



January 2017

Past Due:

Examining the Costs and Consequences
of Charging for Justice in New Orleans

Mathilde Laisne, Jon Wool, and Christian Henrichson

Suggested Citation

Mathilde Laisne, Jon Wool, and Christian Henrichson. *Past Due: Examining the Costs and Consequences of Charging for Justice in New Orleans*. New York: Vera Institute of Justice, 2017.

From the Director

The criminal justice system in New Orleans, like many systems across the country, tries to make the people we arrest, detain, and prosecute substantially pay for the core functions of government that are involved—a form of cost-sharing that is commanding increased scrutiny nationwide. Cash-strapped government agencies may regard the practice as a necessity, but charging “users” for the delivery of justice—which includes putting a price on their freedom—can lead to injustice when people can’t pay or when paying results in considerable hardship for them and their families.

As a recent study conducted by my colleagues at the Vera Institute of Justice shows, here in New Orleans the financial burden falls mainly on poor and low-income residents of the city, most of whom are black. Every day, mothers and grandmothers are forced to choose between paying bail for someone they love and paying rent or utilities—if they even have a choice; for many, bail is completely out of reach. Fathers have to choose between paying off criminal justice debts and providing for their children. These are the kinds of financial barriers and dilemmas people face.

Anecdotal accounts reveal the toll on individuals, families, and whole communities when the justice system is in part funded by users. But until now, no one has calculated the cost in dollars alone. This report shows how much people are paying in the form of bail, fines and fees—millions of dollars transferred from the pockets of folks with the least amount to spare to government coffers and for-profit companies. It also shows how much time people spend in jail when they can’t pay, fueling an incarceration rate in New Orleans that’s nearly double the national average.

And it doesn’t end there. Vera researchers examined the costs to the city of this excess incarceration and revealed the irony of relying on poor people to help fund the justice system: practices designed to generate revenue actually cost more than the dollars they bring in. Charging for justice is not only hard on those who are made to pay; it’s bad for the city overall.

It’s important to point out that the costs imposed on people in the form of bail, fines and fees are largely driven by state laws designed to save the state money. Local officials retain some discretion—particularly in the use of money bail—but they’re caught in a system in which their own funding depends in part on extracting money from poor defendants and their families. Also important, the City of New Orleans and its taxpayers—not the officials who set bail and impose fines and fees—bear the financial expense of jailing people who can’t pay. This is more than an example of what economists call a “wrong pockets problem,” in which the stakeholder that benefits most doesn’t share the attendant costs. Here, the state has one hand in the pockets of poor communities, and with the other hand it’s picking the pocket of city government.

Across the country, through the work of community advocates, nonprofit law firms, charitable foundations, enlightened government leaders, and the U.S. Department of Justice, there is a palpable sense that charging for justice and jailing people who can’t afford the price may be coming to an end. We hope this study, in combination with a set of targeted reforms that Vera is developing along with its local partners, will help New Orleans become a model of how to fund a local justice system in ways that work and are fair to everyone.



Jon Wool
Director, New Orleans

Contents

1	Charging for justice
3	A study to compare costs and benefits
5	Charged from the start: Money bail
5	The price of bail bonds and related fees in 2015
7	Jailing people who can't pay bail
11	Convicted and charged: Fines and fees at sentencing
12	Conviction fines and fees levied in 2015
12	Punishing criminal justice debt with jail
15	The crushing effect of charging for justice
18	An outsized burden on black residents
22	Money in, money out: A net loss to New Orleans
23	Calculating the cost of jail
24	Discussion
27	Endnotes

Charging for justice

Every year, government agencies in New Orleans collect millions of dollars in the form of bail, fines and fees from people involved in the criminal justice system and, by extension, from their families.¹ Millions more are transferred from the pockets and bank accounts of residents to for-profit bail bond agents. These costs have become the subject of considerable public attention. Some view them as a necessary way to offset the expense of operating the criminal justice system. But because many “users” of the system have very low incomes or none at all, there is growing concern that charging for justice amounts to a criminalization of poverty, especially when people who can’t pay become further entangled in the justice system.

Take bail, for example: In theory, bail aims to ensure that people charged with crimes actually face justice in court, and high bail is intended to keep potentially dangerous defendants behind bars while their cases are pending. But here in New Orleans, as in many systems across the country, bail amounts are not calibrated to reflect a person’s ability to pay. As a result, poor families scrape together bail from money that they need to live on. And those who can’t raise the money sit in jail not because they’re a risk of flight or a danger to the public, but simply because they can’t pay. Similarly, a host of fees for the use of the courts and other justice system resources, along with fines imposed as part of a person’s sentence if convicted, are levied in amounts that many poor and low-income people can’t easily afford or afford at all.

As part of a study to better understand the cost and consequences of bail, fines and fees for individuals in New Orleans, researchers at Vera interviewed people who have faced these costs. Two of their stories are illustrative. When Veronica was arrested and detained, her mother risked losing her house to raise the \$2,500 to purchase a bail bond and pay associated government fees. It’s money she’ll never get back, but it was the only way to get her daughter out of jail after she had already spent 10 days behind bars.² Keith, who is 61, still struggles to pay off thousands of dollars in court costs and restitution as a result of writing a bad check in 2014. He is making monthly payments that at times have deprived his family of basic necessities, including running water, and have strained his marriage almost to the breaking point.

Bail, fines and fees are not new, but they have become more numerous, costly, and consequential as officials around the country began looking for ways to offset the expense of arresting, prosecuting, and incarcerating more and more people.³ In New Orleans, as in many other cities, nearly every phase of the criminal justice system—including before someone is actually convicted of a crime—imposes a financial cost on the so-called users of that system. Some costs are relatively small in amount, at least individually. Others require a steep single payment—bail is perhaps the best example—or become costly over time, such as when people on probation have to pay for years of supervision or for an ankle bracelet that monitors their whereabouts.

As noted above, shifting some of the cost of the criminal justice system from government to users has a certain appeal—it can seem like a reasonable way to hold people accountable. But when families like Veronica’s and Keith’s become over-extended, they fall further behind financially; when they can’t pay, they’re often dragged deeper into the justice system.⁴ Moreover, over-relying on user-funded revenue can lead to the kind of illegal court practices that became routine in, but are not unique to, Ferguson, Missouri, where the court’s focus on raising revenue “raise[d] due process concerns and inflict[ed] unnecessary harm on members of the Ferguson community.”⁵

Whether imposed at the front or back end of the system, these costs take a steep toll on the people they impact, often including jail time. Veronica spent 10 days in jail before her mother found a way to raise enough money for a bail bond; other defendants are never able to post bail and languish in jail the entire time their cases are pending. When Keith was unable to make his court-ordered monthly payment, the judge berated him in court, which he described later as a humiliating experience. If Keith falls further behind on his payments, he could be jailed—a turn of events that would be devastating for him and his family and expensive for the city. These common situations point to the hidden costs of running a criminal justice system that extracts money from mainly low-income and poor people—or tries to—and then punishes them with jail when they can’t pay.⁶ One of the questions this study answers is whether the incarceration costs to government in dollars alone exceed the total revenue collected from users.

Both Veronica and Keith are black. In New Orleans, where nearly a quarter of residents live below the poverty line, the median income among black households is a mere \$26,819—57 percent lower than the median income of white households.⁷ Black people also represent a disproportionate share of those involved in the justice system. Eight out of

10 people in jail are black, in a city where black people make up 59 percent of the population.⁸ Government-appointed lawyers represent more than 85 percent of criminal defendants in New Orleans because they were deemed too poor to hire an attorney.⁹

In New Orleans, as in many cities around the country, nearly every phase of the criminal justice system—including before someone is actually convicted of a crime—imposes a financial cost on the so-called users of that system

In this context, collecting millions of dollars annually from individuals and families involved in the criminal justice system—or ensnared, in some cases—represents a siphoning of resources from historically disadvantaged black communities with the least money to spare. That transfer of wealth, the lost opportunity underlying it, and its likely collateral harms make it critical to determine the relative harms and benefits of the user-funded justice system.

A study to compare costs and benefits

New Orleans is not alone among cities in relying heavily on revenue from users. In the context of growing concern nationally about the criminalization of poverty, it's important to actually measure the costs of a user-funded system relative to its benefits. With that goal in mind, researchers at Vera examined the impact of bail, fines and fees at two critical

junctures in a criminal case: at the front end, when someone is either detained or released while the case is pending, and at the back end, when the case is resolved. The study is complex, drawing on multiple sources and types of data.

To understand what New Orleanians are being asked to pay for their freedom pretrial and also how much revenue the reliance on money bail generates, researchers studied the roughly 11,000 people who were booked into the New Orleans jail in 2015 on misdemeanor and felony charges. The New Orleans Municipal Court handles municipal and state misdemeanors and the Orleans Parish Criminal District Court (“district court”) handles all felonies.

