CDC analysis we were compelled to consider fines and fees together as one set of financial obligations because although the municipal database contains two fields, one labeled “fines” and the other “fees,” a case-level review of the data indicates that fines and fees are, in fact, comingled in both fields. The difference between these data is the operational distinction of whether payments are made in installments following a guilty disposition (the field called “fines” in the database) or the charge was dismissed (“Nolle prosequi”) and payment was

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<sup>22</sup> There are five combinations of event types and results that Vera used to measure failure-to-pay. The five event types and results are as follows (1) Non-payment /Alias capias issued, (2) Non-payment / Capias issued, (3) Payment / Alias capias issued, (4) Payment /Capias issued (5), Status on payments /Alias capias issued. A review of cases in the docket master indicates there is no difference between the first four combinations of event types and results—and they are used interchangeably by the user entering the data. The data also notes failure to appear at a payment hearing.

made in full on the disposition date (the field called “fees” in the database). In this report, we refer to the first set of data as Fine & Fee Data Group 1 and the second set as Fine & Fee Data Group 2.

We identified failures to pay by examining court events preceding all recorded failures to appear. Failures to appear are common occurrences in the municipal court and have a number of causes. To identify those failures related to financial obligations (“failures to pay”), we selected those that followed the date of a guilty disposition on which fines and fees had been assessed and when the fines and fees had *not yet* been paid in full.<sup>23</sup>

To identify subsequent arrests for warrants for failures to pay, we matched the municipal court data with arrest data. When arrest records indicate a municipal attachment is listed as one of the reasons for detaining a defendant (sometimes, in addition to other new charges), that attachment includes an affidavit number which matches the case number on the original municipal case with the failure to pay. We use this connection to match Failures to Pay with subsequent arrests—and all of the jail stay information associated with that arrest. Again, as with the CDC analysis, because it is not possible to know whether an individual whose arrest included new charges would have been arrested on the warrant alone, we present a range of results—with arrests on warrant only as a lower-bound, and arrests on warrant and other charges as an upper-bound.

The payment-related failures and possible subsequent jail stays associated with these cases are only those that occurred during 2015 and the first six months of 2016 for cases filed in 2015 (i.e. within six to 18 months of the case filing date). Cases will continue to be subject to fines, fees, payment-related failures, and jailing after the time of Vera’s analysis, so this is therefore only a partial accounting.

## Surveys and interviews

Vera researchers conducted a survey and a series of in-depth interviews to gather data on participants’ experiences and perceptions of user-funded costs. The first method was a brief structured survey of individuals who had personal experience with these criminal justice costs (the “brief survey”). The second method is an in-depth semi-structured interview with select survey participants (the “in-depth interview”). The final method is a semi-structured interview with individuals employed by the justice system (the “stakeholder interview.”)

**Participant selection and recruitment.** We recruited survey participants at the New Orleans Probation and Parole office and at the municipal court building. Researchers approached potential participants, described the purpose of the study, and conducted a brief screen to determine if the individual was eligible to participate. Eligible participants were 18 years of age or older, with a court case

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<sup>23</sup> For example, Defendant “X” was arrested and jailed on 3/20/2014 for Domestic Abuse Battery. He bonded out for \$7,500 (CS) on 3/28/2014. On 9/18/2014, he pled guilty and was sentenced to 120 days, suspended, with fines and fees of \$134.50. He was listed as FTA on 11/20/2014, two months later. This is after his case was disposed, but before he paid anything on his fine. He was arrested again on 7/30/2015 for several new charges (drugs, violating a protective order, etc.) and a municipal attachment on the original Domestic Abuse charge. Because the case was already disposed, we infer that the attachment was due to his failure to pay. He finally paid his fine on 12/7/2015, while he was in the midst of trial for the other charges.



since 2010, who had either been assessed bail, fines, or fees as part of that court case, and were willing to answer questions about their finances.

From among the survey participants, we selected four individuals to participate in an in-depth interview about their experiences related to bail, fines and fees. Because we only conducted interviews with a small number of people, we did not design our sample to be representative. Rather we selected interviewees who indicated during the initial survey that bail, fines, or fees had a significant impact on their lives and that they would be willing to participate in a follow-up interview.

For the stakeholder interviews we used convenience sampling to identify and recruit individuals who were employed by the justice system. We recruited participants by reaching out to leadership and staff in the judiciary, probation and parole office, the district attorney’s office, and the public defender’s office.

**Interview procedure.** We obtained informed consent from all participants. Interviewers administered the brief survey by hand using paper and pencil and later entered the data into the study database. Interviewers audio-recorded both the in-depth interviews and the stakeholder interviews which were then later transcribed by a professional transcription service.

Figure 2

**Survey participant demographics (N=52)**

<b>Age mean</b>	40 years
<b>Race/ethnicity</b>	
Black	79%
White	10%
Latino	6%
Other/multiple races	6%
<b>Gender</b>	
Men	75%
Women	25%
<b>Current living situation</b>	
Permanent	25%
Temporary	67%
<b>Non-English language spoken at home</b>	
Yes	12%
<b>Charge (most recent case)</b>	
Misdemeanor	10%
Felony	88%
<b>Disposition (most recent case)</b>	
Guilty	87%
Ongoing	10%

Other/unknown 4%

Note: Totals may not sum to 100% due to rounding.

**Participants.** We surveyed 52 individuals for the brief survey. (See Figure 2 for a demographic description).<sup>24</sup> Of the four survey participants who later participated in the in-depth interview, three self-identified as men and one as a woman. Three of the participants self-identified as Black and one as both Black and Latino. (See Figure 3 for profiles of the four interviewees).

We conducted nine stakeholder interviews including one municipal court judge, four probation and parole officers, one district attorney, one public defender, and two non-attorney staff members from the public defender's office. Of those respondents, five identified as women and four as men. Five individuals reported their race as White, three as Black, and one as both White and Latino. Respondents ranged in age from 26 to 67 with an average age of 42.<sup>25</sup> Respondents had been working at their current job between three and 24 years with an average of 8 years.

**Interview tools.** For the brief survey we created a structured instrument of closed-end questions. The questions focused on respondents' experience of bail, fines, and fees in their most recent (2010 or later) court case. The survey tool included questions on topics such as demographics; amount of bail, fines, or fees; who paid for these costs; and the impact of these costs on the respondents' justice involvement, employment, and financial wellbeing.

The survey guide for the in-depth interview included similar topics, but explored those areas in more detail. For example, the interview asked about how those costs impacted their financial wellbeing and that of their family, if they had any difficulty meeting basic needs such as shelter or clothing due to these expenses, and if these costs had caused any emotional strain on themselves and their family. The interview guide included open-ended questions and suggested prompts.

Finally, the stakeholder interview was conducted with a semi-structured interview instrument that included primarily open-ended questions. We asked justice-system actors about their perception of how bail, fines, and fees get set; the role of these costs in financing the system; how the revenues from these costs influence justice system actors' behavior or decision making; the impact of these costs on justice-involved individuals and their families; and potential alternatives to the current bail, fines, and fees system.

**Data analysis.** We analyzed all fixed response questions by calculating descriptive statistics such as the frequency or means of responses. We analyzed open-ended questions using inductive content analysis: we reviewed the transcripts of the interviews, identified common themes, and coded sections of the transcript to the most relevant themes.

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<sup>24</sup> As a comparison, to the demographics of our survey sample the demographics of the population of people who had a case before either the municipal or criminal district court in 2015 are as follows: The median age of the population was 31. The racial/ethnic make-up of the population was 68 percent Black people, 28 percent White people, and 4 percent other or unknown race. Finally, the population was 75 percent men and 25 percent women.

<sup>25</sup> Surveys recorded the respondent's birth year and not the respondent's age. Therefore these number reflect the estimated age based on the birth year and the year in which we conducted the surveys (2016).

**Limitations.** The small survey sample (N=52) and the interview sample of impacted individuals (N=4) and justice system stakeholders (N=9) was not intended to be representative, nor exhaustive of all experiences. However, the consistency of the results both in the survey and in the 13 in-depth interviews, suggest that the results may be applicable to the broader population.

Figure 3

**Profiles of interview participants (N=4)**

**61 year-old Black man who lives with his wife in the home he owns (“Keith”).** He reported that he was found guilty of a felony—writing a bad check. Keith’s conviction resulted in \$61,000 in court costs and restitution fees. At the time of the interview, he was continuing to pay those costs, which he is required to have paid in full by 2019 or risk having his probation term extended. Keith’s family income is \$58,000 a year, out of which the court requests that he pays approximately \$2,300 per month. Instead he pays what he can, ranging from \$100 to \$1000 per month. Keith reported that his criminal justice costs have had a major impact on his family’s financial stability and have caused him significant stress and strained his relationship with his wife.

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**26 year-old Black man who is living between several relatives’ homes (“Mark”).** He was found guilty of a felony for consensual sex with a minor. His bail was set at \$125,000 and he spent nine months in jail before paying a bail bondsmen to secure his release. Upon conviction, he was assessed a total of \$1,586 in fines and fees including court costs. He also has additional fees that he pays as part of his post-release supervision requirement. Although prior to his justice system-involvement he held two part-time jobs and one full-time job, he has had difficulty finding work since his conviction. As a result, he has been unable to pay for an apartment. Because Mark is required to have stable housing as a condition of his probation he is in danger of being sent back to jail.

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**40 year-old Black woman (“Veronica”).** She was found guilty of accessory after the fact for theft for failure to report that her supervisor was stealing from their place of employment. She and her family had difficulty raising the \$2,500 necessary to secure her release through a bail bondsmen and, consequently, she spent 10 days in jail. While in jail, Veronica reports that she did not have access to her hypertension medication which lead to her having a minor stroke. As part of her sentence, she was assessed public defender costs, court costs, and restitution costs. Veronica reported that, due to the loss of her job after her conviction, and the strain of paying her criminal justice costs, she was often unable to help pay for her mother’s chemotherapy medications. In addition, while she was in the midst of paying her fines and fees, the court lost the record of her payments and she was facing having her probation revoked if she could not prove that she had been paying these costs.

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**36 year-old Black and Latino man who shares an apartment with his brother and cousin (“Edward”).** He was found guilty of robbery. He was held for two days in jail on a \$25,000 bond and, as part of his sentence, he was assessed \$300 in court costs. In total, he estimates that he and his family spent \$7,000 on costs for his court case including bond, court fees, and payments to his lawyer. He indicated that these costs had a major impact on his family’s financial wellbeing and caused him a significant amount of stress and anxiety.

# Findings

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This section first examines criminal justice agency expenses and revenues to uncover the total cost of the justice system in New Orleans, the share of the agency expenses supported by user-funded revenues, and annual revenue for the commercial bond industry. The analysis then explores the fiscal impact of the user-funded system (specifically financial bail and conviction fines and fees) from the perspective of individuals. Finally we discuss the financial and non-financial consequences of bail, fines and fees to the people involved in the criminal justice system and their families.

## Justice system expenses and revenues

In 2015, criminal justice expenses in New Orleans totaled \$265 million to support law enforcement, judicial, and corrections expenses at eight agencies: the municipal court, criminal district court (CDC), the clerk of the criminal district court, traffic court, the district attorney, Orleans Public Defenders (OPD), the criminal division of the Orleans Parish Sheriff's Office (OPSO), and the New Orleans Police Department (NOPD).

The vast majority of criminal justice costs (86 percent) support the police department and the jail. The \$148 million spent on the NOPD comprises more than half of justice system costs; the \$79 million spent on the jail comprises 30 percent of justice system costs. Expenses for prosecution, defense, and court operations total \$38 million, or less than 15 percent of total system costs.

Figure 4  
New Orleans justice agency expenditures, 2015

	Total	Percent
CDC	\$7,880,394	3.0%
Clerk of the CDC	\$2,876,171	1.1%
Municipal court	\$3,778,968	1.4%
Traffic court	\$4,138,999	1.6%
District attorney	\$12,260,851	4.6%
Orleans Public Defenders	\$6,873,100	2.6%
Police department	\$147,666,956	55.7%
Sheriff's office (jail) <sup>26</sup>	\$79,405,545	30.0%
<b>Total</b>	<b>\$264,880,984</b>	<b>100%</b>

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<sup>26</sup> The sheriff's office expenditures exclude the civil division and capital project expenditures. The budget template reports \$10.3 million in capital outlays in 2015, much of which is funded through Federal Emergency Management Agency revenues.

Justice system expenditures are paid for with city, state, and federal funds, as well as user-funded revenues. In 2015, the New Orleans city budget supported the vast majority (80 percent) of criminal justice-system expenses. The remaining expenses were largely supported by state appropriations (7 percent) and federal and other revenues (8 percent). User-funded revenue totaled \$11.5 million and only comprised 4 percent of the total justice system budget. However, the proportion of agency expenses supported by user-funded revenue varies widely.

