



**New Orleans Safe City Initiative**

**Use of Summonses versus Custodial Arrest for Municipal Offenses**  
September 30, 2010

On April 7, 2010, Vera reported on the use of summonses versus custodial arrests for municipal offenses, following the 2008 enactment of Section 54-28<sup>1</sup> of the Municipal Code, which requires (with some enumerated exceptions) the use of a summons when police encounter a person believed to be committing a municipal offense other than domestic violence. The April 2010 report compared the issuance of summonses versus custodial arrest for three cohorts:

- cases commenced between March 1 and May 31, 2008 (the pre-enactment baseline cohort),
- cases commenced between March 1 and May 31, 2009 (the post-enactment comparison cohort), and
- cases commenced during a period of approximately ten days, between October 8 and October 17, 2009 (the October 2009 cohort).

This report continues tracking the use of summonses versus custodial arrest for cases commenced August 19, 2010, through September 19, 2010 (the September 2010 cohort).

**Summary of Findings**

- Summonses are being issued in 50% of non-domestic violence municipal cases, up from 32% in the October 2009 cohort; 29% in the post-enactment cohort; and 24% prior to the ordinance's enactment.
- For municipal offenses other than public intoxication, summonses are being issued in 59% of cases, up from 41% in the October 2009 cohort.
- Summonses are being issued in 40% of cases with a property offense, up from 18% in the October 2009 cohort.
- Summonses are being issued in 48% of cases with a public order offense, up from 33% in the October 2009 cohort.
- Summons use is up from the October 2009 cohort for the following offense charges:
  - Disturbing the peace, 46% up from 23%.
  - Criminal trespass, 39% up from 18%.

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<sup>1</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; that the officer record on the citation form the reasons a custodial arrest is made if a summons is not issued; and that the New Orleans Police Department report quarterly on the numbers of summonses, custodial arrests, and the reasons given for custodial arrests.

- o Obstructing public passage, 86%, up from 66%.
- For regulatory offenses, summons use is down from 74% in the October 2009 cohort to 60% in the September 2010 cohort.
- New Orleans residents<sup>2</sup> receive summonses at a much higher rate (49.8%) than non-New Orleans residents (15.8%).

**Frequency of Summons Use**

Tables 1 and 2 provide the breakdown of summons use versus custodial arrest for all four cohorts. For purposes of this comparison, we have removed all cases with domestic violence offenses as they are exempted from the ordinance. Also included is the frequency of summons use for cases with or without a public intoxication charge.

As illustrated below, summonses are being issued in 49.8 percent of non-domestic violence municipal cases, up from 24 percent prior to the ordinance’s enactment. Table 2 shows that in municipal offenses other than public intoxication summonses are being issued in approximately 58.6 percent of cases.

**Table 1: Rates of Summons Use and Custodial Arrest Preceding and Following Enactment of Section 54-28**

	Summons Issued	Custodial Arrest
2008 pre-enactment cohort (n=8,754)	24.4%	75.0%
2009 post-enactment cohort (n=9,247)	29.3%	67.7%
October 2009 cohort (n=308)	31.5%	68.5%
September 2010 cohort (n=1,634)	49.8%	50.2%

**Table 2: Rates of Summons Use and Custodial Arrest Preceding and Following Enactment of Section 54-28 – excluding cases with public intoxication**

	Summons Issued	Custodial Arrest
October 2009 cohort cases without a public intoxication charge (n=222)	41.0%	59.0%
September 2010 cohort cases without public intoxication charge (n=1344)	58.6%	41.4%

<sup>2</sup> “Nola Resident” is defined as an individual who lives within a 20-mile radius of New Orleans, or on the North Shore. The term North Shore refers to areas that lie on the northern shore of Lake Pontchartrain, approximately 30-45 miles north of New Orleans, and includes the communities of Mandeville, Covington, Madisonville, Abita Springs, Lacombe, Eden Isle, and Slidell.

Tables 3 and 4 provide the breakdown of offense type and offense charge of summons use versus custodial arrest for the September 2010 and October 2009 cohorts. For public intoxication and person offense types, the rate of arrest versus summons remained relatively the same from one cohort to the next. When comparing cohorts for property and public order offense types, there was a higher rate of custodial arrest for the 2009 cohort. There appears to be a shift towards summons use for these two types of offenses when examining the trends for the September 2010 cohort. Use of summonses for regulatory offenses dropped from one cohort to the next. Table 4 shows an increase in the use of summonses for certain offense charges. Included in these charges are: disturbing the peace, criminal trespass, and obstruction of public passage.

