



METROPOLITAN CRIME COMMISSION, INC.

ORLEANS PARISH JUDICIAL ACCOUNTABILITY REPORT

January 2008 – June 2008

This is the third Metropolitan Crime Commission (MCC) report examining judicial performance in Orleans Parish since the beginning of 2007. The primary goals of this research are to enhance public understanding of the criminal justice system and to promote efficient administration of justice. Tracking the case processing efficiency of individual judges over a period of time brings transparency and accountability to judicial performance. Measuring overall court performance over time also tracks progress in criminal justice system post-Katrina recovery.

Background

Orleans Parish Criminal District Court has 12 elected section judges. 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. When the Orleans Parish District Attorney's (DA's) Office accepts a felony case for prosecution, it is randomly assigned to one of these 12 sections of court. Over time, this random allotment process should result in each of the 12 judges receiving equal numbers and similar types of cases.

Orleans Parish Criminal District Court was profoundly affected by Hurricane Katrina. The court did not fully reopen until October of 2006, 14 months after the storm. Victims, witnesses, defendants, and potential jurors were displaced which further prevented the court from resuming normal operations. Floodwaters damaged much of the evidence stored in the basement of the courthouse, which caused additional delays.

Summary of Findings

This report examines three basic indicators of judicial efficiency: the number of open felony cases in each judge's inventory, the age of open felony cases, and the time it takes for felony cases to close. The MCC does not advocate greater efficiency at the expense of fairness and justice. However, applying these measures, established by the National Center for State Courts

and the American Bar Association, does provide a meaningful basis for evaluating and comparing the performance of each Criminal District Court judge.

This analysis of judicial performance shows consistent improvements in the overall efficiency of Orleans Parish Criminal District Court since the beginning of 2007 as well as the opportunity for some judges to continue improving efficiency within their courtrooms:

- There is wide variance in the efficiency of case processing within different sections of court, which shows that some judges have adopted courtroom procedures that result in the timely and equitable flow of criminal cases while other judges have procedures that result in unnecessary case delays.
- Inventories of open felony cases continued to increase from an average of 184 per section in the first half of 2007 to 205 per section in the first half of 2008.
- Although inventories are higher, criminal cases are being processed more efficiently and there are fewer older cases backlogged in the criminal justice system. Median case processing time decreased 50% from a median of 294 days in the first half of 2007 to 148 days in the first half of 2008. In the first half of 2007, 44% of cases were more than a year old. The percent of cases more than one year old reduced to 21% in the first half of 2008.

As a whole, the court has significantly improved its efficiency since the beginning of 2007. However, varying efficiency in different sections of court causes victims, witnesses, and defendants to experience an unequal flow to the criminal justice process based upon the section of court that randomly receives their case.

JUDICIARY RANKINGS

Exhibit 1 presents the efficiency ranking for each judge in the first half of 2008 compared to all of 2007. These rankings are the total rankings for judges' numbers of open felony cases, percent of felony cases more than one year old, and how long they took close felony cases.

Consistent with 2007 results, Judges Dennis Waldron, Raymond Bigelow, and Terry Alarcon have the highest efficiency rankings through the first half of 2008.

Judge Derbigny has moved to a rank of seventh in the first half of 2008 from the lowest eleventh ranking in 2007. Judge Derbigny improved his overall efficiency by reducing the number of open cases in his section of court and by closing cases more quickly than in previous analyses. Judge Marullo also showed improvement in his case processing efficiency and ranks fourth through the first half of 2008, up from being tied for seventh in 2007.

Judge Parker's efficiency ranked tenth in the first half of 2008 after he was tied for seventh in 2007. A higher inventory of open cases and longer case processing times are the main reasons for Judge Parker's lower efficiency ranking.

EXHIBIT 1: Overall Judicial Efficiency Rankings

Jan – Jun 2008	Jan – Dec 2007	Judge
1	1	Judge Dennis Waldron, Section F
2	2	Judge Raymond Bigelow, Section I
3	3	Judge Terry Alarcon, Section L
4	7 – Tie	Judge Frank Marullo, Section D
5	4	Judge Camille Buras, Section H
6	n.a.	Judge Laurie White, Section A
7	11	Judge Darryl Derbigny, Section J
8	6	Judge Benedict Willard, Section C
9	9	Judge Lynda Van Davis, Section B
10	7 – Tie	Judge Julian Parker, Section G
11	10	Judge Arthur Hunter, Section K

NOTES: Section E of Criminal District Court was vacated by the retirement of the honorable Judge Calvin Johnson, and the seat has been filled with temporary ad hoc judges and is not part of overall judicial rankings. Judge Laurie White has presided over section A since the beginning of 2008.

