METROPOLITAN CRIME COMMISSION, INC.

2012 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.

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 (DA'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 court-approved allotment procedure was developed in 2010 and 2011 to improve the efficiency of prosecutors' and public defenders' casework. Over time, this allotment process should result in each of the 12 judges receiving equal numbers and similar types of cases.

Half (6) of the 12 judges in were sworn in after this series of reports began tracking judicial efficiency in 2007. Judge White was elected in 2007 and Judge Landrum-Johnson was elected in 2008. Judges Herman and Pittman became members of the judiciary at the beginning of 2009. Judge Alarcon retired at the end of 2011 and was replaced by Judge Zibilich at the beginning of 2012. Judge Van Davis retired at the end of 2012 and this will be the last report measuring her case processing efficiency. Judge Flemings-Davillier was elected in 2012 and sworn in at the beginning of 2013 to replace Judge Van Davis.

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) 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 balanced in size, intricacy, and difficulty. Therefore, assessing court performance in these areas offers a uniform and established gauge of the effectiveness of each judge's felony case management practices.

Inventories of open felony cases and percentages of cases more than one year old are calculated using lists of pending open cases provided to the MCC by Criminal District Court's Judicial Administrator's Office. In 2012, Criminal District Court changed its process for generating lists of open cases which resulted in small increases in the calculated numbers of open cases and percentages of cases more than one year old. Both approaches to generating lists of open cases resulted in similar rankings for each judge and identification of similar types of open cases. The method for calculating case processing time did not change.

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 each judge's efficiency compared to their peers within Criminal District Court.

Case processing efficiency in 2012 had some changes coupled with ongoing opportunities to improve court performance:

- Case processing statistics reveal wide ranging efficiency across different sections of court resulting in twice as many open cases, twice the rate of pending cases more than one year old, and taking twice as long to bring cases to conclusion in the least efficient sections of court.
- Inventories of open pending cases reduced by 15% as a result of greater numbers of closed cases and fewer new felony cases accepted for prosecution.
- There was a moderate increase in the percent of backlogged cases open more than one year from 26.1% in 2011 to 29.3% in 2012.
- Case processing time slightly decreased from a median of 157 days in 2011 to a median of 155 days in 2012.

OVERALL JUDICIAL EFFICIENCY RANKINGS

Exhibit 1 compares judges' 2012 efficiency ranking to their efficiency rankings in 2011. 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.

Two judges stand out as the most efficient members of the judiciary in Criminal District Court. Judges Herman and Landrum-Johnson received the two highest rankings after having the first and second rankings for each judicial efficiency measure. Judge Zibilich achieved a third place ranking by having third or fourth place rankings in each category of judicial efficiency, and Judges Buras and Pittman tied for fourth by having efficiency measures equal to or better than the court average.

Consistent with 2011 rankings, Judges Van Davis, Willard, and Parker comprise a bottom tier of efficiency and had below average rankings in their pending cases, percentages of cases more than one year old, and case processing times.

The remaining sixth through ninth ranked judges had good overall case processing efficiency in their sections of court.

Exhibit 1: Overall Judicial Efficiency Rankings

2012	2011	Judge
1	1	Judge Karen K. Herman
2	4	Judge Keva Landrum-Johnson
3	n.a.	Judge Franz Zibilich
4 – Tie	3	Judge Camille Buras
4 – Tie	2	Judges Robin D. Pittman
6	7 – Tie	Judge Frank A. Marullo, Jr.
7	7 – Tie	Judge Laurie A. White
8	5	Judge Arthur L. Hunter, Jr.
9	9	Judge Darryl Derbigny
10 – Tie	12	Judge Lynda Van Davis
10 – Tie	11	Judge Benedict Willard
12	10	Judge Julian Parker

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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 presents each judge's average number of open cases in 2012 compared to 2011. Fewer open cases indicates more efficient docket management resulting in a smaller inventory of open cases.

Open pending cases reduced by an average of 15% from 302 per section in 2011 to 256 per section in 2012.

In 2012, six judges had below average inventories of open cases indicating effective management of the sizes of their pending caseloads. Fewer open cases before judges Herman, Landrum-Johnson, Pittman, Zibilich, Marullo, and Buras indicate greater case processing efficiency compared to the remainder of the judiciary. Judges White also had a favorable inventory size that is slightly above average.

