



METROPOLITAN CRIME COMMISSION, INC.

2014 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 legal proceedings are properly and fairly conducted in accordance with the law.

Days are randomly assigned to judges in which all offenses that occur will be allotted to their sections of court. When the District Attorney's Office accepts a case for prosecution, the case is allotted 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.

Recent transitions in the judiciary include three judges newly elected since 2012. Judge Zibilich began his tenure as a member of the judiciary at the beginning of 2012, and Judge Fleming-Davillier's tenure began at the beginning of 2013. Judge Parker retired at the end of 2014, and this will be the last report examining his judicial efficiency. Judge Williams was elected to fill the vacancy resulting from Judge Parker's retirement. Additionally, Judge Marullo's future as a member of the judiciary remains uncertain as the Louisiana Supreme Court examines whether his age statutorily disqualifies him from continued service as a judge.

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

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 time it takes to close felony cases. These performance measures are based upon standards

established by the American Bar Association (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.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 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)

Summary of Findings

The court as a whole improved case processing efficiency, but a few judges continue to demonstrate a need to bring greater consistency to the processing of felony cases throughout all sections of court.

- The median felony case processing time reduced from 138 days in 2013 to 117 days in 2014, which is nearing the national rate of 111 days.
- More felony cases were accepted for prosecution leading to an increase from an average of 2,573 pending cases in 2013 to 2,692 pending cases in 2014.
- Violent and weapons cases accounted for a larger portion of pending cases growing from 39% in 2011 to 45% in 2014.
- Backlogged cases open more than one year had a small decrease from 30.5% in 2013 to 28.2% in 2014.
- Measures of judicial efficiency continue to show wide disparities resulting in a few judges having more than twice as many open cases, more than twice the rate of backlogged cases open more than one year, and case processing times more than three times longer than the most efficient members of the judiciary.

OVERALL JUDICIAL EFFICIENCY RANKINGS

Judges' overall judicial efficiency rankings from 2013 are compared to their 2014 judicial efficiency rankings in **Exhibit 1**. Overall rankings are based on each judge's rank for the number of open felony cases, the percent of felony cases open more than one year, and the time it took to close felony cases.

The top seven ranked judges in 2014 were also in the top seven rankings in 2013. There were small changes in overall rankings among the highest ranked members of the judiciary. Judge Zibilich moved up one ranking to first as a result of having the highest efficiency across all three measures, while judges Landrum-Johnson and Marullo each moved up two rankings.

The biggest ranking change was Judge Buras who went from a fifth ranking in 2013 to ninth in 2014 as a result of reductions in all three areas of efficiency.

The same three judges held their positions as lowest ranked members of the judiciary in 2013 and 2014. Judges Parker and Derbigny tied for tenth, and Judge Flemings-Davallier remained the bottom ranked member of the judiciary. These three judges had the largest dockets of pending cases and highest rates of backlogged cases open more than one year.

Exhibit 1: Overall Judicial Efficiency Rankings

2014	2013	Judge
1	2	Judge Franz Zibilich
2 - Tie	1	Judge Karen K. Herman
2 - Tie	4	Judge Keva Landrum-Johnson
4 - Tie	6	Judge Frank A. Marullo, Jr.
4 - Tie	3	Judge Robin D. Pittman
6	7 - Tie	Judge Laurie A. White
7	7 - Tie	Judge Benedict Willard
8	9	Judge Arthur L. Hunter, Jr.
9	5	Judge Camille Buras
10 - Tie	11	Judge Darryl Derbigny
10 - Tie	10	Judge Julian Parker
12	12	Judge Tracey Flemings-Davillier

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 open cases until they close by reaching a final disposition (i.e., a guilty plea, trial verdict, or dismissal).

