



# METROPOLITAN CRIME COMMISSION, INC.

## 2015 ORLEANS PARISH

### JUDICIAL ACCOUNTABILITY REPORT

The Metropolitan Crime Commission (MCC) has regularly issued reports on judicial efficiency in Orleans Parish Criminal District Court since 2007 with goals of promoting accountability and transparency in judicial performance as well as efficiency and consistency in criminal case processing.

#### Background

Orleans Parish Criminal District Court (CDC) has 12 elected judges that oversee the prosecution of felony cases. The primary role of a judge is to serve as an independent and objective arbitrator to ensure legal proceedings are properly and fairly conducted in accordance with the law.

When the District Attorney's Office accepts a case for prosecution, the case is allotted to the judge randomly scheduled to receive cases for all offenses occurring on the date the crime was committed. Over time, this allotment process adopted by the court should result in each of the 12 judges receiving balanced caseloads with equal numbers and similar types of cases.

Recent transitions in the judiciary include two retirements over the past two years. Judge Parker retired in August 2014 and was replaced first by a series of interim judges and then by Judge Williams in early 2015 following his election. Judge Marullo left the bench in February 2015, and his seat was filled with temporary judges until a permanent replacement was elected in December of 2016. Judge Flemings-Davillier was elected in 2013 and 2014 was her first full year on the bench.

Judge Benedict Willard served as the Chief Judge from 2014 through 2015, which carries additional administrative duties.

#### Methodology

For the purpose of this report, judicial efficiency is measured by examining each judge's inventory of open felony cases, percent of open felony cases more than one year old, and time it takes to close felony cases. These performance measures are based upon standards established by the American Bar Association

### OVERALL JUDICIAL EFFICIENCY RANKINGS

Judges' overall judicial efficiency rankings from 2014 are compared to their 2015 rankings in [Exhibit 1](#). Overall rankings are based on each judge's rank on each of the three judicial efficiency performance measures analyzed in this report.

The top four judges retaining the highest rankings in 2014 and 2015. Judge Zibilich remained the highest ranked judge in 2015 by having the smallest inventory, the shortest case processing time, and a low rate of cases open more than one year. Judges Pittman and Landrum-Johnson achieved high rankings by being in the top four across all three measures of judicial efficiency. Judge Herman had the second lowest felony caseload and case processing time.

Judges White, Buras, Willard, and Hunter had performance measures that were generally consistent with the court's average and had good overall case processing efficiency.

Judges Flemings-Davillier and Derbigny were the bottom ranked judges in 2014 and 2015. Judge Williams had a low 2015 ranking after inheriting the inefficient docket of Judge Parker who retired in 2014. Judge Flemings-Davillier has not shown an improved efficiency ranking after taking over the lowest ranked docket in 2013. These three sections of court had the largest inventories of pending cases and the highest rates of cases open greater than one year. Judges Flemings-Davillier and Derbigny had the longest case processing times.

(ABA) and the National Center for State Courts (NCSC). In a study commissioned by the judiciary of Orleans Parish Criminal District Court, the NCSC confirmed the metrics applied by the MCC are valid and reliable indicators of judicial performance.<sup>1</sup> The random assignment of cases should result in caseloads balanced in size, intricacy, and difficulty. Therefore, assessing court performance in these areas offers a uniform and established gauge of the efficiency of each judge's felony case management practices.

The MCC does not advocate greater efficiency at the expense of fairness or justice. However, these measures provide a meaningful basis for evaluating each judge's case processing and performance compared to his or her peers within Criminal District Court. (For more detailed information on each judge, see supplemental exhibits at our website [www.metrocrime.org](http://www.metrocrime.org))

#### Summary of Findings

The court as a whole improved case processing efficiency since 2012, but these gains began to diminish in 2015 as the court was faced with a larger influx of new violent felony cases. Despite an increasingly difficult felony caseload, the judiciary has seen modest changes in measures of judicial efficiency:

- The judiciary maintained a steady rate of approximately 28% of backlogged cases that were open more than one year.
- The inventory of open felony cases increased by an average of 39 cases per section from 224 in 2014 to 263 in 2015.
- The median felony case processing time increased from 117 days in 2014 to 130 days in 2015.
- Violent and weapons cases increased to make up half of felony caseloads in 2015.
- Wide disparities in judicial efficiency result in some judges having three times as many open cases, more than twice the rate of backlogged cases, and case processing times over twice as long as the most efficient members of the judiciary.