The budgets of certain agencies—the police department and the jail—do not rely on user-funded revenue; miniscule portions of these budgets (1 percent) are funded by user-funded revenue. Similarly, relatively small portions of the budget for the Clerk of the CDC (5 percent) are supported by user-funded revenue.<sup>27</sup>

Figure 5  
New Orleans justice agency revenues, 2015

	City	State	Federal and other <sup>28</sup>	User-funded (fines/fees)	Total
<b>Police dept.</b> <sup>29</sup>	\$142,099,885 (89%)	\$875,154 (1%)	\$15,742,282 (10%)	\$1,300,000 (1%)	\$160,017,321 (100%)
<b>Sheriff</b>	\$53,143,322 (79%)	\$9,846,550 (15%)	\$4,113,280 (6%)	\$560,854 (1%)	\$67,664,006 (100%)
<b>District attorney</b>	\$6,476,671 (54%)	\$3,905,000 (32%)	\$642,444 (5%)	\$1,035,409 (9%)	\$12,059,524 (100%)
<b>Clerk of the CDC</b>	\$3,726,330 (95%)	\$0 (0%)	\$5,000 (0%)	\$195,000 (5%)	\$3,926,330 (100%)
<b>Municipal court</b>	\$2,830,000 (77%)	\$65,658 (2%)	\$122,510 (3%)	\$641,000 (18%)	\$3,659,168 (100%)
<b>CDC</b>	\$2,026,597 (28%)	\$2,373,603 (33%)	\$556,088 (8%)	\$2,294,100 (32%)	\$7,250,388 (100%)
<b>Traffic court</b>	\$0 (0%)	\$0 (0%)	\$36,400 (1%)	\$2,750,473 (99%)	\$2,786,873 (100%)
<b>Public defender</b>	\$971,239 (15%)	\$2,502,550 (38%)	\$415,000 (6%)	\$2,688,000 (41%)	\$6,576,789 (100%)
<b>Total</b>	<b>\$211,274,044 (80%)</b>	<b>\$19,568,515 (7%)</b>	<b>\$21,633,004 (8%)</b>	<b>\$11,464,836 (4%)</b>	<b>\$263,940,399 (100%)</b>

But other agencies—the municipal court, the CDC, Orleans Public Defenders, and traffic court—rely very heavily on user-funded revenue and taxpayers fund a smaller proportion of expenses for these agencies. The municipal court is the judicial agency with the smallest share of user-funded revenue (18 percent), owing to a \$2.8 million appropriation from the city. But 32 percent of the CDC budget, 41 percent of the Orleans Public Defenders budget, and 99 percent of the traffic court budget is supported by

<sup>27</sup> A portion of jail expenses (at least 15 percent) are supported by state funds. This includes revenues from the Louisiana DOC, state supplemental pay, and state reimbursement. It does not include state grants, which are presented as “federal and state grants” in the budget and are not disaggregated.

<sup>28</sup> Includes \$5.2 million of “other revenue” such as interest, reimbursements, and grants.

<sup>29</sup> City revenue includes \$12.4 million supplemental mid-year appropriations not included in the Council Budget Template. See City of New Orleans, 2015 Annual Operating Budget, (New Orleans: 2015), 403.

user-funded revenue. The balance of the expenses in these agencies is supported by city, state, and federal taxpayer-funded revenue.

The \$11.5 million in user-funded revenue collected in 2015 is derived from four sources: bond fees (\$1.7 million), conviction fines and fees (\$2.8 million), traffic court fines and fees (\$5 million), and “other” user-funded revenues (\$1.9 million), including asset seizures and drug testing fees. Figure 6 disaggregates agency user-funded revenue for each of these specific user-funded revenue sources. It is notable that the user-funded revenue in New Orleans go beyond the oft-discussed conviction fines and fees: traffic court fines (\$5 million) are the largest user-funded revenue source and comprise 44 percent of user-funded revenues; bond fees (\$1.7 million) comprise 15 percent of user-funded revenues.<sup>30</sup>

**Figure 6**  
New Orleans justice agency user-funded revenue, by source, 2015

	<b>Bond fee</b>	<b>Conviction fines and fees</b>	<b>Traffic court fines</b>	<b>Other user-funded revenues</b>	<b>Total</b>
<b>CDC</b>	\$1,025,000 (45%)	\$1,123,600 (49%)	\$0 (0%)	\$145,500 (6%)	\$2,294,100 (100%)
<b>Clerk of the CDC</b>	\$0 (0%)	\$195,000 (100%)	\$0 (0%)	\$0 (0%)	\$195,000 (100%)
<b>Municipal court</b>	\$0 (0%)	\$523,000 (82%)	\$118,000 (18%)	\$0 (0%)	\$641,000 (100%)
<b>Traffic court</b>	\$0 (0%)	\$0 (0%)	\$2,750,473 (100%)	\$0 (0%)	\$2,750,473 (100%)
<b>District attorney</b>	\$256,520 (25%)	\$357,295 (35%)	\$0 (0%)	\$421,594 (41%)	\$1,035,409 (100%)
<b>Public defender</b>	\$235,000 (9%)	\$258,000 (10%)	\$2,180,000 (81%)	\$15,000 (1%)	\$2,688,000 (100%)
<b>Sheriff (jail)</b>	\$226,150 (40%)	\$334,704 (60%)	\$0 (0%)	\$0 (0%)	\$560,854 (100%)
<b>Police department</b>	\$0 (0%)	\$0 (0%)	\$0 (0%)	\$1,300,000 (100%)	\$1,300,000 (100%)
<b>Total</b>	<b>\$1,742,670 (15%)</b>	<b>\$2,791,599 (24%)</b>	<b>\$5,048,473 (44%)</b>	<b>\$1,882,094 (16%)</b>	<b>\$11,464,836 (100%)</b>

<sup>30</sup> Traffic court fines even rank high among the total \$11.5 million in total user-funded revenue when excluding traffic fine revenue that supports the traffic court’s operation (the traffic fine “surplus” of \$2.3 million supports operations at the municipal court and public defender’s office).

Figure 7

**Sources of user-funded revenue (2015), by New Orleans justice agency<sup>31</sup>**

<b>Municipal court:</b>	Judicial Expense Fund (\$390,000), Probation Fund (\$118,000), Building and Maintenance Fund (\$13,500), Municipal Court Criminal Fee Fund (\$1,500), and traffic court fines (\$118,000).
<b>CDC:</b>	Bond fees - PSBU (Unsecured personal surety bond) (\$9,000), probation assessments (\$679,700), transcript fees (\$198,000), drug testing fees (\$145,500), attorney conflict and \$25 bond assessment (\$6,000), fines (sheriff's escrow) (\$54,000), court cost (\$5 fee on each criminal conviction) (\$6,000), revenue from the municipal and traffic court (\$171,000), and 3% bond fee (\$1,025,000)
<b>Clerk of the CDC:</b>	Fines, fees, and collections (\$195,000)
<b>Traffic court:</b>	Fines, fees, and collections (\$2,750,473)
<b>District attorney:</b>	CDC Fines (\$23,070), Court Cost (\$244,765), 3% Bail Bond Fee (\$219,070), Criminal Bail Bond (\$37,450), Miscellaneous Fines and Fees (\$86,000), Diversion Fees (\$42,306), Probation Fee (\$3,460), Expungement Fee- CDC (\$6,500), Expungement Fee- Traffic (\$4,850), Expungement Fee- MUNI (\$1,850), other self-generated (\$366,088)
<b>Orleans Public Defenders:</b>	Traffic court fees (\$1,300,000), traffic camera fines (\$700,000), revenue from the municipal court (\$180,000), CDC (\$62,000), seat belt violations (\$180,000), conditions of probation (\$6,000), bail bond revenue (\$235,000), criminal bond fees (\$10,000), and application fees (\$15,000).
<b>Sheriff (jail):</b>	Bail bond fee (\$226,150), release processing fees (\$334,704). Incarcerated individuals are also subject to additional fees and costs while incarcerated, including telephone fees (\$1,169,535), work release fees (\$507,066), commissary (\$569,334), and medical co-pays (\$1,795).
<b>Police department<sup>32</sup></b>	Sex Offender Proprietary Fund (\$400,000), DOJ Asset Seizure Fund (\$500,000), Police Seizure Fund (\$400,000)

<sup>31</sup> Revenue sources in this table are listed as they are described in the 2015 Council Budget Templates. (2015 revenues are in parentheses.)

<sup>32</sup> The New Orleans Police Department collected \$2.35 million in self-generated revenues in 2015, which included asset seizure, annual registration fees, and revenues for the NOLA Patrol program.



But the largest beneficiary of the user-funded system is *not* a city agency—it is commercial bond agents, who received more than \$4.7 million in revenue from bond premiums in 2015.<sup>33</sup> In total, the “user-funded” bill paid by individuals was therefore \$16.2 million in 2015 (\$11.5 for user-funded costs to government agencies and \$4.7 million to commercial bond agents).

Uncovering the justice-system cost, as well as who pays these costs, is fundamental to understanding the breadth of the “user-funded” system. Budgets alone, however, cannot explain the reasons for each agency’s blend of taxpayer (city, state, and federal) and user-funded revenues. These causes are driven by state and local law as well as many years of intergovernmental (city-state *and* judicial-executive-legislative) budget negotiations. But each agency’s reliance on user-funded revenue can point to potential public policy problems. And the breadth of user fees—along with the potential perverse incentives they invite—is only one part of the story.

## The individual cost of the user-funded justice system

This section examines the number of individuals that bear the cost of bail and conviction fines and fees, and the amounts they pay. Because the CDC and municipal courts use difference data systems (see Methodology), the results are discussed separately.

### Financial bail and bond fees

In 2015, the CDC and municipal court records indicate that more than 5,000 individuals secured their release on financial bail that totaled \$51.5 million: \$45.4 million for 2,352 CDC defendants; \$6.1 million for 2,671 municipal court defendants.

In 2015, the “user-cost” to post bond was \$6.4 million in both CDC and municipal court—this includes the cost of bond premiums (\$4.7 million) and bond fees (\$1.6 million).<sup>34</sup> Note that the bond fee finding in the administrative records analysis (\$1.6 million) is consistent with the result found in the budget analysis that was discussed on page 21 (\$1.7 million).<sup>35</sup>

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<sup>33</sup> The bail premium is calculated based on administrative records on the \$1.6 million collected through the 3% bond fee. See Figure 8 for details.

<sup>34</sup> Our analysis of bail costs excludes deposits for cash bail that are fully refundable upon court appearance. We do, however, calculate the \$44 fee attendant to cash bail and surety bond.

<sup>35</sup> The budget analysis accounts for revenue received in 2015 whereas the administrative records analysis accounts for individuals booked into the jail in 2015.

Figure 8

Costs for individuals that posted cash bail or commercial surety bond, 2015

	Number of individuals	Total bail posted	Total bond premiums	Total bond fees	Average bond premium	Average bond fee
<b>CDC (cash and surety bond)</b>	2,352	\$45,354,548	\$4,150,295	\$1,348,576	\$1,765	\$573
<b>Municipal court (surety bond)</b>	1,853	\$5,795,400	\$579,540	\$255,394	\$313	\$139
<b>Municipal court (cash bail)</b>	818	\$347,747	Not applicable	\$35,992	Not applicable	\$44
<b>Total</b>	<b>5,023</b>	<b>\$51,497,695</b>	<b>\$4,729,835</b>	<b>\$1,639,962</b>	-	-

The use of surety bonds (also called commercial bonds) and cash bail differed in each court. Nearly all CDC defendants that posted bail (97 percent) used a commercial bond, the remaining paid cash bail. Municipal court defendants, however, commonly used both surety bonds and cash bail—whereby the bail is paid in full and returned when the defendant appears at all hearings—because bail amounts in municipal court are several times lower than in CDC. (The average bail paid was \$19,283 in CDC and \$2,300 in municipal court.)<sup>36</sup>

When individuals cannot afford the full amount of the bail, they can purchase a bail bond through a commercial agent. Bond agents in New Orleans charge 10 percent of the bail amount as a premium.<sup>37</sup> So to post bail set at \$15,000, for example, requires paying a \$1,500 premium to the commercial agent. In addition to the cost of the bond premium, agents collect a 3 percent fee that they pass on to government—a fee that is also nonrefundable. In addition to every other cost, all defendants—even defendants who post bail in cash—are required to pay flat fees totaling \$44, of which only \$15 is refundable if they are found not guilty or their case is dismissed.<sup>38</sup>

The high price of bail was a factor that kept 31 percent of CDC defendants in jail until disposition—for an average of 114 days, versus 19 percent of municipal court defendants—for an average of 29 days. The remainder of this section provides further detail on the impact of bail on individuals tried in CDC and municipal court.

<sup>36</sup> CDC and municipal court can only be compared using the cash bail and bond paid because the bail levied is not available in the municipal court database.

<sup>37</sup> Because of the practical operation of the premium/fee system, we describe the premium paid by the defendant as 10 percent and the fee paid by the defendant as 3 percent. In fact, the statutes set the premium to be paid by the defendant at 12 percent and the fee to be paid by the bail agent at 3 percent. However, defendants in New Orleans are routinely charged 13 percent, out of which bail agents pay 3 percent in fees and retain 10 percent. See LA R.S. 22:1443, as well as LA R.S. 22:822 and LA R.S. 13:1381.5.