The researchers took a slightly different approach to examining what happens at the back end of the process. To determine the costs imposed on people in the form of conviction fines and fees, they studied roughly 16,000 cases that were resolved between January 2015 and August 2016.¹⁰ This sample of cases is larger than the one used to examine the consequences of money bail because it also includes people who were given a summons to appear in municipal court rather than booked into jail. To calculate how much money government collected in 2015 from fines and fees, researchers relied on data from the criminal justice agencies that actually received this money. Jail admissions in 2015 were analyzed to determine how often incarceration was used as a response to unpaid fines and fees.

Drawing on all of this data, researchers then compared government revenue from bail, fines and fees—money paid by defendants and their families—with the public expense of jailing people who couldn’t pay. The study is unusual in analyzing costs and consequences at both the front and back end of the criminal justice system.

As a complement to the quantitative analysis, Vera researchers, with the help of partner organizations, also surveyed 52 city residents who were subject to bail, fines and fees in recent years and conducted in-depth interviews with four of them. They also interviewed nine individuals who work in various capacities in the city’s criminal justice system. Their firsthand experiences and perspectives speak to the impact on peoples’ lives when government charges for justice.

Users of the justice system in New Orleans are subject to financial costs beyond the ones this study examines. They range from millions of dollars collected annually in the form of traffic fines that can be a significant burden on poor and working class people to fees for participating in drug treatment and other mandated programs.

This study’s focus on costs imposed pretrial and at sentencing reflects Vera’s interest in understanding whether the extremely high rate at which people are jailed in New Orleans could be reduced by eliminating or significantly reducing

these costs to users. Many people who struggle to pay end up spending time behind bars, burdening the city's budget and fueling an oversized jail. Although the city significantly downsized its jail in recent years, the rate of incarceration in New Orleans is still nearly twice the national average.¹¹

Key findings from the study are described in the remainder of this report. The complete findings and detailed information about the research methodology are captured in the technical report, *The Costs and Consequences of Bail, Fines and Fees in New Orleans*.

Charged from the start: Money bail

Under Louisiana law, judges have discretion in many cases to release people without requiring an up-front payment.¹² In practice, however, the vast majority of people booked into jail in New Orleans have to pay to be released pretrial. In this regard, there is a significant difference between the two courts. In municipal court, money bail was a requirement for 63 percent of booked defendants, while in district court nearly nine out of 10 defendants (87 percent) faced this substantial hurdle. The remaining defendants were either released on their own recognizance or, in municipal court, had their cases resolved at first appearance.

The price of bail bonds and related fees in 2015

When required to post bail to be released pretrial, people have two potential options: either pay in full or purchase a bail bond. Rarely is either easy. Two-thirds of people surveyed as part of this study reported that it was “difficult” or “very difficult” to raise the money required to post bail.

Paying in full, of course, requires having access to enough cash or credit. Collectively, the defendants in this study paid close to \$1.6 million in cash bail (or a median of \$300). The money can be returned to them, provided they show up in court as required, or it can be used to pay fines and fees imposed at sentencing. In any event, cash bail is money out-of-

pocket while the case is pending that could have been used to pay rent, buy food, and meet a host of other pressing needs.

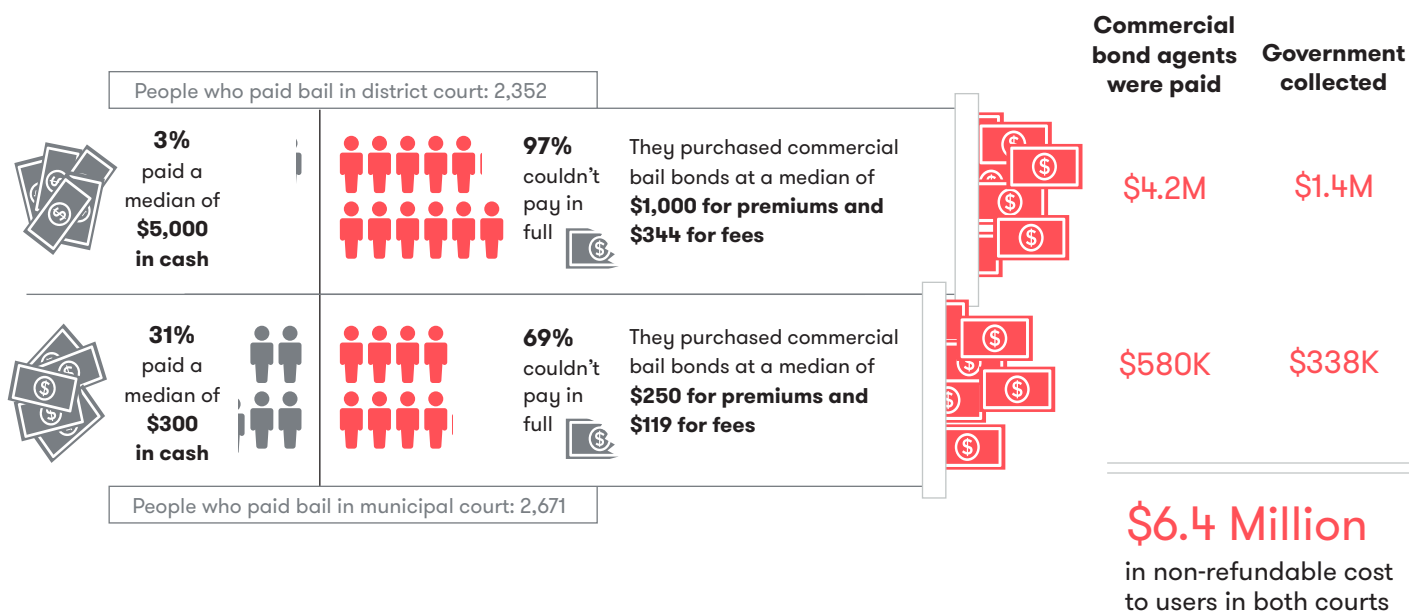
When people can't afford to pay in full, their only option is to try to purchase a bail bond from a licensed agent, but they still have to pay the money that agents charge—typically referred to as a “premium”—as well as the accompanying government fees. The bail bond route is especially common for people charged with felonies, where the median bail imposed was \$10,000 in the cases Vera studied. Among the 2,352 defendants facing felony charges who were able to post bail, nearly all of them (97 percent) did so by buying a commercial bail bond. Among the 2,671 people charged with misdemeanor offenses who posted bail, nearly seven out of 10 (69 percent) purchased a commercial bail bond.

Bond agents in New Orleans charge 10 percent of the bail amount as a premium. So to post bail set at \$10,000, for example, requires paying a \$1,000 premium. The total value of the premiums in the cases Vera studied was a staggering \$4.7 million—money paid mainly by poor and low-income residents to for-profit companies that will never be returned, regardless of the outcomes in their cases.

In addition to the cost of the bond premium, agents collect a 3 percent fee that they pass on to government, which is also nonrefundable.¹³ And all defendants—even people who post bail in cash—are required to pay flat government fees totaling \$44, of which only \$15 is refundable if they are found not guilty or their case is dismissed.¹⁴ Using the example from above, someone with bail set at \$10,000 has to come up with an additional \$344, for a total payment of \$1,344. In the cases Vera studied, defendants and their families paid a total of \$1.7 million in government fees in conjunction with posting bail—in addition to the \$4.7 million they paid to bond agents. (For an illustrated breakdown of costs to defendants and their families in these cases, see “Bail: Who pays, who profits” on page 7.)

In New Orleans, the proceeds from the 3 percent bond fee are distributed among four agencies: the district court, district attorney, public defender, and sheriff. The district court receives more than half of the revenue from these fees, or 1.8 of the total 3 percent, which means that the court reaped more than \$1 million in 2015 from bail and bond fees. The other agencies each receive 0.4 percent. The fee amount and the distribution are unique to New Orleans. Elsewhere in Louisiana, the fee is 2 percent of the bail amount and the revenue is distributed evenly across the four agencies.¹⁵