**Exhibit 1: Overall Judicial Efficiency Rankings**

2015	2014	Judge
1	1	Judge Franz Zibilich
2	4 - Tie	Judge Robin D. Pittman
3	2 - Tie	Judge Keva Landrum-Johnson
4	2 - Tie	Judge Karen K. Herman
5	4 - Tie	Judge Frank A. Marullo, Jr.*
6	6	Judge Laurie A. White
7	9	Judge Camille Buras
8	7	Judge Benedict Willard
9	8	Judge Arthur L. Hunter, Jr.
10	10 - Tie	Judge Julian Parker (2014) Judge Byron C. Williams (2015)
11 - Tie	10 - Tie	Judge Darryl Derbigny
11 - Tie	12	Judge Tracey Flemings-Davillier

NOTE: Judge Marullo left the bench in February 2015 and was replaced by a series of interim judges through the end of the year

**Exhibit 2: Inventory of Open Felony Cases**

Open felony inventories or dockets are made up of pending cases allotted to a judge's section of court for adjudication. Judges are responsible for managing and presiding over open cases until they close by reaching a final disposition of a guilty plea, judge or jury trial verdict, or dismissal.

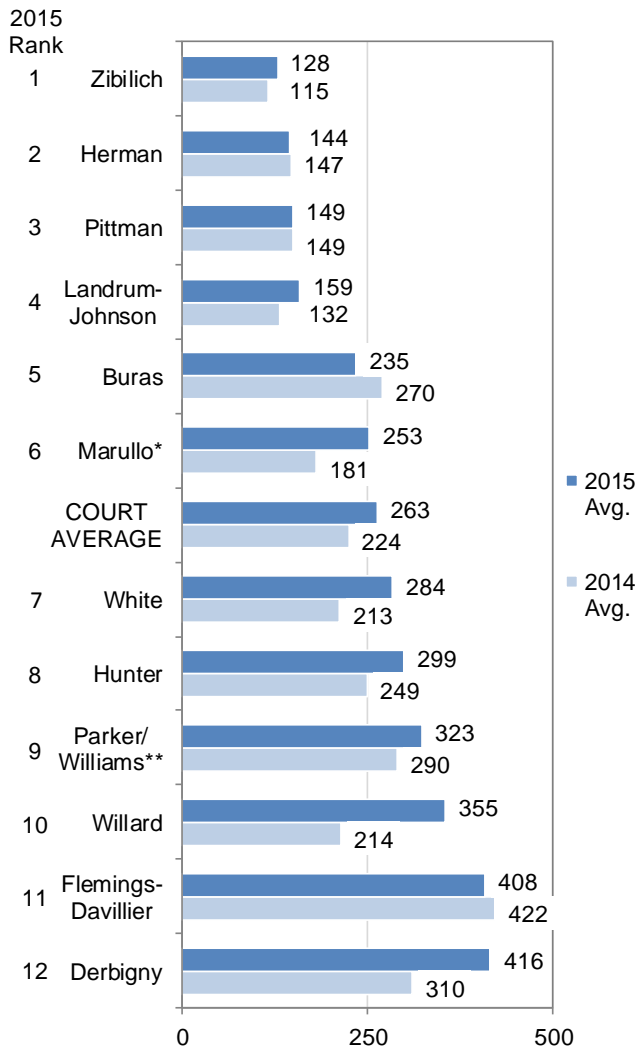
**Exhibit 2** shows the average quarterly number of open pending felony cases before each judge in 2014 and 2015. Having fewer open cases compared to other members of the judiciary is indicative of more efficient docket management resulting in a smaller inventory of open cases.

