METROPOLITAN CRIME COMMISSION, INC.

2011 ORLEANS PARISH

JUDICIAL ACCOUNTABILITY REPORT

The Metropolitan Crime Commission (MCC) has regularly issued reports on judicial efficiency in Orleans Parish Criminal District Court since the beginning of 2007. The goals of this work are to promote accountability in judicial performance as well as efficiency and consistency in criminal case processing.

Background

Orleans Parish Criminal District Court 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 that legal proceedings are properly and fairly conducted in accordance with the law. Judges are randomly assigned dates in which offenses that occur on a specific day will be assigned to their sections of court. When the District Attorney's Office accepts a case for prosecution, the case is assigned to the judge scheduled to receive cases for all offenses occurring on the date the crime was committed. This allotment procedure was developed in 2010 and 2011 to improve the efficiency of prosecutors' and public defenders' casework. Over time, this random allotment process should result in each of the 12 judges receiving equal numbers and similar types of cases.

This series of reports has tracked judicial efficiency since 2007 when the court was in the midst of recovery from Hurricane Katrina. Five new judges were elected to the judiciary from 2007 through 2012. Judge White was elected in 2007 and Judge Landrum-Johnson was elected in 2008. Judges Herman and Pittman were sworn into the judiciary at the beginning of 2009. Judge Alarcon retired at the end of 2011, and this will be the final accountability report examining his judicial efficiency. Judge Zibilich was elected to replace Judge Alarcon and was sworn into the judiciary in January of 2012.

Methodology

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 the time it takes to close felony cases. These performance measures are based upon standards established by the American Bar Association and recognized by the National Center of State Courts as valid and reliable indicators of judicial performance. The random assignment of cases should result in caseloads that are balanced in their 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.

Overview of Findings

The MCC does not advocate greater efficiency at the expense of fairness and justice. However, applying these measures provides a meaningful basis for evaluating and comparing the performance of each Criminal District Court judge.

Violent felony cases generally take the longest to bring to conclusion and have more than doubled since 2007. A policy shift by police and prosecutors to more greatly focus on violent felony cases created new challenges for the judiciary to manage more complex caseloads and has been a significant factor in the decreased efficiency documented herein:

- Inventories grew an average of 31 open felony cases per section from 2010 to 2011 to reach their highest recorded level since the MCC began tracking in 2007.
- In 2010, 18% of open cases were more than one year old, which increased to 22% of open cases more than one year old in 2011.
- Median case processing times increased by 32 days from a median of 125 days for a case to close in 2010 to a median of 157 days for a case to close in 2011.

In addition, wide disparities in efficiency still persist in Criminal District Court resulting in an inconsistent pace of justice from one section of court to another.

OVERALL JUDICIAL EFFICIENCY RANKINGS

Exhibit 1 presents each judge's 2011 efficiency ranking compared to their efficiency rankings in 2010. These overall rankings are based upon judges' numbers of open felony cases, judges' percent of felony cases more than one year old, and how long it took to close felony cases in their sections of court.

Consistent with previous rankings, Judge Herman ranked as the most efficient member of the judiciary in 2010 and 2011.

Judge Hunter was the only member of the judiciary to have improvement in all three areas of efficiency from 2010 to 2011 and improved from the last place ranking in 2010 to fifth in 2011. Judge Buras ascended from a ranking of seventh in 2010 to third in 2011 by having a smaller inventory of open cases and reduced case processing time.

Judge Alarcon retired with a ranking of sixth in 2011 after ranking third from 2007 through 2010. In 2011, Judge Alarcon was Chief Judge which required greater administrative duties.

Judge Marullo's above average declines in efficiency measures for all three categories resulted in a ranking that went from a tie for fourth in 2010 to a tie for seventh in 2011.

Judge Derbigny's large increases in case processing time and percentage of cases more than one year old resulted in a reduced ranking from sixth in 2010 to ninth in 2011.

Judges Willard and Judge Van Davis were in the bottom quarter of rankings in 2010 and 2011.

