

Assessment of Release on Recognizance in New Orleans



Summary

This analysis compares outcomes for individuals who were Released on Recognizance (ROR) by Orleans Parish Criminal Court at any point of their pretrial period versus those who were released on bail. This analysis is intended to serve as a snapshot of release practices and case outcomes over the specific timeframes indicated herein.

- Individuals who were ROR spend significantly less time in jail, were re-arrested after release at nearly identical rates, and had their cases dismissed substantially more often than people who pay were required to pay bail.
- Individuals who were ROR were required to take drug tests at higher rates than those who are released via bail, and this discrepancy likely explains why the Failure to Appear (FTA) rate for people who ROR was nearly double the rate of those who were required to pay bail prior to release. The FTA rate was largely unchanged regardless of the amount of bail the individual paid among people who paid bail.

Definitions

Calculating the number of people ROR in New Orleans is difficult because of complications in data reporting practices and the cases themselves. For example, a single individual may have some charges with a ROR and others with bail set or a hold placed because of a warrant.

The definition of ROR used for this analysis is any folder with at least one charge receiving a ROR disposition and all other charges being either ROR, court release, refusal, or void dispositions. Cases involving warrants from other jurisdictions or cases with charges that added uncertainty as to whether the individual was fully ROR were excluded from this analysis for the sake of clarity.

Calculating FTAs is similarly difficult due to a lack of organized data collection on this issue historically. Ideally, we would determine the percentage of events an individual was required to appear at but did not, but it is not possible to determine a person's responsibility for appearing at any individual event in a case's history. As such, FTA is limited to instances where an event in Magistrate or Criminal Court was labeled as 'FTA' or an Alias Capias was issued via an 'ACI' or 'CAPIS' label.

Data on FTAs has been kept reliably since December 2018, so analysis of issues pertaining to FTAs was limited to arrests and releases in criminal court that occurred between December 2018 and November 2019 to create a full year of trustworthy data. The analysis of case dispositions relies on a different data set and was derived from arrests since 2017 with a final disposition (guilty, nolle prosequi, not guilty, etc.) by December 2019.

ROR Overview

Releases on Recognizance have increased dramatically in Orleans Parish over the last decade. The percent of arrests in State Court with a ROR increased from an average of 1.9 percent between 2010 and 2014 to 3.9 percent in 2015 and 2016. That figure increased again dramatically at the end of 2016 and 8.2 percent of all arrests have had been ROR in since the start of 2017 including 8.3 percent of all arrests in 2019.

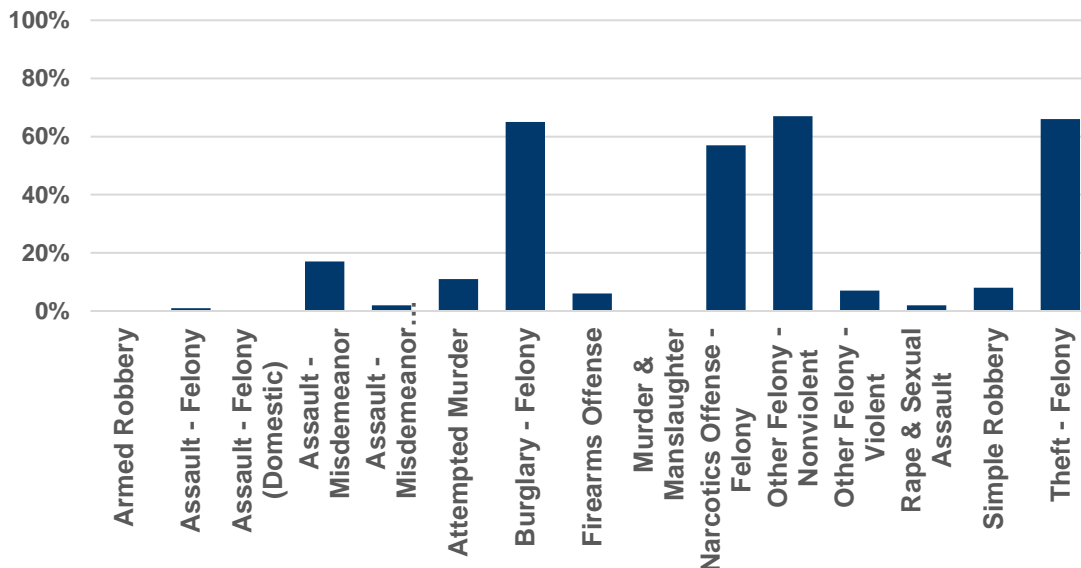
Figure 1 – Percent of criminal court arrests with a ROR per month



