



**JUDICIAL EFFICIENCY, ACCOUNTABILITY
AND CASE ALLOTMENT IN THE CRIMINAL
DISTRICT COURT OF ORLEANS PARISH,
LOUISIANA**

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Judicial Efficiency, Accountability, and Case Allotment

Introduction

In 2010, the Criminal District Court of Orleans Parish, Louisiana (the Court), engaged the National Center for State Courts (NCSC) to conduct an assessment of its information technology. During the course of that engagement, questions arose with regard to the manner in which criminal cases are allocated among judges. At the request of the Court, the NCSC project director prepared an assessment of the "Case Allotment" program that the Court agreed to adopt in July 2010.¹ The program relies on a case assignment formula, and the purpose for its development was to improve case screening and case management in the District Attorney's Office, while providing the Court a method for random assignment of cases and accelerated processing of cases.

Further questions remained, however, about how the Case Allotment program might relate to the performance of the Court in terms of efficiency and accountability as measured and reported on a periodic basis by the Metropolitan Crime Commission (MCC) of New Orleans.² Those questions were the following:

1. Is there anything unreasonable about the MCC data or the MCC application of the time standards to the Court?
2. How does the uneven allotment of cases during this time span affect the results of the MCC report?
3. How does the methodology of the MCC report (objective analysis of case inventory and case age data) differ from best practices in judicial performance evaluation commissions in other states?

To answer those questions, the NCSC project director solicited the aid of an NCSC colleague with experience as a lawyer and court efficiency and accountability in the management by courts of the pace of litigation in criminal cases. This brief report presents NCSC answers to the questions that have been posed.³

¹ Larry Webster, "Orleans Parish, Louisiana, Case Allotment Review" (Denver, CO: NCSC, 2010).

² Established in 1993, MCC has a website asserting that its research program seeks to apply objective research and analysis to improve the criminal justice system of Orleans Parish, with three underlying goals: (1) to promote accountability and transparency in the criminal justice system and other government agencies; (2) to provide accurate information to decision-makers by identifying the strengths of existing practices and providing alternatives to improve governmental efficiency and effectiveness; and (3) to educate the public through the dissemination of research results. Since 2007, MCC has issued regular reports intended to bring accountability and transparency to the performance of (a) the New Orleans Police Department and the Orleans Parish District Attorney's Office, and (b) the judiciary of the Court. For more about MCC membership and activities, see <http://www.metropolitancrimecommission.org/html/research.html>.

³ This report was prepared at the request of Larry P. Webster, project director of the NCSC technology assessment for Orleans Parish Criminal District Court. The work was done by David C. Steelman, who is admitted to law practice in Massachusetts and New Hampshire, and who has worked for NCSC since 1974. Mr. Steelman is the author of *Caseflow Management: The Heart of Court Management in the New Millennium* (NCSC, 2000, 2004). He has previously worked with judges in Louisiana and about three dozen other American states, as well as with judges in eight other countries, on issues relating to court efficiency and accountability in the management of the pace of litigation in criminal cases and other types of matters.

MCC Data and Time Standards Application

MCC has sought to promote judicial accountability and efficiency since 2007, through performance measures for the Orleans Parish Criminal District Court, issuing reports twice each year. In July 2010, MCC issued a report on the Court's performance in 2009, giving the following summary:⁴

Judicial efficiency continued to improve throughout 2009. The judiciary as a whole reduced the backlog of felony cases more than one year old and decreased the time it took to bring felony cases to conclusion. A review of each judge's performance reveals that three judges consistently lag behind their peers in measures of efficiency.

In November 2010, MCC issued a report on the Court's performance in the first half of 2010, giving this summary:⁵

After several years of improvements in case efficiency statistics, it took longer for cases to close and there were more open cases through the first six months of 2010. Although inventories increased, judges were able to maintain low levels of cases more than one year old. The report also continues to find disparities in individual judges' individual efficiency measures.

Use of Court Performance Data by MCC

The specific performance measures applied by MCC in its analysis of the Court are completely reasonable. They are wholly consistent with the measures that are nationally considered appropriate for trial court performance in criminal matters.⁶

In its recent reports on judicial accountability, MCC's overall judicial efficiency conclusions and the more specific performance measures on which they are based, are expressed solely in terms of a ranking of individual judges. In any court with an "individual calendar" system of assigning cases to judges, with the assigned judge responsible for all proceedings from initiation to conclusion,⁷ this is appropriate as far as it goes. Yet the focus on individual judges in the MCC judicial accountability reports is unlike the approach taken in the MCC reports on criminal justice system accountability, which focus the Orleans Parish District Attorney's Office (DA) and the New Orleans Police Department (NOPD) as organizational entities, rather than as a collection of individual lawyers and police officers.

To a certain degree, the difference in the style of these two MCC reports can be explained by the different cultures of the DA, the NOPD and the Court. The DA and the NOPD are more hierarchical

⁴ See MCC, "2009 Orleans Parish Judicial Accountability Report" (July 21, 2010), <http://www.metropolitancrimecommission.org/documents/2009JudicialAccountabilityReport.pdf>.

⁵ See MCC, "Orleans Parish Judicial Accountability Report January-June 2010" (November 1, 2010), <http://www.metropolitancrimecommission.org/html/documents/January-June2010JudicialAccountabilityReport.pdf>.