Judges Willard, Parker, and Van Davis had significantly more open cases compared to the rest of the court and averaged greater than 300 open cases. Judge Van Davis's inventory stands out as having greater than 100 more open cases than any other judge.

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 presents the average percent of each judge's open felony cases more than one year old in 2012 compared to 2011**.**

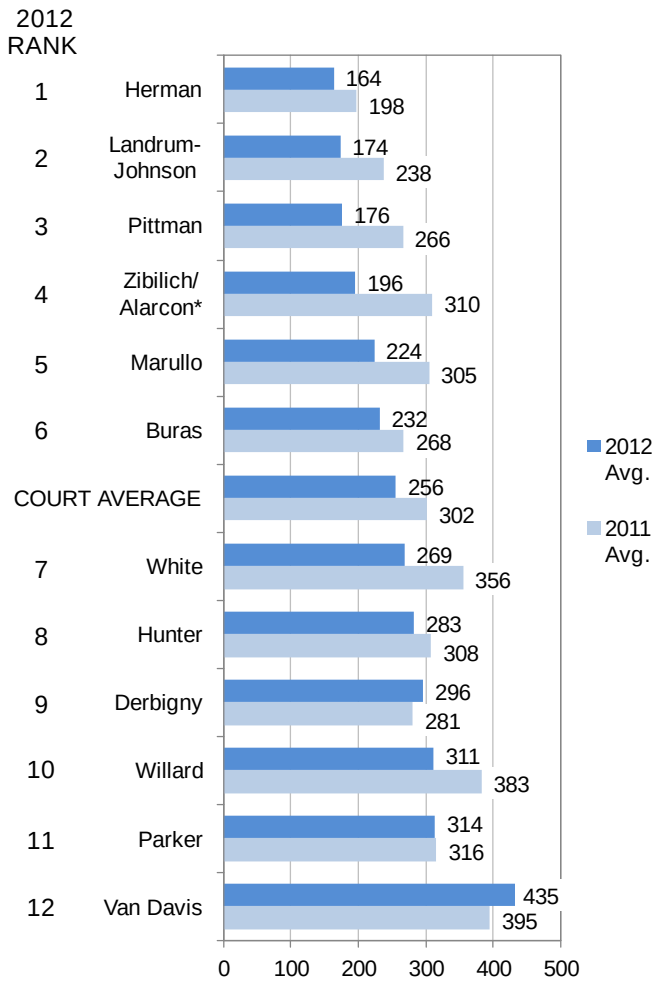
There was a small increase from 2011 when 26.1% of open cases that were more than one year old to 2012 when 29.3% of pending cases were open more than one year.

In 2012, Judges Herman and Landrum-Johnson had the most current caseloads. Judges Buras and Zibilich also had low rates of pending cases open more than one year.

Judges Pittman, Hunter, White, Willard, Van Davis, and Marullo were in line with overall court performance in their percentages of pending cases more than one year.

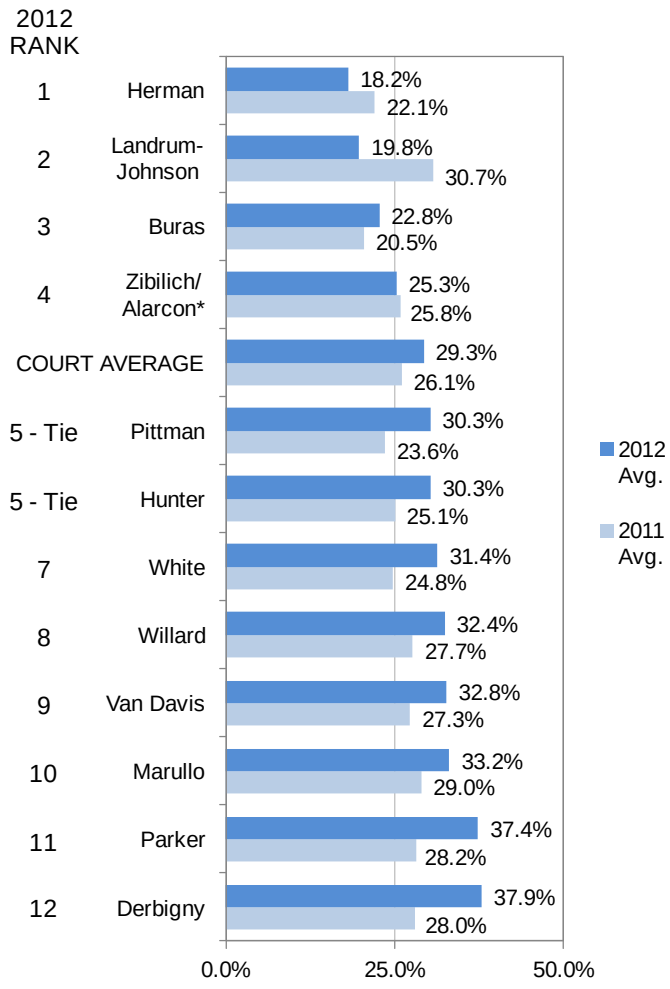
Judges Parker and Derbigny had the most backlogged inventories with over 37% of their cases open more than a year.

