



### **Innovation:**

Creating a pretrial services program and issuing summonses rather than arrests.

**Background:** New Orleans has long detained more people in its local jail than any other urban jurisdiction in the country, partially because as of 2009, 50 percent of Louisiana's prison population was located in local jails.<sup>1</sup> Even with less than half its pre-Katrina population, the city's jail holds around 3,500 people,<sup>2</sup> a rate of 9.3 per 1,000 residents<sup>3</sup> (the national average is 2.5/1,000).<sup>4</sup> When the Orleans Parish Prison (as the local jail is called) was destroyed after Hurricane Katrina in 2005, New Orleans was forced to address its high jail population and poor system outcomes, as well as the criminal justice policies that created and sustained them.<sup>5</sup> In 2006, officials in New Orleans called on the Vera Institute of Justice to analyze New Orleans's criminal justice system and the following year, with Vera's help, system leaders created the Criminal Justice Leadership Alliance, which committed to reform on a broad scale.<sup>6</sup>

**"Incarcerating people who pose little or no risk results in more crime, not less, and costs money that could be spent on addressing violent crime."**

New Orleans Police Department  
Superintendent Ronal Serpas

Recently, New Orleans officials have committed to reducing the jail capacity to 1,438 beds, down from around 3,500 beds.<sup>7</sup> A number of reforms, including those listed in this factsheet will make it possible to reduce the number of people held in

the Orleans Parish Prison. In addition, people being held in the jail who are under state prison custody will be moved out of the jail.

### **How it works:**

*Change in arrest policies:* Recognizing the large number of people being incarcerated pretrial for low-level and misdemeanor offenses, the City Council changed the municipal code to encourage police officers to issue a summons for a court date rather than arrest a person suspected of committing a nonviolent municipal misdemeanor offense.<sup>8</sup> The City Council also recently enacted new ordinances that track the remaining nonviolent state misdemeanor statutes not already covered in the municipal code. This allows for prosecution in the municipal rather than the state court, and thus allows for use of summonses instead of arrest and much quicker arrest-to-arraignment times for those who are arrested.

*Expediting the time from arrest to arraignment:* In March 2009, the Criminal Justice Leadership Alliance created the Expedited Screening and Disposition Initiative to expedite the time between arrest and arraignment for a person charged with a state offense without a direct "victim," primarily drug possession offenses, which account for about a third of all state charges. This Initiative involves both police and prosecutors, who have agreed to process these arrests more quickly. Previously, the New Orleans Police Department and the Orleans District Attorney's Office would wait until near the end of the time provided — 45 days for a misdemeanor and 60 days for a felony — to complete the police paperwork and to decide whether or not to prosecute the case.

*Creation of pretrial services program:* Through an 18-month grant from the Bureau of Justice Assistance to the Vera Institute, New Orleans criminal justice leaders are in the process of creating a pretrial services program<sup>9</sup> that will include a risk-based instrument to be utilized at first appearance for detention/release decisions. Use of a risk assessment instrument can result in a release decision that is based upon an objective evaluation of risk rather than the ability to pay a financial bond. Individuals that present little or no risk can be identified for release on their own recognizance, allowing court monitoring programs to be reserved for those that require some higher level of supervision. In addition, conditions of release can be tailored to the nature of the risk disclosed through the risk assessment process.

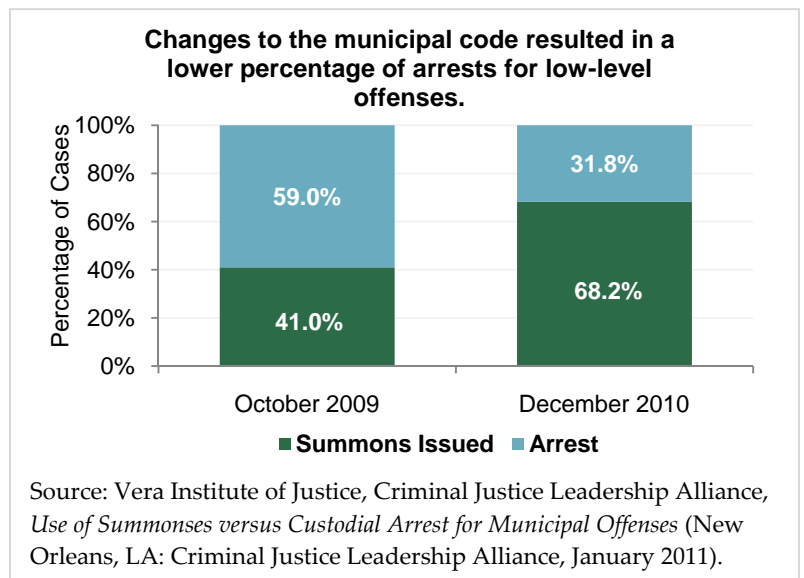
The pretrial working group is creating a risk assessment instrument based upon best practices from other jurisdictions, but one which will be validated specifically for the City of New Orleans. While the program is still in the planning stages, developers hope also to include other services to people who have been arrested, including measures that would help ensure their return to court and avoid further arrest for failure to appear. Included in this is a plan to generate the next court date at the first appearance. By doing so, the individual leaves the courthouse with notice of the court date and is not dependent on receiving notice through the mail, a method which has not proven to be reliable. This, combined with an automated reminder system, is designed to reduce the incidence of failures to appear in court, allowing the criminal justice system to proceed more swiftly and efficiently.