⁶ See Bureau of Justice Assistance, United States Department of Justice, and NCSC, *Trial Court Performance Standards with Commentary* (1990, 1997). See also, *CourTools* (©NCSC, 2005), http://www.ncsconline.org/D_Research/CourTools/tcmp_courttools.htm.

⁷ For discussion of the advantages and disadvantages of different case assignment systems in a trial court, see David Steelman, with John Goerdts and James McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (Williamsburg, VA: NCSC, 2004 edition), pp. 111-115.

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organizations than the Court, where judicial independence is important. Yet a trial court's independence as a branch of government is inseparable from its responsibility to be accountable, as is indicated by the Trial Court Performance Standards first promulgated nationally in 1990 and formally adopted by Louisiana Supreme Court rule in 1997.⁸ On independence and accountability, the Commission on Trial Court Performance Standards wrote:⁹

A trial court possessing institutional independence and accountability protects judges from unwarranted pressures. It operates in accordance with its assigned responsibilities and jurisdiction within the state judicial system. Independence is not likely to be achieved if the trial court is unwilling or unable to manage itself. Accordingly, the trial court must establish and support effective leadership, operate effectively within the state court system, develop plans of action, obtain resources necessary to implement those plans, measure its performance accurately, and account publicly for its performance.

MCC does both the criminal justice system and the public a disservice by underemphasizing the Court as more than the sum of its parts in the MCC reports on judicial efficiency. If the judges of the Orleans Parish Criminal District Court operate largely as individual officials who all happen to work in the same building, they may be unnecessarily vulnerable to pressures from MCC, DA and NOPD, and individually they may be unable to deal effectively with any systemic issues such as delays related to discovery problems for police, prosecutors and defense counsel. If the judges develop and consistently apply a single set of agreed policies for the management of their affairs, acting together as a single Court, they will be more able to fulfill the Court's mission and purposes, thereby address the kinds of issues raised in the MCC reports.

Application of Time Standards by MCC

Reflecting the policy positions of the Conference of Chief Justices, the National Conference of State Trial Judges, and the Conference of State Court Administrators, the Trial Court Performance Standards urge trial courts to comply with nationally recognized guidelines for timely case processing and to manage their cases to avoid "backlog" (cases older than applicable time standards).¹⁰ Applied almost universally across the country to assess delay in criminal proceedings, the American Bar Association (ABA) time standards,¹¹ which provide that all felony cases should be adjudicated or otherwise concluded within one year from the date of arrest. In Louisiana, Article 701 of the Code of Criminal Procedure (CCRP) governs the right to speedy trial in criminal matters, providing intermediate time guidelines leading to a requirement that the trial of a felony defendant not in custody must begin within 360 days of the date of arrest. MCC measurement of the performance of the Court in terms that include the percent of its cases over one year old is thus consistent with both national standards and Louisiana speedy-trial requirements.

NCSC is well aware that such a requirement is not self-enforcing, and in practice that a criminal court judge must deal with the workloads of prosecutors and defense attorneys, as well as delays

⁸ See "Trial Court Performance Standards Implementation Process in Louisiana," in Pamela Casey, *Trial Court Performance Implementation Profiles* (Williamsburg, VA: NCSC, 2003), pp. 9-12.

⁹ *Trial Court Performance Standards*, "4. Independence and Accountability."

¹⁰ *Id.*, Standard 2.1.

¹¹ Approved by the ABA House of Delegates in 1984, these standards were developed by the Committee on Court Delay Reduction of the National Conference of State Trial Judges.

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associated with discovery, laboratory test results, and other problems.¹² CCRP 701 puts responsibility on the DA to file an indictment or information within a prescribed period of time, and thereafter for the DA to set a case for indictment within 30 days. If the DA in New Orleans Parish is as politically powerful as his counterparts in many other large urban jurisdictions, it may be difficult for any individual judge to challenge him without the possibility of facing opposition in the next retention election.

Holding a Criminal District Court judge accountable for felony cases over one year old may therefore seem to ignore the kinds of problems over which the individual judge has little direct control. Yet CCRP 701B(2) authorizes the Court to release a defendant in custody if there is not good cause for delayed filing of an indictment, and CCRP 701C requires the DA to make a showing of good cause if an arraignment is not set within the required time period. The rule thus expresses a policy that the trial court must oversee and enforce prosecutor timeliness. If an individual judge in a particular case cannot practically enforce the rule, then it is important for the Court as a body to work on a policy level with the DA and others, preferably with support from MCC, to develop and implement solutions to address the reasons why the one-year requirement may not be met.

¹² See, for example, Steelman and Meadows, *Ten Steps to Achieve More Meaningful Criminal Pretrial Conferences in the Ninth Judicial Circuit of Florida* (Denver, CO: NCSC, July 2010); Steelman, Griller, Farina and Macoubrie, *Felony Caseflow Management in Bernalillo County, New Mexico* (Denver, CO: NCSC, November 2009); and Steelman, *Improving Criminal Caseflow Management in the Alaska Superior Court in Anchorage* (Denver, CO: NCSC, March 2009).