CASE PROCESSING EFFICIENCY

Inventories of open felony cases, the percent of felony cases more than one year old, and felony case processing time are the three measures examined to determine each judge's case processing efficiency. Largely based upon standards put forth by the American Bar Association (ABA), these performance measures are recognized by the National Center of State Courts as valid and reliable indicators of judicial performance. Assessing court performance in these areas provides information for judges to gauge the effectiveness and efficiency of their felony case management practices and serves as an educational tool for the public to assess the performance of their elected judiciary.

Many factors can affect the time it takes to process a criminal case, including the severity of charges, whether a trial is involved, and the number of pretrial motions. However, cases are randomly allotted or assigned to sections of court, which should result in judges receiving caseloads that are balanced in their levels of intricacy and difficulty. Therefore, analyzing an individual judge's performance using the methodology applied herein measures the effectiveness of his or her case management. Solid judicial performance results from good docket management practices, such as timely scheduling of court events and well-defined continuance policies. Adopting such practices establishes a judicial culture of productivity and greater efficiency within a courtroom.

Docket Size – Inventory of Open Cases

A judge's felony docket is made up of open cases assigned to his or her section of court. A judge presides over cases until they are closed. A case closes when it reaches a final disposition of a guilty plea, trial verdict, or dismissal.

Exhibit 2 shows each judge's average number of open felony cases at the end of the first and second quarters of 2008. Fewer open cases indicate that a judge more efficiently manages his or her docket, which results in a smaller inventory of open cases.

There were an average of 205 open felony cases in each section of court in the first half of 2008. Judges Bigelow and Waldron have substantially lower inventories of open cases compared to other members of the judiciary, which demonstrates that judges can apply case management practices which result in fewer open felony cases in a section of court.

After having the largest average inventory of 298 open cases in 2007, Judge Derbigny took measures to reduce his docket and now ranks third with an average of 182 open cases. Judge Marullo also reduced his inventory from an average of 208 cases in 2007 to 186 in the first half of 2008.

Age of Docket – Percent of Cases Over One Year Old

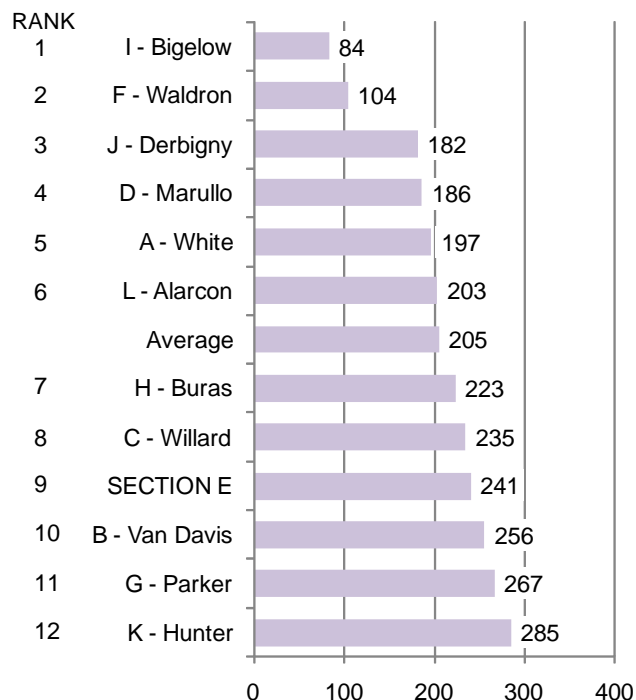
The percent of cases over one year old indicates the age of a judge's inventory and the efficiency of a judge's case management practices. ABA standards call for all felony cases to close within one year of a defendant's arrest. Cases over one year old are out of compliance with national standards and may be considered "backlogged".