<sup>38</sup> These fees are a \$15 flat bond fee per R.S. 15:85.1; a \$15 bond undertaking fee per R.S. 13:5599(6); and \$14 service fee per OPSO practice in response to R.S. 13:5599(3)). Only the \$15 bond fee (R.S. 15:85.1) can be reimbursed if someone is found not guilty or the case is dismissed.

**Criminal district court (CDC).** In 2015, 5,031 individuals were booked into the New Orleans jail facing felony charges in CDC and imposed a financial bail to secure their release.<sup>39</sup> 920 of these individuals had situations that meant financial bail was not the factor which kept them in jail, such as out of state warrants, probation or parole holds, or bail in excess of \$100,000.<sup>40</sup>

Figure 9

**User-funded cost of bail, for individuals without out-of-state warrants, probation or parole holds, or bail in excess of \$100,000, CDC, 2015**

	Number of individuals	Total bail	Average bail	Average bond premium	Average bond fee	Average user-funded cost
<b>Posted bond</b>	2,208 (54%)	\$27,423,548	\$12,420	\$1,218	\$410	\$1,628
<b>Did not post bond</b>	1,275 (31%)	\$22,069,050	\$17,309	\$1,731*	\$563*	\$2,294*
<b>Released on recognizance</b>	609 (15%)	Not applicable	Not applicable	Not applicable	\$44	\$44
<b>Total</b>	<b>4,092</b>	<b>\$49,492,598</b>	-	-	-	-

\*Denotes the potential costs of a commercial bond for those that did not post bond.

Vera’s analysis, therefore, excludes these individuals so as to not overstate the number held *because of* financial bail. When these individuals are excluded, monetary bail totaled \$49.5 million and averaged \$14,210 per person.<sup>41</sup> 63 percent of those not released on recognizance were able to post bond—which averaged \$12,420 for this group—to secure their release. Because scarcely anyone in the jail can afford the high price of bail in CDC, nearly all purchase a bail bond through a commercial agent—for 13 percent of the bail amount—who then pays the bail on the individual’s behalf.<sup>42</sup> Therefore, the average “user pay” cost was \$1,628, for bond premium and fees, to purchase a bond that secured their release.<sup>43</sup>

But for nearly one-third of CDC defendants (1,275) the cost of bail was out of reach. Thirty-one percent *did not post bond*, for which the bail amount averaged \$17,309. For these individuals, the cost of monetary bail was unaffordable even through a commercial bond agent (the cost of the bond premium

<sup>39</sup> 609 people, or about 15 percent of the total booked into jail through the CDC were released on their own recognizance.

<sup>40</sup> In New Orleans, judges almost never order people detained without bail and instead set very high bail amounts, which keeps the vast majority of defendants in jail. For this reason, researchers used bail of \$100,000 or more as a proxy for the judge’s intention to detain the person pretrial.

<sup>41</sup> These amounts include only the cost of criminal district court bail related to felony charges. Should defendants also have concurrent cases in municipal or traffic court then they will be assessed additional bail.

<sup>42</sup> See footnote 37 for detail on the distinction between the bail premium and the bail fee.

<sup>43</sup> For commercial bonds, the cost to defendants is a 10 percent premium to bail bondsmen, a 3 percent bond fee, and flat fees adding up to \$44 (\$15 flat bond fee per R.S. 15:85.1; \$15 bond undertaking fee per R.S. 13:5599(6); and \$14 service fee per OPSO practice in response to R.S. 13:5599(3)). For cash bail, only the flat fees adding up to \$44 apply.

and fees would have been more than \$2,294). As a result, these individuals remained in jail during the duration of their case—for an average of 114 days.

Figure 10

**Pretrial detention and release, for individuals without out-of-state warrants, probation or parole holds, or bail in excess of \$100,000, CDC, 2015**

	Number of individuals	Total jail bed-days	Average jail days per detainee	Median jail days per detainee
Posted bail	2,208	24,807	11	2
Did not post bail	1,275	144,913	114	73
Release on recognizance	609	2,698	4	1
<b>Total</b>	<b>4,092</b>	<b>172,418</b>	-	

In 2015, these 1,275 individuals—who spent an average of 114 pretrial days in jail because they could not pay their bail—used a total of 144,913 jail “bed-days,” which equates to 397 beds on an average day ( $144,913 \div 365$  days per year = 397).

As described above, those who are *able* to secure their release through financial bond owe lower bail amounts than those *not able* to pay for their release. To be sure, the affordability of bail is a key factor—if not the only factor—in whether individuals secure release. Uncovering the relative affordability of different bail amounts can be examined by investigating the proportion able to post bond for various bail amounts. Bail amounts between \$100 and \$10,000—which comprise 40 percent of all bail amounts for defendants without other substantial holds—often lead to detention, as 27 percent who owe this amount cannot pay. And the likelihood of remaining in jail rises as the bail amount rises: 36 percent of individuals assessed bail between \$10,000 and \$25,000 were not released; 54 percent of individuals assessed bail between \$25,000 and \$100,000 were not released.

Figure 11

**Bail set and release rates, for individuals without out-of-state warrants, probation or parole holds, or bail in excess of \$100,000, CDC, 2015**

Bail range	Individuals	Post financial bond (percent)	Post financial bond (individuals)	Detained entire pretrial period (percent)	Detained entire pretrial period (individuals)
\$100-\$9,999	1,376	73%	1,007	27%	369
\$10,000-\$24,999	1,317	64%	847	36%	470
\$25,000-\$99,999	636	46%	293	54%	343
Missing bail amount	154	40%	61	60%	93
<b>Total</b>	<b>3,483</b>	<b>66%</b>	<b>2,208</b>	<b>36%</b>	<b>1,275</b>

The data thus reveals an unsurprising finding: as the bail amount increases, the likelihood of securing release decreases. However, affordability may be determined more by the financial resources that a

detainee can access than by the level of bail; as figure 12 indicates, individuals held on less than \$10,000 bail comprise 29 percent of detainees held because they could not afford bail.

Figure 12

**CDC defendants that did not post bail, for individuals without out-of-state warrants, probation or parole holds, or bail in excess of \$100,000, 2015**

Bail range	Individuals	Percent
\$100-\$9,999	369	29%
\$10,000-\$24,999	470	37%
\$25,000-\$99,999	343	27%
Missing bail amount	93	7%
<b>Total</b>	<b>1,275</b>	<b>100%</b>

**Municipal court.** In 2015, the municipal court heard new misdemeanor and municipal cases for 15,055 individuals. However many of these cases were summonses that did not result in jail bookings. Only the municipal and state misdemeanor charges that resulted in jail bookings and did not also have concurrent felony charges in CDC (captured in the prior analysis) or out-of-state warrants or parole or probation holds are the subject of this analysis.

Figure 13

**User-funded cost of bail, municipal court, for individuals without out-of-state warrants, probation or parole holds 2015**

	Number of individuals	Aggregate bail	Average bail	Average bail premium	Average bail fee	Average user-funded Cost
<b>Posted surety bond</b>	1,842 (30%)	\$5,760,300	\$3,127	\$313	\$138	\$451
<b>Posted cash bail</b>	818 (13%)	\$347,747	\$425	Not applicable	\$44	\$44
<b>Release on recognizance</b>	1,057 (17%)	Not applicable	Not applicable	Not applicable	\$44	\$44
<b>Disposed at first appearance</b>	1,240 (20%)	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
<b>Did not post bond</b>	1,153 (19%)	Not available <sup>44</sup>	Not available	Not available	Not available	Not available
<b>Total</b>	<b>6,110</b>	-	-	-	-	-

In 2015, 6,110 individuals were booked into the New Orleans jail facing state misdemeanor or municipal charges in municipal court. 37 percent either had their cases disposed at their first appearance

<sup>44</sup> Vera researchers had access to municipal court data bail that was paid, but not bail that was levied.

(20 percent) or were released on their own recognizance (17 percent). 43 percent were able to post bail to secure their release: 1,842 (30 percent) posted bail with a surety bond that averaged \$3,127 and 818 (13 percent) posted cash bail that averaged \$425. Among those that purchased a surety bond, the average user-funded cost was \$451 for the \$313 bond premium and \$138 bond fee. The average user cost for those that used cash bail was \$44, because they only owed the flat \$44 set of bond fees. (The amount of the cash bail is not counted as a cost in this analysis because it is returned when the defendant appears at all hearings.)

The use of release on recognizance (ROR) is only somewhat more prevalent in municipal court than in CDC (17 percent versus 15 percent) although another 1,240 (20 percent) of all jailed defendants were released at their first appearance in municipal court because their case was disposed.<sup>45</sup> But the price of bail was out of reach for 1,153 individuals (19 percent) held on misdemeanor charges, who were held an average of 29 days.

Figure 14

Pretrial detention in municipal court, for individuals without out-of-state warrants, probation or parole holds, 2015

	Number of individuals	Percent	Total jail bed-days prior to release	Average length of stay	Median length of stay
Posted surety bond	1,842	30%	7,085	4	1
Posted cash bond	818	13%	671	1	0
Did not post bond	1,153	19%	33,381	29	15
Disposed at first appearance	1,240	20%	3,025	2	1
Released on recognizance	1,057	17%	4,146	4	1
<b>Total</b>	<b>6,110</b>	<b>100%</b>	<b>48,308</b>		

## Conviction fines and fees

In 2015, criminal district court (CDC) and municipal court records indicate that the conviction fines and fees levied in both courts totaled \$3.8 million for more than 8,000 individuals. In CDC, 2,156 individuals were assessed a total of \$2.4 million in fines and fees; in municipal court, 6,540 individuals were assessed a total of \$1.4 million. The average amount assessed in CDC was \$1,125 versus \$228 in municipal court. As of August 2016, \$594,434 (42 percent) of the \$1.4 million levied in municipal court during 2015 had been paid. (The amount paid is not available for CDC cases.)

<sup>45</sup> Individuals still can confront considerable jail time before released ROR. Although more than half were released ROR after spending a day or less in jail, 187 (18 percent) spent two days in jail, and 248 (23 percent) spent three or more days in jail, with 75 (7 percent) staying in jail 10 days or more before their release on recognizance.

Figure 15

Conviction fines and fees, 2015

	Individuals	Fines & fees levied	Average levied	Fines & fees paid
CDC	2,156	\$2,424,907	\$1,125	Not available
Municipal court	6,175	\$1,405,915	\$228	\$594,434
<b>Total</b>	<b>8,331</b>	<b>\$3,830,822</b>	<b>\$460</b>	<b>Not available</b>

The impact of fines and fees, however, goes beyond money out-of-pocket, because those unable to pay these costs are then subject to warrant, arrest, and potential jail time. The remainder of this section describes the court hearing, warrants, and jail time that ensues when individuals are unable to pay.

**Criminal district court (CDC).** In 2015, 2,156 individuals were assessed \$2.4 million in fines and fees at sentencing in CDC. The average cost per individual was \$1,125.<sup>46</sup> The individuals that were assessed fines and fees comprised 64 percent of all people sentenced by the court. Individuals who are unable to pay the full amount of their costs at sentencing are required to maintain contact with the courts (e.g., attend hearings), which monitor payment. Should an individual miss a hearing, or not make payment at a scheduled hearing, the judge can then issue a warrant. In 2015, there were 990 hearings or other court events that resulted in the issuance of a warrant—either for failure to pay fines and fees or for failure to appear for a scheduled payment hearing.

Forty-eight percent of individuals assessed fines and fees at sentencing in 2015 had subsequent payment-related events at court within the next six months (meaning they were required to appear in court to make payment). Of these, 38 percent appeared once in the next six months, 32 percent appeared two or three times, and 29 percent appeared four or more times. There were 1,168 hearings in the six months following the sentencing date for this group. Looking only at the 2,120 individual cases that were assessed fines and fees upon conviction in 2015, 348 individuals (16 percent) were issued 379 “alias capias” warrants, meaning that law enforcement is required to return the individual to court because they missed a hearing.<sup>47</sup> The average amount of fines and fees assessed for those cases with failures-to-pay was \$1,136.

<sup>46</sup> 22 percent of individuals charged fines and fees were also sentenced to incarceration. The average cost, for this subgroup, was \$588.

<sup>47</sup> This number is slightly lower than the 2,156 that appears in Figure 16 because some individuals in that table had multiple cases with different sentencing outcomes and were counted more than once. Fifty-four of these individuals were issued two capias warrants on the same case, and sixteen were issued three or more on the same case. Additionally, 26 individuals were issued more than one capias across multiple sentences from 2015.