Bail: Who pays, who profits



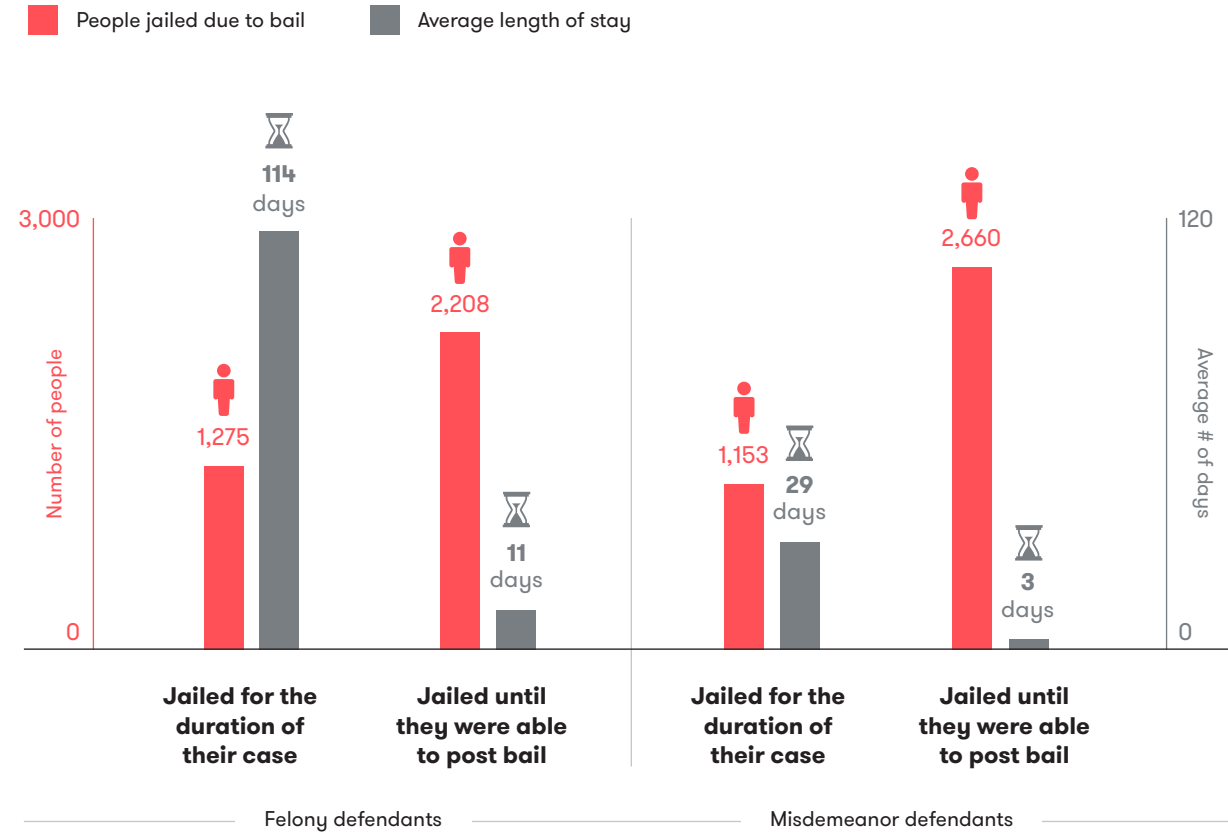
Jailing people who can't pay bail

Many defendants in New Orleans can't afford bail, even when set at a relatively low amount. And when people can't pay, they stay in jail. Vera researchers examined electronic court records to determine the bail set for each defendant in 2015 and whether they posted bond to secure their release. Because the policy question is whether an inability to pay money bail was *the* factor leading to someone's detention pretrial, this analysis excluded certain categories of defendants: those held for violating probation or parole and those pending extradition to another state who could not be released even if they were able to afford bail; as well as those with bail set at \$100,000 or more. 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.

In district court, where financial bail was a requirement for release in 85 percent of felony cases studied, almost a third of all felony defendants (1,275 people) were held in jail for the duration of their cases because they could not afford to pay bail. Even in municipal court, which handles more minor offenses, one in five people (1,153 people) were unable to pay the amount required to

Figure 1

Can't pay bail, stuck in jail



be released and were incarcerated until their cases were resolved. These individuals spent a considerable amount of time in jail: nearly four months on average for people charged with felonies and close to a month on average for those charged with misdemeanors.

Even among the 4,868 people Vera studied who were able to post financial bail, all of them spent some time in jail before their families could pull together enough money to pay bail in full or buy a commercial bond. People accused of misdemeanor offenses were jailed an average of three days before posting bail. In felony cases, where bail amounts are much higher, it took 11 days on average before families could post bail. As one person interviewed for this study recalled, “I just had to wait ‘til my mom came up with the money. She had to wind up getting a partial mortgage on her house in Mississippi.”

Does money bail make us safer?

There is a persistent myth in America that money bail—and the dogged bondsman who will track down absconders—makes communities safer. Yet there is no evidence that collecting money from defendants is an effective crime deterrent. In fact, a bail bond generally does not warrant that a defendant will remain crime-free while on release, but only that he or she will return to court as required. There is evidence, however, that when people are released without having to pay money, they are just as likely to show up in court and avoid new arrests as people released on financial bond.^a

The challenge for the court is to distinguish between defendants who are reliable and those who aren't. There's no foolproof way to do this because it's impossible to predict the future with certainty, but there is a research-based method that judges can use. It's called pretrial risk assessment. Instead of setting money bail and requiring payment to release someone, judges decide who to release—and any pretrial release conditions to apply, such as supervision in the community—based on the results of a validated risk assessment. These tools are designed to measure an individual's likelihood to appear in court and to remain crime-free pending trial if released.

Risk assessment has come under criticism because some instruments that seem objectively fair can be biased in practice.^b In particular, some tools assign higher risk scores based on certain seemingly race-neutral factors—like number of previous convictions or age at first arrest—that disparately impact more heavily policed communities of color, and particularly young black men. The use of risk assessments can also increase overall rates of pretrial detention if “high-risk” is defined too broadly.

Despite its limitations, risk assessment is not only fairer than money bail, it's also safer. The process prevents individuals who present a significant risk of failure to appear or community danger from purchasing their freedom—and it paves the way for judges to release lower-risk defendants who simply can't afford bail and who are more likely to commit future crimes the longer they are unnecessarily detained pretrial.^c This is why New Orleans started relying more on risk assessment to guide pretrial decision-making—screening everyone accused of a felony offense. Although the shift began in 2012, judges still rely far too much on money bail, as revealed in this study. Thirty-two percent of felony defendants assessed in the lowest two risk categories in 2015 were held in jail for a week or more, while 25 percent of people in the highest risk category posted bail and were freed. Money bail isn't making the city safer.

^a Michael R. Jones, *Unsecured Bonds: The As Effective and Most Efficient Pretrial Release Option* (Washington, DC: Pretrial Justice Institute, 2013), <https://perma.cc/YX4F-N2Y8>

^b Bernard E. Harcourt, *Risk as a Proxy for Race*, Public Law and Legal Theory Working Paper No. 323, University of Chicago, September 18, 2010, <https://perma.cc/M88B-XZDW>

^c Not only is there no evidence that bail makes communities safer, there is evidence that pretrial detention has the opposite effect. See Christopher T. Lowenkamp, Marie VanNostrand, and Alexander Holsinger, *Investigating the Impact of Pretrial Detention on Sentencing Outcomes* (New York: Laura and John Arnold Foundation, 2013), <https://perma.cc/6BJP-BET5>

Not surprisingly, the higher the bail, the less likely people were to be able to pay it and the longer they stayed in jail. Felony cases studied illustrate this trend. When bail was set at less than \$10,000, nearly three out of four people (73 percent) were able to post it, although they took an average of seven days to do so. In contrast, only 46 percent of defendants were able to post bail set between \$25,000 and \$99,999, and even those who could were jailed for an average of 24 days before being released.

There's an important lesson even within this overall trend. Although lower bail amounts are more affordable, 369 people still couldn't afford bail set in amounts of less than \$10,000 and were detained for the entire length of their cases. In fact, one in four defendants cannot afford bail at *any* amount below \$10,000, even as low as \$100, suggesting that bail is out of reach for many defendants in these low-bail cases regardless of the amount assessed.

Figure 2

How much is too much?



It's useful to step back and look broadly at what happened when paying bail was a requirement for release pretrial. Across cases studied in both courts in 2015, every one of these defendants—7,296 in all—were detained for some period of time because of money bail. The process in New Orleans of posting bail and getting released can take more than a day even when families have money on hand. To home in on how much time defendants spent in jail because of bail amounts that were out of reach, the researchers discounted the first two days people were detained. Collectively, the 3,947 defendants still held after two days spent an additional 199,930 days in jail because of money bail. This is the equivalent of a staggering 548 years of jail time. Lengths of stay varied widely, but on average people were detained for 51 days beyond the initial 48-hour period because it was hard or impossible for them to pay.

Extrapolating from these findings, nearly a third of the New Orleans jail, or 548 beds on any given day, was occupied by people held solely because they could not pay bail of less than \$100,000 within two days of arrest.

Filling the jail

On any given day in 2015, three out of 10 jail beds were filled by people incarcerated simply because they couldn't afford bail (held on bail under \$100,000 for more than two days with no probation, parole, or extradition holds).



Convicted and charged: Fines and fees at sentencing

When people are convicted of an offense at any level, from a simple misdemeanor to a serious felony, the costs to them and their families continue to accumulate. The vast majority of sentences—even those that include time in jail or prison—also include fines, fees, or both, which people must pay off over time.

Fines, which can have a legitimate function, are a part of a person's sentence and may be imposed as punishment or to deter future criminal behavior. They're imposed at the judge's discretion, within certain legal limits. In particular, under Louisiana and local law all offenses specify a maximum fine and some offenses also have a required minimum amount. Revenue from fines is distributed equally between district court and the district attorney's office.¹⁶

Fees, unlike fines, are not a part of a person's sentence and may not be used as a form of punishment, although in practice they are punishing to poor and low-income people. Revenue from fees helps to fund the municipal and district courts, the district attorney, public defender, and sheriff's office, and other agencies, depending on the particular fee.