EXHIBIT 2: Average Quarterly Inventory of Open Felony Cases



* 2012 performance is reflective of Judge Zibilich, and 2011 performance is reflective of Judge Alarcon
Source: Judicial Administrator of Criminal District Court and OPSO

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



* 2012 performance is reflective of Judge Zibilich, and 2011 performance is reflective of Judge Alarcon
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. 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 2012 median case processing time was 155 days or slightly more than five months (see Exhibit 4). It was relatively unchanged from 157-day median case processing time in 2011.

Judge Herman had the most efficient case processing time of 103 days. Judges Landrum-Johnson, Zibilich, Marullo, Derbigny, and Buras also had highly efficient case processing times.

Judges Pittman, White, Van Davis, and Hunter had case processing times within 30 days of the court median and were generally consistent with the overall court performance.

The least efficient case processing time was in Judge Willard's section of court where cases closed in a median of 220 days, which is 65 days above the court average. Judge Parker also had a longer median case processing time compared to overall court performance by taking a median 187 days or 32 days longer than the court median to close cases.

Criminal District Court continues to lag behind nationwide case processing statistics. A 2010 Department of Justice (DOJ) analysis calculated a nationwide median felony case processing time of 92 days from the time of arrest and found 88% of felony cases were resolved within one year.[1] The MCC calculates case processing from the time a case is allotted to a judge and under a judge's case management, which is less than from the time from arrest used DOJ research. Using the lesser standard of allotment to case closure, in 2012 Criminal District Court had a median of 155 days with 81% of cases closing in less than one year. Compared to nationwide statistics, Criminal District Court typically took more than two months longer to bring felony cases to conclusion in 2012, but the court did not have a much higher rate of cases taking more than one year to close.