Figure 16

Failure to appear/pay warrants and arrests, CDC convictions in 2015

	Individuals assessed fines & fees	Individuals issued warrant	Arrested through first 6 months of 2016
CDC	2,156	348 (16%)	88 (4%)

Once warrants are issued for payment-related failures, any encounter with the police, even for a charge that would not typically result in more than a citation, may lead to the defendant's being taken into custody and jailed. Among the 2,156 sentenced to pay fines and fees in 2015, 88 defendants (4 percent) had been arrested (a total of 94 times) for failure to pay during 2015 and the first six months of 2016 (i.e. within six to 18 months of the case sentencing date).<sup>48</sup> The average length of stay in jail for these individuals was 44 days; 25 defendants remained in jail for 30 days or more. Figure 17 shows the distribution of average lengths of stay in jail based on the severity of the other charges people faced at booking.

Figure 17

CDC: Types of charges accompanying failure to pay arrests, cases sentenced in 2015<sup>49</sup>

Subsequent arrests with warrants	Count	Average jail length of stay
<b>Total</b>	<b>83</b>	<b>44</b>
with no new charges other than warrant(s)	35	14
with new charges	48	66
where there is a new felony charge	25	117
where the new top charge is a state misdemeanor	6	20
where the new top charge is a municipal charge (incl. attachments)	8	13
where the new top charge in a traffic charge	9	5

But because someone can be arrested on a warrant years after it is issued, the number of arrests for the cohort of cases filed in 2015 will rise over time. Vera researchers found that 232 individuals were detained in 2015 on *all historical warrants*; these individuals had an average jail stay of 39 days.

<sup>48</sup> The follow-up period is six months because the date that Vera conducted the data analysis (July 2016) was six months past the conviction date for the final cases of 2015 (the period of analysis). The number of subsequent arrests will rise over time.

<sup>49</sup> Due to data limitations, we found detailed charge information on only 83 of the 94 arrests. The table only reports on the 83.



Figure 18

**CDC: Types of charges accompanying failure to pay arrests, individuals detained in 2015, on all historical warrants**

Subsequent arrests with warrants	Count	Average jail length of stay
<b>Total</b>	<b>232</b>	<b>39</b>
with no new charges other than warrant(s)	88	13
with new charges	144	55
where there is a new felony charge	60	111
where the new top charge is a state misdemeanor	25	30
where the new top charge is a municipal charge (incl. attachments)	36	11
where the new top charge in a traffic charge	21	4

**Municipal court.** The municipal court database contains two fields, one labeled “fines” and the other “fees.” However, a review of the master docket indicates that fines and fees are, in fact, comingled in both fields. The difference between these data is the operational distinction of whether payments are made in installments following a guilty disposition (the field called “fines” in the database) or the charge was dismissed (“Nolle prosequi”) and payment was made in full on the disposition date (the field called “fees” in the database). Herein, we refer to the first set of data as Fine & Fee Data Group 1 and the second set as Fine & Fee Data Group 2. In Group 1, 5,135 individuals were assessed fines totaling \$1.2 million. In Group 2, 1,040 individuals were assessed fines totaling \$184,404. Ninety percent of all fines and fees in Group 2 were paid in full as of the date of our analysis, with 89 percent having been paid in full on the date they were imposed. We found no instances of failures to pay for individuals in Group 2 unless they also had unpaid financial obligations in Data Group 1. The municipal court analysis for failures to pay and subsequent risk of jail only applies to individuals with fines and fees assessed in Data Group 1.

Figure 19

**Fines and fees in the municipal court database**

Data group	Individuals	Fines & fees	Average
Group 1 - Guilty	5,135	\$1,221,511	\$238
Group 2 - Charge dismissed	1,040	\$184,404	\$177
<b>Total</b>	<b>6,175</b>	<b>\$1,405,915</b>	<b>\$228</b>

Of the 5,677 distinct cases in Group 1 in which fines were assessed in 2015, 1,621 (29 percent) were paid in full, 536 (9 percent) were paid in part, and 3,520 (62 percent) had no payments through June 2016 (see Figure 20).

Figure 20

**Municipal fines, fees, and payments in the Data Group 1 in 2015 through June 2016**

	Total			Average	
	Cases	Fines/fees	Payments	Fines/fees	Payments
Paid in full	1,621 (29%)	\$379,208	\$379,333	\$234	\$234
Partially paid	536 (9%)	\$159,097	\$62,886	\$297	\$117
No payments	3,520 (62%)	\$686,126	\$0	\$195	\$0
<b>Total</b>	<b>5,677</b>	<b>\$1,224,431</b>	<b>\$442,219</b>	<b>\$216</b>	<b>\$205</b>

In the New Orleans Municipal Court, failures to appear (FTAs) for scheduled court hearings are a routine event. More than half of all cases in 2015 had an FTA at some point.<sup>50</sup> These FTAs lead to municipal attachments (meaning municipal court warrants), which are often listed as charges on subsequent arrests—either along with new charges or on their own. An attachment accompanying a new charge can add an extra hurdle to pretrial release on the new charge. Or it can turn a routine stop into an arrest. Some attachments can appear on multiple subsequent arrests. FTAs are also recorded for payment-related failures in court for cases that have been disposed and assessed fines.

In 2015, 2,388 of the 4,056 individuals that had not completed their payments were issued an attachment for failure to pay municipal court fines and fees. As of July 2016, there have been 644 arrests (on 630 cases) that include municipal attachments from the 2,388 payment-related failures.<sup>51</sup> Only 545 defendants account for these arrests, so some defendants have been arrested more than one time on municipal attachments stemming from payment-related FTAs on 2015 cases.<sup>52</sup> The median length of stay in jail for these bookings is four days and the average is 19 days, with 230 stays lasting 10 or more days.

<sup>50</sup> Here we are counting case-defendant combinations. About 11 percent of cases in the municipal court had more than one defendant in 2015. For these, we are counting each defendant’s case as a separate case. Likewise, some defendants may have had more than one case; for these we count all cases. In the municipal database, an FTA is indicated by a date being entered into the “FTA date” field. There is no field describing how or why the defendant failed to appear so inferences must be made from other data to determine whether an FTA was in fact a failure to pay. See methodology for a further explanation.

<sup>51</sup> Many cases with unpaid fines have been closed so that the lack of payment no longer represents a threat of FTP or rearrest, probably due to debt forgiveness for indigent persons. Not all cases with fines and fees for which there are either no payments or incomplete payments against those fines and fees get failure to pay. Of the 4,056 cases with fines with either no payment or partial payment (see Figure 20), 1,821 have FTAs and 2,179 do not. Of these 2,179, the cases are closed for 1,397 people (64 percent) despite the fines remaining unpaid. This suggests some mechanism for closing cases and forgiving outstanding amounts due, possibly for indigent persons.

<sup>52</sup> Some defendants may have multiple arrests on attachments from one municipal case (i.e. after the first arrest, all attachments have not been satisfied and may be used in a second arrest), while others may have multiple arrests on attachments from different municipal cases. Sometimes a single arrest satisfies more than one attachment from more than one municipal case.

Figure 21

**Failure to appear/pay attachments and arrests, municipal court convictions in 2015**

	<b>Cases with incomplete payments</b>	<b>Cases issued attachments</b>	<b>With arrests through first six months of 2016</b>
Municipal Court	4,056	2,388 (59%)	630 (16%)

For 234 of the 644 subsequent arrests there were no charges other than municipal attachments (although there is often more than one attachment associated with an arrest). The other 410 arrests included new charges to which the municipal attachment was added. Figure 22 shows the charges for these arrests that included both new charges and municipal attachments. While it appears from the data that new charges are an important determinant of the length of time spent in jail on these arrests—with felony arrests leading to an average of 38 days in jail—even arrests on attachments with no other new charges have average stays of 6 days.

Figure 22

**Types of charges accompanying municipal failure to pay attachments—2015 case filed cohort**

<b>Subsequent arrests with attachments</b>	<b>Count</b>	<b>Average length of stay</b>
<b>Total</b>	644	19
<b>with no new charges other than muni attachments</b>	234	6
<b>with new charges</b>	410	26
<b>where there is a felony charge</b>	198	38
<b>where the top charge is a state misdemeanor</b>	77	27
<b>where the top charge is a new municipal charge</b>	107	10
<b>where the top charge is a traffic charge</b>	28	4

But as discussed above (regarding CDC warrants) the number of arrests for the cohort of cases filed in 2015 will rise over time. Vera researchers found that 1,097 individuals were detained in 2015 on all historical municipal court attachments; these individuals spent an average of 21 days in jail. Most of these jail bookings are accompanied with new charges besides the warrant, but 448 individuals were booked into jail only because of a municipal attachment for failure to pay.

Figure 23

Arrests in the 2015 calendar year on historical municipal FTP attachments

	FTP Attachments	Jailed on attachment
<b>Total</b>	<b>3,014</b>	<b>1,097</b>

Figure 24

Types of charges for 2015 calendar year arrests on historical municipal failure to pay attachments

Subsequent arrests with attachments	Count	Average length of stay
<b>Total</b>	1,168	21
<b>with no new charges other than muni attachments</b>	448	6
<b>with new charges</b>	720	30
<b>where there is a felony charge</b>	373	45
<b>where the top charge is a state misdemeanor</b>	125	22
<b>where the top charge is a new municipal charge</b>	167	11
<b>where the top charge is a traffic charge</b>	54	4

## The consequences of the user-funded justice system

In 2015, more than 5,000 individuals paid a total of \$1.6 million in bond fees. More than 4,000 paid a total of \$4.7 million in non-refundable bond premiums. The cost of posting a commercial bond—including both the premium and the bond fee—averaged \$2,408 in criminal district court (CDC) and \$451 in municipal court. In addition, in 2015, more than 8,000 people were assessed sentencing fines and fees totaling \$3.8 million. Sentencing fine and fees averaged \$1,125 in CDC and \$228 in municipal court.

These costs surely imposed an enormous financial hardship on the largely poor individuals that were assessed these charges. But the consequences of user-pay costs extend far beyond the impact on detainee’s bank accounts. The financial burden of bail, fines, and fees are a source of ongoing stress that creates financial strain and can damage interpersonal relationships. In a city where the majority of those in poverty are black, the burden of user-pay costs falls most heavily on these communities. And those that cannot afford the high cost of bail—or who return to jail because of inability to pay fines and fees—pay high tangible (e.g., lost wages) and intangible (e.g., heightened risk of violence) costs while in jail—while taxpayers pay for their detention.

This section explores the consequences of user-pay costs through (1) qualitative analysis of the impact on individuals and families, (2) analysis of the impact on black communities in New Orleans, and (3) an economic analysis of the financial and human cost of jail.

## The impact on individuals and families

Individuals booked into the jail confront a difficult option: pay bond and the associated fees—the cost of which is out of reach for many individuals—or remain in jail until trial—a period which lasts an average of more than four months for those who cannot afford their bail. For those who are able to post bond, the costs averaged \$2,482 in criminal district court (CDC) and \$451 in municipal court. Conviction fines and fees averaged \$1,125 in CDC and \$228 in municipal court. These costs would be a burden to nearly anyone, but they are entirely unaffordable to those living in or near poverty.

To provide a greater depth of understanding on the impact of the user-funded justice system, Vera researchers surveyed and interviewed impacted individuals and justice system stakeholders. These interviews provide further detail on household resources and the impact of user-funded costs on people in the justice system and their families.

## Survey findings

Vera researchers conducted a survey of impacted individuals and obtained data for 52 individuals who had been assessed financial bail or conviction fines and fees in their most recent court case (See Methodology on page 14 for details).<sup>53</sup> The purpose of the brief survey was to recruit individuals for the in-depth interviews and also provide detail on household resources and the consequences of the user-funded justice system that cannot be gleaned from administrative records.

Eighty percent of the individuals in our survey (40 people) reported a household income of \$25,000 or less and more than half of the people we interviewed (30 people) reported that their family had difficulty meeting basic needs in the past six months, including transportation (25 instances), food (24 instances), utilities (24 instances), housing (22 instances), clothing (17 instances), health care (14 instances), and child care/child supports (4 instances).<sup>54</sup>

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<sup>53</sup> For the majority of the individuals we surveyed (46 people), their most recent charge was a felony in the criminal district court. The remainder of the individuals had misdemeanor charges in the municipal court (5 people) and one person did not know whether his charge was a misdemeanor or felony. Of all of the people we surveyed 17 reported that their most recent charge was a drug charge, 13 had property charges, 3 had violent charges, two had public order charges, 4 reported multiple charge types, and 13 people reported that their charge did not fall into any of these categories. The sample over-represents individuals with felony convictions because participants were recruited at the Probation and Parole office, thereby excluding those not assigned to community supervision.

<sup>54</sup> The number of instances is greater than the number of participants because participants were able to select multiple basic needs that they had difficulty meeting.

Figure 25

Household income, survey respondents

	Count	Percent
\$0	8	16%
\$1- \$5,000	6	12%
\$5,000-\$15,000	4	8%
\$15,000-\$25,000	22	44%
\$25,000-\$35,000	7	14%
\$35,000-\$50,000	2	4%
\$50,000-\$70,000	1	2%
Total	50	100%

**Bail.** All but one of the individuals we surveyed (50 people) were sent to jail during their most recent court case.<sup>55</sup> Similarly, all but three individuals (49 people) had financial bail set during their most recent court case. Bail amounts ranged from \$1,100 to \$500,000 with the most common bail amounts being \$10,000 and \$25,000 (median = \$19,000; mean = \$48,446.9, Standard Deviation = \$91,304.16). Seventeen individuals (35 percent of the individuals who indicated they were assessed bail) did not report how much their bail was.

