



## Victims arrested for failing to prosecute

A victim may, after initially reporting a crime to law enforcement, later decide that they no longer want to cooperate with law enforcement for a variety of reasons: fear of retribution from either the perpetrator or others in the community, or fear of consequences of continuing with the prosecution (for example, a domestic violence victim may fear loss of income if the father of her child is incarcerated). A prosecutor may be able to continue the prosecution without the victim coming to court to testify by introducing other evidence such as previously recorded statements of the victim or testimony of other witnesses. A prosecutor is also permitted to request a material witness warrant whereby a victim can be arrested for failing to come to court to testify when subpoenaed. When the victim is arrested on a material witness warrant, the witness is incarcerated- often in the same correctional facility as her or his aggressor, the Orleans Justice Center.

### *Crime Victims Arrested in 2016: Number of Days Incarcerated and Type of Case on which the Victim Did Not Cooperate with Law Enforcement*

Victim Identifier	Length of Incarceration	Type of Case
Female Victim #1	8	Second Degree Rape, Second Degree Battery
Female Victim #2	6	Aggravated Assault with a Firearm
Male Victim #1	18	Attempted Second Degree Murder, Possession of a Firearm by a Felon
Male Victim #2	179*	Attempted Second Degree Murder, Armed Robbery with a Firearm
Male Victim #3	1	Aggravated Burglary, Attempted Second Degree Murder, Second Degree Murder, Aggravated Battery
Male Victim #4	1+	Attempted Second Degree Murder, Manslaughter, 2nd Degree Murder

\*This defendant was also held in jail on a probation violation caused by his arrest for failing to testify for the prosecution.

Some victims rights groups argue that arresting and incarcerating victims will deeply traumatize an already shattered individual, and there are alternative approaches to ensuring public safety. Additionally, victim advocates, point out that if victims believe they could face incarceration, they will be disinclined from reporting crime in the first place.

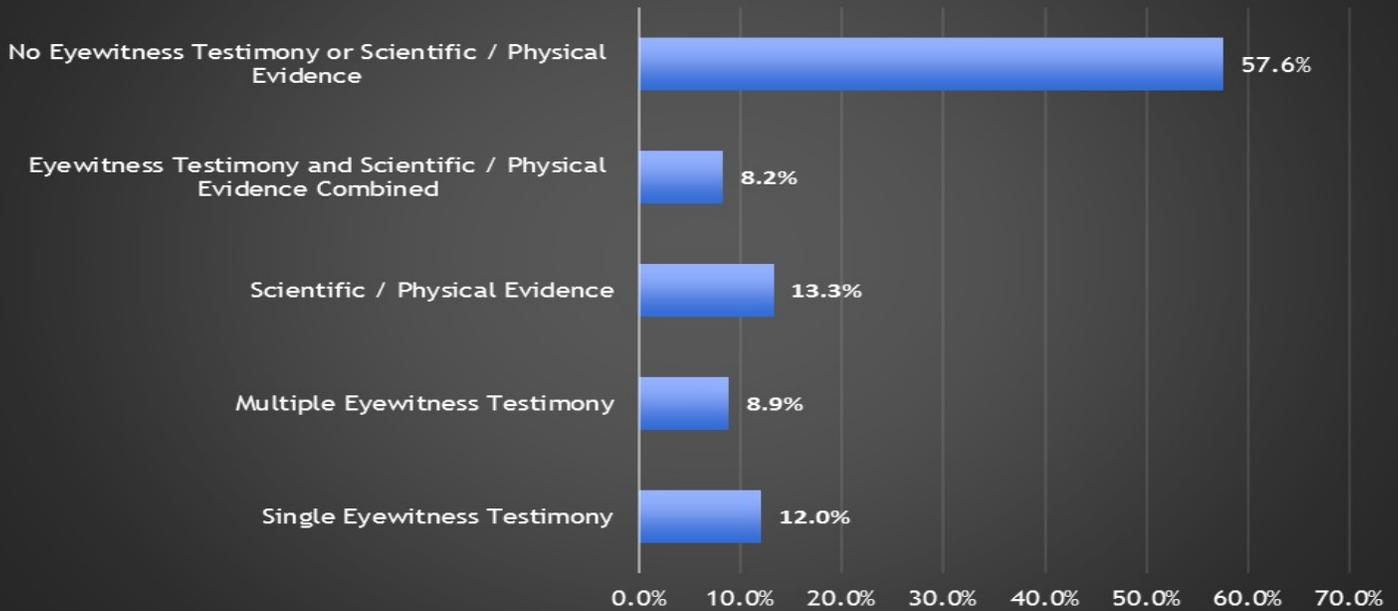
Some prosecutors argue that arresting and incarcerating victims who fail to cooperate with law enforcement will allow them to remove dangerous criminals from the streets. This is true, they argue, in some cases such as gang cases where the larger community is at clear risk.

Court Watch NOLA recommends: The District Attorney should discontinue the incarceration of domestic violence victims and sex crime victims on material witness warrants. In non-domestic violence and non-sex offense cases, the District Attorney should, at a minimum, publicly release a protocol that includes the different risk factors considered in each case before a material witness warrant is requested to arrest a victim.

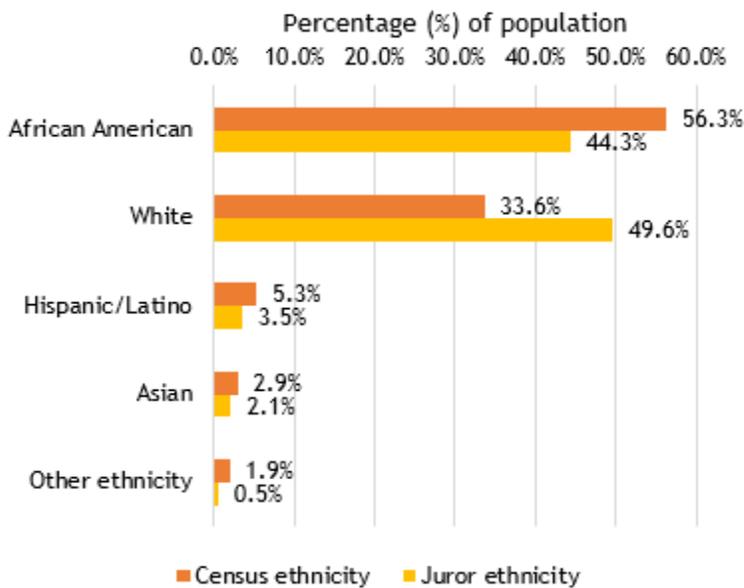
Court Watch NOLA (CWN) is a nonprofit whose mission is to promote reform in the Orleans Parish criminal court system through civic engagement and courtroom observation

**An average of 57.6% of trial observations did not include eyewitness testimony, scientific evidence, or physical evidence**

*Types of Evidence Presented During All Observed Trials*



*Comparison: census data vs. juror ethnicity*



*We the Jury*

*Comparison: census data vs. juror gender*

