



METROPOLITAN CRIME COMMISSION, INC.

2013 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 fairness, 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 legal proceedings are properly and fairly conducted in accordance with the law. In 2013, Judge Camille Buras was Chief Judge which required greater administrative duties.

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. 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.

Half (six) of the 12 judges in Orleans Parish Criminal District Court were sworn in after this series of reports began tracking judicial efficiency in 2007. Judge White's first full year as a judge was in 2008, and Judge Landrum-Johnson's first full year was in 2009. Judges Herman and Pittman became members of the judiciary at the beginning of 2009. Judge Zibilich began his tenure as a member of the judiciary at the beginning of 2012. Judge Van Davis retired at the end of 2012 and was replaced at the beginning of 2013 by Judge Flemings-Davillier.

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 (ABA). In a study commissioned by the judiciary of Orleans Parish Criminal District

Court, the National Center of State Courts confirmed the metrics applied by the MCC are valid and reliable indicators of judicial performance.¹ 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 efficiency and performance compared to their peers within Criminal District Court. (For more detailed information on each judge, see supplemental exhibits at our website www.metrocrime.org)

Summary of Findings

There are ongoing disparities in case processing statistics with the same judges consistently maintaining lesser efficiency than the majority of the court.

Declining police manpower has generated fewer felony arrests and fewer felony cases entering the court system, which produced several changes in overall felony case processing efficiency during 2013:

- Inventories of open pending cases fell by 29% since 2011.
- Median felony case processing times were reduced by 17 days in 2013 compared to 2012.
- The percent of backlogged cases open more than one year increased as more serious cases accounted for larger portions of open case inventories.

The judiciary of Criminal District Court is respectfully called upon to implement a unified docket management system that integrates caseload processing information across the court and helps establish uniform and more efficient case management practices that curtail the rate of backlogged felony cases and provide a consistent pace of justice.

OVERALL JUDICIAL EFFICIENCY RANKINGS

Exhibit 1 compares judges' 2013 efficiency rankings to their efficiency rankings in 2012. These overall rankings are based upon judges' numbers of open felony cases, judges' percent of felony cases more than one year old, and the time it took to close felony cases in their sections of court.

The top seven ranked judges remained consistently high in their judicial efficiency rankings. Judges Herman, Zibilich, Pittman, Landrum-Johnson, Buras, Marullo, and White had similarly favorable ratings in 2013 compared to 2012.

Judge Willard had the largest improvement in efficiency rankings by increasing from a tie for 10th in 2012 to a tie for 7th in 2013.

Judge Hunter's efficiency ranking decreased slightly from eighth to ninth, and Judges Parker and Derbigny remained in the bottom third of the judiciary in 2012 and 2013. Judge Flemings-Davillier was elected to serve in the section of court with the largest inventory of pending cases and consequently ranked twelfth in her first year as a member of the judiciary. These four judges make up the bottom third in efficiency rankings for having below average rankings in their pending cases, percentages of cases more than one year old, and case processing times.

Exhibit 1: Overall Judicial Efficiency Rankings

2013	2012	Judge
1	1	Judge Karen K. Herman
2	3	Judge Franz Zibilich
3	4 - Tie	Judge Robin D. Pittman
4	2	Judge Keva Landrum-Johnson
5	4 - Tie	Judge Camille Buras
6	6	Judge Frank A. Marullo, Jr.
7 - Tie	7	Judge Laurie A. White
7 - Tie	10 - Tie	Judge Benedict Willard
9	8	Judge Arthur L. Hunter, Jr.
10	12	Judge Julian Parker
11	9	Judge Darryl Derbigny
12	n.a.	Judge Tracey Flemings-Davillier