Of those individuals who were assessed bail, a little more than half (26 people) reported that their bail was not paid while the remaining 23 people reported that their bail was paid. For those individuals who reported that their bail was paid, most (21) paid by purchasing a surety bond from a bail bondsmen.

Respondents reported that they drew on a range of family and personal connections to raise the money for the bond: Eight respondents paid it themselves, four respondents' parents paid, four respondents' partners paid, and two respondents' friends paid. The remaining five individuals indicated that a combination of multiple people contributed to the bond including family members, their children, members of their church, partners, friends, and others. Two-thirds of the individuals who contributed money for the respondents' bonds were women.

For those individuals who reported that their bail was not paid, the most common reason for this, indicated by 15 of the 26 people who did not make bail, is that they were unable to raise enough money for a bond. Additional reasons for not paying included having criminal justice sanctions that held the person in jail in addition to their bail (2 people), having no one to help pay the bail (3 people), and being released quickly without having to pay (3 people).

**Fines and fees.** Seventy-seven percent of the people we surveyed, (40 people) reported that they owed money to the court in the form of fines and fees as a result of their most recent court case.<sup>56</sup> Most of the individuals (28 people) who were assessed fines and fees reported that they were assessed multiple types of fines and fees. The most commonly reported type of fines and fees was court costs (35 people),

<sup>55</sup> Note that the one individual who reported that he was not sent to jail during his court case also indicated later in the survey that he was in jail for a total of six hours before being released.

<sup>56</sup> This excludes supervision fees.

followed by public defender application fee (14 people), district attorney costs (8 people), and conviction costs (7 people).<sup>57</sup> Nine people indicated that they had fines and fees for a purpose not listed in the survey including drug court fees and lab fees for drug testing. On average respondents were assessed \$3,765.22 in total fines and fees (Standard Deviation = \$10,189.55; min = \$150; max = \$6100). Three individuals did not report the amount of their fines and fees.

As with bail, we asked respondents to indicate who helped pay their fines and fees. The majority of individuals (37 people) reported that they themselves paid for the fines and fees. Two individuals indicated that their parents, and one individual indicated that their partner, assisted with paying for the fines and fees.

Over half of the individuals (22 people) who were assessed fines and fees reported that they had never missed a payment or a court date to make a payment. Another eight individuals did not respond to this question. However, of the individuals who had missed a payment and/or a court date to make a payment (10), all but two individuals reported that they experienced criminal justice consequences. These consequences included late fees (9 instances) and being sent to jail (6 instances).

Although the majority of survey respondents had not missed any fines and fees payments, most people did report that raising the money to pay for fines and fees was challenging: On a five-point Likert scale from very easy to very difficult, over half (21) of the respondents who were assessed fines and fees said it was very difficult to raise the money for those costs. Seven individuals indicated that it was difficult, seven indicated that it was neither easy nor difficult, and three indicated that it was either easy or very easy to raise the funds. Two people did not provide a response to this question.

**Impact of criminal justice costs on finances.** Respondents reported that they and their family spent an average of \$6,778.41 dollars on criminal justice costs associated with the respondent's most recent court case (median = \$4,500, min = \$300, max = \$35,000). This includes costs for bail (20 instances), fines and fees (30 instances), money deposited into the participant's jail commissary accounts (33 instances), costs associated with transportation to and from the court, or for the participant's family to visit jail (27 instances). Participants also listed other sources of criminal justice related costs including paying for private attorneys, money for lab fees or drug tests, and paying for phone calls while in jail. On a four-point Likert scale from no impact to major impact, the majority of participants (35 people) rated these costs as having a major impact on their family's financial stability. Of the remaining participants, seven reported moderate impact, four reported minimum impact, one reported no impact, and five people did not provide an answer to this question.

## Interview findings

In our in-depth interviews, respondents described the implications that the current system of bail, fines and fees in New Orleans has for individuals, families, and the justice system itself. Common themes included (1) the negative impact of criminal justice costs on the financial wellbeing of individuals and their families; (2) the stress of ongoing financial obligation to the justice system; (3) the role of criminal

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<sup>57</sup> In addition, 18 individuals owed costs for restitution.

justice costs in increasing or exacerbating justice involvement; (4) the impact of these costs on the perception of fairness and justice of the system; and (5) suggestions for reform.

The remainder of this section details these five themes through the interviews conducted with four impacted individuals and nine justice-system stakeholders. See Figure 3 (on page 17) for synopses of the four impacted individuals that were interviewed (the names of which have been changed to protect their identity.)

### **Financial wellbeing of impacted individuals and their families**

All of our interviewees who had experienced bail and/or fines and fees described how paying these costs placed a strain on their own, and their families', financial wellbeing. They reported that these criminal justice costs affected their ability to pay for everything from non-essential expenses, such as family vacations, to essentials, such as housing and utilities.

For Keith, the impact of criminal justice-costs on housing was particularly detrimental: “[With] the attorney fees, and court, and paying everybody back, my house winded up going into foreclosure. So I had to do a modification with the mortgage company just to save my house... Right now we are literally only one paycheck away from going back, back into that situation.” Veronica also reported that, due in part to the expense of her criminal justice costs, she almost became homeless, and it took her two months to save enough money to pay for the deposit on a new apartment and rent.

Veronica also struggled to pay for utilities and had to request payment extensions and make partial payments on her electric bill. At the time of the interview, Keith's water had been turned off: “We're actually buying water right now to bathe with, to cook with. Tomorrow I get paid so I get the water back on tomorrow.” Other costs that respondents had difficulty covering as a result of the added financial burden of criminal justice costs included educational expenses, transportation, and health care, among others. Edward, for example, fell behind on his car payments and insurance.

For some, the impact of criminal justice costs on their finances was exacerbated by the difficulty of obtaining employment while having a criminal justice record. Keith, Veronica, and Mark described how, because of their felony convictions, they are no longer able to find well-paid positions in their chosen fields. Keith, for example, lost his license as a loan originator, a career in which he made \$85,000 annually. He subsequently found work as a funeral home assistant where he makes \$18,000 annually, a little more than 20 percent of his previous salary. Similarly, Mark reported that prior to his conviction he held two full-time jobs and one part-time job, but has been unable to find work since his conviction: “For me to go from having three jobs to no job...You know, having money to no money, a place to stay to no place to stay...Total fortune change.”

The inability of interviewees to pay for utilities and other bills also negatively impacted the wellbeing of their families and loved ones. For example, Veronica worried that on multiple occasions her criminal justice costs prevented her from assisting with the cost of her mother's chemotherapy medication. For Mark, when his family assisted him with his costs, this placed a strain on their ability to pay for their own housing and utilities: “My momma said she put about, I want to say about \$1,500, just, she didn't pay her light bill a couple times. She didn't pay her rent a couple times. My big brother, he sent



me I think, \$300. No he sent me \$200....He took that out of his rent.” This same tension is exemplified in Veronica’s experience of her mother taking out a “partial mortgage” on her home to help raise the money for Veronica’s bond. This loan could have placed her mother at risk of losing the house if she defaulted.

In line with the direct experience of impacted people, multiple stakeholders described how raising the money for bail, fines and fees can also punish the family of the individual who has been charged with an offense. As one stakeholder from the probation department said: “They [the person paying the fines or fees] have kids...So I think it’s taking away from the family. You think you’re punishing them, but you’re taking food out of the kids’ mouths.” Another respondent from the public defenders’ office recalled how he has watched families resort to raising the money to pay bond by selling their personal possessions: “Families get completely ruined. They’re strapped for money to pay a bond that has no correlation with somebody’s guilt or innocence....It’s really, really harmful to people and their families.... so people are like, well, if I sell this car...”

In this way, bail, fines and fees serve to not only extract money from the individuals in the justice system, but also to punish family members and destabilize family economics in the immediate and long-term aftermath of a criminal conviction. Further, the experiences of the people we interviewed highlight the potential for even relatively low bail, fines, or fees to be detrimental to their financial wellbeing. Indeed, all four of the individuals that we interviewed indicated that the criminal justice costs associated with their case—bail, fines, fees and related costs—had a major impact on their own, and their families’, financial stability. This precariousness is reflected in one justice-system stakeholder’s question: “I don’t know how hard it is to come up with \$300 for a lot of people. I know...if my car had a broken windshield and I had to come up with \$300 pretty quick, it’s not a big problem for me but...how do regular working people who have two kids in school and their credit cards are almost maxed out, how would they handle a situation like that where they had to get \$300? They would drive around with a broken windshield. Then they would get a ticket. Then after they get a ticket, they would have to pay a fine.”

### **Stress of financial obligation to the justice system**

Mark, speaking about the impact of his fees on his physical and mental health said: “I’ve been sick a lot, just always feeling down and weak.” Keith worries constantly about paying his fines and fees: “Wake up in the morning, that’s all I think about. ‘How can I pay this off?’ ‘Till the time I go to bed. What can I do? What can I do? .... Every day, every minute, that’s what I think about. Three hundred sixty five days a year, that all I’m thinking about right now, nothing else. What can I do?” For Keith, as for other respondents, much of his stress was due to the fact that his fines and fees increased the financial strain he was experiencing: “It’s killing me. I mean, I got \$13 in my pocket...and that what I got.”

For some, this financial strain also damaged interpersonal relationships. For instance, Keith reported that his financial difficulties had so strained his relationship with his wife of 28 years that they were considering divorce. Edward borrowed \$1,000 from his sister and when he was unable to pay her back quickly this caused tension in their relationship.

For others, the process of returning to court repeatedly to make payments, or to explain that they cannot pay, presents its own source of stress. One stakeholder from the public defenders’ office talked

about how repeatedly returning to court jeopardizes some people's jobs: "A large portion of our clients who are indigent are people who are working in service industry jobs, they're minimum wage jobs where if you miss even a single day of work, you're likely to be fired on the spot....So, having to come to court repeatedly to demonstrate to the judge, 'I really can't pay, I promise,'...they're probably stretching themselves thin at work by asking their manager repeatedly for time off."

Keith spoke of the humiliation and shame that he felt when having to tell the judge in open court that he was making less than the minimum payment on his fines and fees: "When you go in front of the judge, you have to explain why you haven't made the payment, or why you're making a short payment....Everybody gotta hear how, you know, you struggling....Then the judge degrades you by telling you, 'You know, you gotta do better than this. You're only making minimum payments.'" Keith connected this to stress-related sleep problems. "The stress. The not sleeping at night. The anxiety of knowing that I still gotta go to court. That's all anxiety. The feeling the night before, here I go again." Keith's experience is emblematic of the way in which criminal justice costs can be a source of ongoing significant stress. Indeed, every person we interviewed reported that their criminal justice costs impacted their sense of wellbeing.

### **Role of criminal justice costs in increasing or exacerbating justice involvement**

Interviewees also discussed the ways in which bail, fines and fees are perceived to, or actually can, increase or exacerbate an individual's criminal justice involvement. Stakeholders from the public defender's office expressed concern that their clients held in pretrial detention suffer worse criminal justice outcomes than clients who are released without bail or who are able to make bail. One reason for the better outcomes is that people who are released pretrial are able to assist more effectively in their own defense: "If our clients are out of jail, it's easier for them to fight their charges, because if you're out of jail then you can actively meet with your attorney.... You can meet with investigators." Another reason is that people who are held pretrial have a strong incentive to plead guilty so they can be released: "Because there are many administrative steps to go through before something can actually go to trial, it means that people end up sitting in jail for 30, 60, 90 days before their case can actually be heard. So there's this incredible incentive because of how rarely RORs are handed out... People have this dramatic incentive to just plead guilty to a charge." In this way, people who are detained pretrial may be more likely to receive a criminal justice record than people who are released pre-trial.

Further, once someone has been found guilty and assessed fines and fees, their ongoing contact with the justice system may lead to further entanglement in the system. According to one of the interviewees from the public defender's office, many clients do not show up for their court date if they do not have the money: "There's a very common perception amongst our clients...that if you don't have money and you come to court, you will be put in jail... so a lot of times our clients unfortunately make this calculus, and I think they're deciding wrong because it's not always true. But they often decide, 'I simply won't show up because, I've got good things going for me right now at work, and if I can keep my head down, then maybe this won't come back to bite me.' And that's just wrong. Often...they ultimately do get

picked up on the bench warrant. They ultimately do end up serving their time in jail, and it looks worse for their case before the judge if they missed a court date...it contributes negatively to their outcome.”

Indeed, Edward articulated this precise concern: “Cause I’d see it as like a rope for you to, like hang yourself... ‘Cause sometimes they let you out ‘cause you agree to pay fines. And finally you come out, and you can’t pay those fines and fares [sic] ‘cause you don’t have nowhere to live, so it’s either find a place to live, or you pay your fines and fares [sic]. Now you’re back in jail, you know?”