EXHIBIT 1: Overall Judicial Efficiency Rankings

2011	2010	Judge
1	1	Judge Karen K. Herman
2	4 – Tie	Judges Robin D. Pittman
3	7	Judge Camille Buras
4	2	Judge Keva Landrum-Johnson
5	12	Judge Arthur L. Hunter, Jr.
6	3	Judge Terry Alarcon
7 – Tie	4 - Tie	Judge Frank A. Marullo, Jr.
7 – Tie	9	Judge Laurie A. White
9	6	Judge Darryl Derbigny
10	8	Judge Julian Parker
11	10 – Tie	Judge Benedict Willard
12	10 – Tie	Judge Lynda Van Davis

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Exhibit 2: Inventory of Open Felony Cases

Open felony inventories or dockets are made up of pending cases assigned to a judge's section of court for adjudication. Judges are responsible for managing open cases until they close by reaching a final disposition (i.e., a guilty plea, trial verdict, or dismissal).

Exhibit 2 shows each judge's average quarterly number of open felony cases from 2011 and 2010. Having fewer open cases is indicative of more efficient docket management, which results in a smaller inventory of open cases.

On average, each judge had 31 more open cases in 2011 compared to 2010, a 14% increase. Larger caseloads were seen throughout the court with 10 of the 12 judges having increases in their numbers of open cases. Only judges Hunter and Buras had fewer cases in their 2011 open cases inventories.

Judges with high increases in their caseloads ranging from 47 to 72 more cases compared to 2010 were Judges Parker, Alarcon, Willard, Marullo and Van Davis.

Judge Herman's caseload increased by 32 cases, which was consistent with the court average.

All other judges achieved moderate increases of six to 19 cases including Judges Landrum-Johnson, White, Derbigny and Pittman.

Exhibit 3: Felony Cases More Than One Year Old

The percent of cases more than one year old provides a reliable indicator of the age of a judge's inventory. ABA standards call for all felony cases to close within one year of a defendant's arrest. To focus upon the time a case was under a judge's management, the MCC measured from the time a case was allotted to a judge rather than from the time of arrest used in ABA standards. Cases over one year old are out of compliance with national standards and may be considered "backlogged".

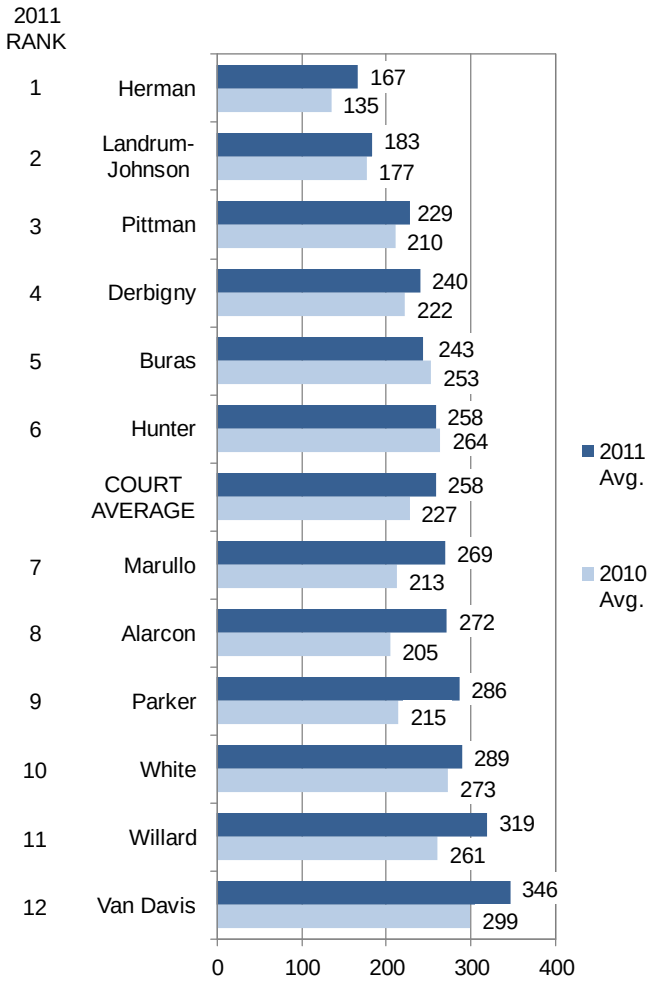
Exhibit 3 presents the quarterly average percent of a judge's open felony cases more than one year old in 2011 and 2010.