Table 3: Custodial Arrest and Summons by Offense Type

Offense type	Percentage placed under custodial arrest	Percentage issued a summons
<b>Public intoxication offense</b>		
September 2010 cohort (n=290)	91.0%	9.0%
October 2009 cohort (n=86)	93.0%	7.0%
<b>Property offense</b>		
September 2010 cohort (n=461)	59.9%	40.1%
October 2009 cohort (n=102)	82.4%	17.6%
<b>Person offense</b>		
September 2010 cohort (n=112)	70.5%	29.5%
October 2009 cohort (n=21)	71.4%	28.6%
<b>Other public order offense</b>		
September 2010 cohort (n=1,072)	52.2%	47.8%
October 2009 cohort (n=176)	67.0%	33.0%
<b>Regulatory offense</b>		
September 2010 cohort (n=296)	40.2%	59.8%
October 2009 cohort (n=31)	25.8%	74.2%

Table 4: Custodial Arrest and Summons by Offense Charge

Offense charge	Percentage placed under custodial arrest	Percentage issued a summons
<b>§54-405 Public intoxication</b>		
September 2010 cohort (n=290)	91.0%	9.0%
October 2009 cohort (n=86)	93.0%	7.0%
<b>§54-403 Disturbing the peace</b>		
September 2010 cohort (n=397)	54.2%	45.8%
October 2009 cohort (n=74)	77.0%	23.0%
<b>§54-153 Criminal trespass</b>		
September 2010 cohort (n=291)	61.5%	38.5%
October 2009 cohort (n=66)	81.8%	18.2%
<b>§54-401 Obstructing public passage</b>		
September 2010 cohort (n=250)	14.0%	86.0%

<i>October 2009 cohort (n=38)</i>	<i>34.2%</i>	<i>65.8%</i>
<b>§54-441 Battery*</b>		
September 2010 cohort (n=110)	<b>70.9%</b>	<b>29.1%</b>
<b>Other charges**</b>		
September 2010 cohort (n=906)	<b>59.3%</b>	<b>40.7%</b>
<i>October 2009 cohort (n=182)</i>	<i>48.0%</i>	<i>52.0%</i>

\* Battery was not included in the top five charges for the 2009 cohort.

\*\* "Other charges" consists of all single offense charges that make up less than five percent of the total number of offenses charged.

### Demographics of Custodial Arrestees and Individuals Issued Summonses

Tables 5, 6, and 7 provide the breakdown of summons use versus custodial arrest for the September 2010 cohort. The majority of all cases in the cohort were New Orleans residents, African American, and male. When examining the percentage of arrest versus summons for New Orleans residents, the use of summons and custodial arrest is similar. Individuals not residing in New Orleans appear to have a higher percentage of custodial arrest than summons. Although the number of homeless non-residents is rather low, the same pattern appears to exist between the two homeless groups. Homeless New Orleans residents have a much higher percentage of summonses than custodial arrest than homeless non-residents.

Table 5: Custodial Arrest and Summonses by NOLA Residency/Homelessness

Residency	Percentage placed under custodial arrest	Percentage issued a summons
NOLA resident <sup>3</sup> (n=1218)	50.2%	49.8%
NOLA non-resident <sup>4</sup> (n=152)	84.2%	15.8%
NOLA homeless <sup>5</sup> (n=236)	26.3%	73.7%
Homeless non-resident <sup>6</sup> (n=17)	70.6%	29.4%
Not reported (n=11)	72.7%	27.3%

<sup>3</sup> "Nola Resident" is defined as an individual who lives within a 20-mile radius of New Orleans, or on the North Shore. The term North Shore refers to areas that lie on the northern shore of Lake Pontchartrain, approximately 30-45 miles north of New Orleans, and includes the communities of Mandeville, Covington, Madisonville, Abita Springs, Lacombe, Eden Isle, and Slidell.

<sup>4</sup> "Non-Resident" is defined as an individual who lives in Louisiana beyond a 20-mile radius of New Orleans and not on the North Shore, or in another state.

<sup>5</sup> "Nola homeless" is defined as individuals who listed a local homeless shelter as a home address, and individuals who self-identified as "homeless" in the City of New Orleans.

<sup>6</sup> "Homeless non-resident" is defined as individuals who self-identified as "homeless" in a city other than New Orleans.

**Table 6: Custodial Arrest and Summons by Race/Ethnicity**

<b>Reported race/ethnicity</b>	<b>Percentage placed under custodial arrest</b>	<b>Percentage issued a summons</b>
Asian (n=10)	40.0%	60.0%
Hispanic (n=7)	71.4%	28.6%
Caucasian (n=609)	53.2%	46.8%
African-American (n=985)	48.3%	51.7%
Unknown/other (n=23)	52.2%	47.8%

**Table 7: Custodial Arrest and Summons by Gender**

<b>Gender</b>	<b>Percentage placed under custodial arrest</b>	<b>Percentage issued a summons</b>
Female (n=408)	43.9%	56.1%
Male (n=1212)	52.3%	47.7%