Judges have the authority to impose dozens of discretionary fees. Some have high ceilings. In particular, fees to cover "court costs" can be as high as \$2,500 in felony cases and \$500 in cases involving municipal and misdemeanor offenses.¹⁷ There are also fees without a specified maximum. In cases where the person's sentence includes probation, for example, the judge can levy a fee of any amount and choose which agencies receive the revenue—including the court itself.¹⁸

State law also requires courts to impose certain mandatory fees that have specific beneficiaries. Examples include a \$45 fee to help fund the public defender's office, a fee of at least \$50 and up to \$100 for each drug-related probation sentence to support drug education and treatment, and a \$5 fee for every felony conviction that goes to the district court's judicial expense fund.¹⁹

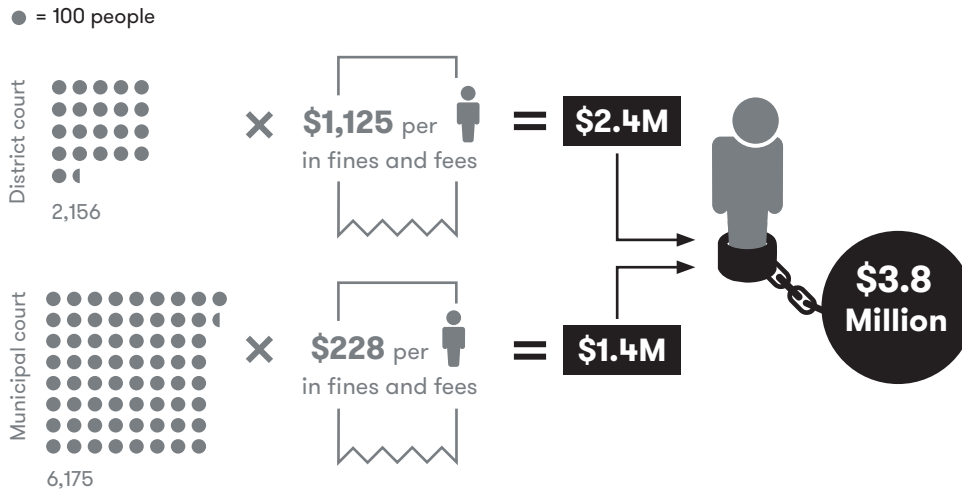
Conviction fines and fees levied in 2015

The vast majority of people sentenced in New Orleans in 2015 were ordered to pay fines and fees: 64 percent of those convicted of felonies in district court and 89 percent of those sentenced in municipal court for municipal and state misdemeanors. Altogether, 8,331 residents of New Orleans were charged fines and fees totaling \$3.8 million, or an average of \$460 per person. The overall average, however, masks a significant difference between the amounts imposed by the two courts: \$1,125 per person on average in district court, compared with \$228 for people sentenced in municipal court.²⁰ (See "The weight of fines and fees" on page 13.)

Punishing criminal justice debt with jail

Paying fines and fees, even in lower amounts, isn't easy for the mainly poor and low-income individuals and families that incur these costs. Sixty-two percent of people convicted in municipal court in 2015 for municipal or misdemeanor offenses, in which the average fee was just \$228, had made no payment as of August 2016, when data collection for this study ended. Another 9 percent had made only partial payment by that

The weight of fines and fees



“I understand I gotta pay the money, but how can I pay the money if I’m a convicted felon and can’t get a job?”

point. By then, 58 percent (over \$800,000) of the \$1.4 million imposed was still unpaid.

As discussed above, the financial burden on people convicted of felony crimes is greater. On average they were ordered to pay \$1,125. Data about payment in these cases is more limited. What is known is that six months after sentencing, roughly half of the 2,156 felony defendants on whom fines and fees were imposed still had at least some remaining debt. In a comment that helps to explain why, one person interviewed for this study said, “I understand I gotta pay the money, but how can I pay the money if I’m a convicted felon and can’t get a job?”

When criminal justice debts go unpaid, people are at risk of being jailed. Issuing an arrest warrant is rarely a judge’s first response, especially

when people show up in court to explain why they haven't paid. But fear of being jailed on the spot, according to a public defender interviewed for this study, keeps many people who can't pay away from court. And when people don't show up to pay, judges typically issue warrants for failing to appear. These warrants rarely lead to immediate arrest and detention. But over time, in the course of traffic stops and other encounters with law enforcement, these warrants are discovered and people are taken to jail. That the crime wasn't serious enough to be punished with incarceration in the first place—or that the people had served their time—doesn't matter. The inability to pay effectively becomes the crime.

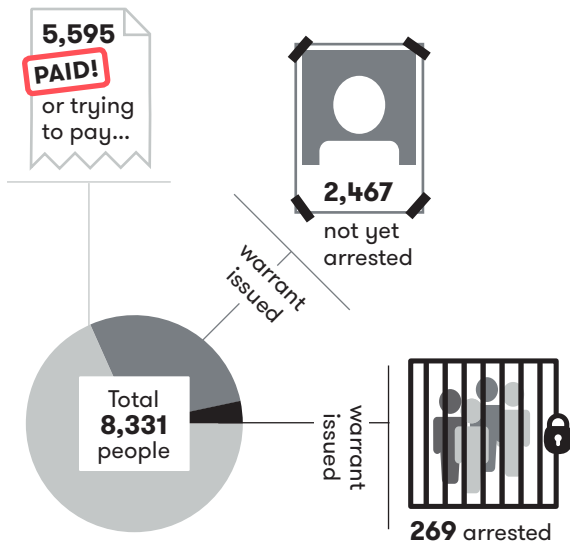
Among the 8,331 people sentenced to pay fines and fees, judges issued arrest warrants for 2,736, or 33 percent. The vast majority of them—all but 350—had been convicted in municipal court. Specifically, judges issued warrants for more than a third (39 percent) of people saddled with fines and fees as part of a misdemeanor sentence in 2015. District court judges issued warrants for 17 percent of people ordered to pay fines and fees in felony cases.

Because warrants issued for unpaid fines and fees are not priorities for law enforcement and arrests happen idiosyncratically over time, findings from this study capture only some of the people who ultimately will be arrested. As of August 2016, when data collection for this study ended, 269 people had been arrested and jailed based solely on these warrants—in other words, not for new crimes. As expected, the majority of them (234 people) had been sentenced in municipal court for more minor offenses. The remaining 35 people had been convicted of felony crimes. Once booked into jail, these 234 people were detained for six days on average. Altogether, people arrested on these warrants from both courts spent 1,894 days in jail.

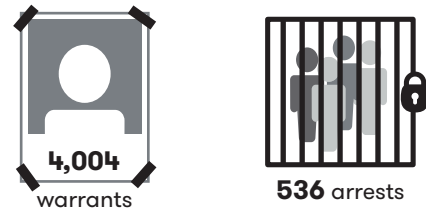
It will be years before anyone can say with certainty how many people from this study were arrested for unpaid fines and fees after August 2016. As a proxy, researchers identified all warrants issued and arrests made over the course of 2015 for non-payment of conviction fines and fees—debts that in many cases originated years ago. In 2015, municipal court issued 3,014 warrants for failure to pay (or to appear for payment) and district court issued 990. Over the course of the year, 536 people were arrested, all but 88 of them stemming from municipal court cases.

WANTED for unpaid fines and fees

What happened to people assessed fines and fees from January 2015 through August 2016?



How often were warrants issued and arrests made in 2015?



The crushing effect of charging for justice

This report highlights the financial costs to users of the criminal justice system in New Orleans at two critical junctures in a criminal case: pretrial, when judges decide whether to release or detain people, and at sentencing. The big numbers bear repeating: \$4.7 million paid to commercial bail bond agents by people who couldn't pay cash bail in full, plus \$1.7 million paid to government in fees associated with posting bail. And \$3.8 million in the form of fines and fees imposed at sentencing.

This study also breaks down the big numbers to illuminate the average cost to individuals and their families. Based on the data collected, someone accused of a felony crime in 2015 had to come up with roughly \$1,300 to buy their freedom pretrial and, if convicted, faced an average debt of roughly \$1,000 in fines and fees imposed at sentencing. These costs to people at the front and back end of the justice system are levied and enforced without any formal process to take into account their economic circumstances. It's as if their ability to pay—and for those who can pay, the hardships they incur as a result—don't matter. But they do.

The results from surveys of New Orleans residents subject to bail, fines and fees, and interviews with a small number of them, help to put this financial burden in context. More than a third of people surveyed reported an annual income of less than \$15,000 and more than two-thirds stated that criminal justice costs—both bail and conviction fines and fees—had a major impact on the financial stability of their families. Talking about the cost of bail, one person interviewed for this study recalled, “My momma said she put up about, I want to say about \$1,500. Like, she didn't pay her light bill a couple times. She didn't pay her rent a couple times.”