8.3 percent of people arrested in 2019 were ROR

Roughly one in three individuals who were released from Orleans Parish Criminal Court in New Orleans between December 2018 and November 2019 were ROR. In that span, 3,167 people were arrested and released either on recognizance or on bail. 1,069 of those people (34 percent) were ROR with the remaining 2,097 people paying bail to secure their release.

Figure 2 – Percent of cases with a release that were ROR by most serious offense



57% of felony narcotics cases were ROR

The most serious offense of which they have been accused for almost 90 percent of people were ROR is either a felony narcotics offense, a felony burglary offense, or a nonviolent felony offense that is not considered a Uniform Crime Report Part I offense (such as illegal possession of stolen goods or a stolen vehicle). In each of those categories, one-half to two-thirds of those who are released were ROR. Less than 10 percent of people with violent offenses or firearm offenses as their most serious offense, by contrast, were ROR.

Failure to Appear

Those who were ROR had a Failure to Appear (FTA) rate nearly double of those who were released by paying bail. About 25 percent of all individuals who were ROR failed to appear at some point during their case compared to 13 percent of individuals who were released by paying bail.

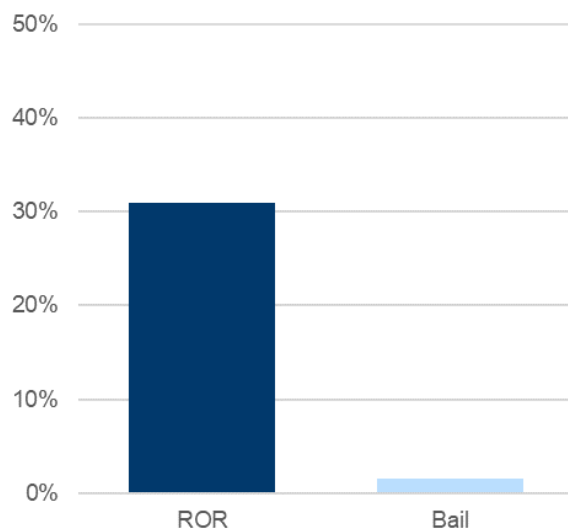
There was little difference in the FTA rate between people who paid different amounts of bail. Those who paid under \$10,000 in bail failed to appear at some point during their case 12.6 percent of the time compared to 14.1 percent of the time for those who paid more than \$10,000 in bail.

The difference in FTAs between those who were ROR and those who pay bail is largely explained by differences in drug testing. Drug testing was required for nearly one-third of people who were ROR, but most people who paid bail had no drug testing required. Most of the drug testing (95.6 percent) was required in Magistrate Court.