The percent of cases more than one year old increased from 18% in 2010 to 22% in 2011. Eight (8) of the 12 judges had increases in percentages of cases more than one year old.

Judge Hunter's percent of cases more than one year old decreased by 5%, which was the largest reduction from 2010 to 2011. Judges Willard, Parker, and White achieved modest decreases in percentages of cases more than one year old.

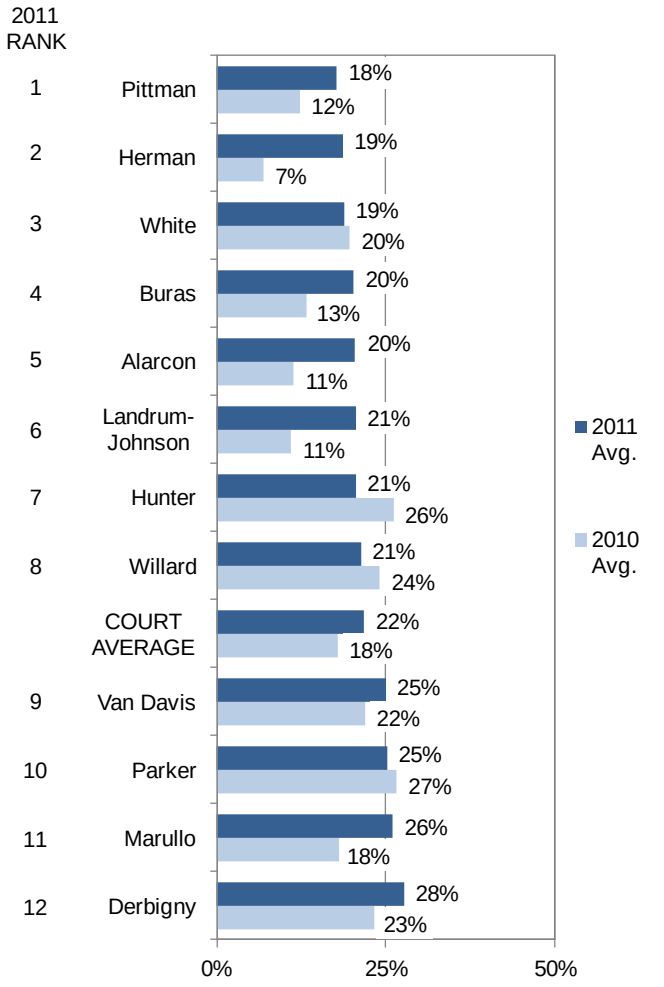
Six (6) judges has sizeable increases by 5% or more in their percentages of backlogged open cases more than one year old including Judges Herman, Landrum-Johnson, Alarcon, Marullo, Buras, and Pittman. Judges Van Davis and Derbigny had more moderate increases in their percentages of cases more than one year old.

EXHIBIT 2: Average Quarterly Inventory of Open Felony Cases



Source: Judicial Administrator of Criminal District Court, Orleans Parish Sheriff's Office

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



Source: Judicial Administrator of Criminal District Court, Orleans Parish Sheriff's Office

Exhibit 4: Felony Case Processing Time

Case processing time is expressed as the median time for cases to close. One half of cases closed in less than the median time while the other half closed in more than the median time. Time that defendants were fugitives or unavailable to appear in court was subtracted from these calculations. Diversion cases in which the DA's Office forestalled prosecution until a defendant completed the Diversion Program were also excluded from case processing time calculations.

The 2011 median case processing time increased to 157 days, 32 days longer than the 125 day median case processing time of 2010 (see Exhibit 4). Cases typically remained open a month longer in 2011 compared to 2010.