Criminal justice debt also keeps people attached to the justice system in ways that are demeaning and disruptive to their lives. Keith relayed the following to the researcher who interviewed him:

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. Then you gotta listen to the judge . . . in front of everybody. Everybody gotta hear how, you know, you struggling. Everybody got to hear what's going on in your life, then you gotta explain, then the judge degrades you by telling you, “You know, you gotta do better than this.”

The even darker side of a system that charges for justice is jailing people when they can't pay. In 2015, 3,947 people spent time in jail because they couldn't pay bail, at least not quickly.

An additional 536 people were jailed during 2015 because of unpaid conviction fines and fees. One person interviewed as part of this study captured the tough choices people routinely face and how the system feels rigged against them. “Finally you come out [of jail] . . . you don't have nowhere to live, so it's either you find a place to live, or you pay your fines and fares [sic]. Now you're back in jail. You know? . . . That's unfair.”

These costs to people at the front and back end of the justice system are levied and enforced without any formal process to take into account their economic circumstances. It's as if their ability to pay—and for those who can pay, the hardships they incur as a result—don't matter. But they do.

Beyond the issue of fairness, incarceration is harmful. Prisoners face the threat of violence, trauma, and disease inside facilities. Families are strained when a loved one is incarcerated. Lost wages, increased child care costs, mounting debts of all kinds, and unemployment after release drag families into (or deeper into) poverty. Close to 80 percent of people surveyed as part of this study, for example, reported that being jailed pretrial because they couldn't post bail had a negative effect on employment later on. All of these consequences have a cost for individuals and families. Researchers at Vera are working to measure how much a day behind bars is costing people who are jailed. (See the accompanying technical report for a description of these efforts and their findings.)

Unfair and unequal

Increasingly, municipalities and courts are being sued for their user-funded systems, in particular for jailing those who can't pay. Constitutional due process and equal protection principles prohibit punishing poverty, including jailing people for a failure to pay money they do not have. This wave of civil rights litigation, supported by the U.S. Department of Justice (DOJ), is hitting places as far flung as Montgomery, Alabama; Ferguson, Missouri; and Benton County, Washington.^a And it has reached New Orleans.

In 2015, a nonprofit law firm sued the district court and others, alleging systemic civil rights violations for ordering the arrest of people who fail to pay conviction fines and fees. Even beyond the value of drawing attention to the issue, the threat of lengthy and costly litigation has created a strong incentive among city and state officials to seriously consider deep reform of the system.

a Class Action Complaint, Mitchell et al. v. City of Montgomery, No. 2:14-cv-186-MEF (M.D. Ala.) (May 23, 2014), <https://perma.cc/58G7-FT8Z>; U.S. Department of Justice, Investigation of the Ferguson Police Department (2015), Complaint for Declaratory and Injunctive Relief, Fuentes et al. v. Benton County, No.15-2-02976-1 (S.C. Wash.) (Oct. 6, 2015), <https://perma.cc/79XC-ZJEV>

b Class Action Complaint, Ascension complaint: Snow et al. v. Lambert and Wiley, No. 15-cv-00567 (M.D. La.) (Aug. 26, 2015), <https://perma.cc/TKW4-X55Q> and Class Action Complaint, Robinson et al. b. Martin et al., No. 2016CH13587 (Circuit Court Cook County, Ill.) (Oct. 14, 2016), <https://perma.cc/6MQY-XYJ2>

c Statement of Interest of the United States, Varden v. City of Clanton, No. 2:15-cv-34-MHT-WC (M.D. Ala.) (Feb. 13, 2015).

Similarly, lawsuits around the country are challenging fixed bail schedules, including one in Ascension Parish, Louisiana, and the very premise of detaining people pretrial because of an inability to pay money bail, as in Cook County, Illinois.^b As with fines and fees, these legal challenges are also encouraging policymakers to explore broad reform of the money bail system.

The Civil Rights Division of the DOJ endorses the legal arguments in many of these cases. In a Statement of Interest filed in one case, DOJ wrote, "Incarcerating individuals solely because of their inability to pay for their release, whether through the payment of fines, fees, or a cash bond, violates the Equal Protection Clause of the Fourteenth Amendment."^c

An outsized burden on black residents

In New Orleans, the burden of paying bail, fines and fees is borne primarily by black residents, most of whom are struggling economically. As noted at the beginning of this report, the median income for black households of New Orleans is 57 percent lower than the median among white households. And black people make up the overwhelming majority of those in jail—incarcerated at a rate far outstripping their percentage of the population.

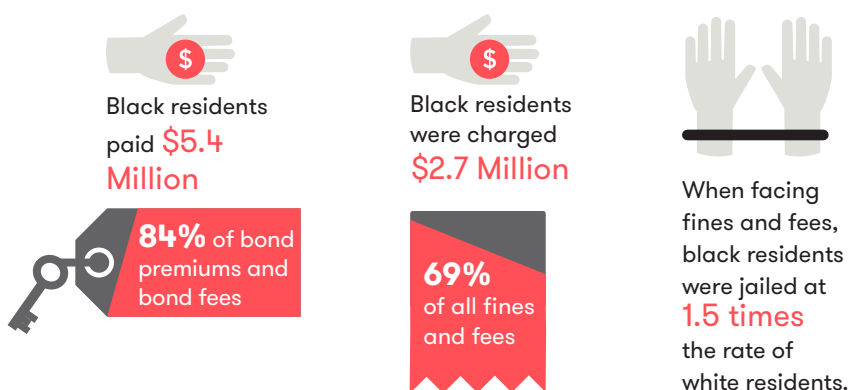
Black residents of New Orleans paid \$5.4 million, or 84 percent, of the \$6.4 million dollars in bond premiums and associated government fees in 2015. And of the \$3.8 million in conviction fines and fees judges imposed in 2015, black residents were charged 69 percent, or \$2.7 million.

While black people who can pay are covering the lion's share of these costs, those who can't pay bear the brunt of enforcement. Forty-

three percent of black New Orleanians whose sentences in municipal court included fines and fees were ordered arrested for failure to pay or for failing to appear in court for payment, compared to only 29 percent of white New Orleanians who owed fines and fees. The disparity isn't as great among people sentenced to felony crimes in district court, but there's still a difference. Among those whose sentences included fines and fees, 18 percent of black defendants were issued a warrant for failure to pay, compared with 14 percent of white defendants. Because black New Orleanians tend to be poorer than their white counterparts, disparities in warrants issued could indicate that black defendants have a harder time paying and, as a result, end up facing worse consequences.

The disparate outcomes continue on the streets of New Orleans. Black people with open warrants for unpaid fines and fees were arrested at a higher rate than white people: 26 percent versus 22 percent among those sentenced in municipal court and 32 percent versus 23 percent among those sentenced in district court. Overall, black residents were jailed at one and a half times the rate of white residents when facing fines and fees.

Paid for by black New Orleanians



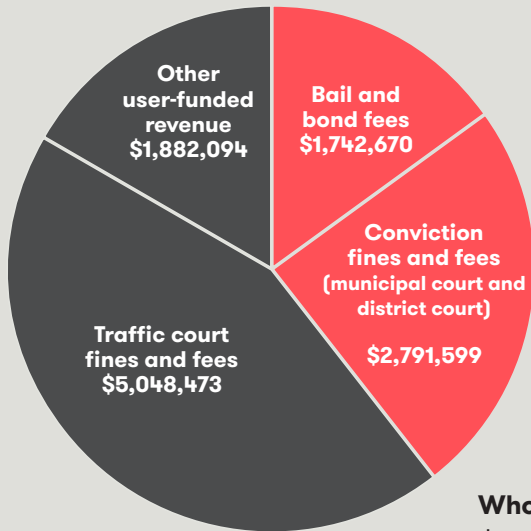
These findings show that charging users—a racially neutral term—at critical junctures in the criminal justice process is ultimately a policy choice to impose these costs primarily on black residents of New Orleans. The four individuals interviewed in depth as part of this study are black. All of them described how the money they paid in conjunction with bail and conviction fines and fees made it tough or tougher to get by financially. At times, they couldn't even pay rent or utilities. Their children had to do

The big picture: Total criminal justice costs and revenue from users in 2015

Widening the lens to the full range of revenues from users of the criminal justice system, government agencies in New Orleans collected \$11.5 million in 2015. That revenue helped to fund eight agencies, but the majority of the money, 67 percent, benefited just three: district court, traffic court, and the public defender's office. That courts in particular are relying heavily on user-funded revenue raises concerns that money, not justice, may be influencing important decisions about bail, fines, and fees.

From the perspective of those paying, and those who try to pay and can't, the costs of justice are a heavy burden. And yet money from users is a tiny fraction of funding for the criminal justice system in New Orleans—just 4 percent of the overall investment.

Is there a way to fund the system that puts less strain on struggling city residents and on the quality of justice?