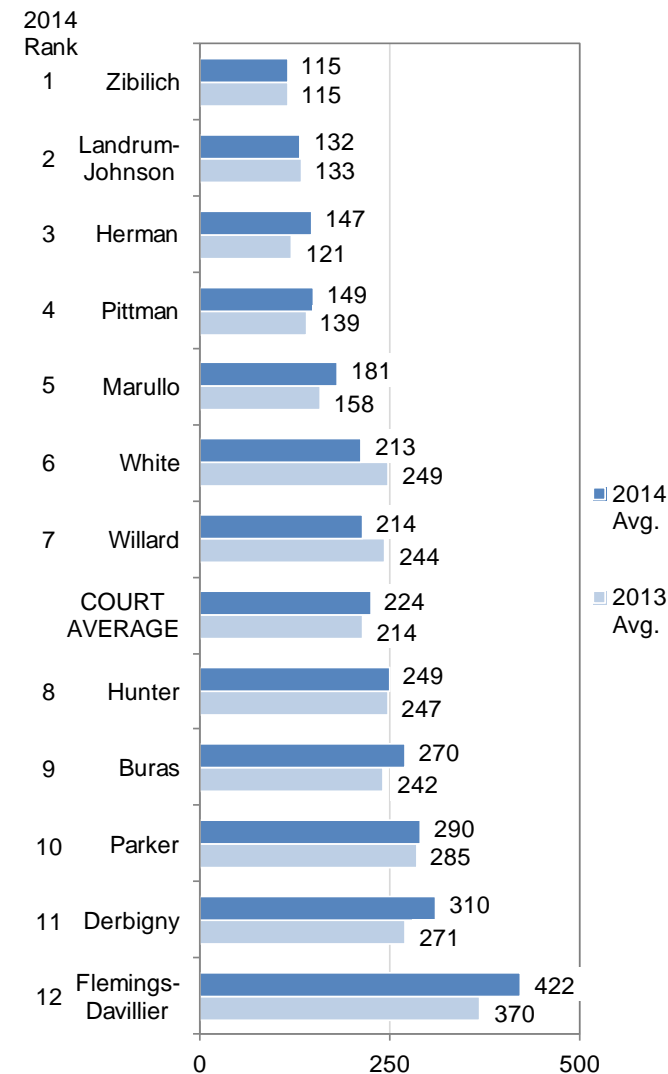
Exhibit 2 shows the average quarterly number of open pending felony cases before each judge in 2013 and 2014. Having fewer open cases indicates more efficient docket management resulting in a smaller inventory of open cases.

The average felony caseload rose by 10 from an average of 214 in 2013 to 224 in 2014, but changes in inventories were not consistent across the judiciary.

Eight (8) judges had increases in their felony caseloads. Judge Flemings-Davillier had the largest caseload of 370 cases in 2013 and it grew by 53 to 422 cases in 2014. Judges Herman, Marullo, Buras, and Derbigny had increases of 23 to 40 additional felony cases in 2014. Judge Pittman had a moderate increase of 10 additional felony cases, and there were nominal increases of five or less before Judges Parker and Hunter.

Judge White's 36-case reduction and Judge Willard's 30-case reduction were the largest decreases in felony case inventories from 2013 to 2014.

EXHIBIT 2: Average Quarterly Inventory of Open Felony Cases



Source: Judicial Administrator of Criminal District Court and OPSO

Exhibit 3: Felony Cases More Than One Year Old

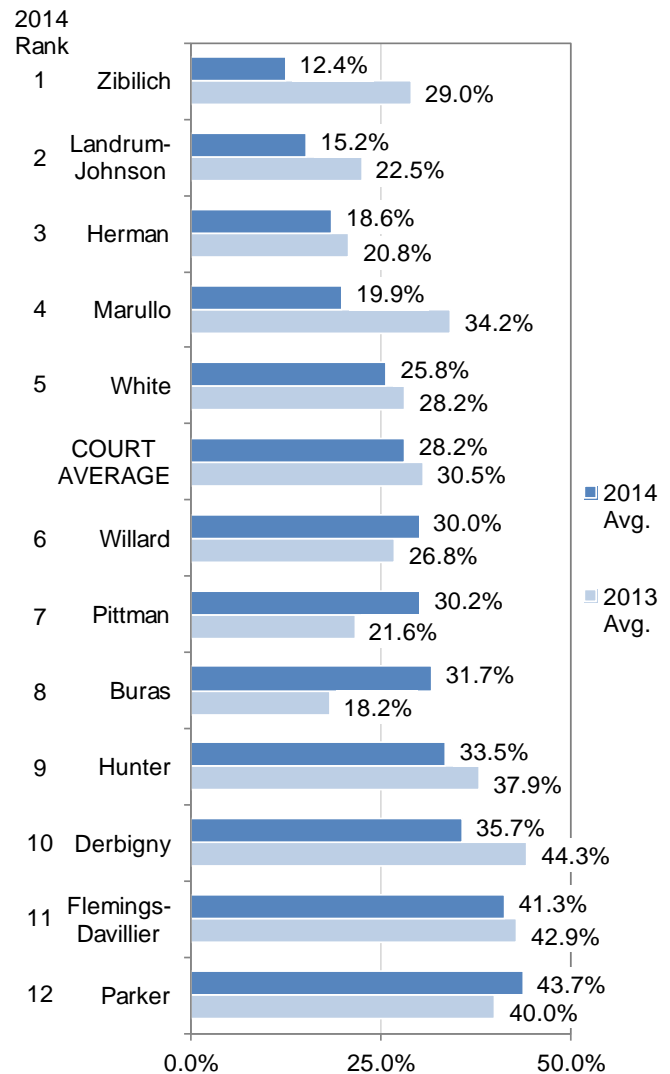
The percent of open cases more than one year old provides a reliable indicator of how efficiently a judge manages his or her open inventory of cases. ABA standards call for all felony cases to close within one year of a defendant's arrest. The MCC measures percentages of cases more than one year old 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 compares the percent of each judge's active inventory of felony cases that were open for more than one year in 2013 to 2014. A smaller percent of cases open more than one year indicates a more current caseload and higher efficiency.