Effect of Uneven Allotment of Cases

Chapter 14 of the Rules for the Criminal District Court of Orleans Parish governs the allotment of cases to judges, providing for daily random assignment of felony cases and appeals from limited jurisdiction courts among judges (designated as Sections A through L) and the Magistrate Section. Case assignments are to be done by the Clerk of the Court with the aid of a computer-generated random allotment system. Cases are divided into five classes: (1) first degree murder; (2) crimes punishable by imprisonment at hard labor; (3) crimes not necessarily punishable at hard labor; (4) cases for which there is not a right to jury trial, as well as appeals, writs and fugitive cases; and (5) civil forfeiture cases.¹³

NCSC has found that there is uneven allocation of cases in the Court,¹⁴ and this raises a concern that case allocations may have affected the results found by MCC under court performance measures as presented in its most recent report on judicial accountability. Because 1st class cases are not numerous, while 4th and 5th class cases typically require relatively little judge time, attention in this report is focused on 2nd class and 3rd class cases, which make up the bulk of the work for the judges. NCSC finds that there is not a high correlation between the allotment inequities and the Court's performance as measured and reported by MCC.

Effect on Judges' Second- and Third-Class Caseload, 2009 and 2010

As applied, the random allotment of cases under Rule 14 has resulted in substantial disparities among judges in terms of the number of cases assigned to them. Under a purely random assignment system, there might be day-to-day or week-to-week differences among judges in terms of the number of cases assigned to them. Over a year's time, however, one would expect for there to be little variation from one judge to the next in terms of total assigned cases.

Yet the case allotment data for 2009 and 2010 indicate that the judge assigned the most cases for the year received one-third more cases than the judge receiving the least. See Appendices A and B. In 2010, one judge was allotted 497 cases, or 36.5% more than another judge who was assigned only 364 cases. In 2009, 2nd class cases represented up 40.1% of the total (5,155 cases), and 3rd class cases represented 59.9%. Although the total of 2nd and 3rd class cases increased by 4% (to 5,367) in 2010, there was a slight drop in the number of 2nd class cases. As a result, 2nd class cases were 38.3% of the total in 2010, while 3rd class cases were 61.7%.

There was unevenness among judges in terms of both 2nd class and 3rd class cases in both 2009 and 2010. In 2009, one judge was allotted 188 2nd class cases, or 32.4% more than the number (142) allotted to the judge with the fewest 2nd class cases. That year another judge was assigned 276 3rd class cases, or 39.4% more than were assigned to the judge who received the fewest (198).

The differences were even greater in 2010. One judge was assigned nearly half again as many 2nd class cases (199, or 48.5% more) as the judge who had the fewest such cases (134) for the year. During the same period, the judge with the most 3rd class cases (310) was allotted 40.9% more than the judge with the lowest number (220 cases).

¹³ See Supreme Court of Louisiana, Rules for Louisiana District Court, Titles I, II, and III; Criminal District Court, Parish of Orleans, Chapter 14 (last amended October 1, 2010), <http://www.lasc.org/rules/dist.ct/CRDCApendices.PDF>.

¹⁴ See Webster, "Orleans Parish, Louisiana, Case Allotment Review" (2010).

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Effect on Judges' Workload and Efficiency, 2009 and 2010

While case filings can help determine the demands placed on courts and judges, unadjusted case-filing numbers offer only minimal guidance as to the amount of judicial work generated by those case filings. Moreover, an inability to differentiate the work associated with each case type could create the misperception that equal numbers of cases filed for two different case types result in equivalent workloads. Cases vary in complexity, and different types of cases require different amounts of time and attention from judicial officers and court support staff. The use of case weights reflecting the amount of time that cases typically require is a way for courts to translate court cases into workload for judges and court staff.¹⁵

In the Orleans Parish Criminal District Court, 2nd class cases presenting criminal defendants with the possibility of mandatory imprisonment may often require considerably more judge time than 3rd class cases for which prison is possible but not mandatory upon conviction. As a result, it is important to consider whether the effect that uneven allotment may have on judge workload makes any substantial difference for the Court's performance in terms of the measures of efficiency and accountability employed in the MCC reports.

Impact on pending inventory. In the MCC judicial accountability report for January-June 2010, Exhibit 2 presents data on the Court's inventory of open felony cases. If the judges of a court have an increased number of felony cases on their dockets, and if a greater percentage of those cases are more serious matters that one can expect to take a longer period of time to proceed from initiation to conclusion, then one would expect those judges to have a higher number of open pending felony cases in their allotted case inventory. Conversely, one would expect the judges with fewer cases and fewer more serious cases to have a lower number of pending cases in their inventory. See Figure 1 for Orleans Parish Criminal District Court data on its pending inventory.

