



70 Million S2 E1 Annotated Transcript:

Marching Toward Reform in New Orleans

For years, to fund itself, New Orleans' criminal legal system has relied on bail, fines and fees levied on the city's poorest. But there are signs of change on the horizon, with a groundswell of community action and two landmark federal rulings in the last year. Reporter Eve Abrams takes us inside some of the big shifts happening in the Big Easy.

Dive deeper into reform efforts in New Orleans and beyond in our [episode toolkit](#).

Mitzi Miller: 70 Million adults in the United States have a criminal record. This is season two of 70 Million, an open source podcast about how people, neighborhoods, counties, and cities are breaking cycles of incarceration—starting with the local jail.

I'm your host, Mitzi Miller.

We spent season one highlighting some of the universal problems that make justice reform at the local level seem impossible: cash bail, racial profiling, criminalizing poverty, jailing teens for minor offenses, locking up people with substance abuse issues instead of treating them, and the sharp rise of women behind bars. This season we're spending time in communities trying bold solutions. We'll look at what's going well, where there's still work to do, and what we can learn from all of it.

"So I got to experience the uncomfortability of just being stuffed in a cage and all of that. It was really scary."

"We're keeping people down there with rats, roaches. And we spend \$16 million on it every year."

"We eliminated cash bail bonds in the city of Atlanta."

"There's no one who has been incarcerated, including myself, who has been helped by incarceration."

Fines, fees, a defendant-funded legal system is the norm all over the United States. New Orleans is a prime example of this. Like [most places](#), [New Orleans](#)

[has never had a plan](#) for how to fully fund its criminal legal system. Which is why it's been passing the costs on to the people charged and prosecuted. Most of them, [poor and black](#). Before trial, there's bail. People who bail through a commercial bail bonds company also pay a 3% fee to fund the courts, the sheriff, the district attorney, and the public defender. If you're convicted, there are more [fines and fees](#) to pay for things like [court costs and the judicial expense fund](#).

Lots of people on all sides agree something needs to change. But exactly how to create change remains a question. Eve Abrams brings us this report from New Orleans.

Eve Abrams: Albert is a food guy.

Albert: I have Julia Child's first paperback, the French Chef cookbook. I have Emerald's TV Dinners, Southern Recipes and Legends. I also have... uh...

Abrams: Albert's 54. He's worked in New Orleans kitchens for over 35 years.

Albert: Where's my glasses? Here we go.

Abrams: He reaches into the stack of cookbooks on his desk, pulls one out, and starts flipping through.

Albert: This is the top 100 food zones—giving you certain information on certain things—celery, apples, the nutritional benefits of certain foods.

Abrams: We're not using Albert's last name in order to protect his privacy and job security. Currently he works for a company that has him cooking all over the city. He gets around to work by bicycle.

Albert: Rubber wheels beat rubber heels any day.

Abrams: Meaning, why walk when you can bike?

Albert: Yes ma'am. Exactly. Cause that's the beauty of the city: you can get from point A to point B in under 30 to 45 minutes.

Abrams: One night last fall, Albert was biking home from work. He'd been cooking in a stadium. It was late, and the streets were deserted. He came to an intersection with a traffic light.

Albert: It was a red light so I stopped at the red light. I looked both ways. I didn't see a

car—this is like one in the morning. So, instead of waiting for the red light to change to green—ain't no cars out there—so, I went over the light. That's when I got pulled over. The officer said, "I know you saw the light was red." I said, "I know you saw me stopped at the red light. Ain't nothing out here. Just me and you out here." "Give me your ID."

Abrams: The officer ran Albert's name through his computer, and when he stepped back out of his car.

Albert: First thing he did, he put the handcuffs on me. So, I got handcuffed. They put me in the back. They brought me to Orleans Justice Center. I was processed and booked with distribution.

Abrams: Distribution of crack cocaine.

Albert didn't know it, but the police had a warrant out for Albert's arrest—for something that had happened the year before.

Albert: In 2017, we were uptown, sitting outside of a washerette. A friend of mine was doing his laundry, and this guy pulled up in a truck. He had a ladder in the back, and he was trying to buy drugs. He was trying to make it to work on time. At first, we ran him away from here because it was ... this, this not a drug zone.