Exhibit 2: Inventory of Open Felony Cases

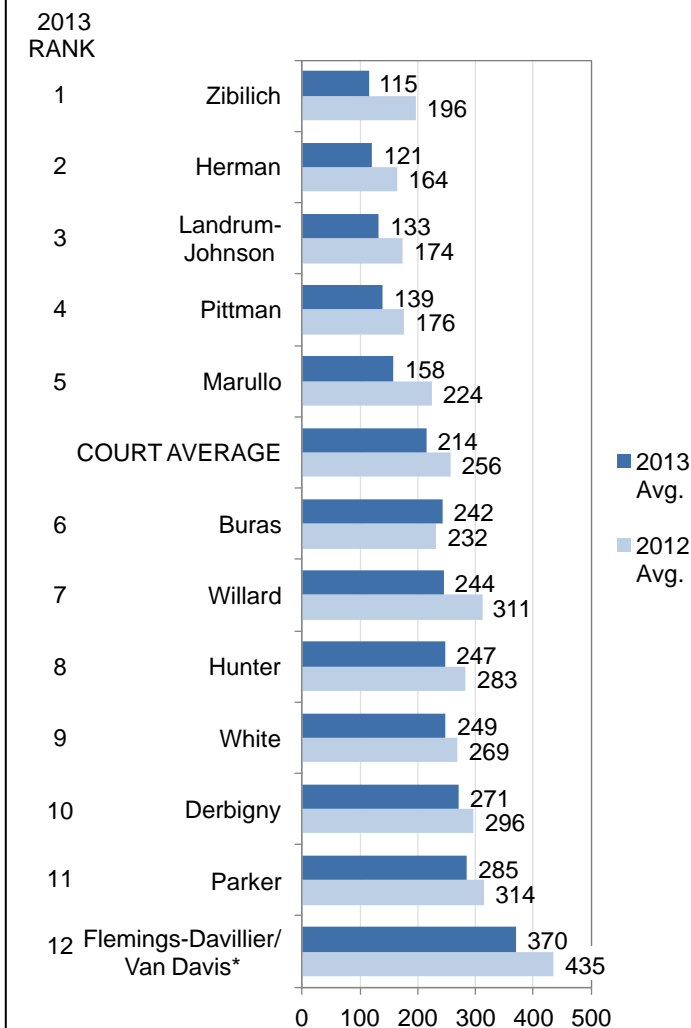
Open felony inventories or dockets are made up of pending cases assigned to a judge's section of court for adjudication. Judges are responsible for managing open cases until they close by reaching a final disposition (i.e., a guilty plea, trial verdict, or dismissal).

Exhibit 2 shows the average number of open pending felony cases before each judge in 2012 and 2013. Fewer open cases indicates more efficient docket management resulting in a smaller inventory of open cases.

Judges averaged 42 fewer pending felony cases each in 2013 compared to 2012. In 2012, there was an average of 256 open felony cases in each section of court which reduced to an average caseload of 214 in 2013.

Judge Zibilich's 81-case reduction from 2012 to 2013 was the largest decrease in pending cases. Judges Willard and Marullo also had sizeable reductions in pending cases. Judge Flemings-Davillier inherited the largest pending caseload and had a substantial reduction of 65 cases from 2012 to 2013.

Judge Buras had a small increase of 10 cases and was the only member of the judiciary who did not have a smaller average pending felony caseload in 2013.

EXHIBIT 2: Average Quarterly Inventory of Open Felony Cases

* 2013 performance is reflective of Judge Flemings-Davillier, and 2012 performance is reflective of Judge Van Davis
Source: Judicial Administrator of Criminal District Court and OPSO