The rate of cases more than one year old declined in 2014 as a result of eight judges reducing their percentages of cases that remained open more than one year. The largest declines were in the sections of Judges Zibilich, Landrum-Johnson, Marullo, and Derbigny, while smaller decreases occurred before Judges Herman, White, Hunter, and Flemings-Davillier.

Judges Pitman and Buras had the largest increases in rates of pending cases more than one year old, and Judges Willard and Parker had modest increases in their rates of backlogged cases.

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



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.

Overall case processing time reduced by 21 days (3 weeks) from 138 days in 2013 to 117 days in 2014 (see Exhibit 4). The reduction in overall case processing time is the result of nine judges having lower case processing times in 2014 compared to 2013.

Judge Flemings-Davillier had the largest improvement in median case processing time but continued to rank last in this category of efficiency. In 2013, Judge Flemings-Davillier had a median case processing time of 248 days which fell by 48 days in 2014 to a median of 200 days.

Judges Zibilich, Herman, Landrum-Johnson, Parker, Derbigny, and Hunter also had sizeable reductions in median case processing times of more than 20 days. Judges Pitman's 14-day reduction and Judge Marullo's 12-day reduction were also noteworthy improvements in felony case processing times.

Judge White had the largest increase in median case processing time of 21 days. Judges Buras and Willard had small increases in felony case processing times of less than 10 days.

Case processing in Criminal District Court is nearing nationwide case processing statistics. A 2013 Department of Justice (DOJ) study found a median felony case processing time of 111 days² which is similar to the Criminal District Court felony case processing time of 117 days. The MCC calculates case processing time using 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 of arrest used DOJ research. The same nationwide DOJ study found that 67% of felony cases were resolved within six months and 85% were resolved within one year. Comparatively, Criminal District Court felony case processing in 2014 brought 65% of cases to conclusion within six months and 84% within one year of allotment, which is nominally different from case processing found nationwide.