Exhibit 3 shows the average percent of a judge's open cases more than one year old in the first and second quarters of 2008. To examine the time a case was under a judge's management, the MCC measured the time a case was assigned to a judge rather than from the time of arrest used in ABA standards.

In the first and second quarters of 2008, an average of 21% of open cases was more than one year old. An average of 8% of cases per section predated Hurricane Katrina.

The 9% of Judge Waldron's cases more than a year old strongly contrasts to the 32% of Judge Hunter's and 31% of Judge Derbigny's cases over one year old. These variations in the portion of cases more than one year old show that some judges have adopted practices to maintain a more current case docket.

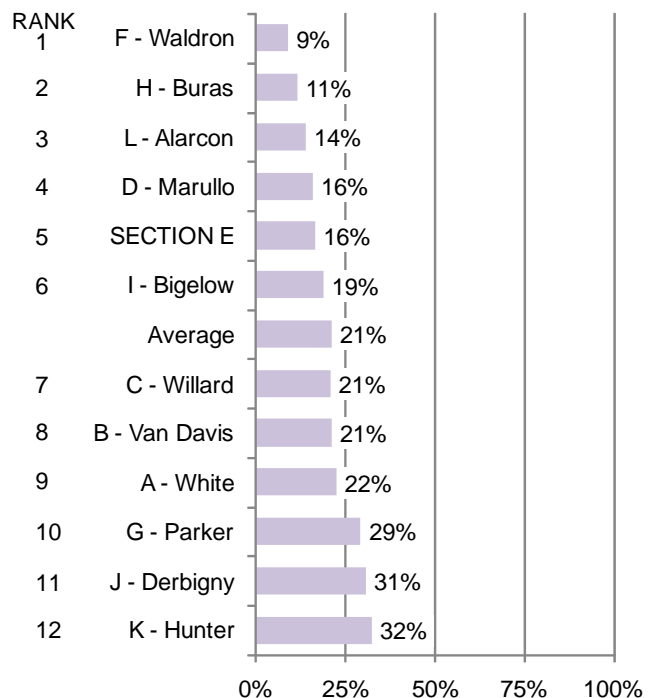
EXHIBIT 2: Average Quarterly Inventory of Open Felony Cases Jan – Jun 2008*



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

* Estimated error rate of under 2%

EXHIBIT 3: Average Quarterly Percent of Felony Cases Over One Year Old Jan – Jun 2008



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

* Estimated error rate of under 2%

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 and unavailable to appear in court was not included in these calculations.

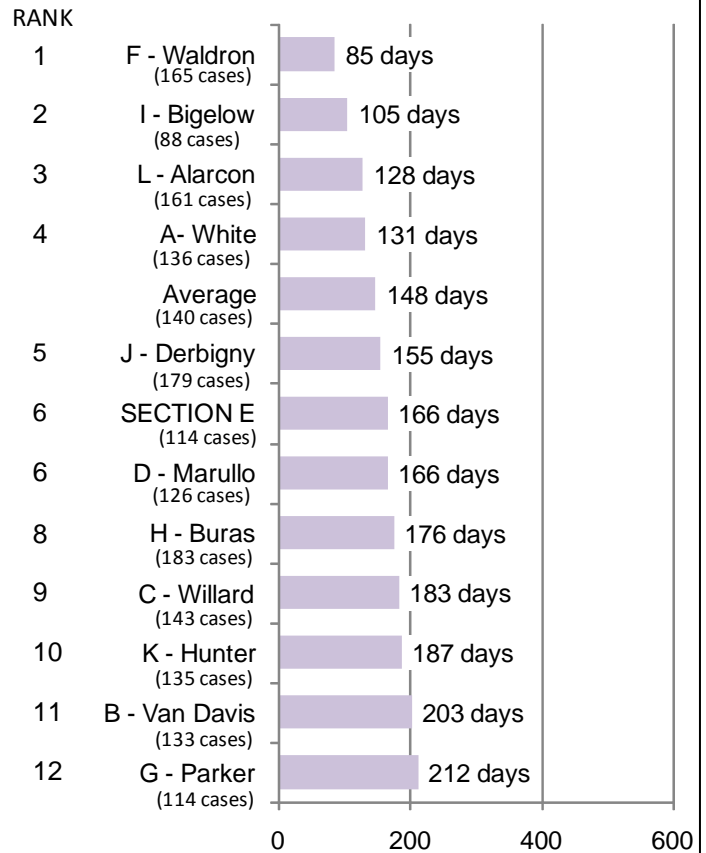
The median case processing time for felony cases was 148 days in the first half of 2008 (see Exhibit 4). Cases accepted after Hurricane Katrina had a median case processing time of 133 days, compared to a median of 965 days for cases that originated before the storm.