Veronica was also worried that she would be returned to jail, not because she was not paying her fines and fees but because the court had lost the record of her payment. As she said at the beginning of the interview: “They had lost record of me ever paying it. And because of that, they wanted me to start over paying it from scratch.” And later: “And just to find out that they had no record of it was a bombshell....When I went into court to report, to do an update, or whatever, she wanted me to show her receipts at that moment. I’m like, ‘Who walks around with receipts?’ And she was like, ‘Well, if you don’t show me the receipts, then I’m going to have to revoke you.’<sup>58</sup> I’m like, ‘I’m not doing this again, revoke me. I can’t do it.’” Veronica’s experience, and the responses of the other interviewees, outline the ways in which criminal justice costs place people at risk of longer and deeper entrenchment in the justice system.

### **Impact of criminal justice costs on perceptions of fairness and trust in the justice system**

Interviewees described how criminal justice costs can erode perceptions of fairness and a sense of trust in the system both for individuals directly impacted and the community as a whole. According to interviewees, every actor in the New Orleans court system receives revenue from bail and fines or fees. As one stakeholder from the public defender’s office said: “Every single party makes a percentage off the bond, unfortunately, including my office.... Everybody gets a percentage of whatever bond is set, which is why there is an incentive for such a high bond to be set.”

Because system actors receive revenue from costs that they themselves set, or have influence in setting, this can foster mistrust in the motives of system actors. One interviewee from the public defender described the mistrust generated because their office receives money from fines and fees: “[Public defenders] are going to do everything they can to fight for their clients...I don’t think any of our people are pulling punches because there’s some down the line connection to the funding of the office from some fines and some fees...But I do think...there can be some [clients] that would say, ‘Well, if you guys get a chunk of [a] fine after a guilty plea, you’re not fighting for me.’...We’re always battling trust issues because our clients don’t choose us.”

Indeed, this appearance of a conflict of interest applies to the system as a whole. As the prosecutor we interviewed said: “We have developed a perverse system of incentives to fund the criminal justice system where the discrete public sector actors in our system of justice are funded by criminal defendants who unwillingly participate in the process. Should the discrete actors in the system act in their own pecuniary best interest they often would be acting against their professed duty to see justice done. Even those that say ‘let the criminals pay the costs of the criminal justice system’ must agree that the

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<sup>58</sup> Veronica explained that she understood that being revoked meant that she would be returned to jail.

finest, fees, and charges assessed on criminal defendants should not be paid directly to the public sector participants charged with the duties of seeing justice done. This process of revenue generation is certainly corrosive and may corrupt our system of justice.” The fact that the decisions system actors make about bail, fines, and fees can directly benefit their own offices creates, at the very least, the appearance of a conflict and, at the most, the opportunity for system actors to circumvent justice in favor of financial gain.

### **Suggestions for reform**

Respondents provided a range of recommendations to improve bail, fines, and fees in New Orleans. Broadly, those reforms included suggestions about how to responsibly reduce the reliance on bail while ensuring people return to court as well as ways to limit the detrimental impact of fines and fees on the wellbeing of individuals and their families.

The judge we interviewed stressed that bail is an important tool to ensure that people accused of crimes return to court: “With an ROR if they don’t come back, they’re just kind of out there [in the community]. Until maybe they get picked up on a traffic stop, and then the police see that they have a warrant... So you don’t get a resolution on some of these cases, and particularly where there’s a victim, that’s a concern for me.” However, the judge also described a willingness to explore non-financial means to ensure that people return to court: “We’ve had ankle monitoring options and I would do that...I’d be much more comfortable with giving a younger person with a gun a low bond, but...I need to have some restrictions on them.”

The prosecutor suggested a return to the use of law enforcement, as opposed to bail bondsmen, to ensure that people return to court. This would be part of a larger strategy to do away with the use of money bail entirely: “If there was an aggressive enforcement activity, i.e., there was a group of law enforcement people who were out finding and bringing people back who failed to appear, you can design a very good no money bail system where nobody has to put up money ever. But, you have to have a very good risk assessment going in. You have to have a very good system of supervision, and you have to have a very good system of enforcement and return. All of those things costs money. Probably not as much money as jail, but they all cost money... If that were to happen, then you could avoid money bail all together and just tell people we’re going to release you or not release you.”

One of the interviewees from the public defender’s office suggested a set of reforms to ensure that people return to court—including providing free transportation, improving the appointment of counsel process so clients have a better understanding of who their lawyer is, and ensuring judges provide greater explanation to people about the court process so they know what will happen the next time they return to court. Another respondent from the public defender indicated that court date reminders have been instituted in municipal court and that it would be helpful to expand this practice throughout the court system.

Interviewees also provided a number of suggestions for reforming fines and fees. One of the most common suggestions called for greater consideration of an individual’s ability to pay before fines and fees are assessed. This reform might address a concern that Edward raised: “There’s no opening for you to ask

for a discount or anything like that, you know? It was like everything was happening fast. And they don't ask, they don't ask you, 'Is that okay? Is this a decent amount? Can you pay this?'"

Another common suggestion for reform was to make greater use of, or expand, the existing options to "pay" the fines and fees through non-monetary means. As Veronica said: "They don't care if you can afford it....They don't offer you to do volunteer work. They don't offer any of that. They don't care about your hardship, what else you have to do, that you have to pay rent. They don't care about none of that." Or as an interviewee from the public defender suggested: "I would turn the fines and fees into something constructive, like saying to somebody who is 17, 18, or 19 instead of giving you a fine, I want you to go get your GED and not hang jail or money over their head."

Some of the above suggestions may help to improve the New Orleans criminal justice system and could serve to reduce the impact of bail, fines, and fees on family finances, individual wellbeing, and reduce justice system involvement. However, none completely address the possibility of doing away with the practice of generating some of the revenue for the criminal justice system from people who are in the system. Indeed, one stakeholder suggested that true reform is only possible once the criminal justice system is fully funded by revenues that are not generated by the people who are in the system: "Until legislatures...are willing to advance the case and resources necessary to run the criminal justice system, there'll always be a search for additional revenue sources, and in the criminal justice system, the only revenue players [sic] are people in the system."

## The impact on black communities

Because bail, fines and fee amounts are assigned without consideration for an individual's income, they are most burdensome on low-income individuals that have the fewest resources to draw on. (Vera's survey of impacted individuals found that more than a third of respondents had less than \$15,000 in annual income.) In New Orleans the use of fines and fees has a disproportionate impact on the city's black communities. Black residents comprise 82 percent of the jail population yet only 57 percent of city residents and the median income of black households is 57 percent less than the median income for white households.

User-funded revenues effectively transfer wealth from individuals charged of crimes to government and bail agents. Because black communities are, on average, poorer and more likely to have contact with the justice system in New Orleans, the transfer of wealth that results from bail, fines, and fees falls disproportionately on black communities: \$5.4 million of the \$6.4 million (84 percent) for bail premiums and fees and \$2.7 million of the \$3.8 million (69 percent) for conviction fines and fees were imposed on black defendants.

Depleted household resources are not the only consequence that falls disproportionately on black communities. Vera's analysis of administrative court records found that black defendants were issued warrants in relation to unpaid fines and fees at a higher rate than white defendants for both misdemeanor cases (43 percent versus 29 percent) and felony cases (18 percent versus 14 percent). Further, black defendants were subsequently arrested at higher rates than white defendants on these warrants that originate from misdemeanor convictions (26 percent versus 22 percent) and felony convictions (32

percent versus 23 percent). Overall, the cumulative impact of these two findings means that black defendants who are assessed fines and fees at sentencing are 64 percent more likely than white defendants to later face arrest on warrants related to unpaid fines and fees.

Just as the financial consequences of user-funded revenues fall most heavily on black communities, so too does a host of other collateral consequences. All of our interviewees described how user-funded costs placed a strain on their own, and their families', financial wellbeing, affecting their ability to pay for everything from non-essential expenses, to essentials such as housing and utilities. For the reasons described above, user-pay costs place a particular burden on black families, reducing already limited household income, creating financial stress, and increasing the likelihood of further justice-system involvement long after the costs are paid.

## The financial and human cost of jail

In New Orleans, the rate of jail incarceration is nearly twice the national average.<sup>59</sup> Because the New Orleans jail is nearly entirely supported by taxpayer revenue, it is the public that ultimately bears the cost of an outsized jail. Vera researchers estimate that the daily marginal cost of the New Orleans jail is \$31.38. (See the Appendix for complete detail on this calculation.) This means there is a \$31.38 taxpayer savings if one person avoids one day of jail; there is an \$11,454 savings ( $\$31.38 \times 365$  days) if the average daily jail population is reduced by one person over the course of a year.

Savings can add up quickly. For example, reducing the average jail population by 100 would yield \$1.1 million in savings ( $100 \times \$11,454 = \$1.1$  million). And, to be sure, there is ample room for jail population reduction because of the high rate of jail incarceration in New Orleans. But the fiscal savings pale in comparison to the potential to reduce the human toll of jail in New Orleans, which we estimate to be \$380 per person, per day (\$138,700 per person, per year) when accounting for the costs of increased risk of violence and physical harm, loss of liberty, lost earnings, jail fees during incarceration, and replacement child care. While this is the most complete accounting to date, even this more-comprehensive measure of the impact of incarceration undercounts the true cost of jail. There are an array of costs that could not be monetized (see “Not Included In Cost Estimate” page 56.)

We estimate the greatest cost of jail in New Orleans to be the risk of violence individuals confront in the jail. Data from the Independent Monitor finds that individuals in the jail are at heightened risk of physical assault, sexual assault, suicide, and self-harm, than in the community.<sup>60</sup> Consequently, more than half of the human cost of jail is the cost of the heightened risk of violence of the jail (\$214 per person,

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<sup>59</sup> In 2015, there were 1,836 people in jail on an average day, compared to 389,617 New Orleans residents, for a jail incarceration rate of 4.71/1,000 residents. The national average for jail incarceration was 2.34 per 1,000. See Orleans Parish Sheriff's Office, Daily Inmate Count, 2016; U.S. Census Bureau, *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, 2015* (Washington, DC: U.S. Census Bureau, 2016); and Todd D. Minton and Zhen Zeng, PhD, “Jail Inmates at Midyear 2014,” *Bureau of Justice Statistics Bulletin* (Washington, DC: U.S. Bureau of Justice Statistics, 2015), [www.bjs.gov/content/pub/pdf/jim14.pdf](http://www.bjs.gov/content/pub/pdf/jim14.pdf).

<sup>60</sup> McCampbell et al, *Independent Monitor's Report No. 5, March 17, 2016*. (New Orleans: Orleans Parish Jail Monitors, 2016).

per day). The next greatest cost is the loss of liberty, which we estimate to be \$137 per person, per day, based on the amount—established in federal statute and several states—that the government is to pay per year of wrongful imprisonment (\$50,000 per year of imprisonment). This amount reflects what the government is willing to pay to individuals that waive their right to sue the government. To be sure, while this amount is a lower-bound estimate, it does help contextualize how cheap jail is to the taxpayer and how costly it is to the detainee.

The other costs Vera estimated are lost wages (\$22 per person per day); jail fees, such as telephone calls and commissary paid during incarceration (\$3 per person, per day); and replacement child care (\$3.47 per person per day). See “Human Cost of Jail Calculation” Appendix for complete information on the human cost of jail calculation.

Figure 26

Estimated average human cost of jail, per incarcerated individual

<b>Cost category</b>	<b>Daily cost</b>
<b>Risk of violence</b>	\$214
<b>Loss of liberty</b>	\$137
<b>Lost wages</b>	\$22
<b>Child care</b>	\$3
<b>Jail fees</b>	\$3
<b>Total</b>	<b>\$380</b>

# Conclusion

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User-funded revenues support a trivial share (4 percent) of justice system operations but have an enormous impact on the individuals and families required to pay these costs. And the negative fiscal consequence may not be the most significant cost—which rather is the high human cost of jail for those that are detained when they cannot afford bail, fines and fees.

In a city with high rates of poverty and pretrial incarceration, the impact of bail, fines and fees is all the more acute because of the breadth and depth of the impact on families and communities. In 2015 alone, predominantly poor New Orleans residents paid \$4.5 million to the government for bail fees and conviction fines and fees. To put that number in context, it's a million dollars greater than the \$3.5 million poor residents of the city received in the form of financial assistance through TANF cash assistance.<sup>61</sup> In addition, families paid nearly \$5 million to commercial bail bond agents.

This research serves as a starting point for reform in New Orleans. But this is an analysis of only one city, among the more than the 3,000 jurisdictions that administer the local criminal justice systems across the country. We hope that that this report serves as a roadmap for others looking to uncover exactly which stakeholders bear costs and which benefit through user-funded revenues.

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<sup>61</sup> Louisiana Department of Children and Family Services, *Program Statistics 2014-2015, FITAP and KCSP Regional Participation Reports* (Baton Rouge: DCFS, 2015).