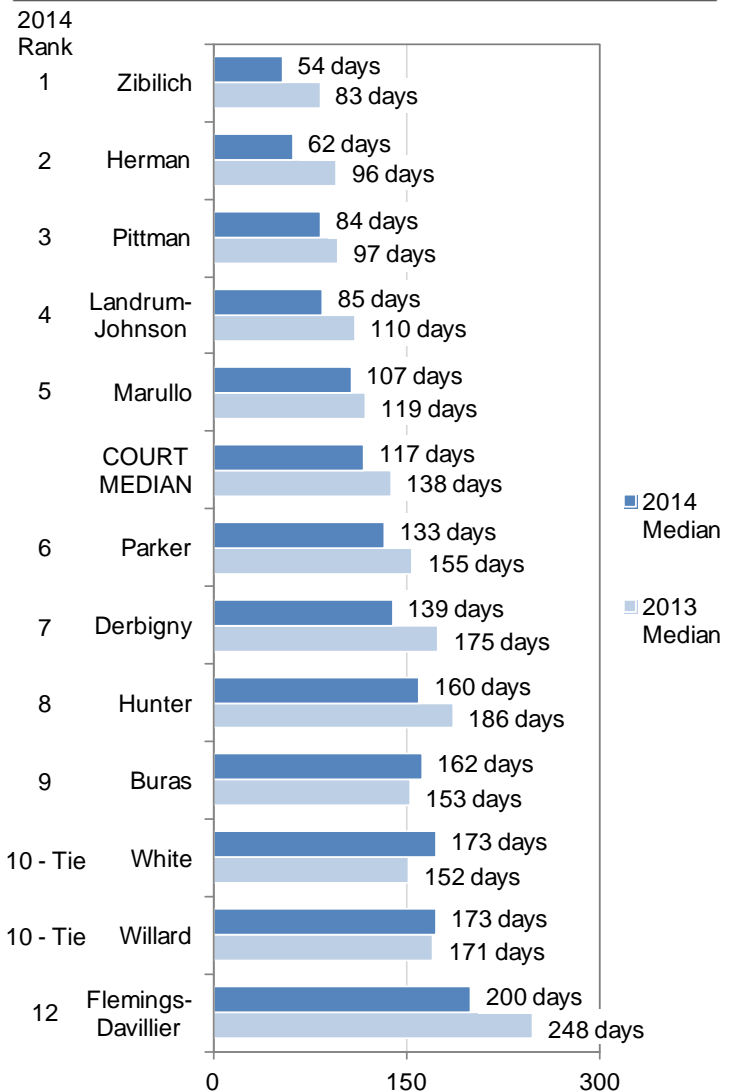
Changing Criminal Justice System Felony Case Processing

Felony arrests decreased by 962 or 15% over the past four years from 6,510 in 2011 to 5,548 in 2014 (see Exhibit 5). The reduction in felony arrests from 2011 to 2014 led to fewer new felony cases accepted for prosecution and fewer pending felony cases in Criminal District Court.

Newly accepted felonies decreased by 767 cases or 14% from 5,516 in 2011 to 4,749 in 2014.

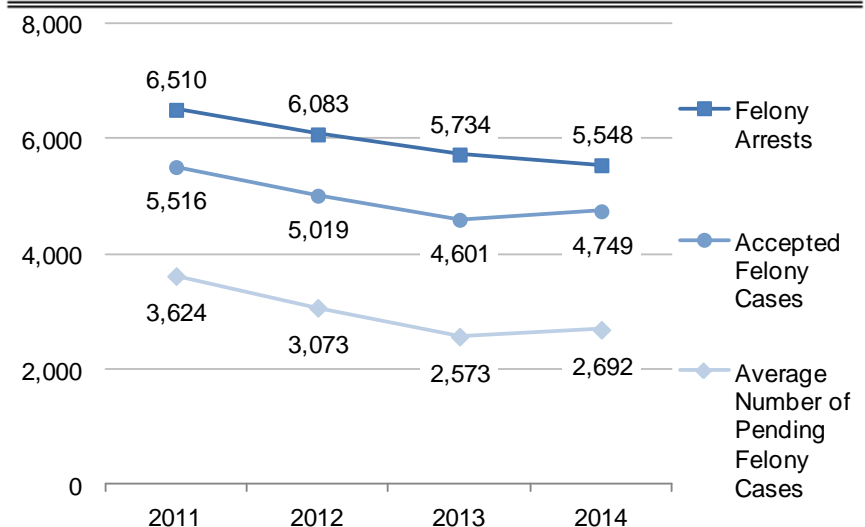
Even though felony arrests decreased from 2013 to 2014, there was a higher rate of felony arrests accepted for felony prosecution in 2014 that caused an increase in the number of accepted cases. In 2012 and 2013, 73% of felony arrests were accepted for prosecution, and the acceptance rate increased to 77% in 2014.³ This

EXHIBIT 4: Median Felony Case Processing Times



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

Exhibit 5: Felony Arrests and Cases 2011-2014



Source: MCC Research

increase in the felony case acceptance rate resulted in a 148 case or 3% rise in the number of newly accepted felony cases from 4,601 in 2013 to 4,749 in 2014.