Exhibit 3: Felony Cases More Than One Year Old

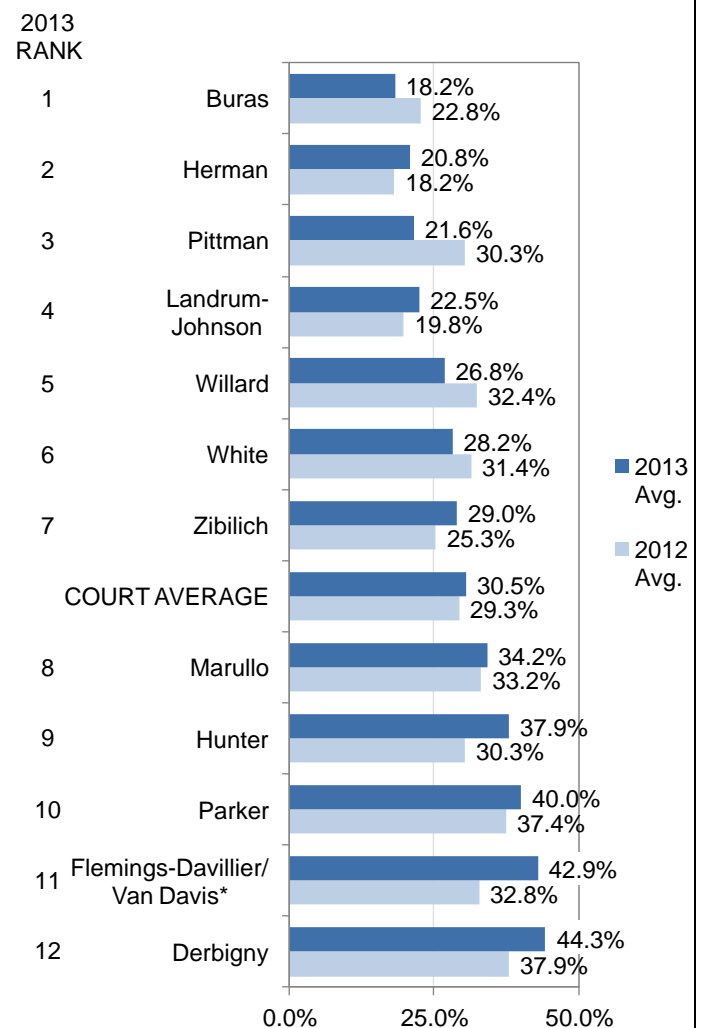
The percent of open cases more than one year old provides a reliable indicator of the age of a judge's inventory of pending cases. ABA standards call for all felony cases to close within one year of a defendant's arrest. The MCC measures percentages of cases more than one year old from the time a case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

Exhibit 3 shows the percent of each judge's active inventory of felony cases that were open for more than one year in 2013 and to 2012. A smaller percent of cases open more than one year indicates a more current caseload and higher efficiency.

Most judges had small to moderate increases in their rates of backlogged cases open more than one year.

Judges Pitman, Willard, Buras, and White were the only judges with improved percentages of cases open more than one year.

Judges Flemings-Davillier, Hunter, and Derbigny had the largest increases in rates of cases open more than one year which rose by 6% to 10% in their sections of court. Rates of cases remaining open more than one year increased moderately by 1% to 4% for all other judges.

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

* 2013 performance is reflective of Judge Flemings-Davillier, and 2012 performance is reflective of Judge Van Davis
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. 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.

Most judges had reduced median case processing times as case processing for the entire court reduced by 17 days from 2012 to 2013 (see Exhibit 4). The 155-day median case processing time for cases that closed in 2012 went down to 138 days in 2013.

Eight judges reduced the median time it took to bring cases to conclusion in their sections of court. Judge Pittman had the largest decline and reduced median case processing time by 76 days. Judges Willard, Zibilich, and Parker also had significant median case processing time reductions of greater than 30 days.

Judges Flemings-Davillier, Hunter, and Derbigny had the court's longest case processing times as well as being among the few judges whose case processing times increased from 2012 to 2013. Judge Flemings-Davillier had a 73-day increase in median case processing time which is likely the result of taking over Criminal District Court's largest caseload. Judge Derbigny's median case processing time increased by 31 days from 2012 to 2013. Judge Hunter had a smaller nine day increase in median case processing time, and Judge Buras's case processing time had a nominal increase of three days.

Case processing in Criminal District Court is coming closer to nationwide case processing statistics. A 2013 Department of Justice (DOJ) study found that 85% of felony cases were resolved within one year.² Case processing time presented in Exhibit 4 includes a shorter time frame from when a case is allotted to a judge and under a judge's case management rather than from the time from arrest used DOJ research. In 2013, 81% of felony cases that closed in Criminal District Court were resolved within one year of allotment, which is slightly below the nationwide rate of 85% of felony cases closing within one year of arrest. Criminal District Court as a whole does not appear to allow cases to become backlogged at a significantly higher rate than what is seen across courts nationwide.