Abrams: How did you run him away? What did you say?

Albert: "Ain't nothing—ain't nobody doing nothing over here, man. Go on about your business." But, his persistence paid off. He came back a second time, and he came with an offer. Sweetened the pot, in other words. He said if we can get him some drugs, he would give us some money. \$20 a piece.

Abrams: Did you tell him where to go or did he ask you where to go?

Albert: He had an idea of the area, 'cause what made us fall for it: he told us, he said, he go in the hood, an African- American community. And when he try to get it from other people over there, they'll take his money and run off with it or hide, or they wasn't selling what he was looking for.

Abrams: What did he look like?

Albert: He was white guy, it kind of made us feel sorry for him. Man, come on. He played on our emotions.

Abrams: Turns out, this white man playing on Albert's emotions was an undercover cop. A few days later, a warrant was issued for Albert's arrest. But it took a little over a year for that arrest to happen—at Albert's next contact with the police—at that red light. So, that's when Albert was booked into the New Orleans jail. His bail bond wasn't high—only \$300. But, that didn't matter, because Albert didn't have \$300.

Albert: At that time, I was in between pay periods. Just paid the rent, lights, water.

Abrams: And of course, while he was in jail, Albert couldn't work—so, he couldn't earn \$300 to make bail and get out. So, he sat in jail for weeks.

Music break

Sitting in jail [while your case winds its way](#) through the system [can take days, months, even years](#). And, this can be personally disastrous. If you're in jail, you can't show up for work, so [it's really easy to lose your job](#). And because you lose your job, you can't pay rent, so you might lose your home. You can't care for your children while you're in jail, so you very well may lose them too. But, Albert was lucky in a few ways.

When you're arrested, your cellphone, along with all your property, is taken. But, Albert knows his sister's number by heart, so he called her, and she knew what to do. This wasn't Albert's first arrest and they'd been down this road before.. She called Albert's boss and told him what had happened, and remarkably, they held Albert's job—until he got out.

Albert: I've been with this company for three years that I worked for, and the job coordinator, he knows exactly the type of employee he's dealing with.

Abrams: Which is what?

Albert: He's dependable. He's punctual and he knows his way around a kitchen.

Abrams: Most people in jail in New Orleans are like Albert: [they can't afford to pay their entire bail](#). Many of them just [stay in jail](#). But, anyone who can scrape together *some* amount of money, and who has people on the outside who can go to a bail bonds company, works out a deal, signs a contract, and pays *them*. Not the full amount. In Louisiana, [12 or 13%](#).

But, Albert's court-appointed public defender had another solution—Albert's second stroke of luck. The lawyer reached out to a group called [The New Orleans](#)

[Safety and Freedom Fund](#) and told them about Albert's situation. This fund is also known as the Bond Angels, because they get people out of jail—people they don't know—by paying their bonds with money from anonymous donors. They paid Albert's \$300, in full. So he got to go home after three weeks, instead of staying in jail while his case resolved, which took six months.

Music break

Jen Medbery: The vast majority of people we bond out are arrested for things like theft, drug possession, fighting.

Abrams: Jen Medbery helped create the Safety and Freedom Fund around two years ago. She's explaining how it works to a group of people gathered around a table in a cavernous New Orleans art gallery.

Jen Medbery: And, we're not the first to do this. We studied the way revolving bail funds have been working in other places, like Nashville and Chicago and Brooklyn for years. We're part of a network of over 40 community bail funds across the country that rally the community to bond out our neighbors so that they can get back to work, get back to their families.

Abrams: The fund invites people to events like this to educate the wider public about the impact of bail on both safety and justice. Jen and the other founders have a dual mission: the direct work of bonding people out, and the long-term goal of ending money bail.

Medbery: Ultimately, the change that we need to see is to just take money out of the equation and replace it with a system where most people are released back to the community and only those who after a hearing are demonstrated to be truly such a threat to public safety that really no amount of money should allow them to buy their way out.