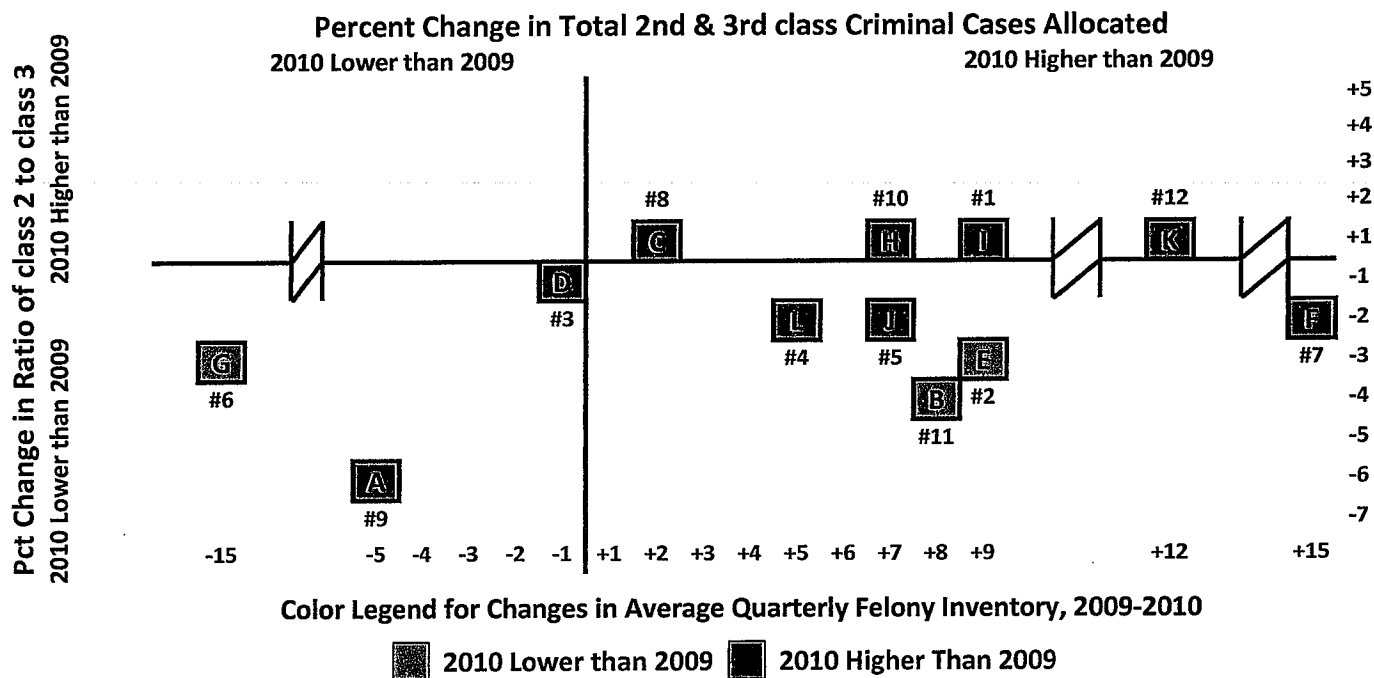
The data in Figure 1 confirm this expectation for the four Orleans Parish Criminal Court judges with more cases and a higher percentage of 2nd class cases in 2010 than in 2009. All four had a higher average quarterly inventory of open felony cases (indicated in red) in the first half of 2010 than they had in 2009. The expectation is also confirmed for the judge who had the greatest decrease in cases allotted from 2009 to 2010, accompanied by a lower percentage of 2nd class cases, in that his or her average inventory of open cases was slightly lower in the first half of 2010 than it was in 2009.

Yet the numbers are mixed for the remaining seven judges. There was actually an increase in the average inventory of open cases for the other two judges with fewer allotted cases and a lower percentage of 2nd class cases in 2010. Among the five judges who had more cases in 2010 but a lower percentage of 2nd class cases, three had an increased inventory of pending cases while two had a reduced inventory.

¹⁵ See NCSC, "Workload and Resource Assessment Overview," <http://www.ncsc.org/topics/court-management/workload-and-resource-assessment/overview.aspx>.

FIGURE 1.

CHANGES IN 2nd CLASS CASES ALLOCATED PER JUDGE, IN RATIO OF 2nd CLASS TO 3rd CLASS CASES, AND IN AVERAGE QUARTERLY INVENTORY OF OPEN FELONY CASES¹⁶, 2009-2010



Overall, the data in Figure 1 suggest that other factors may affect changes in the number of open felony cases in a judge's inventory. Although the judge in Section I had an increase in average quarterly pending inventory from 2009 to the first half of 2010, that judge retained his or her #1 ranking in this area from 2009, with an average inventory that was still smaller than all but one judge in 2009.