31% of people who ROR had drug testing

1.6% of people who paid bail had drug testing

Figure 3 – Percent of cases with drug testing by ROR compared against those paying bail



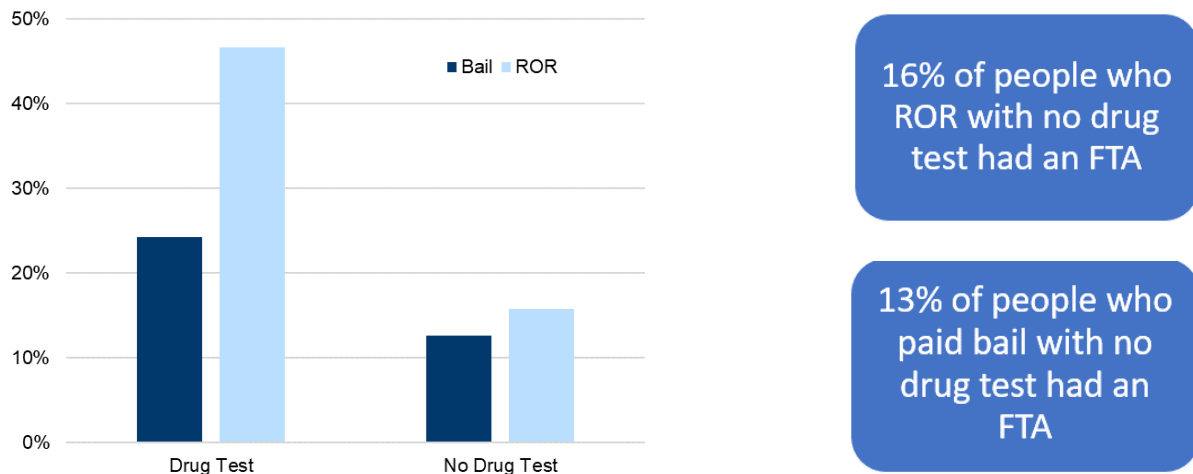
Defendants are required to pay for their own drug tests according to the Orleans Criminal District Court's website. Each test costs \$10 if taken at the Orleans Criminal District Court or \$25 if the test is done out of town.

Drug Testing – Deep Dive

Almost 40 percent of people who were required to take drug tests took multiple tests over the reporting period. One person was required to attend weekly tests 15 times – testing positive 12 times in a row, failing to appear twice and then testing negative. The tests were discontinued following the negative test and the District Attorney dropped the charges against the person a month later. Another person charged with simple burglary and misdemeanor possession of marijuana had 9 drug tests. The court issued a *capias* for his arrest after he failed to appear at his final drug test, but the District Attorney dropped the charges against him the next day.

People who were ROR but did not have a drug test failed to appear at only slightly higher rates than those who paid bail. By contrast, people who had a drug test failed to appear more often regardless of whether they were ROR or paid bail.

Figure 4 – Failure to appear rate based on drug testing for ROR and bail



The requirement for drug testing was only partially aligned with whether an individual was arrested for a drug offense. Only about half of people required to perform drug tests were arrested for a felony drug charge. Under 40 percent of people with at least one felony drug charge who were ROR were required to perform a drug test while just 3 percent of people who paid bail and were accused of at least one felony drug charge were required to submit to a drug test.

Re-arrest & Length of Incarceration

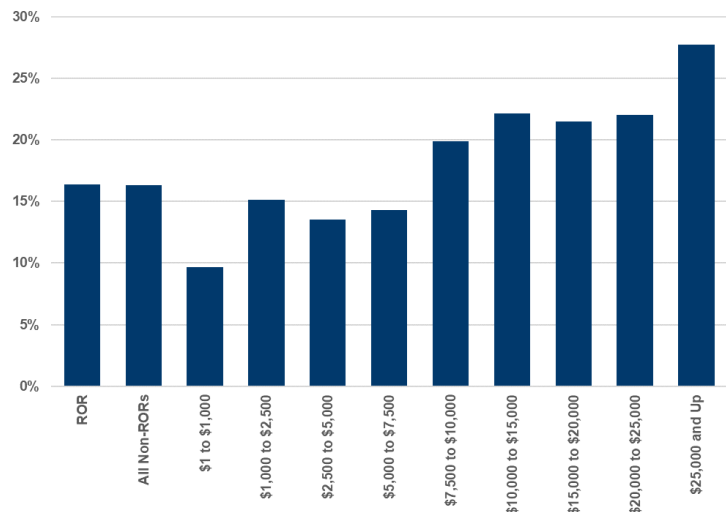
Individuals who were ROR between December 2018 and November 2019 were arrested again following their release at a nearly identical rate to those who were released on bail. People who were ROR were arrested after release 16.4 percent of the time while people who were released on bail were re-arrested 16.3 percent of the time.