Abrams: The Bond Angels get referrals, usually from the Public Defender's Office, like in Albert's case. Before they post someone's bail, the Bond Angels have a vetting process. A big part of it is making sure that person has strong connections to the community. They do this because [data shows that ties to the community are a strong predictor](#) of whether or not someone will return to court to resolve their case. Jen says, the Bond Angels bail out people...

Medbery: ...who are not a public safety risk, are not a flight risk, haven't been convicted, aren't serving time, are just there because they are too poor to post the bond amount that's been set.

Music break

Norma Grace: Do you really understand how long somebody can be kept in jail because they can't pay?

Abrams: This is Norma Grace. She recently visited the magistrate court, where bail is set, on a trip arranged by the Fund. The group sat in court for an hour and a half and watched over a dozen people, shackled and wearing orange jumpsuits, make their first appearances before a judge. All of them had been arrested within the last 72 hours. They were in court for two reasons: for the judge to determine if the police had probable cause to arrest them *and* for the judge to determine if bail was needed, and if so, how much. Ever since Norma went, she can't stop talking about it.

Grace: Oh, I've talked to so many people. I've talked to so many people.

Abrams: Norma's 70, retired. She was vice chancellor at the University of New Orleans. And

she's the kind of person the Bond Angels want to bear witness to how money bail works: someone who might not otherwise see this particular side of the justice system. Norma reads the paper, she read *The New Jim Crow*,¹ but she says going to court, and actually watching the judge set bail—that's when it clicked.

Grace: I mean you can read about it, but until you see it you can't believe it.

Abrams: How assembly-line and mechanical it is.

Grace: They brought the prisoners in and it was like a chain gang. They all sat in the back of the court, and it was so impersonal. It's not that they were ever brought up front really. It was done from a distance, and it was done so quickly. Like, each case was heard so quickly that I didn't feel there was a way for anybody to have really understood the cases. So, from a point of personal, where that I.. I would've felt that my case wasn't heard, that my... it wouldn't have been me, because I can pay [laughs] you know, and that was the, that's what hit me the most.

Abrams That *money* plays such a big part in justice.

Which is why the Bond Angels want to remove money as a condition of a person's liberty. By paying bail for people like Albert, not by going through a bail bonds company but by paying *in full*, directly to the court.

¹ Michelle Alexander's 2010 best seller argues that mass incarceration is the new Jim Crow. The book has been adopted by organizers, who have written [accompanying organizing and study guides](#).

Music break

After his release, Albert had to return to court around four times to deal with his case. First, he had to wait for the DA to accept or drop the charges against him. They accepted. Then, he had to wait for a plea offer from the DA: two years probation. Albert accepted.

So now, for two years, Albert has to meet with his probation officer every month. *And* he has to report to a probation center three days a week. I asked Albert how he feels about all this. He said,

Albert: This word, “comply.” If you comply...

Abrams: Albert says *if* you comply, you get to do your thing—which for him is...

Albert: Stay abreast of all different food trends and everything coming out: [Master Chef](#), [Food & Wine Magazine](#). I’m into all that. That’s my bread and butter. But if you don’t comply, you face incarceration. We gonna lock you back up.

Abrams: People who make bail through a bail bonds company, [they never get their money back](#). But if you pay *in full* to the court, like the Safety and Freedom Fund did for Albert, that amount gets refunded [after your case has been resolved](#). So, that \$300 the Fund paid to bail out Albert...now, they can use that same money to bail someone else out.

Medbery: We have raised over \$100,000 that goes directly into the Fund. We’ve used that \$100,000 to post a little over \$200,000 worth of bail because of the way it recycles.

Music break

Abrams: Since they began bailing people out of jail around 2 years ago, the Fund’s freed over 200 people, like Albert. But New Orleans arrests [around 16,000 people each year](#). To make a dent in the burden low-income people pay into the system, the city needs change at a much bigger scale.

Calvin Johnson: I grew up in the criminal system. I’ve been in it for almost 50 years.