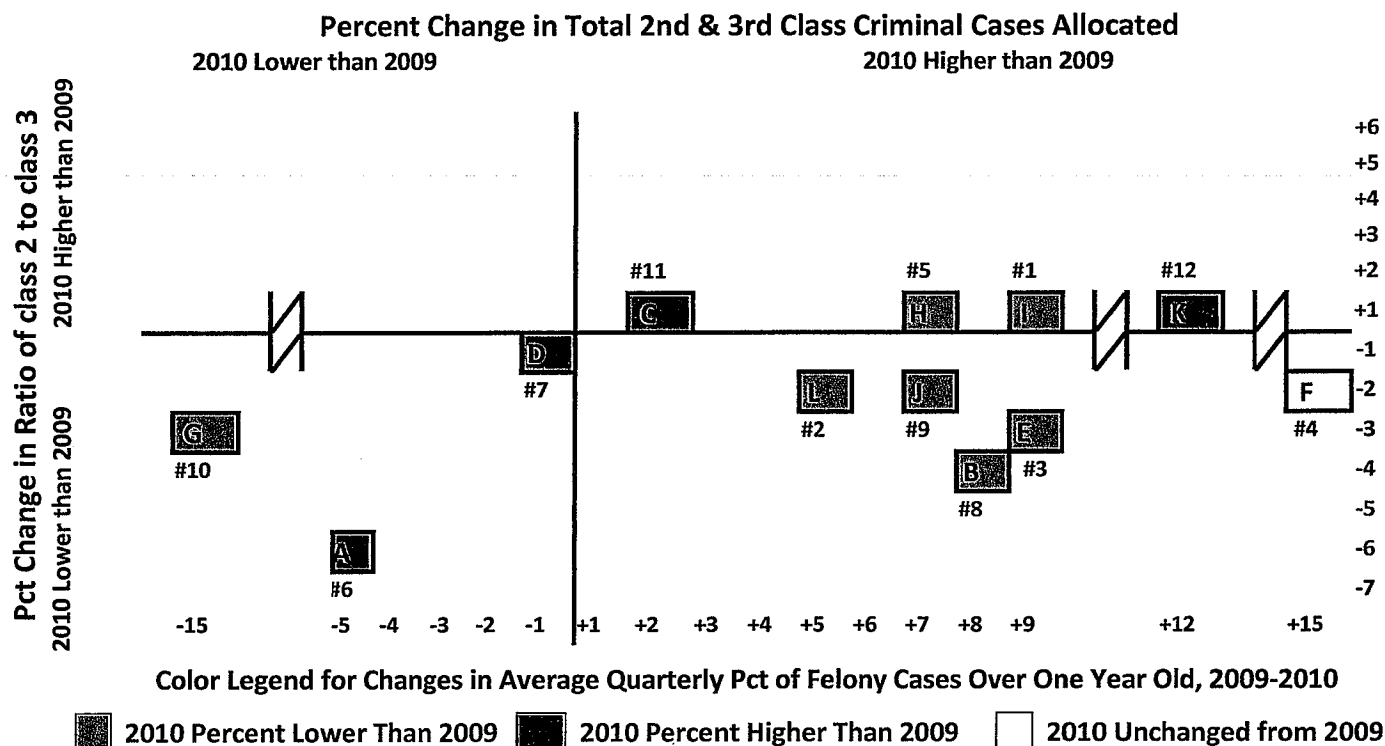
Impact on felony case age. Exhibit 3 in the MCCS report for January-June 2010 shows data on felony cases more than one year old. If the judges of a court have more cases on their dockets, and if a greater percentage of those cases are more serious matters that one can expect to take a longer period of time to proceed from initiation to conclusion, then one would expect those judges to have more cases over one year old. Conversely, one would expect the judges with fewer cases and fewer more serious cases to have a reduced number of cases over one year old. See Figure 2 for Orleans Parish Criminal District Court data relating to felony case age.

The data shown in Figure 2 do not necessarily confirm such expectations. Of the four judges with both more cases and a higher percentage of 2nd class cases, two had a lower average quarterly percent of their cases over one year old in the first half of 2010 than they had in 2009. Of the three judges with fewer cases and a lower percentage of 2nd class cases, two judges actually had a higher average quarterly percent of their cases over one year old in the first half of 2010 than they had in 2009.

¹⁶ Each judge's January-June 2010 ranking by MCC in terms of inventory of open cases is indicated by a number (#1 through #12).

FIGURE 2.

CHANGES IN 2nd CLASS CASES ALLOCATED PER JUDGE, IN RATIO OF 2nd CLASS TO 3rd CLASS CASES, AND IN AVERAGE QUARTERLY PERCENT OF FELONY CASES OVER ONE YEAR OLD¹⁷, 2009-2010



The remaining five judges had more cases allotted to them in 2010, but they had a lower percentage of 2nd class cases than in 2009. In other words, the increase in 3rd class cases outweighed any increase in class 2 cases. Even though they had more cases than in 2009, the greater portion of 3rd class cases had the predictable effect of lowering the average quarterly percent of cases over one year old for four judges, while the percent of such cases remained unchanged for the fifth judge.