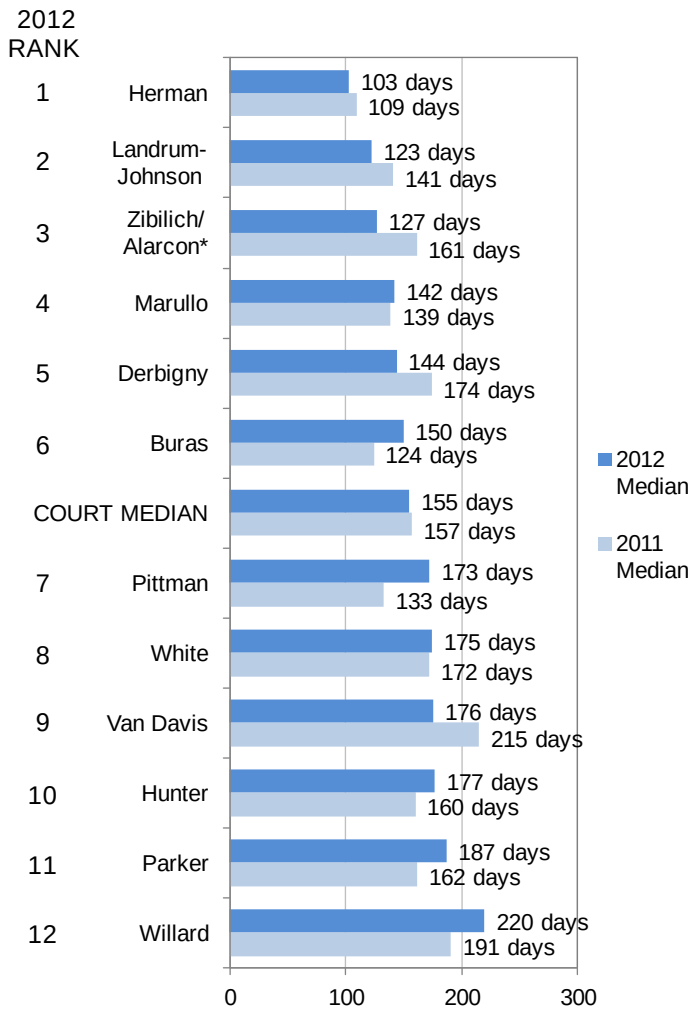
Types of Pending Cases

Exhibit 5 presents the percentages of pending cases that were violent, weapon, property, drug, or other felony offenses in Criminal District Court's 2011 and 2012 inventories as well as overall inventories reported nationwide. Comparing the types of pending cases can show changes in the difficulty of pending caseloads and show how caseloads in Criminal District Court contrast to nationwide statistics.

There was no change in the severity of pending cases in Criminal District Court from 2011 to 2012. There were several small fluctuations in the percentages of specific types of open cases from 2011 to 2012, but these changes were by 2% or less. For example, the percent of pending cases that were weapons offenses increased from 11% in 2011 to 12% in 2012. Pending violent felony cases also had a nominal increase from 28% of open cases in 2011 to 29% of open cases in 2012.

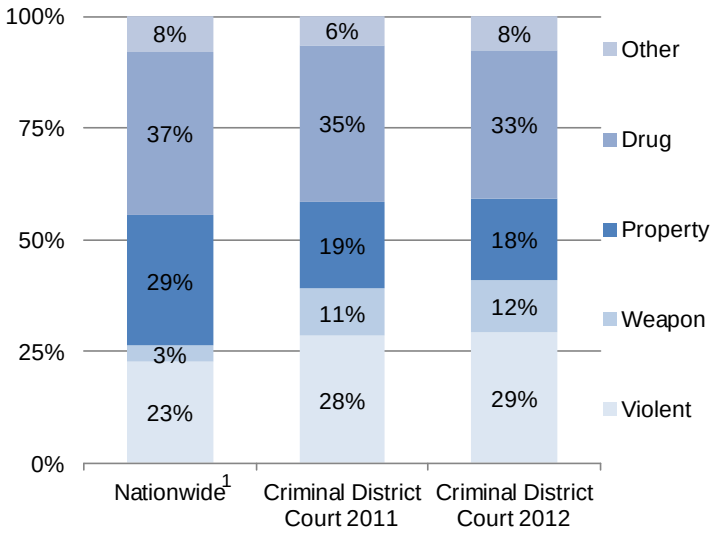
Criminal District Court has more violent and weapons felony cases compared to nationwide statistics. In nationwide statistics, 23% of pending cases were for violent felonies and 3% were for weapon felony offenses. Violent and weapon felony cases take longer than other types of cases to process through the system, and the higher rates of these more time consuming cases may partially explain why Criminal District Court has greater case processing times compared to nationwide statistics.

EXHIBIT 4: Median Felony Case Processing Times



* 2012 performance is reflective of Judge Zibilich, and 2011 performance is reflective of Judge Alarcon
Source: Judicial Administrator of Criminal District Court, OPSO, Orleans Parish District Attorney's Office;
Estimated Error rate of under 5%

Exhibit 5: Types of Pending Cases



NOTE: "Other" felonies include charges such as obstruction of justice, obscenity, bail jumping, repeat offense driving while intoxicated, etc.
Source: Judicial Administrator of Criminal District Court and OPSO

Accepted and Closed Cases

Accepted felony cases are the incoming workload of new cases that judges are responsible for overseeing until cases close by plea, trial verdict, or the DA's Office dismissing a case. **Exhibit 6** presents the numbers of accepted and closed felony cases over previous three years. Newly accepted violent felony cases are also presented because they take longer than other types of cases to bring to conclusion and may have a greater impact on docket management than other types of cases.