**The average felony caseload rose by 39 from an average of 224 in 2014 to 263 in 2015.**

**Changes in inventories were not consistent across the judiciary.** Judge Derbigny's caseload grew by 106 cases to become the largest open caseload in 2015. The caseload in Judge Marullo's section of court increased by 72 cases. Judges White and Hunter had increases of 50 or more cases.

Judge Buras' 35-case reduction and Judge Flemings-Davillier's 14-case reduction were the largest decreases. Judges Buras and Flemings-Davillier also closed more felony cases than other judges (see supplemental exhibits).

**EXHIBIT 2: Average Quarterly Inventory of Open Felony Cases**



\* Judge Marullo retired in February 2015 and interim judges managed this section's caseload thereafter  
 \*\* 2015 performance is reflective of Judge Williams and 2014 performance is reflective of Judge Parker  
 Source: Judicial Administrator of Criminal District Court and OPSO

**Exhibit 3: Felony Cases More Than One Year Old**

The percent of open cases more than one year old provides a reliable indicator of how efficiently judges manage pending cases. According to ABA standards, all felony cases should close within one year of a defendant's arrest. The MCC measures percentages of cases open more than one year from the time a case is allotted to a section of court and under a judge's management, rather than from the time of arrest used in ABA standards.

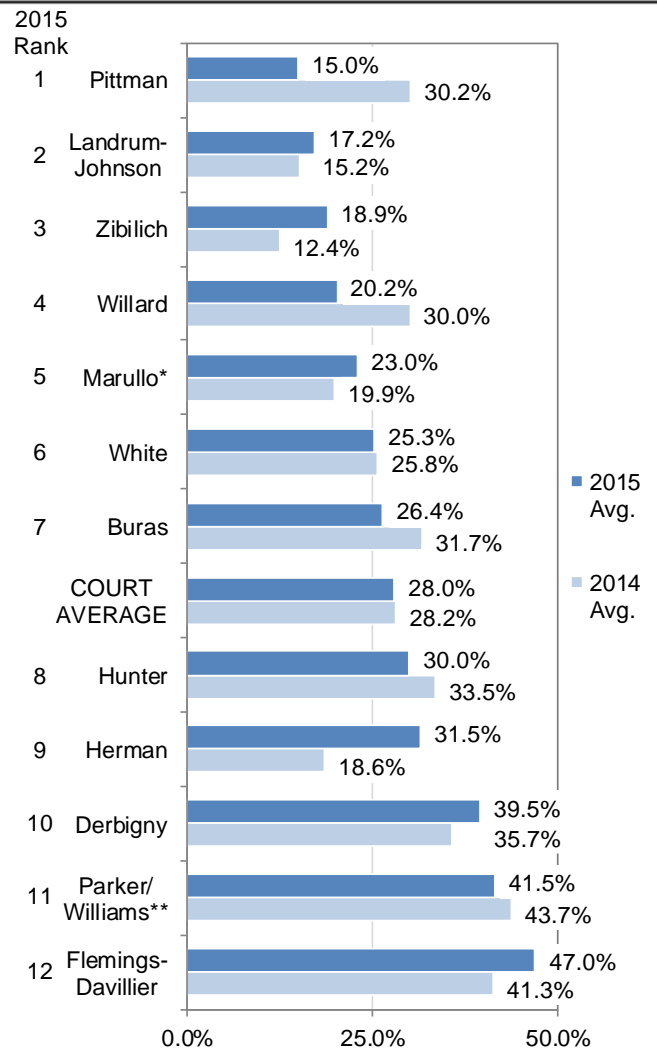
**Exhibit 3** compares the percent of each judge's active inventory of felony cases that were open for more than one year in 2014 to 2015. A smaller percent of cases open more than one year indicates a more current caseload and higher efficiency.

**The court's average rate of open cases more than one year old was the same in 2014 and 2015.** Most judges had the rate of cases remaining open greater than one year either stay the same or have a modest change of 6% or less.

Judge Herman had the largest increase in pending cases open more than one year from 18.6% in 2014 to 31.5% in 2015 when violent felonies grew to account for more than half of her docket.

Large declines of 10% or greater were achieved by Judges Willard and Pittman.