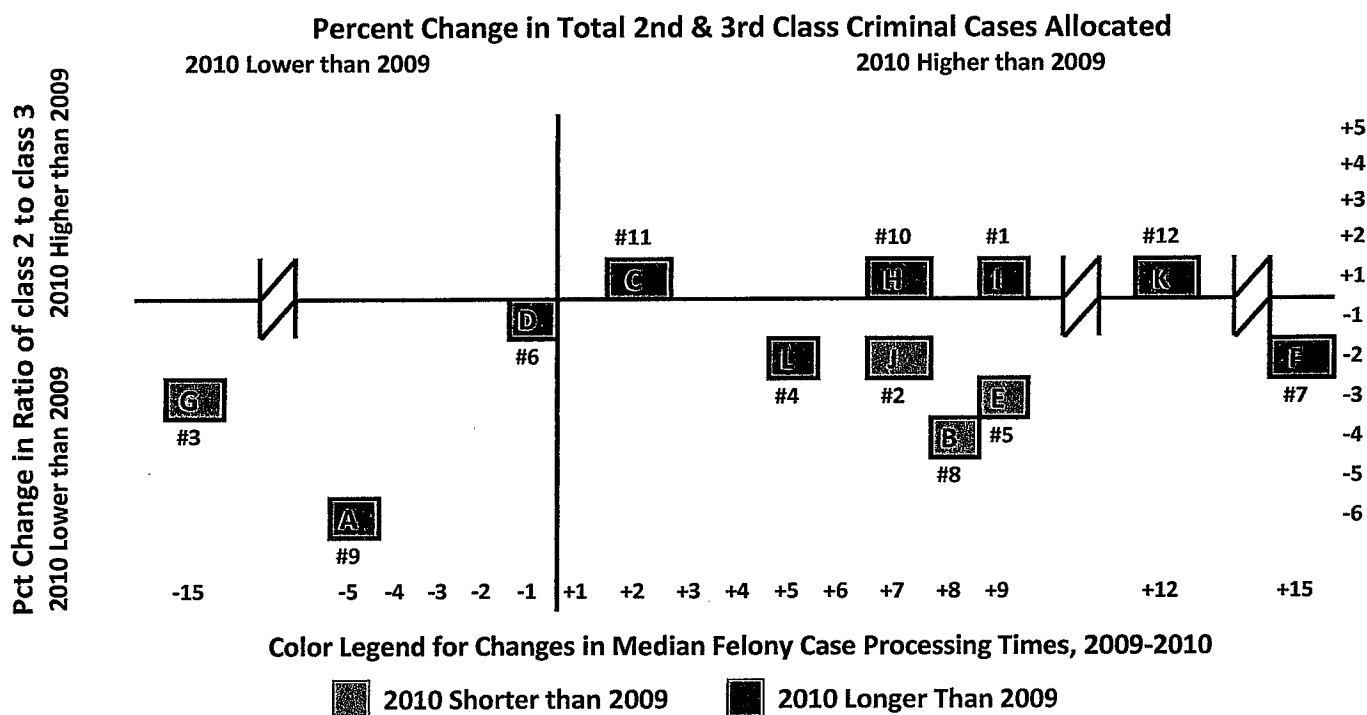
As with Figure 1, the data in Figure 2 suggest that factors such as the way that individual judges manage their cases may have greater effect on the age of their felony inventory than uneven case allocation and having a higher ratio of 2nd class cases. For example, although the judge in Section I had an increase from 2009 to the first half of 2010 in both total 2nd and 3rd class cases assigned and the ratio of more serious 2nd class cases, that judge actually reduced the average percent of cases over one year old in his or her inventory from 2009. Meanwhile, the judge in Section A had a slight increase in the average percent of cases over one year old in his or her inventory from 2009, even with a decrease from 2009 to the first half of 2010 in both total 2nd and 3rd class cases assigned and the ratio of more serious 2nd class cases.

¹⁷ Each judge's January-June 2010 ranking by MCC in terms of felony case age is indicated by a number (#1 through #12).

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Impact on median felony case processing time. Exhibit 4 in the MCCS report for January-June 2010 shows data on felony case processing times. If the judges of a court have more cases on their dockets, and if a greater percentage of those cases are more serious matters requiring more work by judges and lawyers, then one would expect those judges to have longer case processing times. Conversely, one would expect the judges with fewer cases and fewer more serious cases to have shorter case processing times. Figure 3 is based on Orleans Parish Criminal District Court data on felony case processing times.

FIGURE 3. CHANGES IN 2nd CLASS CASES ALLOCATED PER JUDGE, IN RATIO OF 2nd CLASS TO 3rd CLASS CASES, AND IN MEDIAN FELONY CASE PROCESSING TIMES¹⁸, 2009-2010



The data in Figure 3 only partially support such expectations. Five judges with both more cases and a higher percentage of 2nd class cases had a higher median felony case processing in the first half of 2010 than they had in 2009, while one of the judges with fewer cases and a lower percentage of 2nd class cases had a lower median felony case processing in the first half of 2010 than in 2009. Of the three judges with fewer cases and a lower percentage of 2nd class cases, two judges actually had higher median felony case processing times in the first half of 2010 than they had in 2009. Moreover, of the five judges with more cases but a lower percentage of 2nd class cases, two judges had longer median felony case processing times in the first half of 2010 than they had in 2009, while three had shorter times.

These results suggest that other factors, such as differences in the way that individual judges manage their cases, may affect their case processing times more than any inequities in case allocation.

¹⁸ Each judge's January-June 2010 ranking by MCC in terms of median felony case processing time is indicated by a number (#1 through #12).

MCC Methodology and Best Practices in Judicial Performance Evaluation

The reports by MCC on the performance of the Criminal District Court, the DA, and NOPD are about performance and accountability. The purposes of the MCC research program¹⁹ are not the same as the uses of a "judicial performance evaluation" (JPE), which include "promoting judicial self-improvement, enhancing the quality of the judiciary as a whole, and providing relevant information to those responsible for continuing judges in office."²⁰ Without due care, the comparison of MCC methods with JPE methods is thus a forced comparison of organizations whose purposes and responsibilities are different.

Yet MCC's judicial accountability reports strongly emphasize the level of efficiency in the performance of their work by individual named judges of the Court, so that it may affect judicial retention and otherwise takes on some of the features of a judicial performance evaluation. To the extent that the work of the MCC has features in common with a judicial evaluation program, it is thus fair to ask how the methodology of the MCC reports (objective analysis of case inventory and case age data) may differ from best practices in judicial performance evaluation (JPE) commissions in other states.