Increases in case processing times were seen throughout Criminal District Court. Judge Hunter's 32-day reduction and Judge Buras's 15-day reductions were the only decreases in median case processing times for 2011. The other 10 judges were less efficient at bringing cases to conclusion in 2011 and had increases in their median case processing times. The largest increases in cases processing times were an 83-day increase by Judge Derbigny, a 64-day increase by Judge Van Davis, a 48-day increase by Judge Herman, and a 45-day increase by Judge Alarcon. Judges Parker and Marullo also had increases of more than 30 days in their case processing times.

The court fell further behind national statistics in case processing time. A May 2010 study of nationwide court performance by the Department of Justice (DOJ) found a median 92 of days from arrest to final disposition of felony cases.[1] The present examination of Orleans Parish Criminal District Court judges includes a shorter period of time from allotment to disposition in order to measure the time a case was under a judge's supervision. Using the lesser standard of allotment to disposition finds that cases remained open a median of 157 days. The same (DOJ) study found that nationally 88% of felony cases were resolved within one year. In Criminal District Court, 83% of cases that closed in 2011 were resolved within one year. The comparison to nationwide statistics shows that while it takes longer to bring a case to conclusion in Criminal District Court, cases are only moderately more likely to take more than one year to resolve.

Case Processing Statistics

Case processing statistics for 2011 reflect the impact of increased violent felony cases handled by CDC in 2010 and 2011 which, in general, contribute to an overall decrease in case processing efficiency (see Exhibit 5).

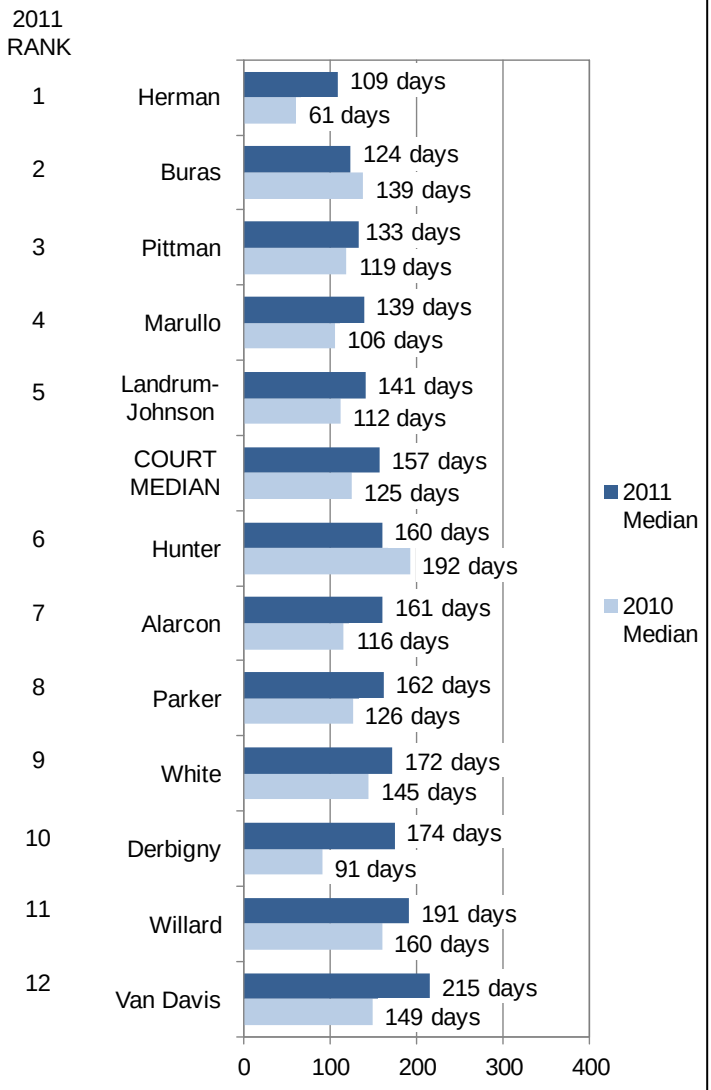
There were more open felony cases per section of court in 2011 compared to any of the past five years. The increase in open felony cases began in 2010 when the average inventory increased 11% from 204 in 2009 to 227 in 2010. In 2011, the numbers of open felony cases increased another 14% to 258.