The likelihood of a person being arrested after release increased as the price of bail rose above \$7,500. People who were ROR or paid below \$7,500 bail were arrested on new charges after

release at a rate of 14.5 percent compared to 22.7 percent of people who paid above \$7,500 bail.

16% of people who both ROR and paid bail were arrested again after release

Figure 5 – Re-arrest rate by ROR and bail amount



People who were ROR spent substantially fewer days incarcerated on average compared to those who were released via bail. People who were ROR averaged more than three fewer days in jail than those who paid bail and were released within 24 hours of booking at twice the rate of those who pay bail. Nearly two-thirds of people who were ROR were out of jail within 24 hours of arrest and 80 percent were out within 48 hours compared to just 32 percent and 59 percent respectively for those who were required to pay bail.

Table 1 – Percent of individuals released by ROR or bail

Timeframe	ROR	Bail
Within 24 Hours	65.9%	32.6%
Within 48 Hours	79.9%	59.1%
Within 1 week	89.3%	84.2%
Within 1 Month	97.1%	93.7%
Within 6 Months	99.8%	99.9%
Over 6 Months	100.0%	100.0%

People who were ROR were incarcerated for just over 4 days on average while those that paid bail averaged more than 7 days of incarceration. Individuals who took longer than a few days to be ROR were typically held longer because a charge that initially required bail was changed to ROR or the person was not held in the jail after being arrested (such as if they were in the hospital). The quicker release of individuals on ROR resulted in \$421,088¹ not spent incarcerating those people compared to had they been released in the same distribution as those who paid bail.

¹ OPSO's budget for 2019 is \$53,188,976 with an average incarcerated population of 1,169.4 per day which works out to an average of \$125 per person per day over the course of a year.

Beyond financial considerations, three fewer days in incarceration can have significant ramifications for an individual’s mental health and personal wellbeing. The Pretrial Justice Institute, for example, notes that “even three days in jail is enough for people to lose their housing, lose their job, and strain family connections.”²

Case Dispositions

People who were ROR had better outcomes than people who paid bail or were not released at all, even accounting for different charge categories. It is possible, however, that those people were ROR because their cases were seen as weaker. There were over 12,000 cases that had both an arrest and a final disposition in Criminal Court between January 2017 and November 2019. People who were ROR had all their charges dismissed³ substantially more often than people who paid bail or were not released from jail.

Table 2 – Case outcomes by release type

Category	Total	All Charges Dismissed	Percent Dismissed
ROR	1,332	445	20%
Bail	5,807	836	14%
No Release	4,991	271	9%

People who were ROR had their cases dropped more often regardless of the type of charges they faced. In each of the charge categories with more than 20 cases, people who were ROR had all their charges dismissed at a higher rate than people who paid bail or were not released.

Table 3 – Case outcomes by charge type

Charge Type	Cases w/ROR	% w/ROR Dismissed	% w/Bail Dismissed	% w/No Release Dismissed
Other Felony - Nonviolent	768	23%	18%	21%
Narcotics Offense - Felony	489	15%	13%	6%
Burglary - Felony	158	12%	9%	2%
Assault - Misdemeanor	111	29%	25%	8%
Other Misdemeanor - Nonviolent	108	29%	24%	15%
Theft - Felony	101	22%	9%	8%
Theft - Misdemeanor	73	25%	18%	0%
Firearms Offense	53	13%	11%	7%
Narcotics Offense - Misdemeanor	32	21%	9%	3%

² Pretrial Justice Institute. “3 Days Count for State-Level Change.” Retrieved December 16, 2019 from <https://www.pretrial.org/what-we-do/plan-and-implement/3dayscount-for-state-level-change/>.