**EXHIBIT 3: Average Quarterly Percent of Open Felony Cases More Than One Year Old**



\* Judge Marullo retired in February 2015 and interim judges managed this section's caseload thereafter  
 \*\* 2015 performance is reflective of Judge Williams and 2014 performance is reflective of Judge Parker  
 Source: Judicial Administrator of Criminal District Court and OPSO

**Exhibit 4: Felony Case Processing Time**

Case processing time is expressed as the median time for cases to close. The median is the midway point in case processing with one half of cases closing in less than the median time and the other half closing in more than the median time. Time that defendants were fugitives or unavailable to appear in court was subtracted from these calculations. Cases in which the DA’s Office forestalled prosecution so that a defendant could participate in the Diversion Program were also excluded from case processing time calculations.

**Overall case processing time had a small 13-day increase (about 2 weeks) from 117 days in 2014 to 130 days in 2015 (see Exhibit 4).** Most judges’ case processing times showed little change of two weeks or less.

The most significant change in case processing time was a 63-day increase in Judge Derbigny’s section. Case processing increased by 23 days in 2015 when Judge Williams succeeded Judge Parker.

Judge White had the most improvement in case processing time and reduced 41 days from a median of 173 days in 2014 to 132 days in 2015.

National statistics found a median case processing time of 111 days.<sup>2</sup> The same study found that 85% of felony cases nationwide were concluded within one year. In comparison, a total of 82% of Orleans Parish felony cases that closed in 2015 were open less than one year. The study of national case processing statistics tracks the time from arrest to disposition, but the MCC measures from the time a case is accepted for prosecution to disposition in order to focus upon the time that a case is under a judge’s management. Although it is not possible to make a direct comparison to national statistics, the Orleans Parish felony case processing time and rate of closing cases within one year is not significantly greater than what is found throughout the rest of the country.

**Changes in Case Processing Over Time**

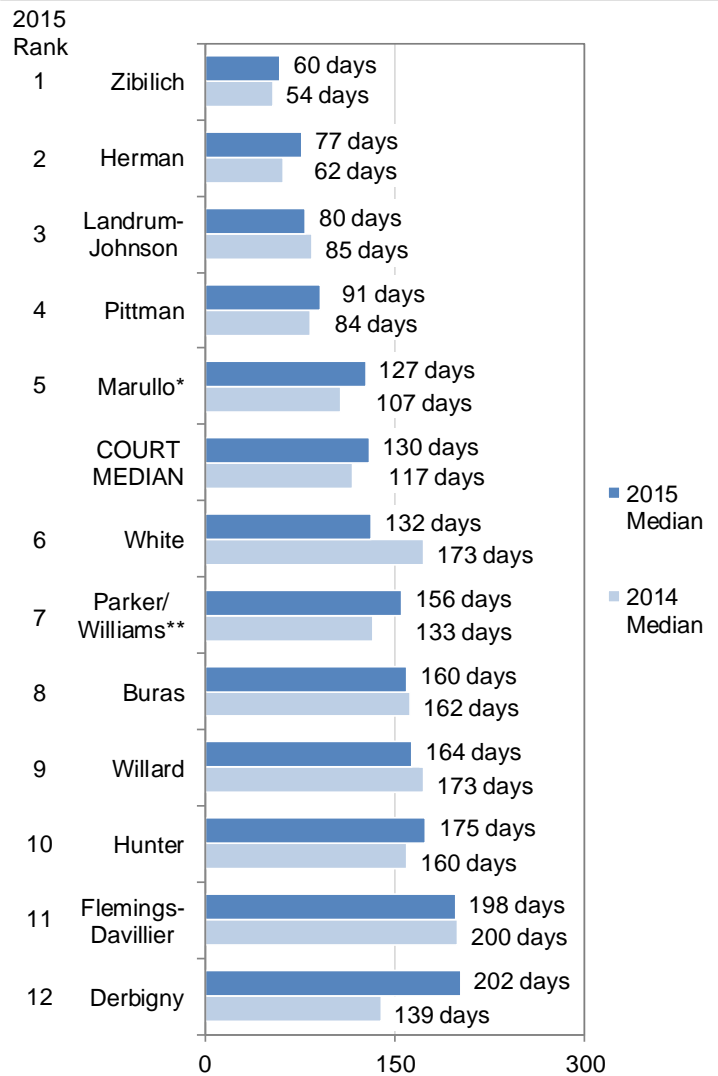
New felony cases enter the court when the District Attorney’s (DA’s) Office accepts a case for prosecution or the Grand Jury votes to indict a defendant. **Exhibit 5** presents the numbers of new felony cases along with the court’s overall case processing statistics from 2012 through 2015.