The percent of open cases that were more than one year old rose to 22%, which was the highest level since 2007 when many cases were backlogged as a result of Hurricane Katina.

Similarly, the 2011 median case processing time of 157 days was the highest since 2007.

The number of new felony cases entering the court system does not fully account for reductions in all measures of judicial efficiency. The volume of newly accepted felony cases entering the court reduced by 18% from 6,699 in 2010 to 5,516 in 2011. Previously, newly accepted felony cases had steadily increased every year from 4,096 in 2007 to 6,699 in 2008, which did not result in lower efficiency across all measures of judicial performance.

EXHIBIT 4: Median Felony Case Processing Times



Source: Judicial Administrator of Criminal District Court, Orleans Parish Sheriff's Office, Orleans Parish District Attorney's Office;
Estimated Error rate of under 5%

EXHIBIT 5: Court Efficiency 2007-2011

	2007	2008	2009	2010	2011
Average Inventory of Open Cases	185	202	204	227	258
Percent of Open Cases More than 1 Year Old	34%	21%	17%	18%	22%
Median Case Processing Time	232 days	140 days	120 days	125 days	157 days
Accepted Felony Cases	4,096	5,113	6,154	6,699	5,516

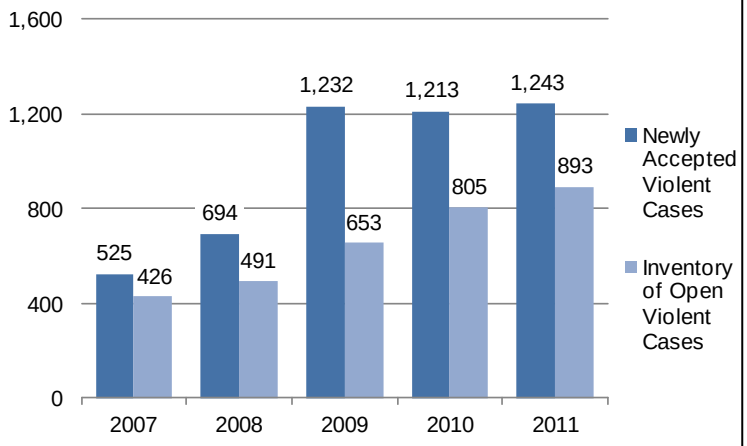
Source: Judicial Administrator of Criminal District Court, Orleans Parish Sheriff's Office, Orleans Parish District Attorney's Office;
Estimated Error rate of under 5%

Increase in Violent Felony Prosecutions

One cause for decreased efficiency is a rise in violent felony cases (see Exhibit 6). New violent felony cases entering the courts and the numbers of open violent felony cases have more than doubled since 2007. The influx of newly accepted violent felony cases had a sharp 76% increase from 694 in 2008 to 1,232 in 2009, and there continued to be more than 1,200 newly accepted violent felony cases in 2010 and 2011. Inventories of violent felony cases increased more gradually over time and went up 33% from 491 in 2008 to 653 in 2009. Then, open violent felony cases increased by 23% to 805 in 2010 and another 11% to 893 in 2011.

Violent felony crimes take longer than any other type of crime to prosecute. In 2011, violent felony crimes took a median of 232 days to conclude and 70% closed within a year. It took 143 days to bring all other types of felony cases to conclusion and 86% closed within a year. Nationwide, violent felony cases closed in a median of 139 days from the time of arrest and 83% closed within a year, which is substantially more efficient than violent felony case processing in Orleans Parish.[1]

EXHIBIT 6: Violent Felony Cases



Source: Judicial Administrator of Criminal District Court, Orleans Parish Sheriff's Office

CONCLUSIONS

Transitions in the criminal justice system beyond control of the judiciary contributed to 2011 declines in efficiency. 2011 saw increases in trials and dismissals which take longer to process than cases that close by a defendant pleading guilty. There was also an increase in violent felony cases which may result from a philosophy shift by police and prosecutors emphasizing crimes of violence. Violent felony convictions carry the most severe criminal penalties and require all parties of the criminal justice system to devote more time to the processing of these cases. As the numbers of violent felony cases increased, it took the court longer to process all offenses including property, drug, weapons, and other crimes.