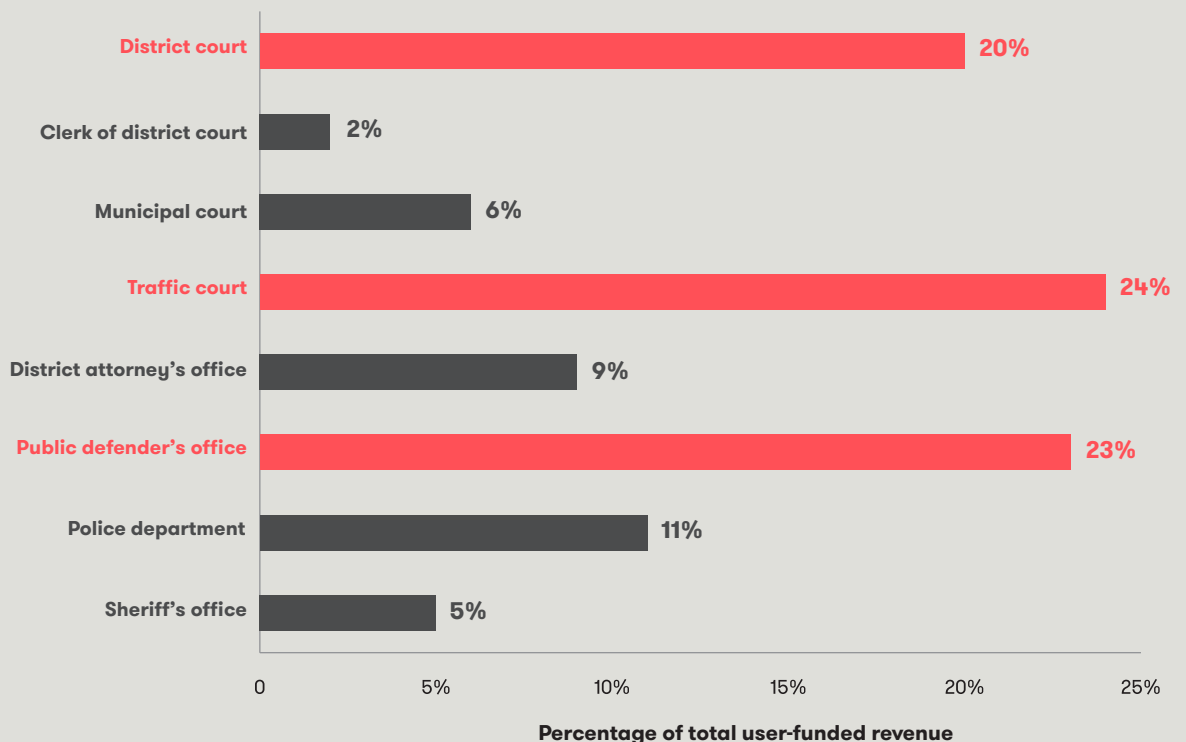
How much people paid:

\$11.5 million collected from users in 2015

The \$1.7 million in bail and bond fees and \$2.8 million in conviction fines and fees are just a portion of overall revenue from users.

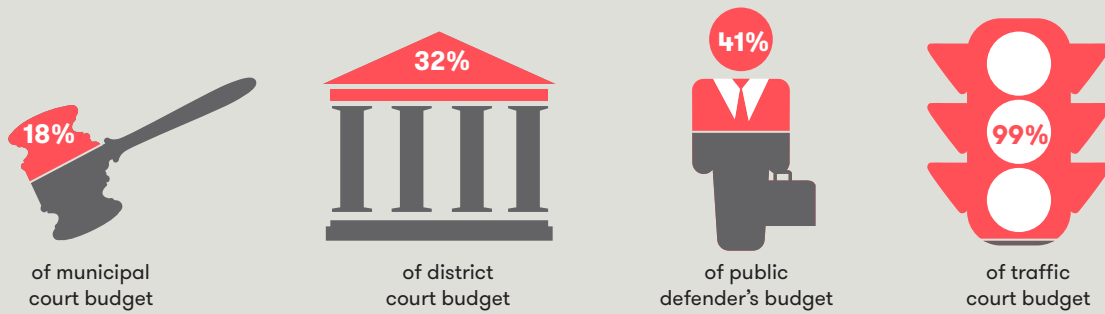
Who benefits?

Just three agencies reaped 67% of the user-funded revenue: Orleans Parish Criminal District Court, New Orleans Traffic Court, Orleans Public Defenders.



Which agencies depend most on revenue from users:

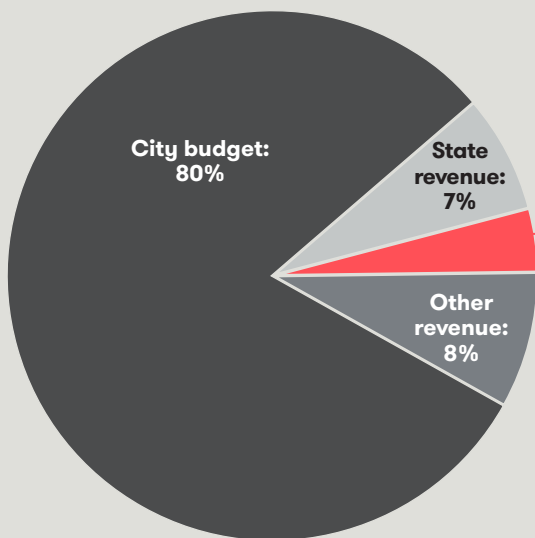
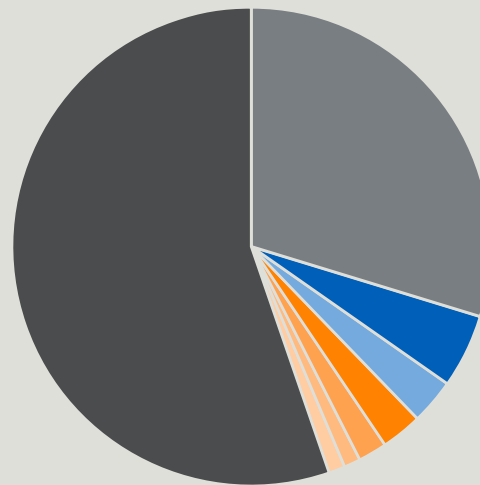
The courts and the public defender office rely most on user-funded revenue.



How much criminal justice costs overall:

\$265 million was spent to operate the criminal justice system in 2015.

Police department	\$147,666,956
Sheriff's office	\$79,405,545
District attorney's office	\$12,260,851
Public defender's office	\$6,873,100
District court	\$7,880,394
Traffic court	\$4,138,999
Municipal court	\$3,778,968
Clerk of district court	\$2,876,171



How much of the system users fund:

Only 4 percent of the cost of the criminal justice system is funded by revenue from users.

Fines and fees: 4%

City budget	\$211,274,044
State revenue	\$19,568,515
Fines and fees	\$11,464,836
Other revenue	\$21,633,004
Total revenue	\$263,940,399

Source: Vera Institute of Justice analysis of FY15 New Orleans budget data.

without school supplies and even a modest weekend away for their family was just a dream. For Keith, the burden of debt took over his life:

Wake up in the morning, that's all you think about. "How can I pay this off?" "Til the time you go to bed. "What can I do? What can I do? Where can I make a large amount of money that I can get this from behind me?" Every day, every minute that's what I think about. . . . That's all I'm thinking about right now, nothing else. What can I do?

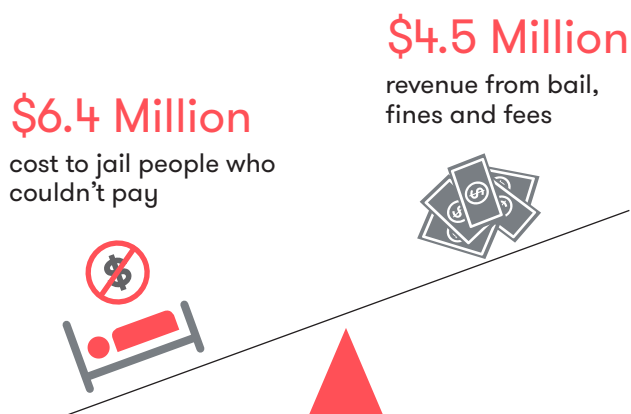
Money in, money out: A net loss to New Orleans

A primary objective of this study was to compare the amount of revenue government collects annually from users of the criminal justice system in New Orleans with the cost of a system that jails people who can't pay. This analysis encompasses money in and money out that flows from decisions made at two separate points in the process: bail setting and sentencing. It includes both municipal court and district court cases in which the defendant was arrested, and thus at risk of pretrial detention, and draws on additional data to understand the impact of conviction fines and fees.

Researchers identified all money collected in the form of government fees imposed when people who were arrested in 2015 posted financial bail. To determine the annual revenue from conviction fines and fees, researchers examined how much money each criminal justice agency actually received in 2015 as a result of their imposition. As a last step, the researchers compared all government revenue with the cost to the city in 2015 of detaining people who couldn't quickly post bail or pay conviction fines and fees.