# Appendix

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## Marginal taxpayer cost of jail calculation

The average cost of the New Orleans jail was \$118.52 per-person per-day in 2015 ( $\$79,405,545 \div 1,836$  average daily population  $\div 365$  days).<sup>62</sup> This was 42 percent more than the cost in 2014, due to a drop in the average daily population and an increase in spending—as part of compliance requirements enforced by the consent decree. The average daily cost of jail is calculated by dividing the total annual jail expenditures by the average daily jail population, and dividing again by 365 days.

This section calculates the marginal cost of jail, which is the change in total operating costs when the daily jail population changes. Vera researchers calculated both the “short run” marginal cost resulting from per-person variable costs only, such as food and clothing, and the “long run” marginal cost resulting from the closing of a housing pod and a reduction in staff in addition to the per-person variable costs. These marginal costs represent the potential taxpayer savings from removing one person from the New Orleans jail.

The daily “long run” marginal cost per inmate resulting from the closing of a housing pod is \$31.38—which is the sum of the daily variable cost (\$21.06) and the daily step-fixed cost (\$10.32).<sup>63</sup> The marginal cost in the absence of the closing of a housing pod is the daily variable cost of \$21.06.

The marginal cost of jail is most reliably derived through a “bottom-up” approach that tallies the inmate-specific variable costs, such as food and per-diem health care payments to contractors, plus the “step-fixed cost” attendant to each housing unit (correction officers can only be redeployed, or terminated, when the inmate population decline is sufficient to close a housing pod.)<sup>64</sup>

**Variable costs.** The major variable expenditures in a jail are food and health care which total \$21.06 per inmate per day in New Orleans. The PFM Group has reported that the daily cost of food is \$2.85.<sup>65</sup> The per-person per day cost of health care provided by Correct Care Solutions is \$18.21.<sup>66</sup>

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<sup>62</sup> City Council budget template for the OPSO Criminal Division, 2015. The OPSO also has a civil division which is not involved in the management of the jail. The sheriff’s daily population counts average 1,836 in 2015, including state DOC inmates. The city has largely ceased housing DOC prisoners in early 2016.

<sup>63</sup> New Orleans inmates are also held in jails in East Carroll Parish Detention Center and Franklin Parish Detention Center at a cost to the Orleans Parish Sheriff’s Office of \$30 per inmate per day. See David Eichenenthal and Seth Williams, *A Cost Benefit Analysis of the Orleans Parish Sheriff’s Decision to Hold State Inmates in the Orleans Parish Prison*. (The PFM Group, 2016).

<sup>64</sup> This analysis focused on the new jail building, called the Orleans Justice Center or Phase II as it is the main building currently housing inmates in the New Orleans jail complex.

<sup>65</sup> Eichenenthal and Williams, 2016.

<sup>66</sup> The new contract stipulated year one costs of \$14,122,353 including a management fee of \$2,155,424. The year one cost minus the management fee, divided by the contract’s assumed inmate count of 1,800 and 365 days is \$18.21 per-person per-day. See *Agreement for Inmate Health Care Services in Orleans Parish between the Orleans Parish Sheriff’s Office and Correct Care Solutions LLC* (2015).

**Step-fixed costs.** The step-fixed costs are the staffing expenses related to each housing pod. Calculating this expense requires corrections officers' salary and benefit data and the number of officers assigned to each pod. This methodology assumes that when a housing pod is closed, the jail chooses to avoid hiring new staff at the starting salary.

- *Deputy salary and benefits*—The starting salary for a deputy sheriff is \$27,000.<sup>67</sup> Fringe benefits for each deputy are estimated to be \$22,442. This includes \$7,500 in worker's compensation insurance, \$9,000 in group hospital insurance, \$90 in unemployment compensation, \$74 in life insurance, a 13.75 percent employer contribution to the Louisiana Sheriff Pension and Relief Fund, a 6.2 percent employer contribution to Social Security and a 1.45 percent employer contribution to Medicare. Thus the typical deputy annually receives \$49,442 in salary and benefits.<sup>68</sup> This calculation is limited to reduction in jail expenditures resulting from fewer deputies. If the inmate population dropped significantly, the jail could reduce the number of employees in other functions, like administrative and intake staff.
- *Officers per housing pod*—A staffing coverage plan from the Orleans Parish Sheriff's Office reports that the typical pod has 60 beds, and most pods need 4.57 Full Time Equivalents (FTEs) for full staffing.<sup>69</sup> The staffing plan is likely to be revised during the consent decree proceedings.

The step-fixed cost of a typical pod is \$225,950 ( $4.57 \times \$49,442$ ), or \$10.32 per-inmate per-day ( $\$225,950 \div 60 \text{ beds} \div 365 \text{ days} = \$10.32$ ).

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<sup>67</sup> Orleans Parish Sheriff's Office, "Sheriff Gusman Announces Competitive Pay Scale for Jail Deputies," October 21, 2013.

<sup>68</sup> City of New Orleans Fringe Benefits Table 2016; and *Sheriffs' Pension and Relief Fund, Actuarial Valuation as of June 30, 2015* (Baton Rouge, LA: G.S. Curran and Company, Ltd, 2015).

<sup>69</sup> See New Jail Bed Count Housing Plan sent to Special Care Population Working Group, April 2015; and OPSO Staff Coverage Plan, Revised January 29, 2016 submitted by the OPSO during consent decree hearings.

## Human cost of jail calculation

Vera researchers estimated the cost of jail, from the perspective of the detainee, for five categories of costs: (1) violence and physical harm; (2) loss of liberty (3) lost pay; (4) replacement child care; and (5) fees during incarceration. All values are in 2016 dollars, except where noted.

**Violence and physical harm.** Individuals in jail are at heightened risk of violence, relative to the risks they face in the community. For this analysis, we seek to capture the additional risk of violence individuals' face in the New Orleans jail compared to the risk of violence they face in the community (See Figure A1).<sup>70</sup>

To estimate cost of violence in jail, we use cost-of-illness estimates on the tangible victim costs of crime (including medical expenses and lost productivity) and jury compensation estimates to measure the intangible "pain and suffering" costs of crime. These estimates are from *The Cost of Crime to Society: New Crime-Specific Estimates for Policy and Program Evaluation*, by McCollister et al which aggregates data on the costs of crime from a variety of government data sources and published analyses. We use the estimate of the economic value of a "statistical life" calculated by the U.S. Department of Transportation to estimate the cost of a suicide and data from *Medical Costs and Productivity Losses Due to Interpersonal and Self-Directed Violence in the United States* by Corso et al. to estimate the costs from self-harm.

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<sup>70</sup> We assume that rates of violence are higher in the neighborhoods of jail inmates by a factor of two compared to the community as a whole. See: Bureau of Justice Statistics, *BJS Household Poverty and Nonviolent Victimization, 2008-2012* (Washington: BJS, 2014). BJS finds that the rate of serious violent crime for poor households (from 0 to 100 percent of the Federal Poverty Line) is more than double the rate for all households.

Figure A1

**Net risk of violence in the jail**

	<b>Estimated incidence in the jail per year</b>	<b>Incidence in community per year</b>	<b>Net risk within the jail per year</b>
<b>Rape/ sexual assault</b>	2.4% (6 reported incidents per 1,658 people in 167 day period. Adjust for full year and for reporting rate of 34 percent.)	0.6% (409 incidents per 389,617 people. Adjust for reporting rate of 34 percent and multiply by factor of two to account for higher violence rates in low-income neighborhoods.)	1.7%
<b>Physical assault (inmate-on-inmate)</b>	48% (212 reported incidents per 1,658 people in 167 day period. Adjust for full year and for reporting rate of 58 percent.)	1.5% (1,670 incidents per 389,617 people. Adjust for reporting rate of 58 percent and multiply by factor of two to account for higher violence rates in low-income neighborhoods. )	46%
<b>Use of force incidents by officers</b>	15% (65 reported incidents per 1,658 people in 167 day period. Adjust for full year and for reporting rate of 58 percent)	N/A	15%
<b>Suicide</b>	0.05% (Suicide rate in jails is 46 per 100,000)	0.01% (Suicide rate in Louisiana is 12.6 per 100,000)	0.03%
<b>Suicide attempt/ self-harm</b>	4.6% (35 reported incidents per 1,658 people in 167 day period. Adjust for full year.)	0.3% (There are approximately 25 suicide attempts for every suicide or 12.6*25 per 100,000) <sup>71</sup>	4.30%

<sup>71</sup> Drapeau, C. W., and McIntosh, J. L, *U.S.A. Suicide 2013: Official Final Data* (Washington, DC: American Association of Suicidology, 2015)

**Adjustment for underreporting:** Individuals in jails face risks for reporting acts of violence, including the threat of retaliation. To estimate the rate of underreporting, we used data from the National Crime Victimization Survey (NCVS) to calculate the share of violent incidents within the community that are not reported to the police.<sup>72</sup> Within the community, the National Crime Victimization Survey found that only 34 percent of instances of rape and sexual assault and 58 percent of aggravated assaults are reported to the police.<sup>73</sup> With no reliable estimates on the rate of underreporting within the jail, this analysis assumes that violence within the community is unreported at the same rate as violence within the jail (See Figure A2).

Figure A2

**Adjustment methods to account for underreporting of violence within jail and within the community**

<b>Adjustment method</b>	
<b>Rape/ sexual assault</b>	In 2014 NCVS, 34 percent of sexual assaults/ rapes were reported to the police
<b>Physical assault (inmate-on-inmate)</b>	In 2014 NCVS, 58 percent of aggravated assaults were reported to the police
<b>Use of force incidents by officers</b>	In 2014 NCVS, 58 percent of aggravated assaults were reported to the police
<b>Suicide attempt</b>	None. (No reliable methods available)
<b>Suicide</b>	None. (No reliable methods available)

<sup>72</sup> McCampbell et al, *Independent Monitor’s Report No. 5, March 17, 2016*. (New Orleans: Orleans Parish Jail Monitors, 2016). The New Orleans Jail Monitors report that there were 227 incidents of violence or self-harm over the September to December 2015 period, but 119 additional names at the walk-in medical clinic where staff notes indicate a possible assault or use-of-force for events not reported by the monitors. There were also 29 incidents not reported to the monitors that were serious enough to lead to an emergency room referral. This data indicates that only 61 percent of incidents are reported. Without knowing the quality of the health care provider data or the jail monitors methodology to count these incidents, we use the NCVS rates to calculate underreporting.

<sup>73</sup> Bureau of Justice Statistics, *National Crime Victimization Survey (NCVS)*, (Washington, BLS: 2014).

**Rape and sexual assault.** McCollister et al estimate the tangible victim costs and the “pain and suffering” costs of an incident of rape or sexual assault to be \$205,198 (in 2008 dollars).<sup>74</sup> There were 6 reported incidents of sexual assault between September 16, 2015 and February 29, 2016 in the New Orleans jail, or 39 incidents after accounting for underreporting and adjusting for a full year’s time.<sup>75</sup> The net cost of rape and sexual assault in the jail is \$10.78 per-person per-day, after subtracting the risk of sexual assault within the community.

**Physical assault.** McCollister et al estimate the cost of an incident of aggravated physical assault to be \$103,723 (in 2008 dollars). Using data provided by the New Orleans jail court-appointed monitor there were 212 reported incidents of inmate-on-inmate assault between September 16, 2015 and February 29, 2016, or 794 incidents after accounting for underreporting and adjusting for a full year’s time. There were also 65 reported use of force incidents by staff between September 16, 2015 and February 29, 2016, or 243 incidents after accounting for underreporting and adjusting for a full year.<sup>76</sup> Multiplying the cost per reported incident of assault by the rate of risk equals a net per-person per-day cost of \$146.05 for an inmate-on-inmate assault after subtracting the risk of assault in the community and \$46.20 for a use-of-force incident by an officer.<sup>77</sup>

**Suicide and self-harm.** There were 35 reported incidents of suicide attempts and self-harm between September 16, 2015 and February 29, 2016, or an estimated 76 incidents over the course of a year.<sup>78</sup> The monitor did not report any suicides over the period September 16, 2015 to February 29, 2016, but one took place shortly after on March 7, 2016.<sup>79</sup> A BJS report places the

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<sup>74</sup> Kathryn E. McCollister, Michael T. French, and Hai Fang, “The Cost of Crime to Society: New Crime-Specific Estimates for Policy and Program Evaluation,” *Drug and Alcohol Dependence* 108, No 1-2 (2010): 98-109. The paper also estimates the criminal justice system costs, and crime career costs from an incident of violence. These costs are not included in our estimates here because the criminal justice costs within the community (i.e., police, legal and adjudication,) do not apply to incidents within the jail. There is a cost to investigating and adjudicating crimes that occur within the jail that are not accounted for in this analysis. Crime career costs are the productivity losses associated with a life of crime compared to legal employment. These are not costs that fall on the victims of crime, and do not apply to perpetrators of violence within jail who are already barred from legal employment.

<sup>75</sup> McCampbell et al, 2016.

<sup>76</sup> McCampbell et al, 2016.