Ninety percent (90%) of cases accepted after Hurricane Katrina that closed in the first half of 2008 were open for less than one year. This represents a slight improvement from the 87% of post-Katrina cases that closed in under a year during 2007. A study of large urban counties conducted by the Bureau of Justice Statistics (BJS) found that 87% of felony cases concluded within a year of a defendant's arrest.¹ Although the MCC measures case processing time from the time the case is assigned to a judge rather than the time of arrest to disposition used in BJS research, it appears that the judiciary of Orleans Parish Criminal District Court is processing a majority of their cases within the BJS national time frame.

Case processing times range from a low of 85 days (Judge Waldron) to a high of 212 days (Judge Parker). This disparity in performance indicates that it is possible for judges to apply courtroom procedures that reduce case processing time and improve the efficiency of the criminal justice process. Differences in case processing time also show that defendants, victims, witnesses, and criminal justice system personnel can experience widely disparate time frames depending on the random assignment of their cases.

The number of cases closing by trial before a judge may be a strong indicator of judicial efficiency. Judge Waldron held 15 trials and Judge Bigelow held 16 trials that accounted for 25% of all trials in the first half of 2008. These judges also had the shortest case processing times. It is likely that their higher trial rates indicate well-defined judicial policies that promote the timely and efficient administration of justice, which results in a plea, trial, or dismissal rather than an unnecessary delay.

**EXHIBIT 4: Median Felony Case Processing Times
Jan-Jun 2008* (Number of closed cases
per section in parentheses)**



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

Changes in Case Processing Efficiency from January 2007 through June 2008

The court has made significant improvements in some measures of case processing efficiency since the beginning of 2007. While inventories of open cases have increased, the judiciary is processing cases more efficiently and reducing the backlog of older criminal cases. Exhibit 5 presents information that tracks overall court performance since the beginning of 2007.

**EXHIBIT 5: Changes in Case Processing Statistics
January 2007 – June 2008**

	Jan-Jun 2007	Jul-Dec 2007	Jan – Jun 2008
Average Felony Case Inventory	184 cases	186 cases	205 cases
Percent of Cases Over 1 Year Old	44%	28%	21%
Percent of Cases Pre-Dating Hurricane Katrina	33%	17%	8%
Median Case Processing Time	294 days	176 days	148 days

Median case processing time decreased from 294 days in the first half of 2007 to 148 days in the first half of 2008, a 50% reduction in case processing time. This improvement is benefitting the criminal justice system without compromising the rights of defendants or victims.

There has been a steady decline in cases more than one year old, especially in regard to cases that pre-date Hurricane Katrina. Forty-four percent (44%) of open cases were more than one year old in the first half of 2007 which reduced to 21% of cases more than one year old in the first half of 2008. The percent of cases predating Hurricane Katrina has reduced 76%. In the first half of 2007, a third (33%) of open cases pre-dated Hurricane Katrina, but only 8% of open cases were accepted for prosecution.

Although fewer cases are backlogged and cases are closing more quickly, dockets of open felony cases increased 11% from an average of 184 per section in the first half of 2007 to 205 per section in the first half of 2008. This increase in open cases results from an increase in the number of new felony cases accepted for prosecution by the DA's Office.

CONCLUSIONS

The MCC commends the judiciary for continuing to improve the efficiency of criminal case processing. The backlog of criminal cases more than one year old has steadily declined since the beginning of 2007, and there has been a 76% reduction in cases that predate Hurricane Katrina. Case processing time has decreased 50% to a median of 148 days. The majority of post-Katrina cases that closed since 2007 were concluded in less than a year and in compliance with ABA standards. The court has made significant progress in reducing inventory of old cases and in improving the efficiency of felony case processing.