Court systems in at least 21 states and Puerto Rico have JPE commissions.²¹ Evaluation results in five states are made public only for specific judges when they stand for election or retention. Most others are confidential and for internal use on an annual or biennial basis by the judiciary for purposes of judicial education and self-improvement. In at least 14 states, a primary vehicle for information gathering is a survey form or questionnaire that is distributed to attorneys, jurors and court staff members with experience of a judge's work.

The strongest features of successful JPE programs are summarized in a recent publication offering a "blueprint" for JPE.²² The blueprint recommends the following criteria for evaluating trial judges: (1) legal knowledge, (2) integrity, (3) communications skills, (4) judicial temperament, (5) administrative performance, and (6) public outreach. Under "administrative performance," it calls for respondents to indicate whether the judge (a) appears prepared for all hearings and trials, (b) uses court time efficiently, (c) issues opinions and orders without unnecessary delay, (d) effectively manages cases, (e) offers help to fellow judges when appropriate, and (f) shares burden of court work.

The subject matter of the MCC reports on judicial accountability in the Criminal District Court have to do with case management efficiency, so that they overlap with the "administrative performance" section of the recommended criteria for trial court JPE. But the methodology for MCC research has to do with objective analysis of quantitative case inventory and case age data, while most JPE commissions rely significantly on surveys or questionnaires seeking the qualitative, subjective

¹⁹ See note 2 above.

²⁰ American Bar Association, "Black Letter Guidelines for the Evaluation of Judicial Performance" (February 2005), Guideline 2-1, http://www.abanet.org/jd/lawyersconf/pdf/jpec_final.pdf.

²¹ David Rottman and Shauna Strickland, *State Court Organization, 2004* (Washington, DC: Bureau of Justice Statistics, 2006), Table 10, "Judicial Performance Evaluation," <http://bjs.ojp.usdoj.gov/content/pub/pdf/sco04.pdf>.

²² Rebecca Kourlis, et al., *Transparent Courthouse: A Blueprint for Judicial Performance Evaluation* (Denver, CO: Institute for the Advancement of the American Legal System, 2006), pp. 13-14, <http://www.du.edu/legalinstitute/pubs/TransparentCourthouse.pdf>. These criteria are very close to those advocated in the ABA Guidelines for JPE. See above, note 20, Section V.

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perceptions of respondents, though they should include "behavior-based instruments" and multiple sources of information, including objective data from public records.²³

An approach coming closer to the MCC criteria is that used by the Michigan judiciary, which provides for use of national trial court performance standards by trial judges.²⁴ This can involve quantitative as well as qualitative performance measures, and it is intended for self-appraisal by trial courts of their own performance.

Conclusion

It is perhaps understandable that the judges in the Criminal District Court consider the MCC report conclusions and the details on which they were based to be unsettling. NCSC finds that there is nothing unreasonable, however, about either the data used by MCC or the MCC application of time standards to the Court. Yet the mission of the Court and the purpose of MCC itself are ill served if MCC and other stakeholders, *including the judges themselves*, approach judicial accountability and efficiency almost exclusively in terms of the performance of individual judges, as if they were totally independent operators rather than being the members of a single Court.

The uneven allocation of cases in the Court is a legitimate cause for concern, and it should be remedied. NCSC concludes, however, that there is not a high correlation between the allotment inequities and the Court's performance as measured and reported by MCC. Analysis of the relationship of 2009-2010 changes in case allocation to MCC performance measures leads NCSC to conclude that other factors, such as differences in the way that individual judges manage their cases, may affect the judges' performance in terms of the MCC measures more than any inequities in case allocation.

In many critical ways, a comparison of MCC methods with the methods of JPE commissions is one of processes for organizations whose purposes and responsibilities are quite different. Yet the strong emphasis in MCC's judicial accountability reports to the public on the performance of specific individual judges can have a potential impact on judicial retention, so that its unintended consequences overlap with the express purposes of JPE commissions in several states. Among the recommended best practices for JPE is that assessment of a trial judge's performance should include such administrative performance as case management, which is at the heart of the MCC appraisal of judicial efficiency in the Orleans Parish Court. The methods of JPE are largely qualitative, although they should include objective analysis of data. In contrast, MCC reports rely completely on objective analysis of data.

Implications

The people of New Orleans will be better served if there is a change in the way that judicial accountability is conceived. MCC reports should give more attention to the Court as a whole, with relatively less emphasis on individual judges. At the same time, judges should not be viewed, either by the judges themselves or by other stakeholders, as "solo practitioners" who happen to work in the same court building. To protect individual judges from undue pressures and to save them from facing case processing problems alone by themselves, the judges should work together at a policy level as members of one single Court, both to develop courtwide policies that most of them apply

²³ See ABA, "Black Letter Guidelines for JPE," Guidelines 6-2 and 6-5.

²⁴ See *State Court Organization, 2004*, Table 10, note 21 above.

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most of the time to their cases and to address problems faced by their justice partners that affect the efficiency and effectiveness of the Court.