<sup>77</sup> These data represent incidence, or the number of discrete acts of victimization. In contrast, prevalence refers to the percentage of inmates who have been victimized. The data from the court-appointed monitor do not convey how many people have been victimized. This methodology uses the incidence data to create a ratio of incidents divided by the inmate population. This ratio is used to calculate the cost per person per day. The additional costs of repeat victimization are not accounted for here.

<sup>78</sup> Although the harms of and costs attendant to incidents of suicide attempt and self-harm may be very different, the monitor’s report does not distinguish between the two.

<sup>79</sup> Jonathan Bullington, “Orleans Parish Jail Inmate’s Death Ruled Suicide, Coroner Says,” *The Times-Picayune*, March 10, 2016.

risk of suicide in jail at 46 per 100,000 inmates.<sup>80</sup> For the cost of a suicide, we use the economic value of a statistical life used by the U.S. Department of Transportation of \$9.1 million (2012 dollars).<sup>81</sup> A nonfatal self-inflicted injury resulting in hospitalization cost \$16,960 in medical costs and lost productivity (in 2000 dollars).<sup>82</sup> Thus the net per-person per-day costs are \$2.77 for suicide attempts and \$8.65 for suicide, after accounting for the risk of suicide and self-harm in the community. We assume that there is no underreporting of suicides. With no reliable method to account for underreporting of suicide attempt or self-harm, we report the costs from reported incidents of self-harm only.

The total cost of incidents of violence and physical harm is \$214.44 per-person per-day.

**Lost pay.** Individuals who are employed prior to incarceration lose wage earnings while in jail. The Prison Policy Initiative reports that the nationwide median annual income of people in jail who were unable to meet bail is \$15,109 (in 2015 dollars).<sup>83</sup> This estimate is based on 2002 Bureau of Justice Statistics data, the most recent BJS survey of jail persons on this topic. PPI provides income data disaggregated by gender and race. Weighting the median income based on the demographics of the New Orleans jail and to account for lower median income in New Orleans yields an income of \$7,970 or \$21.83 per person per day. This loss of income affects not only the incarcerated person, but also the children, family members, or friends who make up their household or otherwise rely on their incomes.

**Fees during incarceration.** People are subject to fees for goods and services during their jail stay. The Orleans Parish Sheriff's Office budget template for 2015 reports three sources of revenue that are paid for by incarcerated people: commissary, release processing fees, and telephone fees.<sup>84</sup> These revenue amounts in 2015 are divided by the average daily population in 2015 to derive a per-person per-

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<sup>80</sup> Bureau of Justice Statistics, *Mortality in Local Jails and State Prisons, 2000–2013*, (Washington: BJS, 2015).

<sup>81</sup> U.S. Department of Transportation, Office of the Secretary of Transportation. *Memorandum: Guidance on Treatment of the Economic Value of a Statistical Life (VSL) in U.S. Department of Transportation Analyses 2014 Adjustment*, (Washington: DOT, 2014).

<sup>82</sup> Phaedra S. Corso, et al., "Medical Costs and Productivity Losses Due to Interpersonal and Self-Directed Violence in the United States," *American Journal of Preventative Medicine*, 32, no. 6 (2007): 474-482.

<sup>83</sup>Rabuy and Kopf, 2016. This amount reflects only people ages 23-29 who were unable to meet bail, not all individuals in jail. This amount includes all possible sources of income that the survey respondents reported including wages, family support, illegal sources, welfare, and other compensation. Only six percent of survey respondents reported welfare as a source of income.

<sup>84</sup> The OPSO budget also reports revenue (\$507,066 in 2015) from work release fees, which are paid by state-sentenced inmates. Budget templates also show a small amount of revenue for medical-co-pays (\$1,795 in 2015).



day cost of \$0.85 for commissary, \$0.50 for release processing fees, and \$1.76 for telephone fees.<sup>85</sup> These fees represent a cost to both the incarcerated person and their family. The total cost of fees during incarceration is \$3.11 per person per day.

**Replacement child care.** Incarcerated people who have children have to find alternate caregiving for their children during their jail stay. BJS reports that 52 percent of state prison inmates had a child under the age of 18, and that 43.8 percent of state prisoners who are parents lived with their children prior to incarceration.<sup>86</sup> These primary caregivers provided an estimated 5.3 hours of childcare per day, based on data from the American Time Use Survey.<sup>87</sup> Using the market rate of childcare for the New Orleans metro area for a single child yields a cost of \$2.90 per-person per-day for primary caregivers.<sup>88</sup> Some people in jail have multiple children, the additional costs of which are not included here. The rest of the people with children were secondary caregivers. We estimate that these caregivers provide 15 percent of the number of hours that primary caregivers provide, or 0.8 hours per day.<sup>89</sup> This yields an estimate of \$0.57 per person per day from secondary caregivers. Relying on other caregivers to fill in for the parent can have ripple effects for their employment and earnings. These impacts are not included here.

The total cost of replacement child care is \$3.47 per person per day.

**Loss of liberty.** One method to calculate the cost of the harm of the loss of liberty during a jail stay is to use the statutory payout for wrongful incarceration. Seventeen states have statutes that quantify

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<sup>85</sup> This analysis assumes that the revenue amounts listed in the budget for commissary and telephone fees represent additional cost compared to costs in the community. The Sheriff's budget reports only revenue received by the OPSO and not revenue received by private vendors for providing these services.

<sup>86</sup> Lauren Glaze and Laura M. Maurschak, *Parents in Prison and Their Minor Children*. (Washington: Bureau of Justice Statistics, August 2010).

<sup>87</sup> This estimate is a weighted average based on the share of men and women in the jail and the number of primary and secondary childcare hours men and women provide per day on average. Primary childcare is time spent caring for and helping household children under age 13 as the main activity a respondent was doing at a specified time. Secondary childcare estimates are derived by summing the durations of activities during which respondents had at least one child under age 13 in their care while doing other things, and while both the respondent and the child are awake. See Bureau of Labor Statistics, *American Time Use Survey—2014 Results, 2010-2014* (Washington: BLS, 2015). Additional data provided by Michelle Freeman of the Bureau of Labor Statistics by email June 14, 2016.

<sup>88</sup> The annual cost of childcare in the New Orleans/Metairie/Kenner metro area is \$4,985 (in 2014 dollars) for a family with one child. See: Economic Policy Institute, *Family Budget Calculator* (Washington EPI, 2015).

<sup>89</sup> The estimate is derived from a CDC survey report that found that nonresidential fathers were less likely to perform daily care activities with their children compared to fathers who do live with their children. See: Jo Jones and William D. Mosher, *Father's Involvement with their Children: United States, 2006-2010*. (Washington: National Health Statistics Reports, 2013).

the amount people should be paid for each year of wrongful conviction, ranging from \$5,000 to \$80,000.<sup>90</sup> Louisiana law allows for payments of \$25,000 per year of incarceration. We use the most common amount provided by six states and by the federal government of \$50,000 per year of imprisonment, or \$136.99 per day. These amounts may serve as a price floor since people who were wrongfully incarcerated give up their right to sue once they accept the compensation. These payouts also only reflect the state's willingness to pay, and not the true harm to the individual which may be much greater.

### **Not included in cost estimate**

While this analysis can account for many of the harms of jail, it is not well suited to cost out other harms of jail incarceration including the reduction in long-term family cohesion and economic stability, the impact on communities and on public health, and the loss of public trust in the justice system, many of which are explored below.

#### **Lost jobs**

Those held in jail may lose a job because they were unable to attend work. This is especially a risk for low-wage workers who are less likely to have access to paid leave.<sup>91</sup> BJS data from 2002 found that 71 percent of jail inmates were employed in the month before their arrest, and more than half of jail inmates had been working full time.<sup>92</sup> Research has shown that prison incarceration reduces men's hourly wages by 11 percent, annual employment by 9 weeks, and annual earnings by 40 percent.<sup>93</sup> These losses create a reduced income trajectory over an individual's life. Incarceration reduces opportunities to gain work experience, exposes individuals to a non-working peer group, and creates child support arrears that reduce the incentive to work. Each of these impacts would also be present for a short jail stay, but to a smaller degree.

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<sup>90</sup> Gabrielle Emanuel, "When Innocent People Go to Prison, States Pay." *NPR*, June 16, 2014.

<sup>91</sup> Council of Economic Advisors, *The Economics of Paid and Unpaid Leave*, (Washington: Council of Economic Advisors, 2014).

<sup>92</sup> Doris James, *Profile of Jail Inmates, 2002*. (Washington: Bureau of Justice Statistics, 2004).

<sup>93</sup> Bruce Western and Becky Pettit, *Collateral Costs: Incarceration's Effect on Economic Mobility*. (Washington: The Pew Charitable Trusts, 2010).

**Cost of reentry** People reentering the community may face high upfront costs to pay a deposit on housing, replace cars or personal items that may have been lost during incarceration, and search for employment.

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**Non-wage benefits** Workers that lose wages could also lose nonwage benefits such as retirement benefits, health care, life insurance, and paid leave.

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**Social security income (SSI)/Social security disability insurance (SSDI).**<sup>94</sup> These benefits are not lost until a person has spent 30 continuous days in jail or prison following a criminal conviction. The exact rate of SSDI receipt in the New Orleans jail is unknown, but a BJS survey found that 40 percent of jail inmates have at least one disability, four times higher than the rate of disability in the community.<sup>95</sup> In Louisiana, 3.6 percent of the population receives disability benefits, so we assume four times that amount of the jail population, or 14.4 percent, receive disability benefits.<sup>96</sup>

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**Lost Housing** Incarcerated people unable to earn wages and unable to make rent payments are at risk of losing their housing. Reliable estimates for the frequency of housing loss due to jail incarceration are unavailable.

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**Costs to children** The children of parents who are in jail may suffer from a range of ills not captured in this analysis. The loss of parental wages may mean a lower standard of living, difficulty meeting basic needs, and housing instability which can all have long term negative impacts for children. There is evidence that parental incarceration is associated with higher rates of delinquency and higher rates of serious mental disorders.<sup>97</sup>

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**Foster care** BJS reports that for 2.9 percent of people in state prisons, the current caregiver of their children was a foster home or agency (the rate is

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<sup>94</sup> While cost-benefit analyses focused on the societal cost of incarceration consider public benefits as transfers with a net neutral impact on social welfare, the analysis specifically focuses on the cost of incarceration to the incarcerated person.

<sup>95</sup> Jennifer Bronson, Laura M. Maruschak, and Marcus Berzofsky. *Disabilities among Prison and Jail Inmates, 2011-12*. (Washington: Bureau of Justice Statistics, 2015).

<sup>96</sup> Kaiser Family Foundation, *SSI Beneficiaries with Disabilities as a Percent of the Population* (Menlo Park, CA: Kaiser Family Foundation, 2014).

<sup>97</sup> Todd R. Clear, "The Effects of High Imprisonment Rates on Communities," *Crime and Justice* 37, No. 1 (2008): 97-132.

significantly higher for women than men).<sup>98</sup> Since this is relatively rare for parents in state prisons, we assume it is even less common for those incarcerated in jail, of which many stays are relatively short.

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**SNAP, Medicaid, and Medicare** Otherwise eligible people are not permitted to receive SNAP, Medicaid, Medicare, and unemployment benefits while in jail. The cost of these lost benefits is not included in this analysis because people in jail receive food and medical care. However reapplying for these benefits after jail incarceration can be time-consuming and people may have to pay out of pocket if they do not receive their benefits immediately.

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**Community costs** Research has examined the impact that high levels of prison incarceration can have on children, community infrastructure, and community safety.<sup>99</sup> The impact of one person’s incarceration can create ripple effects for the community at large. These costs are not accounted for here, but have the potential to be quite large.<sup>100</sup>

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**Loss of caregivers** Some people sent to jail may have previously served as caregivers to elderly, infirm, or other non-children family members who must now seek out alternative caregiving. We do not have data on how common this is for incarcerated people, and these costs are not accounted for here. Recent Pew research has found that 39 percent of all Americans—including 36 percent of 18-29 years olds—provide care for an adult or child with significant health issues.<sup>101</sup>

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**Risk of more serious conviction** One study found that defendants who are detained pretrial are four times more likely to be sentenced to jail and three times more likely to be sentenced to prison than those who are released at some point pretrial—even when controlling for factors such as risk assessment score—and those detained pretrial also receive longer jail and prison sentences on average.<sup>102</sup>

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<sup>98</sup> Glaze and Maruschak, 2008.

<sup>99</sup> Clear, 2008.

<sup>100</sup> Todd R. Clear (2008).

<sup>101</sup> Susannah Fox, Maeve Duggan, and Kristen Purcell. *Family Caregivers are Wired for Health* (Washington: Pew Research Center, 2013).

<sup>102</sup> Christopher T Lowenkamp, Marie VanNostrand, and Alexander Holsinger, *Investigating the Impact of Pretrial Detention on Sentencing Outcomes*. (Arnold Foundation, 2013).

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**Transportation for family visits** Family members who wish to visit loved ones in jail must pay for gas and parking, or for public transit fare. Without data on how common visits are in jail, we do not estimate this cost here.