Although there have been improvements in case processing efficiency, disparities in judicial performance provide an opportunity for several judges to improve the management of their dockets. The culture that a judge establishes within his or her courtroom has a significant impact on the efficiency of felony case processing. The judge influences the time between case hearings, and the judge establishes policies for allowing case continuances. Ultimately, it is judicial policies and clearly defined expectations that determine the pace or efficiency of the criminal justice system process in a particular section of court.

There are numerous circumstances beyond a judge's control that can delay criminal case processing. For example, witnesses or physical evidence may not be available on a date scheduled for trial. Defense attorneys or prosecutors may not be prepared to proceed and repeatedly seek case continuances. Defendants may be detained in another parish or miss court dates for various other reasons. However, the random assignment of cases distributes these challenges equally to each member of the judiciary and circumstances beyond a judge's control do not account for wide differences in overall case processing efficiency.

Although each criminal case represents a unique circumstance that must receive fair consideration, examining measures of efficiency over time indicates which judges have adopted the most effective docket management strategies. Case processing efficiency measures tracked by the MCC confirm that Judge Dennis Waldron, Judge Raymond Bigelow, and Judge Terry Alarcon maintain courtroom policies that facilitate the efficient administration of justice. The culture and policies established within their courtrooms has enabled them to consistently hold high rankings in judicial efficiency since the beginning of 2007.

The ability of the judiciary to successfully improve the efficiency of the judicial process is further demonstrated in the higher

rankings of Judge Darryl Derbigny and Judge Frank Marullo. Judge Derbigny ranked last in ratings of judicial performance throughout 2007, but he receives a much improved seventh place ranking in 2008. Judge Marullo also improved from being tied from seventh in 2007 to the fourth ranked member of the judiciary through the first half of 2008.

Judges are elected to serve as efficient and equitable arbiters of justice. Unnecessary delays in criminal cases unfairly elongate the criminal justice system process for both victims and defendants. Defendants or victims can reasonably anticipate that it will take more than twice as long for their cases to conclude in the section of court with the longest case processing time compared to the section with the shortest case processing time.

Case delays also waste finite criminal justice system resources by requiring court staff, prosecutors, and defense attorneys to repeatedly prepare for court appearances. Civilian and police officer witnesses may be inconvenienced and have to take time away from their jobs to needlessly attend hearings that do not bring resolution to a case.

The MCC respectfully recommends that each member of the judiciary implement policies that will increase the efficiency of his or her section of court. Clear policies on continuances and scheduling court hearings in close succession to one another are crucial to improving case processing efficiency. Establishing the expectation among prosecutors and defense attorneys that cases will not be allowed to unnecessarily linger can shorten the time it takes to close criminal cases. Judges are further encouraged to prioritize the oldest cases in their inventories in order to resolve the remaining backlog of criminal cases more than one year old, especially those that pre-date Hurricane Katrina.

The primary goal of this examination of the efficiency of Orleans Parish Criminal District court is to bring accountability to the performance of the judiciary. While this report effectively captures information about judicial efficiency, it is important to consider that there are other facets of judicial performance that cannot be measured in these statistics. Professionalism of the judiciary, civic involvement, and participation in specialty programs (such as drug courts) are not included in this efficiency analysis but are worthwhile considerations when evaluating elected members of the judiciary. Efficiency measures enable the judiciary to monitor their case management performance compared to their peers and inform the public of the performance of their elected officials.

Acknowledgements

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The Metropolitan Crime Commission is part of a recently established community coalition focused upon bringing accountability and improvements to the New Orleans criminal justice system. The MCC thanks the following organizations for allowing us to join with them to generate reforms and more effective responses to crime in New Orleans: Bridge House; Business Council of Greater New Orleans; Citizens for 1 Greater New Orleans; Common Good; Crimestoppers; Court Watch NOLA; Greater New Orleans, Inc.; Jefferson Business Council; New Orleans Chamber of Commerce; New Orleans Metropolitan Convention and Visitors Bureau; New Orleans Police and Justice Foundation; New Orleans Regional Black Chamber of Commerce; the Urban League; and Young Leadership Council.

¹ "Felony Defendants in Large Urban Counties, 2002" Bureau of Justice Statistics, February 2006