Abrams: Meet retired Judge Calvin Johnson. He was a criminal court judge in New Orleans

for 17 years; in his final years, Chief Judge. Later, he became the Commissioner of Criminal Justice under former Mayor Mitch Landrieu.²

Johnson: The thought process of the criminal justice system was that making people pay to get out of jail, there was nothing wrong with that. Having people when they pay to get out of jail, to have some of the money used by the court itself to operate, nothing was wrong with that. Making people pay money towards other aspects of the criminal system. There was nothing wrong with that, or for that matter, paying money to other entities that get paid as a result of this.

Abrams: But Johnson doesn't think that way now. In fact, he's spent the last decade trying to change systems he once participated in, like money bail.

Johnson: We knew full well that at least some of us, this one of us, knew full well that to change how people paid to get out of jail and for us to get paid as a result was not the way for the system to function, to operate. We knew that when we did it.

Abrams: And they did it anyway.

Johnson: ...so we could fund ourselves. Otherwise, we were going broke. That's a fact.

Abrams: And the fact that New Orleans asked its most vulnerable citizens to pay for this?

Johnson: It didn't matter to us. Keep in mind, see again, you go back to the 70s and the 80s and the early 90s, and the fact that the cost was passed on to the poorest of the poor did not matter to us.

Abrams: Why not?

Johnson: 'Cause that just, it wasn't the way we thought about the system. It just wasn't... we didn't think about the system from the perspective of the users of it.

Abrams: But today's judges, more and more, think about the people who use the system.

Keva Johnson: I think that right now the state of criminal justice in New Orleans is in a state of reform, which I think is a really great thing.

Abrams: This is New Orleans *current* Chief Judge, Keva Johnson. She was elected to take

² For more about Calvin Johnson, check out *Unprisoned* [Episode 17](#).

over the bench from retiring Judge *Calvin* Johnson. And like him, she's not a fan of how money affects justice. While we spoke, construction was happening on and off next to her chambers.

Johnson: We knew that there were people who were sitting in jail and who could not afford bond and did not deserve to just sit because they could not afford bond.

Abrams: Before becoming a judge, Keva Johnson was a prosecutor. For a few years, the top prosecutor: [the District Attorney](#). She says she was trained to be tough on crime.

Johnson: You multiple bill everyone, you keep everybody in jail. But what we recognize is that didn't work. It didn't work.

Abrams: Stiff sentences, packing the jails: it didn't deter crime. One reason things are starting to change in New Orleans is because there are now *judges* who think this way. Another reason is because New Orleans is being *forced* to change.

Johnson: You know, I became the chief judge under two federal lawsuits.

Adams: She's talking about lawsuits New Orleans judges *filed* to challenge rulings from [two separate federal cases](#), both from 2018. One ruling said the Magistrate Court [was violating defendants' constitutional rights](#) by setting money bail, without first determining if a defendant can afford to pay that bail. In the other case, a different federal judge ruled New Orleans judges [can't put someone in jail for not paying a fine or fee](#) without first, again, determining if they can afford to pay that fine or fee. Both federal judges, in both cases, also said something that came as no surprise to Calvin Johnson: when judges get a *cut* of the money they charge people, that's a conflict of interest.

Johnson: That was as obvious as the light coming through your window: that the federal system was going to say that you can't continue to make people pay money to *you* that you use the fund yourself. You can't continue, come on, just do the math.

Abrams: But one step forward, one step back. Calvin Johnson's successor, Judge Keva Johnson, agrees on the need for reform, but not necessarily on the details.

Johnson: I don't disagree with the fact that you should not make indigent people pay fines and fees. I disagree with the conflict of interest portion of the ruling because then no courts could deal with any financial aspects of their job, right? There is an administrative function of every court and their finances.

Abrams: Which is why New Orleans' judges are appealing the rulings, or parts of them.

It's also a textbook example of why changing the system can be so complicated, and can feel so slow. Because no one person, or even one court, or even one branch of government, agrees *how* that change should go. Each time one tries something, it seems like another one says, "Nah, that's not the right way to go, and then does a new thing to cancel out the first thing."

This one-step-forward, one-step-back trudge toward change has been going on a *long* time. At least 15 years, to when Calvin Johnson was Chief Judge when his court asked the state legislature for a bigger cut from money bail. Remember, he said judges knew making poor people foot the bill for the system was wrong.