One of the areas in which court policies should be developed is in the management of cases. Differences in judicial performance as measured and reported by MCC are more a consequence of differences in judicial management of cases than of uneven case allocation. Even if they must deal with increased case numbers and a larger portion of more serious cases on their dockets, some of the judges are able to perform well in terms of the criteria employed by MCC, which are reasonable in view of national standards and criteria for the measurement of court performance. National research on felony case processing in state trial courts indicates that courts applying case management techniques developed over the last three decades by judges, researchers and practitioners perform well not only in terms of the measures of timeliness and efficiency applied in MCC reports, but also in terms of quality of justice and avoidance of wasted time for judges and lawyers.²⁵ It will be desirable for the judges to develop and implement a courtwide criminal caseload management approach employing such time-tested case management techniques.²⁶

The extent to which MCC reports have taken on some of the features of judicial performance evaluations calls for clarification of the purposes and methods employed in MCC reports. If the MCC research has JPE implications, it might be sensible for MCC to include more of the qualitative survey or questionnaire methodology reflected in JPE best practices.

It would be more consistent with the ostensible purpose of MCC (and also considerably less expensive), however, for MCC methods and reports to give more emphasis to Court performance and less to the performance of specific individual judges. This could be accomplished in three ways. First, the structure of MCC judicial accountability reports could show more attention and give more prominence to the Court's overall performance in each of the areas now included in the reports. Without any resort to subterfuge, the MCC report exhibits could refer to individual judges only by section (letters A-L), omitting the names of individual judges.²⁷ Finally, the section of MCC reports presenting conclusions and recommendations could include attention to ways in which the Court as a whole, being more than the sum of its parts, can improve its own performance and promote improved performance for the entire criminal justice system of New Orleans.

²⁵ Brian Ostrom and Roger Hanson, *Efficiency, Timeliness, and Quality: A New Perspective from Nine State Criminal Trial Courts* (Williamsburg, VA: NCSC, 1999), <http://www.ncjrs.gov/pdffiles1/nij/178403-1.pdf>.

²⁶ For more about the application of management techniques in criminal cases, see Maureen Solomon, *Improving Criminal Caseload* (Washington, DC: Bureau of Justice Assistance [BJA] Criminal Courts Technical Assistance Project at American University, October 2008). See also, National Judicial College (NJC), *Fair, Timely, Economical Justice: Achieving Justice Through Effective Caseload Management* (Reno, NV: NJC and BJA, 2009), which urges readers seeking more detailed information to consult Steelman, *Caseload Management*, note 3 above.

²⁷ While a judge facing retention might wish for there to be no way to link individual judge names with the lettered section designations, individual judge accountability should be retained. This could be accomplished simply by an indication in the MCC report how to find out which judge sits in which section. Without sacrificing judge accountability, this step alone would reduce the impression that MCC reports are simply JPE reports by another name.

Appendix A.
Second and Third Class Criminal Cases Allotted per Judge,
2009²⁸

Judge	2nd Class Cases Allotted	Percent of Average 2nd Class Caseload per Judge	3rd Class Cases Allotted	Percent of Average 3rd Class Caseload per Judge	Total 2nd & 3rd Class Caseload	Percent of Average Total Caseload per Judge
A	176	102.2%	256	99.5%	432	100.6%
B	188	109.2%	261	101.4%	449	104.5%
C	180	104.5%	276	107.2%	456	106.1%
D	180	104.5%	273	106.1%	453	105.4%
E	172	99.9%	259	100.6%	431	100.3%
F	169	98.1%	264	102.6%	433	100.8%
G	172	99.9%	254	98.7%	426	99.2%
H	173	100.5%	267	103.7%	440	102.4%
I	178	103.4%	265	103.0%	443	103.1%
J	170	98.7%	259	100.6%	429	99.9%
K	142	82.5%	198	76.9%	340	79.1%
L	166	96.4%	257	99.8%	423	98.5%
Total	2,066	N/A	3,089	N/A	5,155	N/A
Average	172.2	100.0%	257.4	100.0%	429.6	100.0%

²⁸ Source: Webster, "Orleans Parish, Louisiana, Case Allotment Review" (Denver, CO: NCSC, 2010).

Appendix B.
Second and Third Class Criminal Cases Allotted per Judge,
2010²⁹

Judge	2nd Class Cases Allotted	Percent of Average 2nd Class Caseload per Judge	3rd Class Cases Allotted	Percent of Average 3rd Class Caseload per Judge	Total 2nd & 3rd Class Caseload	Percent of Average Total Caseload per Judge
A	143	83.5%	268	97.1%	411	91.9%
B	183	106.8%	300	108.7%	483	108.0%
C	184	107.4%	279	101.1%	463	103.5%
D	172	100.4%	276	100.0%	448	100.2%
E	174	101.6%	294	106.5%	468	104.6%
F	187	109.2%	310	112.3%	497	111.1%
G	134	78.2%	230	83.3%	364	81.4%
H	185	108.0%	284	102.9%	469	104.9%
I	199	116.2%	286	103.6%	485	108.4%
J	169	98.7%	285	103.3%	454	101.5%
K	161	94.0%	220	79.7%	381	85.2%
L	164	95.7%	280	101.4%	444	99.3%
Total	2,055	N/A	3,312	N/A	5,367	N/A
Average	171.3	100.0%	276.0	100.0%	447.3	100.0%

²⁹ Source: Webster, "Orleans Parish, Louisiana, Case Allotment Review" (Denver, CO: NCSC, 2010).