Changing Case Processing Statistics

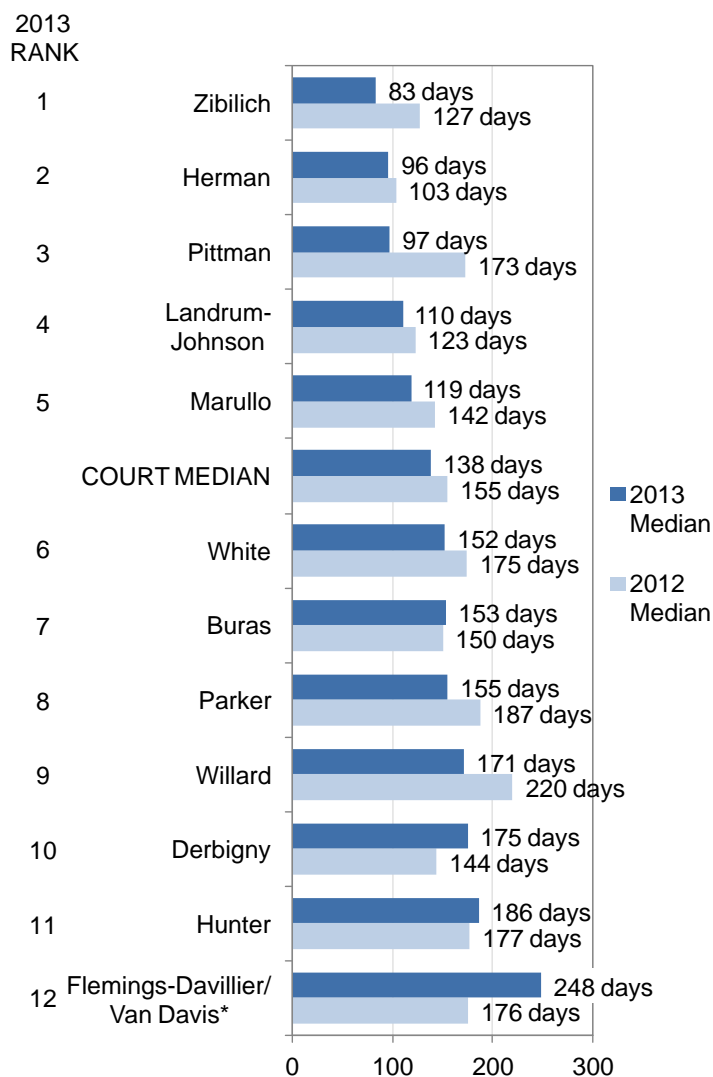
Exhibit 5 presents the felony case processing statistics over the past three years along with the numbers of felony arrests and newly accepted felony cases that entered the court in order to show changes in the court's workload and how those changes have impacted case processing.

The decline in felony arrests and accepted felony cases has resulted in significantly fewer pending felony cases.

The DA's Office accepted 915 fewer felony cases and new cases fell from 5,516 in 2011 to 4,601 in 2013. This reduction in new felony cases directly contributed to a 1,051 or 29% decline in the average number of pending felony cases from 3,624 in 2011 to 2,573 in 2013.

The rate of backlogged cases increased as pending felony cases declined. In 2011, 26.1% of pending cases had been open for greater than one year, which increased to 30.5% of pending cases open greater than one year in 2013. Backlogged cases are usually more difficult and take longer to resolve. Often backlogged cases involve more serious crimes and can result in significant sentences upon conviction. For example, pending violent felony cases increased from making up 28% of pending felony caseloads in 2011 to 33% of pending felony cases in 2013 (see supplemental exhibits).

EXHIBIT 4: Median Felony Case Processing Times



* 2013 performance is reflective of Judge Flemings-Davillier, and 2012 performance is reflective of Judge Van Davis

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

Exhibit 5: Felony Case Processing 2011-2013

	2011	2012	2013
Felony Arrests	6,510	6,083	5,734
Accepted Felony Cases	5,516	5,019	4,601
Average Number of Open Felony Cases for the Entire Court	3,624	3,073	2,573
Average Percent of Open Felony Cases More Than One Year Old	26.1%	29.3%	30.5%
Court Median Felony Case Processing Time	155 days	157 days	138 days

Judicial Efficiency Rankings 2007-2013

Since 2007, the current series of MCC Judicial Accountability Reports has consistently documented that some judges maintain greater efficiency than others, resulting in an inconsistent pace in the administration of justice within the court. **Exhibit 6** depicts each sitting judge's efficiency rankings since 2007 along with their average rankings. Six of the court's 12 judges have become a part of the judiciary since 2007 do not have rankings for all years. Due to having only one year's judicial efficiency ratings, Judge Flemings-Davillier is not included in this analysis.