More new felony cases entering the court contributed to the rise in the pending felony dockets. The number of new felony cases dipped from 5,019 in 2012 to 4,604 in 2013. During the same time, inventories fell sharply from an average of 3,073 pending cases in 2012 to an average of 2,573 in 2013. Thereafter, more new felony cases in 2014 and 2015 corresponded with larger felony caseloads.

The rate of backlogged pending cases open more than one year had moderate fluctuations as caseloads decreased and increased. The highest rate of cases open more than one year was in 2013 when the court maintained the smallest average caseload. Backlogged cases open more than one year then decreased in 2014 and 2015 as caseloads grew when more new cases were accepted for prosecution.

Median case processing times went down by four weeks (28 days) from 2012 to 2014. In 2015 when felony caseloads increased to their highest level since 2012, median case processing times had a moderate increase of two weeks (13 days).

**EXHIBIT 4: Median Felony Case Processing Times**



\* Judge Marullo retired in February 2015 and interim judges managed this section’s caseload thereafter

\*\* 2015 performance is reflective of Judge Williams and 2014 performance is reflective of Judge Parker

Source: Judicial Administrator of Criminal District Court, OPSO, Orleans Parish District Attorney’s Office

Estimated error rate of under 5%

**EXHIBIT 5: Case Processing Statistics 2012-2015**

	2012	2013	2014	2015
New Felony Cases	5,019	4,604	4,749	4,909
Average Inventory of Open Felony Cases	3,073	2,573	2,692	3,152
Percent of Cases Open More than One Year	29.3%	30.5%	28.2%	28.0%
Median Felony Case Processing Time	155 days	138 days	117 days	130 days

Source: Judicial Administrator of Criminal District Court, OPSO

### **Violent Felony Case Increase**

Violent felonies increased as a percentage of felony caseloads from 2012 to 2015 (see Exhibit 6). In 2012, violent felonies accounted for 29% of judges' caseloads, which increased to 39% of felony cases in 2015. An example of how the rise in violent felonies impacted caseloads can be shown through murders which rose from an average of 212 pending cases in 2012 to an average of 262 open murder cases in 2015.

As violent felonies increased, there were fewer drug felony cases, but other types of cases remained consistent.

The rate of pending violent felony cases increased because more of these cases were accepted for prosecution and they take longer to conclude. There were 1,097 new violent felony cases in 2012, which grew to 1,508 new violent felony cases in 2015. Violent and weapons felonies carry the greatest sentences and take longer to close. In 2015, it took a median of 180 days to conclude violent felonies and 184 days to conclude weapons felonies. In comparison, drug felonies took a median of 122 days and property felonies took 99 days.