Having more felony cases accepted for prosecution from 2013 to 2014 caused an increase in the number of pending felony cases. There was an average of 2,573 open felony cases in 2013 which rose 119 or 5% to an average of 2,692 cases in 2014. Violent and weapons felonies made up larger portions of open inventories as they grew from 39% of open cases in 2011 to 45% of open cases in 2014 (see supplemental exhibits page 13).

The court improved case processing efficiency as felony arrests and felony cases accepted for prosecution declined. From 2011 to 2014, felony arrests declined 15% and felony cases accepted for prosecution went down 14%. At the same time, pending inventories of open felony cases had a much greater decline of 932 or 26% from 3,624 in 2011 to 2,692 in 2014.

The judiciary significantly decreased the time to bring cases to conclusion over the past four years (see **Exhibit 5**). While the rate of cases more than one year old had moderate fluctuations from a low of 26.1% in 2011 to a high of 30.5% in 2013, the judiciary steadily decreased felony case processing time from a median of 157 days in 2011 to a median of 117 days in 2014.

Exhibit 5: Felony Case Statistics 2011-2014

	2011	2012	2013	2014
Open Felony Cases More Than One Year	26.1%	29.3%	30.5%	28.2%
Median Felony Case Processing Time	157 days	155 days	138 days	117 days

Source: MCC Research

Conclusions

The MCC commends the judiciary of Criminal District Court for improving case processing to become more consistent with what is seen throughout the United States.

The judiciary as a whole has decreased the time it takes to close cases amidst a reduction in the numbers of new cases entering the criminal justice system. Compared to 2011, each judge had an average of 78 fewer pending cases in 2014 which contributed to an overall 40-day decline in the median time that it takes to bring cases to conclusion. The 2014 median case processing time of 117 days is very similar to the median of 111 days found in nationwide measures of felony case processing.

Wide disparities in judicial efficiency reveal a small number of judges apply case management practices that fall outside of what is seen across the majority of the court. The three least efficient judges had pending caseloads more than twice as large as the two most efficient members of the judiciary. Half (49%) of the court's backlogged cases open more than one year were in the three least efficient judges' sections of court. There are also large variations in the median time that it takes to bring cases to conclusion. The median case processing times of 173 days or more for three judges with the longest case processing times is more than double the 85 days or less for the four most efficient judges.

The MCC anticipates that any future improvements in overall case processing efficiency will be incremental rather than substantial. The court is processing a significantly diminished caseload at a time when arrests have fallen to a four-year low. An aggressive recruitment campaign is underway by the City of New Orleans to hire hundreds more police officers which is likely to increase the numbers of felony arrests. Continued improvements in collaboration between police and prosecutors have achieved a higher felony case acceptance rate, which is causing more felony arrests to be translated into active felony prosecutions. Increases in the numbers of felony cases entering the criminal justice system will result in larger dockets and likely

cause decreased efficiency for a portion of the court. The court's ability to maintain or increase case processing efficiency depends upon adherence to case management practices that have brought about improvements and broadening the use of effective strategies throughout the court.

Recommendations

The MCC respectfully recommends that the court reduce excessive delays in case processing and collaboratively work to adopt policies that will improve efficiency.

Unnecessary delays associated with inefficient docket management increase the cost of administering justice and have a negative impact on all who are affected by a case's processing. Cost implications of case processing inefficiency are realized when the City of New Orleans must pay to detain inmates awaiting resolution of their cases, which also causes a need for additional jail facilities to house pretrial inmates. Delays from inefficient docket management waste resources of prosecutors, defense attorneys, and criminal justice personnel who are diverted from other responsibilities to repeatedly prepare for and participate in case events. Similarly, prolonged time waiting to learn a case's outcome can have a negative effect on witnesses, victims, defendants, and family members.

The MCC encourages the court to implement a court-wide electronic case management system capable of standardizing the scheduling of court events and managing inventories of pending cases. A case management system applied throughout the court could serve as an effective tool to reduce disparities in case processing efficiency. The greatest opportunity for the court to continue improving efficiency is for lower performing judges to bring their case processing in line with the court average. Identifying the practices of the most efficient members of the judiciary and applying them across all sections of court could establish more consistency to the criminal justice process.

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/fdluc09.pdf>

³ "Orleans Parish Criminal Justice System Accountability Report May 2015: 2012-2014 Arrests and Felony Case Outcomes" Metropolitan Crime Commission, May 2015 (accessible at the MCC website: www.metrocrime.org)