Johnson: We knew that when we did it, which is why we did two things. We did that and we did legislation to combine the courts.

Abrams: Combine the criminal and civil courts: what some thought was a permanent solution for getting rid of money bail. Make the city operate like the rest of Louisiana.

Peppi Bruneau: There's no real reason why New Orleans should have been different than every other parish in the state.

Abrams: This is former Louisiana State Representative, [Peppi Bruneau](#).

Bruneau: I'm an old man. I've lived in New Orleans my entire life. I served in the legislature from 1975 until 2007.

Abrams: And back in 2006, Peppi Bruneau introduced the bill that would have taken New Orleans civil and criminal courts—and combined them—into *one* court.

Bruneau: [Senate Bill 645](#) and [House Bill 514](#).

Abrams: Money-wise, it was kind of a no-brainer.

Bruneau: So you had one court that was generally well off and another one that was about to go bankrupt.

Abrams: Calvin Johnson was a *criminal* court judge, but he knows how the money flows in civil court, often big money—[from corporations paying filing fees](#).

Johnson: When you use the civil court, and you file a piece of paper, you're paying for that filing, and so those filing fees is how that court operates itself, so that court never asked the city for funding. It doesn't have to.

Bruneau: Whereas the criminal courts were almost bereft of money.

Johnson: So, the way to really long term fix this problem is to combine these two courts. That's the long term fix to the problem.

Bruneau: The bill passed 96 to one in the house, so it wasn't exactly controversial, but it never went into effect.

Johnson: The legislators, some of them who were there when this legislation was passed— of course term limits, and they left... and so legislators who come back don't know much about this and much about the history of it, and killed that act that would have called for the unification of the Orleans Court in 2014.

Bruneau: Times change. Legislators change.

Johnson: C'mon, the people who benefited from the status quo wanted the status quo to continue, and so the status quo has continued.

Abrams: Because gradually, over time, four judgeships would have been phased out. Two clerks of court would have become one. And all those folks have staffs, so a [bunch of jobs would have disappeared](#). Which would have saved money, and some believed, taken the burden of paying for the criminal system off the backs of poor people.

Bruneau: I think it would have solved the problem.

Johnson: That was a major disappointment for me. Which is why I'm now making this very public saying it to you, is because it still remains a major disappointment for me.

Bruneau: You know, I mean, we're still in the 19th century with respect of our court system.

Johnson: It was a lost opportunity.

Abrams: Today's Chief Judge, on the other hand, doesn't think so.

Johnson: We fought against that.

Abrams: [Judge Keva Johnson](#) took the bench in 2008, six years before the courts were supposed to combine, which would have been complicated. For one thing, the two courthouses are over a mile apart, and they have totally separate systems. Also, once they combined, there wouldn't be civil judges and criminal judges. There would have just been... judges presiding over *all* the cases.

Johnson: We wouldn't be opposed to receiving money from civil district court. However, I see us as experts in criminal law, right? And I think that there is a benefit to that. For me, you know, my passion is this and I wouldn't want to change that one bit. Not to say that I'm not interested in family law issues, but honestly, I'm not.

Music break

Abrams: So that step forward... didn't happen.

But how *do* you keep the criminal court operating while a new, more fair and more constitutional system takes the place of the old system?

Some people, like Judge Calvin Johnson, hoped the pressure from those two federal rulings might be just the thing to set that change in motion.

Johnson: You can't continue charging poor people money to use the system. You can't continue to do that, but the court itself needs money to operate with. And so if you're not going to have that money to operate with, well you can have to have some money to operate with. So the city just wrote a check to the court for, I don't know what, pushing almost \$5 million or something.

Abrams: Actually, it was closer to [\\$6.9 million](#).

But in any case, Judge Johnson says this totally nonchalantly, as if it's common knowledge that the city more or less doubled the criminal court's budget from last year. But that's not the case. Most people didn't even notice the court is getting twice as much money. But organizers did.

In fact, a group known as the New Orleans Alliance for Equity and Justice [wrote a letter to the City Council](#) before the budget passed, asking *them* to fully fund the criminal court so that the court wouldn't have to get their funding by charging poor people. They also asked for changes, like ending money bail and withdrawing the appeals against the two federal court cases.