The results show that the cost to government outstripped the revenue. Criminal justice agencies collected \$4.5 million from individuals and their families in conjunction with these two aspects of the user-funded system—\$1.7 million in bail and bond fees and \$2.8 million in conviction fines and fees. During the same period, the City of New Orleans spent \$6.4 million detaining people who were jailed solely because they couldn't pay. In other words, the city spent \$1.9 million more than criminal justice agencies reaped. And this analysis doesn't even include the cost of monitoring payment and enforcing non-payment—many hours logged by court clerks, judges, collection staff, and police officers.

More money spent than collected



Calculating the cost of jail

Establishing the cost to the city of jailing people in these circumstances involved determining how many people were detained, for how long, and the cost of filling those jail beds. In 2015, 3,947 people spent time in jail because bail was set in an amount they couldn't pay quickly or ever. As a group, they spent 199,930 days in jail beyond the first 48 hours because of money bail. In addition, 536 people with unpaid fines and fees were jailed for a total of 3,832 days. Altogether, 4,483 people were jailed for a total of 203,762 days because they could not pay what the system was charging.

It's important to emphasize that the cases Vera studied exclude defendants for whom pretrial detention appeared to be the judge's objective or who were detained for reasons other than not being able to afford bail. Although judges can deny bail outright for certain serious charges, they rarely do: such preventive detention was ordered in less than 1 percent of all felony cases in 2015. Instead, judges set a very high bail amount they suspect the defendant won't be able to afford. For this reason, defendants with bail set at \$100,000 or higher were excluded from the sample of cases studied, as were defendants held for an alleged probation or parole violation and those facing extradition to another state. By eliminating these cases, the researchers were able to home in on the cost of jailing people pretrial specifically because they couldn't afford bail.

Vera researchers estimate the marginal cost of jailing each of these 4,483 people to be \$31.38 a day. This estimate reflects the total expense of operating the jail in 2015 (\$79 million), the average cost per inmate per day (\$119) based

on the inmate population in 2015 and, most importantly, the reality that there are fixed expenses that don't rise or fall along with fluctuations in the jail population.²¹ These include, for example, building maintenance and salaries for administrative staff. The marginal cost of \$31.38 assumes that savings will be realized in food and health care, as well as in staffing when the daily population drops enough to close an entire 60-bed housing pod. This makes sense because roughly a third of the jail—558 beds—was occupied on any given day in 2015 by people who couldn't post bail or were jailed in conjunction with unpaid conviction fines and fees.

Discussion

Relying on users of the criminal justice system to partly fund its operations has significant implications for the individuals and families required to pay, and for taxpayers. Trying to extract money from people pretrial and at sentencing costs the City of New Orleans \$1.9 million more in jail costs than the revenue it generates for criminal justice agencies. But the negative fiscal consequence is not the only downside to charging users for justice, and probably not the most significant.

More concerning is the financial burden on economically disadvantaged residents of the city. In 2015 alone, the predominantly poor users of the system paid \$4.5 million to government. To put that number in context, it's a million dollars more than the \$3.5 million poor residents of the New Orleans region received in the form of cash assistance through the TANF program.²² Add to that the \$4.7 million families paid to commercial bail bond agents, which is important to emphasize because that economic power generates significant political influence over bail laws and practices. Altogether, that's \$9.2 million lost forever to these families and their communities.

Looking beyond this specific analysis to encompass all revenue from users in 2015 produces a tally of more than \$16 million—most of it (\$11.5 million) paid to government and the rest (\$4.7 million) to commercial bail bond agents. Writ large, this is an enormous transfer of wealth from some of the city's poorest residents, the vast majority of whom are black, to city government and for-profit companies. And for most people paying, even small amounts are a lot of money to them. Yet these millions of dollars from poor and low-income residents represent a drop in the bucket of

Beyond the money trap

The New Orleans jail is filled with people who can't afford bail, fines and fees. These costs impose a significant toll on thousands of individuals and their families. Based on the study underlying this report, here is a look at what it will take to fashion a system that's fair to everyone and fiscally responsible—reforms that will be explored in more depth in a forthcoming report that Vera will develop in consultation with local stakeholders—because the system shouldn't be charging for justice.

- > End the wholesale reliance on money bail.

How? Change the process. Make decisions about release pretrial based on an objective assessment of risk, using a transparent and validated tool that the public understands and the courts apply. And commit to releasing those who are not a major risk without requiring payment.

Shifting from money bail to risk assessment will promote the use of detention for people who pose a clear and significant danger to the community, while other defendants can be released on their own recognizance or with appropriate supervision in the community when necessary. This will not eliminate pretrial detention but will refocus its use on those who are high-risk while reducing its use for those who are simply poor.

- > Repeal conviction fees created to fund the operation of the criminal justice system.

How? Work with the state legislature to adjust the necessary laws, such as those that mandate the imposition of fees regardless of a defendant's ability to pay.

- > Set fines and other financial aspects of sentencing consistent with a defendant's economic situation.

How? Scale them to reflect a person's ability to pay as well as the nature of the offense and prohibit the use of jail for those who fall behind on payments.

These reforms will significantly reduce the number of people jailed because they can't afford bail, fines and fees. Then...

- > Use dollars saved in jail costs to replace lost revenue from bail and conviction fines and fees.

How? Develop a clear plan to recoup and invest these savings into those criminal justice agencies that need additional funding to operate fairly and effectively.

funding overall for criminal justice in New Orleans—just 4 percent. (For a breakdown of this revenue and what it funded, see “The big picture” on pages 20 and 21.)

The enormous cost to people to extract a relative penny raises serious questions about whether charging users is worth it, let alone appropriate given that it leads to jailing those who can't pay. On any given day in 2015, 558 people were in jail because they couldn't pay bail or were arrested for unpaid fines and fees. Costs imposed on users at the front and back end of the system are driving the continued high rate of incarceration in New Orleans. And while this analysis highlights the expense of incarceration for the city and taxpayers, it pales in comparison to the costs, in dollars and much more, borne by individuals and families when someone is incarcerated.

The people of New Orleans should also be concerned whether a system relying in part on revenue from users can be fully fair and objective. A prosecutor interviewed as part of this study captured what is happening:

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 This process of revenue-generating is certainly corrosive and may corrupt our system of justice.

Although revenue from users funds a mere 4 percent of the criminal justice system overall, it pays for 26 percent of the cost of prosecution, defense, and court operations combined. The courts, in particular, rely heavily on money from defendants and their families. These “unwilling users” fund 18 percent of municipal court, 32 percent of district court, and 99 percent of traffic court.

Concern about relying on users to help fund the criminal justice system is part of a growing conversation nationally about the criminalization of poverty. There are fundamental issues of fairness at stake. Are the rights to liberty and due process enshrined in the Constitution really guaranteed to everyone? Civil rights lawyers are successfully suing municipalities in which the justice system is rigged against poor people and the U.S. Justice Department has issued strong statements in this regard. Moreover, what’s legal is not the only measure of what’s right. Is a system that treats people as a source of money capable of producing justice?

There’s an appetite for criminal justice reform in New Orleans, acumen among officials for changing policy and practice, and considerable pressure to do so. Rates of poverty and incarceration are roughly twice the national average.²³ There’s a crisis in funding for public defense that has made headlines.²⁴ And there’s pressure on the mayor to rein in criminal justice system costs, particularly the enormous cost of operating a jail that meets constitutional standards. The status quo has benefited some narrow interests but has cost the city and many of its residents a great deal.

Those who benefit from charging people are wary of looming reform. There are commercial interests at play and government agencies with already tight budgets. To surmount their reluctance and let reason and fairness prevail will require consensus across the city and among policymakers and cooperation from state lawmakers. That work has already begun. Guided by New Orleanians committed to a better way—both those who operate within the system and those impacted by it—Vera is developing alternatives to the current reliance on user-generated revenue. It’s time, indeed past due, to jettison funding schemes that rely on revenue from users—money they and their families don’t have to spare.