³ Defined here as cases with all charges having a final disposition of Nolle Prosequi.

Methodology

Data from this analysis covers the period of December 1, 2018 to November 30, 2019 for the failure to appear and re-arrest sections and January 1, 2017 to November 30, 2019 for the case disposition section. Every person in OPSO custody is assigned a unique identifying number (CCN) and each unique arrest (which can include multiple charges) has its own unique number (Folder).

Each arrest generally has one magistrate case associated with it, but it is possible to have multiple magistrate cases associated with an arrest. If a case goes to Criminal Court, then there is one case number for the arrest though it is possible to have multiple defendants associated with one case in Criminal Court.

We determined ROR and bail amounts by taking the sum of bail paid by the individual per charge. If no bail amount is paid and the individual had at least one charge with a ROR disposition and all other charges court release, refused or voided, then the individual was considered as released on their own recognize.

Failure to appear could be determined by searching for instances of "Failed to Appear" in the docket master text. Text-based analysis, however, tends to miss spelling mistakes and identifies false positives (i.e. "The psychologist failed to appear"). Court data includes a failure to appear and alias capias event code, but these codes appear to have only been used consistently since late 2018. As such, this analysis only uses data from December 1, 2018 through November 30, 2019 to determine failure to appear.

Drug testing is listed as an event in both Magistrate and Criminal Courts that can be easily identified and connected to an individual case. Case disposition data comes from the State Supreme Court case disposition file.

Acknowledgments

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Appendix – Data Tables

Percent of Failures to Appear by release condition

Group	Total	FTA	% of Cases	FTA %
ROR	1,069	271	33.8%	25.4%
All Non-RORs	2,097	271	66.2%	12.9%
\$1 to \$1,000	300	28	9.5%	9.3%
\$1,000 to \$2,500	377	47	11.9%	12.5%
\$2,500 to \$5,000	517	58	16.3%	11.2%
\$5,000 to \$7,500	224	39	7.1%	17.4%
\$7,500 to \$10,000	196	30	6.2%	15.8%
\$10,000 to \$15,000	176	27	5.6%	15.3%
\$15,000 to \$20,000	93	11	2.9%	11.8%
\$20,000 to \$25,000	59	8	1.9%	13.6%
\$25,000 and Up	155	21	4.9%	14.2%

Release on Recognizance rate by most serious offense

Most Serious Offense	ROR	Non-ROR	Percent ROR
Armed Robbery	0	38	0.0%
Assault - Felony	4	477	1.0%
Assault - Felony (Domestic)	1	236	0.0%
Assault - Misdemeanor	8	39	17.0%
Assault - Misdemeanor (Domestic)	3	129	2.0%
Attempted Murder	2	17	11.0%
Burglary - Felony	110	59	65.0%
Firearms Offense	23	368	6.0%
Murder & Manslaughter	0	10	0.0%
Narcotics Offense - Felony	402	306	57.0%
Other Felony - Nonviolent	427	206	67.0%
Other Felony - Violent	4	50	7.0%
Rape & Sexual Assault	1	52	2.0%
Simple Robbery	5	57	8.0%
Theft - Felony	76	39	66.0%

Re-arrest rate by release condition.

Group	Total	Re-arrest	Re-arrest%
ROR	1,069	175	16.4%
All Non-RORs	2,097	342	16.3%
\$1 to \$1,000	300	29	9.7%
\$1,000 to \$2,500	377	57	15.1%
\$2,500 to \$5,000	517	70	13.5%
\$5,000 to \$7,500	224	32	14.3%
\$7,500 to \$10,000	196	39	19.9%
\$10,000 to \$15,000	176	39	22.2%
\$15,000 to \$20,000	93	20	21.5%
\$20,000 to \$25,000	59	13	22.0%
\$25,000 and Up	155	43	27.7%