Syrita Steib-Martin signed that letter. She's a formerly incarcerated person and now runs an organization called [Operation Restoration](#) which helps women and girls transition to life outside of prison. Syrita regularly hears stories from people in jail who are locked up for one reason: they're too poor to pay a fine or fee or bail.

Syrita Steib-Martin: We would go into Orleans parish prison and meet with the women monthly, talk to them, see what some of the issues were, where we could be helpful, and just hearing story after story of women being in there, leaving four kids at home,

the oldest child is trying to take care of the younger three and you know, they need \$100 to get out. And it's just story after story of women just sitting there because they are unable to pay money. It was crazy.

Abrams: Syrita kept thinking: how do we change this?

Steib-Martin: You know, we could call a judge or public defender and bring the situation to their attention and be like, "Okay, you have someone who's been sitting there for like 60 days. They need \$100 to get out." Like, what sense does that make? It costs you more to incarcerate the person than the hundred dollars you're trying to collect, right, but why is it up to us to go in, identify, and bring to your attention this particular individual? Like, why is this person lost in the system for \$100?

Abrams: When Syrita first heard the city was giving the court all this money...

Steib-Martin: ...it was like, "Yay," but then it was deflating at the same time, because where's the oversight? How is this going to translate into changing? Because, we can pass these laws, we can change how we fund things, but if there's no oversight component in it, there's no accountability.

Abrams: So, Syrita's organization, [Operation Restoration](#), is stepping in with some citizen oversight. They've trained a team of women who go into every courtroom, daily, and collect data, like defendants' demographic and ethnic information, and was the defendant's ability to pay taken into consideration before fines, fees and bail were assessed? Operation Restoration helped develop a program to quantitate the information these courtwatchers gather, which data analysts then go through. And, what they've seen is that the court is not doing what it's supposed to be doing.

Steib-Martin: The only thing that's consistent in the money bail conversation and what is happening, is that there's no consistency.

Abrams: According to Operation Restoration's data³, as well as [a recent report by our media partner the Vera Institute of Justice](#), not all New Orleans judges are abiding by last year's rulings on how bail is set.

I asked Calvin Johnson, who oversaw criminal justice reform under the previous mayor, if the city was holding the judges accountable when they doubled the court's budget.

³ Operation Restoration is in the process of calculating the findings from their study of criminal court judges. They also plan to start collecting data from the magistrate court this year.

Johnson: I assume the city's purpose is to get the court to better manage how it operates itself. And so okay, we're going to give you money that will help you to get over some of the issues you have. And, one of the issues is fines and fees. So, if I'm writing the court a check, I assume that the check is being written with this ask in place. I assumed that because heck, that's what we would have done in 2018. So I assume that's what's happening in 2019. I assume the same thing. But I don't know for a fact if that's being done.

Abrams: But there were no asks, according to both the City *and* Judge Keva Johnson. The city gave the judges twice as much money and *trusted* they would do the right, constitutional thing with it. They trusted the judges to follow the Federal Court rulings — every judge, in every courtroom.

But, they're not. At least in terms of the ruling about bail.

Music break

This June, [the federal court issued a landmark judgment](#). It said New Orleans Magistrate Court has been blatantly violating last year's federal rulings. It said the court's bail practices continue to violate the constitution. People continue to be detained in jail because they are too poor to pay for their release. The judgment basically says, "Hey, New Orleans, make the changes you said you would, or risk being held in contempt of federal court."

This judgement feels like a step forward for reform advocates, but it's too early to tell. It's like Judge Calvin Johnson says: change might not come as fast as some would like, but it is coming.

Johnson: This is that that aircraft carrier in the middle of the Pacific Ocean where you need eight, 10 miles of ocean to turn it around. And so, if it's not a thing that can be done overnight and easily, and it's not going to happen this year or next year, but at the rate we are going, it's going to happen. The fact that there is at least conceivable possible that the city of New Orleans is saying to the criminal justice system, now this is how you have to function and function differently. That's a hell of a step.

Miller: Eve Abrams is a reporter based in New Orleans.

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Music break

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