### **Conclusions**

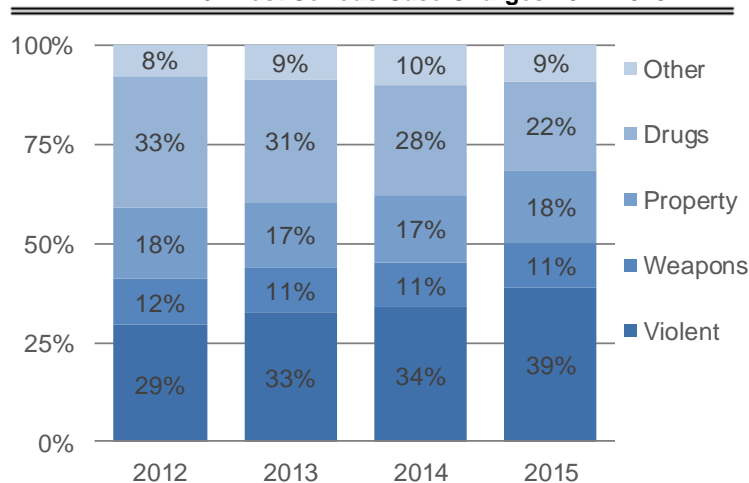
**As a whole, the judiciary of Orleans Parish Criminal District Court maintained good judicial efficiency while caseloads increased and were comprised of more serious cases.** The caseload in 2015 was the largest across four years. From 2012 to 2015, more difficult and time consuming weapons and violent felony cases grew to account for half of pending caseloads. As caseloads posed a greater challenge, there was not an increase in the rate of cases becoming backlogged and remaining open greater than one year. Case processing time rose to 130 days, which is a moderate increase of 13 days that shows the court typically brought felony cases to conclusion in just over four months. The MCC commends the judiciary for maintaining favorable case processing efficiency as caseloads increased in size and severity of offense.

**The three least efficient members of the judiciary have case processing metrics that are far outside the remainder of the court.** Judge Williams inherited one of the bottom three ranked sections of court in 2014, and the overall efficiency of this section remained low during his first year on the bench. Similarly, Judge Fleming-Davillier has not improved from the bottom of judicial rankings after overtaking the lowest ranked section of court in 2013. Judges Derbigny and Flemings-Davillier were in the bottom three rankings for all three efficiency measures and had median case processing times that were two to three times longer than the most efficient judges. The number of backlogged cases open more than one year in the three least efficient sections of court exceeded the size of the entire caseloads of the four most efficient judges. Case management practices in the bottom three sections of court cause unnecessary delays to case processing that are not experienced in other sections of court.

### **Recommendation**

**The MCC respectfully recommends that the court collaboratively implement case management policies and practices that will improve court efficiency, reduce**

**EXHIBIT 6: Most Serious Case Charges 2012-2015**



Source: Judicial Administrator of Criminal District Court, OPSO

### **excessive delays in felony case processing, and curtail wide case processing disparities.**

The court is experiencing an extraordinarily high rate of pending violent cases as police and prosecutors continue focusing their resources on the felony offenders that pose the greatest risk to public safety. New Orleans is investing in hiring additional police officers, and arrests are likely to increase under a larger police force more capable of quickly responding to crime and apprehending offenders. In 2017, the Orleans Parish DA's Office will return the processing of thousands of misdemeanor cases to Orleans Parish Criminal District Court after New Orleans Municipal Court has processed virtually all of these more minor cases since 2012. The combined impact of these circumstances is that there will be a significant rise in the numbers of cases pending before this court.

Unnecessary case processing delays increase costs and are unfair to witnesses, victims, and defendants. Higher costs associated with case processing delays include time defendants are held in custody at taxpayer expense and time wasted by criminal justice agencies that must repeatedly prepare for case events that are continued into the future. Fairness is called into question when private citizens, law enforcement, and the accused endure months of delay to resolve criminal matters due solely to the case management practices of the member of the judiciary allotted a case.

The court is encouraged to establish clear continuance policies to ensure continuances are based upon enumerated circumstances that demonstrate necessity. Reducing the number of times that a case is continued and minimizing time between case events will improve efficiency and lower costs. The MCC further respectfully recommends prioritizing violent and weapons felony cases in scheduling to help reduce the typically lengthy case processing times for these offenses. Prioritizing cases in which defendants remain in custody can also reduce costs to taxpayers and the need for local jail space.

### **Sponsors**

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<sup>1</sup> "Judicial Efficiency, Accountability and Case Allotment in the Criminal District Court of Orleans Parish, Louisiana" National Center for State Courts, January 27, 2011 (accessible at the MCC website: [www.metrocrime.org](http://www.metrocrime.org))

<sup>2</sup> "Felony Defendants in Large Urban Counties, 2009 – Statistical Tables" Bureau of Justice Statistics, December 2013; <http://www.bjs.gov/content/pub/pdf/fdluc09.pdf>