Endnotes

- 1 Fines and fees are not separated in the data used for this report; thus, we refer to them as a unit (“fines and fees”). Collectively, “bail, fines and fees” refers to the cash bail amount or commercial bail bond premium that must be paid—along with the accompanying bail or bond fees—to secure pretrial release, as well as fines and fees imposed at sentencing.
- 2 Veronica and all other individuals mentioned by name in this paper are pseudonyms assigned to people who were interviewed by Vera researchers as part of a study on the costs and consequences of bail, fines and fees. Researchers identified them through a much larger survey of New Orleans residents who have firsthand experience with criminal justice costs. See Christian Henrichson, Stephen Roberts, Chris Mai, et al., *The Costs and Consequences of Bail, Fines and Fees in New Orleans* (New York: Vera Institute of Justice, 2017); this is a technical report that provides the data and analyses underlying the quantitative and qualitative findings in this narrative report.
- 3 Council of Economic Advisers, *Fines, Fees, and Bail, Payments in the Criminal Justice System that Disproportionately Impact the Poor* (Washington, DC: The White House, 2015) 2-3, <https://perma.cc/6XB5-8VZV>
- 4 Alexes Harris, *A Pound of Flesh, Monetary Sanctions as Punishment for the Poor* (New York: Russell Sage Foundation, 2016) 48-51, 110-123; and American Civil Liberties Union (ACLU), *In for a Penny: The Rise of America’s New Debtors’ Prisons* (New York: ACLU, 2010), <https://perma.cc/N8Z2-9RKY>
- 5 U.S. Department of Justice, *Investigation of the Ferguson Police Department* (Washington, DC: U.S. Department of Justice, 2015) 2, <https://perma.cc/CM9H-ZMR8>; and Lauren-Brooke Eisen, *Charging Inmates Perpetuates Mass Incarceration* (New York: Brennan Center for Justice, 2015), <https://perma.cc/YFAB-7GS7>
- 6 Neil L. Sobol, “Charging the Poor: Criminal Justice Debt & Modern-Day Debtors’ Prisons,” *Maryland Law Review* 72, no. 2 (2016): 486, 516-521, <https://perma.cc/Q7GN-L27G>
- 7 Census Bureau, “Median Income in the Past 12 Months (in 2015 Inflation-Adjusted Dollars), 2015 American Community Survey 1-Year Estimates,” https://factfinder.census.gov/bkmk/table/1.0/en/ACS/15_1YR/S1903
- 8 Vera Institute of Justice, *New Orleans: Who’s in Jail and Why?* (New York: Vera Institute of Justice, 2016), <https://vera.org/publications/new-orleans-jail-population-quarterly-report>; and U.S. Census Bureau, Population Division, *Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for the United States, States, and Counties: April 1, 2010 to July 1, 2015* (Washington, DC: U.S. Census Bureau, 2016), <https://factfinder.census.gov/bkmk/table/1.0/en/PEP/2015/PEPSR6H>
- 9 Defendants who earn less than 200 percent of the Federal Poverty Guidelines or receive public assistance are presumed to be unable to afford a private attorney. See La. Rev. Stat. §15:175 (2015); and Orleans Public Defenders, *Gideon is Rising: 2014 Annual Report* (New Orleans: Orleans Public Defenders, 2015), http://www.opdla.org/images/files/2014_OPD_Annual_Report.pdf
- 10 This sample includes a small number of misdemeanor cases in which defendants were not convicted but had to pay a fee in conjunction with the case being dropped.
- 11 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 per 1,000 residents. The national average for jail incarceration was 2.34 per 1,000. See Orleans Parish Sheriff’s Office, *Daily Inmate Count, 2015*; 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, “Jail Inmates at Midyear 2014,” *Bureau of Justice Statistics Bulletin* (Washington, DC: U.S. Bureau of Justice Statistics, 2015), <https://perma.cc/4PHV-UJYL>
- 12 Under Louisiana statutes, people arrested for certain offenses must pay cash bail in full or purchase a commercial bond to be released pretrial; for these offenses, release on recognizance (ROR) or by any form of unsecured financial guaranty is prohibited. See La. Code Crim. Proc. arts. 327, 334.1-334.4 (2015).
- 13 Because of the practical operation of the premium/fee system, the authors of this report 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. Rev. Stat. §22:1443 (premium on criminal bail bond), §22:822 (criminal bail bond annual license fee) and §13:1381.5 (Orleans Parish administration of criminal justice fund) (2015).
- 14 These fees are a \$15 flat bond fee per La. Rev. Stat. §15:85.1 (2015); a \$15 bond undertaking fee per La. Rev. Stat. §13:5599(6) (2015); and a \$14 service fee per Orleans Parish Sheriff’s Office practice in response to La. Rev. Stat. §13:5599(3) (2015). Only the \$15 flat bond fee can be reimbursed if someone is found not guilty or the case is dismissed.
- 15 In 2005, the state legislature increased the bond fee for Orleans Parish to 3 percent with the district court as the sole beneficiary of the additional 1 percent. The legislature did not increase the mandated premium amount of 12 percent. See La. Rev. Stat. §§22:822 and 13:1381.5 (2015).

-
- 16 La. Rev. Stat. §15:571.11D (2015).
 - 17 La. Rev. Stat. §13:1381.4A(2) (2015).
 - 18 La. Code Crim. Proc. art. 895.1B (2015).
 - 19 La. Rev. Stat. §15:168B (2015) (judicial district court indigent defender fund); La. Code Crim. Proc. art. 895.1(E) (2015) (probation fee for drug-related offenses); and La. Rev. Stat. §13:1381.4A(1) (2015) (judicial expense fund for district court).
 - 20 Limitations in the administrative data the courts maintain make it impossible to determine the amount of specific fees and other costs assessed. In particular, it is not possible to distinguish between the amount of restitution judges ordered to benefit victims and the fines and fees that fund criminal justice agencies.
 - 21 These costs might include a few related to non-jail expenses, but they could not be identified in the budget documents of the Orleans Parish Sheriff's Office.
 - 22 Louisiana Department of Children and Family Services, Program Statistics 2014-2015, *Family Independence Temporary Assistance Program (FITAP) Regional Participation Report by Parish & Region* (Baton Rouge: DCFS, 2015); and Louisiana Department of Children and Family Services, Program Statistics 2014-2015, *Kinship Care Subsidy Program (KCSP) Regional Participation Report* (Baton Rouge: DCFS, 2015).
 - 23 For incarceration rates, see note 11 and for poverty rates, see Census Bureau, "Poverty Status in the Past 12 Months" 2015 American Community Survey 1-Year Estimates," https://factfinder.census.gov/bkmk/table/1.0/en/ACS/15_1YR/S1701
 - 24 Eli Hager, "Louisiana public defenders: a lawyer with a pulse will do," *The Guardian*, September 8, 2016, <https://perma.cc/ZQP2-MS2Z>

Acknowledgments

The authors are grateful to the colleagues and partners listed below for their contributions. We dedicate this report to the memory of our former colleague Johnetta Pressley, who every day pushed back against oppression of poor people.

Research team: Chelsea Davis, Ayesha Delany-Brumsey, Chris Mai, Theresa McKinney, Stephen Roberts, and Rose Wilson.

Policy team: Kayemba Mvula, Michelle Ramos, and Jonathan Varnado.

Writing, editing, design, and community engagement team: Paragini Amin, Mary Crowley, Carl Ferrero, David Hanbury, Scarlet Neath, Cindy Reed, Karina Schroeder, Ram Subramanian, Jennifer Trone, Erika Turner, and Corinna Yazbek.

Survey and interview partners: Loyola University New Orleans, New Orleans District of the Division of Probation and Parole, STAND with Dignity, and Voice of the Experienced (VOTE).

Research review partners: Shima Baradaran Baughman, Mark Bergstrom, Laura Bixby, Marilyn Brown, Melody Chang, Mark Cohen, Phil Cook, David Eichenthal, Danny Engelberg, Nate Fennell, Dall Forsythe, Amanda Fraser, Charmel Gaulden, Carla Gendusa, Tyler Gibson, Michael Jacobson, Cynthia Lamy, Eric Melancon, Allison Plyer, Bernadette Rabuy, Colin Reingold, Sarah Schirmer, Katie Schwartzmann, Beth Sgro, Peter Wagner, Charles West, Seth Williams, and Michael Wilson.

Funding partners: Laura and John Arnold Foundation and Joanna Weiss, Charles Koch Foundation and Vikrant Reddy and Ewan Watt, and the Open Philanthropy Project and Chloe Cockburn.

About Citations

As researchers and readers alike rely more and more on public knowledge made available through the Internet, “link rot” has become a widely-acknowledged problem with creating useful and sustainable citations. To address this issue, the Vera Institute of Justice is experimenting with the use of Perma.cc (<https://perma.cc/>), a service that helps scholars, journals, and courts create permanent links to the online sources cited in their work.

Credits

© Vera Institute of Justice 2017. All rights reserved. An electronic version of this report is posted on Vera’s website at www.vera.org/past-due.

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

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

For almost 10 years, Vera New Orleans has served as a nexus of initiatives that advance forward-thinking criminal justice policies. Vera works with its partners to build a local justice system that embodies equality, fairness, and effectiveness in the administration of justice. Using a collaborative data-driven approach, Vera New Orleans provides the high-quality analysis and long-range planning capacity needed for the city to articulate and implement good government practices.

For more information about this report or Vera New Orleans, contact Corinna Yazbek at cyazbek@vera.org. For more information about other Vera publications, contact Ram Subramanian, editorial director, at rsubramanian@vera.org.

Vera Institute of Justice
233 Broadway, 12th Fl
New York, NY 10279
T 212 334 1300
F 212 941 9407

Washington DC Office
1111 14th St., NW, Ste 920
Washington, DC 20005
T 202 465 8900
F 202 408 1972

New Orleans Office
546 Carondelet St.
New Orleans, LA 70130
T 504 593 0936

Los Angeles Office
707 Wilshire Blvd., Ste 3850
Los Angeles, CA 90017
T 213 223 2442
F 213 955 9250