**Results:**

- *Arrest policies:* In a January 27, 2011, report by Vera for the Criminal Justice Leadership Alliance, nearly three years of measured data were analyzed concerning the use of summonses instead of arrests for municipal

offenses.<sup>10</sup> Summonses were issued in 68.2 percent of municipal cases not including public intoxication or domestic violence, up from 41 percent in that category in October of 2009.

- *Expediting time to arraignment:* A January 2010 report for the Criminal Justice Leadership Alliance found that the Expedited Screening and Disposition Initiative has dramatically reduced the time from arrest to arraignment for people detained in the jail; since 2007-2008, the median time from arrest to arraignment fell from 64 days to 10.5 days as of January 2010.<sup>11</sup>



**Challenges:** As part of this reform work, the District Attorney and public defender offices worked with the Criminal District Court to develop a new pretrial allotment system. This system would assign cases to a courtroom and judge based on the day of the committed offense from the moment of arrest. The goal is to allow assignment to defense counsel and prosecutors early enough to ensure continuity of representation and vertical prosecution. The new system is widely used across the state of Louisiana and has been successful. Unfortunately, the present system conceals the allotment schedule until midnight of the morning of the first appearance, making impractical the assignment of

the ultimate defense attorney at the first appearance.

**Policy Implications:** The use of court summonses rather than arrests can be an effective method of holding people accountable while preserving criminal justice resources for real public safety threats. A number of states and localities are currently utilizing summonses rather than arrests for low-level offenses. These summonses reduce costs, reduce the number of people held in local jails, and reduce the impact of detention on people, which can lead to public safety benefits as well.

The National Association of Counties and the American Bar Association<sup>12</sup> have recommended that pretrial release service programs be available in every county. These programs provide information to judges so they can make informed pretrial release decisions and also provide assistance to people who have been arrested to help reduce failure to appear rates and improve public safety.

**For more information on reforms in New Orleans, please contact:**

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<sup>5</sup> Campbell Robertson, "Sheriff Wants a Big Jail in New Orleans, but City Balks," *New York Times*, February 15, 2011.

<sup>6</sup> Vera Institute of Justice, "New Orleans to Develop a Comprehensive Pretrial Services System," October 2010, [www.vera.org/news/new-orleans-develop-comprehensive-pretrial-services-system](http://www.vera.org/news/new-orleans-develop-comprehensive-pretrial-services-system).

<sup>7</sup> Bruce Egger, "Smaller is approved by New Orleans City Council," *New Orleans Times-Picayune*, February 3, 2011. [www.nola.com/politics/index.ssf/2011/02/smaller\\_jail\\_is\\_approved\\_by\\_ne.html](http://www.nola.com/politics/index.ssf/2011/02/smaller_jail_is_approved_by_ne.html)

<sup>8</sup> Section 54-28 of the Municipal Code requires that an officer issue a summons for a municipal offense in lieu of a custodial arrest unless the circumstances meet specific criteria for which custodial arrest is deemed necessary.

Vera Institute of Justice for the Criminal Justice Leadership Alliance, *Use of Summonses versus Custodial Arrest for Municipal Offenses* (New Orleans, LA: Criminal Justice Leadership Alliance, January 2011); New Orleans, LA, *Summons by officer instead of arrest and booking*, *New Orleans Municipal Code 1956 (Revised 2008)*, sec. 54-28; Richard Fausset, "New Orleans police go easier on 'squares,'" *Los Angeles Times*, December 25, 2010. <http://articles.latimes.com/2010/dec/25/nation/la-na-new-orleans-crime-20101226>

<sup>9</sup> Vera Institute of Justice, October 1, 2010.

<sup>10</sup> Vera Institute of Justice for the Criminal Justice Leadership Alliance, *Use of Summonses versus Custodial Arrest for Municipal Offenses* (New Orleans, LA: Criminal Justice Leadership Alliance, September 2010).

<http://thelensnola.org/wp-content/uploads/2010/10/cReport-on-summonses.pdf>

<sup>11</sup> Criminal Justice Leadership Alliance, *Expedited Screening and Disposition Initiative*, February 25, 2010.

[www.projectjusticenola.org/Files/CJA\\_Initiative.pdf](http://www.projectjusticenola.org/Files/CJA_Initiative.pdf)

<sup>12</sup> Pretrial Justice Institute, *Pretrial Services Program Implementation: A Starter Kit* (Washington, D.C.: PJI, 2010) [www.pretrial.org](http://www.pretrial.org).

<sup>1</sup> William J. Sabol and Heather C. West, *Prisoners in 2009* (Washington, D.C.: Bureau of Justice Statistics, 2010).

<http://bjs.ojp.usdoj.gov/content/pub/pdf/p09.pdf>.

<sup>2</sup> Todd D. Minton, *Jail Inmates at Midyear 2010—Statistical Tables*, Table 9 (Washington, D.C. Bureau of Justice Statistics, 2011)

<http://bjs.ojp.usdoj.gov/content/pub/pdf/jim10st.pdf>

<sup>3</sup> The 2010 census figure for the New Orleans population is 343,000.

<sup>4</sup> Todd D. Minton 2011