EXHIBIT 6: Felony Cases Entering the Court System and Median Case Processing Times 2008-2012

	2010	2011	2012
Total Accepted Felony Cases	6,699	5,516	5,019
Accepted Violent Felony Cases	1,213	1,243	1,097
Closed Cases	5,540	4,305	4,797

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

Incoming new felony cases reduced sharply in 2011 and 2012. Newly accepted felony cases decreased 1,183 or 18% from 6,699 in 2010 to 5,516 in 2011 and then reduced another 497 or 9% to 5,019 in 2012.

Newly accepted violent felony cases were relatively consistent across the past three years. The 1,213 violent felony cases accepted in 2010 nominally increased by 30 or 2% to 1,243 violent felony cases accepted in 2011. In 2012, accepted violent felony cases had moderate 146-case or 12% reduction to 1,097.

After decreasing sharply in 2011, there was an increase in closed cases in 2012. A total of 5,540 felony cases closed in 2010 which fell by 1,235 or 22% to 4,305 closed felony cases in 2011. In 2012, closed felony cases increases by 492 or 11% to 4,797.

CONCLUSIONS

The 2011 Judicial Accountability Report found declining performance in all measures of efficiency, which was attributed to greater emphasis by police and prosecutors on arresting and prosecuting weapon and violent crimes. All parties of the criminal justice system devote more time to the processing of violent and weapon felony cases which carry the most severe criminal penalties. As violent and weapon felony cases increased, 2011 saw declining efficiency for all types of cases including property, drug, and other crimes.

Case processing times were generally consistent in 2012. The relatively unchanged median case processing times of 157 days in 2011 and 155 days in 2012 indicate that the court continued to bring cases to conclusion at a slower pace in response to open case inventories comprised of more difficult cases. The court maintains a greater rate of violent and weapon felony cases compared to what is found nationwide, which contributes to the greater time to bring cases to conclusion in Criminal District Court.

Reduced inventories of open felony cases are the combined outcome of an increase in closed cases and declining numbers of new felony prosecutions. 2012 saw a 15% reduction in the numbers of open pending cases with 10 of the 12 judges reducing their docket sizes over the previous year. As a whole, the court closed 494 more felony cases in 2012 compared to 2011 which contributed to the reduction of open case inventories. At the same time, there were 497 fewer new felony cases initiated in 2012, and the smaller influx of new cases also factored into reduced open case inventories.

There was a moderate increase in the rate of backlogged pending cases open more than one year. As open inventories decreased, the percent of open cases more than one year old increased from 26.1% in 2011 to 29.3% in 2012. Nine (9) of the 12 judges had an increase in the percent of open cases more than one year old in their sections of court. The rise in pending cases open more than one year will likely cause case processing times to increase in the future.

Disparities in efficiency measures across different sections of court persisted in 2012. The judiciary of Criminal District Court appears divided into three general tiers of efficiency. The top tier is comprised of five judges who have above average efficiency with judges Herman and Landrum-Johnson at the top of this level of efficiency and judges Zibilich, Pittman, and Buras also maintaining above average measures of efficiency. The second tier of judicial efficiency consists of judges Marullo, White, Derbigny, and Hunter who have good overall efficiency measures.

Judges Van Davis (retired), Willard, and Parker are the lowest performing judges and make up the bottom tier of efficiency. Judges Van Davis, Willard, and Parker rank as the least efficient judges in both 2011 and 2012 by lagging behind the remainder of the court in all measures of judicial efficiency. Least efficient sections of court can have double the numbers of open cases, double the rates of pending cases more than one year old, and double case processing times compared to most efficient sections of court. The ability of the remainder of the court to more efficiently process cases demonstrates that lower performing judges' management practices are causing them to lag behind their peers. Lower performing judges are encouraged to identify ways to bring case processing within their sections of court in line with overall court performance.

In 2012, a reprieve from high numbers of incoming cases helped the court reduce inventories of open pending cases, but there was no meaningful improvement in case processing times and a slight worsening of the rate at which pending cases remained open more than one year. At the same time, least efficient sections of court fell further behind the court average as the court lagged behind national standards. The court continues to adapt to difficult caseloads as police and prosecutors progressively target violent, weapons, and repeat offenders. Establishing and maintaining cultures of efficiency throughout the court is essential for overcoming the demands of resolving more challenging caseloads.

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, the Orleans Parish District Attorney's Office, the Orleans Parish Clerk of Criminal Court's Office, the Orleans Parish Criminal District Court Judicial Administrator's Office, 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 Chelsey Thomas and Greg Uddo. 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