Exhibit 6 shows that seven judges have generally held rankings of seventh or better since 2007 and maintained favorable efficiency measures. These seven judges establish a mainstream of judicial efficiency that provides a reasonable pace to criminal case processing.

Judges Willard, Derbigny, Hunter, and Parker stand out as having lower efficiency rankings than the remainder of the court over the past seven years. Each of these judges' efficiency rankings have been in the bottom third of the judiciary for at least four of the past seven years. They have consistently demonstrated felony case management practices that create delays in criminal case processing that is not found throughout the remainder of the court.

EXHIBIT 6: Judicial Efficiency Rankings 2007-2013

Judge	2007	2008	2009	2010	2011	2012	2013	Average
Judge Herman	-	-	1	1	1	1	1	1
Judge Zibilich	-	-	-	-	-	3	2	3
Judge Pittman	-	-	2	4	2	4	3	3
Judge Landrum-Johnson	-	-	7	2	4	2	4	4
Judge Buras	4	4	6	7	3	4	5	5
Judge Marullo	7	6	4	4	7	6	6	6
Judge White	-	4	5	9	7	7	7	7
Judge Willard	6	7	9	10	11	10	7	9
Judge Derbigny	11	8	8	6	9	9	11	9
Judge Hunter	10	11	11	12	5	8	9	9
Judge Parker	7	10	10	8	10	12	10	10

Source: MCC Judicial Accountability Reports

CONCLUSIONS

The court continues to have large disparities in efficiency. Less efficient judges take longer to bring cases to conclusion and maintain caseloads up to twice as large with double the rate of backlogged cases compared to most efficient members of the judiciary. Inefficient case processing negatively impacts crime victims and witnesses awaiting justice, leaves defendants lingering in jail at city expense, and unnecessarily expends resources throughout the criminal justice system.

Most judges with lower efficiency rankings demonstrate long-term case management practices and skills that consistently result in lower efficiency compared to the majority of the court. These judges are respectfully encouraged to adopt practices that will bring their case processing in line with their peers.

Smaller caseloads of pending felony cases are likely a reflection of dwindling police manpower that has fallen to a 36 year low. As the size of the New Orleans Police Department has shrunk, there have been fewer felony arrests leading to reductions in new felony cases entering the court and fewer pending felony cases. Smaller caseloads have corresponded with shorter case processing times, but the rate of backlogged cases has increased as more difficult felony cases make up a growing portion of the court's open caseload.

The MCC respectfully calls upon the judiciary to institute a unified case management system that could be of significant benefit to more effectively and efficiently managing pending caseloads. Judges could use the system to collaboratively

identify, prioritize, and resolve older and backlogged felony cases. Such a system will provide real-time information that will aid judges in efficiently managing felony caseloads.

A smaller court workload may offer an opportunity for the judiciary to increase programs aimed at reducing recidivism by providing direct judicial supervision holding offenders accountable for adhering to conditions of their sentences. Drug courts are run by Judges White, Flemings-Davillier, Willard, Landrum-Johnson, Pittman, Parker, Buras, Herman, and Zibilich. Judges White and Hunter work to reduce recidivism through re-entry courts that enable felons to successfully complete drug treatment, job training, and education opportunities in exchange for sentence reductions. Judges Marullo, Landrum-Johnson, and Pittman have intensive probation programs. Judge Herman runs a specialized court for defendants identified as having mental health needs, and Judge Hunter runs a veteran's court. These judicial programs do not operate at the expense of achieving efficiency in docket management as evidenced by many of the top ranked judges operating multiple specialty courts. The judiciary is encouraged to use the time afforded to them by 29% smaller caseloads to expand specialty courts. Greater judicial involvement and oversight in sentencing outcomes can help provide offenders with the opportunities to lead crime free and more productive lifestyles thereby reducing the incidences of crime in the community.

Sponsors

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¹ "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)

² "Felony Defendants in Large Urban Counties, 2009 – Statistical Tables" Bureau of Justice Statistics, December 2013; <http://www.bjs.gov/content/pub/pdf/dluc09.pdf>