All Orleans Parish Criminal District Court efficiency measures declined from 2010 to 2011. In 2011, measures of judicial performance demonstrated that the criminal justice system ceased advancing the efficiency of criminal case processing compared to previous years. There were more open cases than any year since Hurricane Katrina, and the percent of backlogged cases more than one year old and median case processing times were the highest since 2008.

Fewer cases were accepted in 2011, but a reduction in new cases did not translate into smaller inventories of open cases that took less time to bring to conclusion. Conversely, the court took longer to bring cases to resolution as inventories grew and the percent of backlogged cases more than one year old increased.

Decreased efficiency was widespread throughout the court. Ten of the 12 judges had decreased efficiency measures in at least two of the three categories of judicial efficiency, and half (6) of the judiciary had lower performance in all three measures of judicial efficiency. Reduced efficiency by the majority of the court indicate that new challenges outside of judicial control contributed to lesser efficiency measures in 2011.

Judge Hunter's improved efficiency in all three categories and Judge Buras's improvements in the number of open felony cases and felony case processing times show that the conditions in 2011 that lead to declines in efficiency among the remainder of the court appear to be surmountable.

Wide disparities in judicial efficiency continued in 2011 as least efficient judges had more than twice as many open cases, much higher rates of backlogged cases more than one year old, and median case processing times several months longer than the most efficient judges. These performance disparities further demonstrate the ability of some judges to apply policies and procedures that improve criminal case processing efficiency.

Measures of criminal case processing in 2011 reflect the need for the entire criminal justice system to improve case processing efficiency. Orleans Parish Criminal District Court lags several months behind nationwide median case processing times but does not appear to have an exaggerated rate of cases taking more than one year to resolve. Unnecessary delays create additional costs to the criminal justice system and pose an unfair imbalance to the criminal justice process experienced by victims, witnesses, and defendants. Limiting time between hearings and minimizing continuances can improve case processing efficiency and are mutual responsibilities of the judiciary and other criminal justice agencies. While the judiciary can limit continuances, the public and private defense bar and District Attorney's Office can adopt policies that improve the court operations through preparation to adhere with court event dates rather than seeking continuances. Changes within the criminal justice system that led to decreased efficiency need to be countered with policies and practices that benefit from higher numbers of cases rather than delay resolution of criminal prosecutions.

Acknowledgements

This report was written and compiled by Metropolitan Crime Commission President Rafael Goyeneche and Senior Analyst John Humphries. The Metropolitan Crime Commission expresses its utmost gratitude and appreciation to the following organizations and individuals for making this research possible: the Baptist Community Ministries Foundation, Jerry Goldman, the Business Council of New Orleans, the Orleans Parish Sheriff's Office and Sheriff Marlin Gusman, the Orleans Parish District Attorney's Office and Orleans Parish District Attorney Leon Cannizzaro, the Orleans Parish Clerk of Criminal Court's Office and Clerk of Court Arthur Morrell, the Orleans Parish Criminal District Court Judicial Administrator's Office and Rob Kazik, the New Orleans Police Department, members of the judiciary of Orleans Parish Criminal District Court, Carrollton Technology Partners, MCC Past Chairman Roger Peck, and research assistants Larry Massey, Michelle Foster, and Chelsey Thomas. We also acknowledge our community partners in the New Orleans Crime Coalition for their efforts to generate reforms and more effective responses to crime in New Orleans.

[1] "Felony Defendants in Large Urban Counties, 2006" Bureau of Justice Statistics, May 2010; http://bjs.ojp.usdoj.gov/content/pub/pdf/fdluc06.pdf