



# METROPOLITAN CRIME COMMISSION, INC.

## Orleans Parish Criminal Justice System Accountability Report

### NOVEMBER 2011

Since the beginning of 2007, the Metropolitan Crime Commission (MCC) has monitored arrests, cases accepted for prosecution, and closed felony cases to examine performance of the New Orleans Police Department (NOPD) and the Orleans Parish District Attorney's (DA's) Office. Orleans Parish District Attorney Leon Cannizzaro assumed leadership of the DA's Office in November of 2008, and Ronal Serpas became Superintendent of the NOPD in May of 2010. This report examines trends from January of 2009 through June of 2011 in order to analyze transitions in criminal justice system performance over the past two and a half years.

#### Summary of Findings

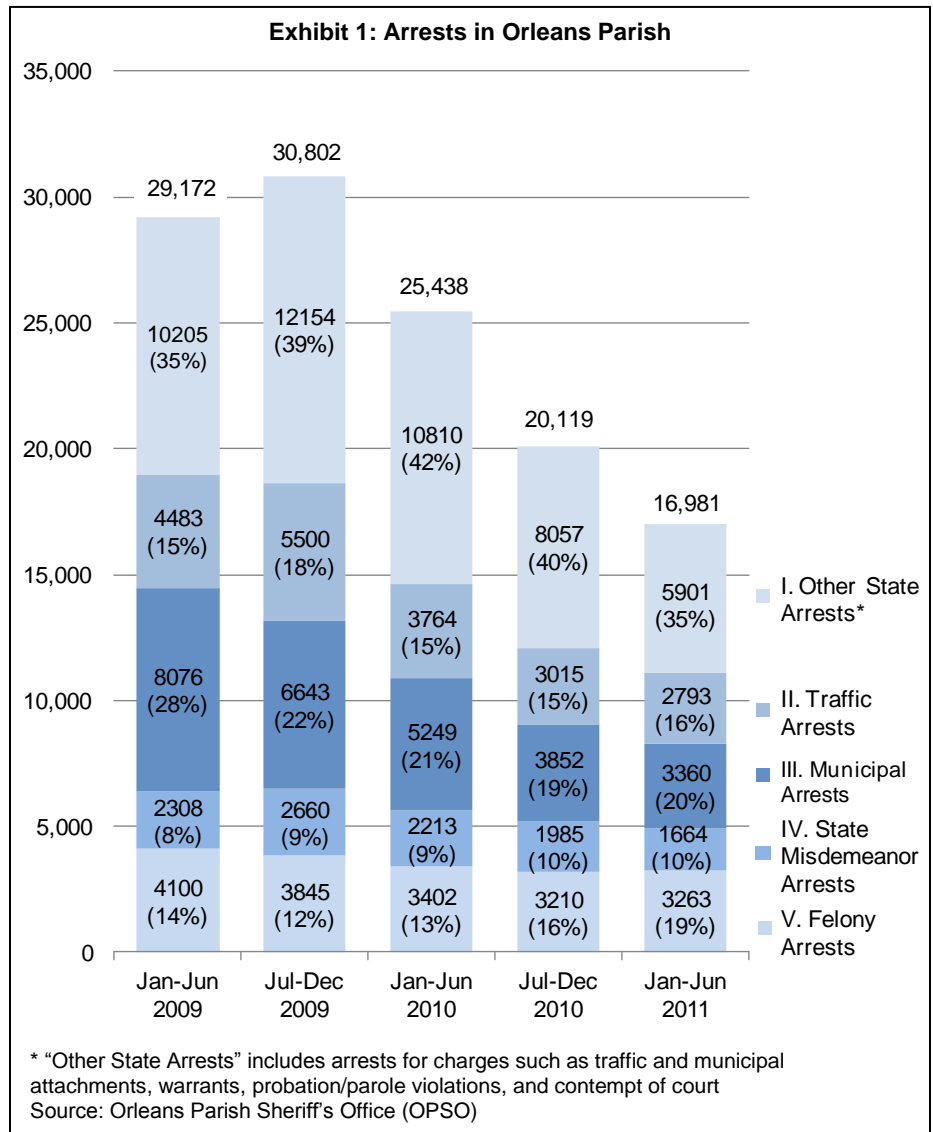
- Arrests dramatically fell 45% from their peak in second half of 2009 to the first half of 2011 as police increased the use of summonses and alternatives to arrest in the enforcement of misdemeanor, municipal, and traffic offenses.
- Felony arrests remained constant from July 2010 through June 2011 and comprised an increased portion of overall arrests.
- Dismissals increased to 20% of all closed cases in the first half of 2011 which may indicate screening practices that allow more nonviable cases to progress in the criminal justice system.

### Arrests in Orleans Parish

**Arrests decreased by 45% from their highest level over the past two and a half years (see Exhibit 1).** Arrests peaked at 30,802 in the second half of 2009 and decreased by 45% to 16,981 arrests in the first half of 2011.

"Other State Arrests" had a large 51% reduction from their highest level of 12,154 arrests in second half of 2009 to 5,901 arrests in the first half of 2011 (see I. Other State Arrests). Legislation granting officers greater discretion to not arrest many violators in the "Other State Arrest" category likely contributed to the substantial reduction in these arrests. Most often, "Other State Arrests" are for out of parish warrants, commonly for minor offenses such as traffic or misdemeanor violations. In the first half of 2011, there were 4,450 arrests in which the most serious offense was an out of parish warrant. Comparatively, arrests for out of parish warrants totaled 6,528 in the second half of 2010 and 9,181 in the first half of 2010. Probation and parole violations and contempt of court charges are also included in "Other State Arrests."

Arrests for municipal offenses have seen the largest decrease over the previous two and a half years as police issued more summonses for these violations (see III. Municipal Arrests). Municipal arrests reached their highest point in the first half of 2009 when 8,076 individuals were arrested for municipal offenses. The 3,360 municipal arrests in the first half of 2011 is a 61% reduction from the first half of 2009. During that same time, municipal summonses increased 52% from 4,806 in the first half of 2009 to 7,316 in the first half of 2011.<sup>1</sup>



Traffic and state misdemeanor arrests also had sizeable reductions since reaching their highest level in the second half of 2009. (see II. Traffic Arrests and IV. State Misdemeanor Arrests). Traffic arrests reduced 49% from 5,500 in the second half of 2009 to 2,793 in the first half of 2011. State misdemeanor arrests reduced 37% from 2,660 in the second half of 2009 to 1,664 in the first half of 2011.

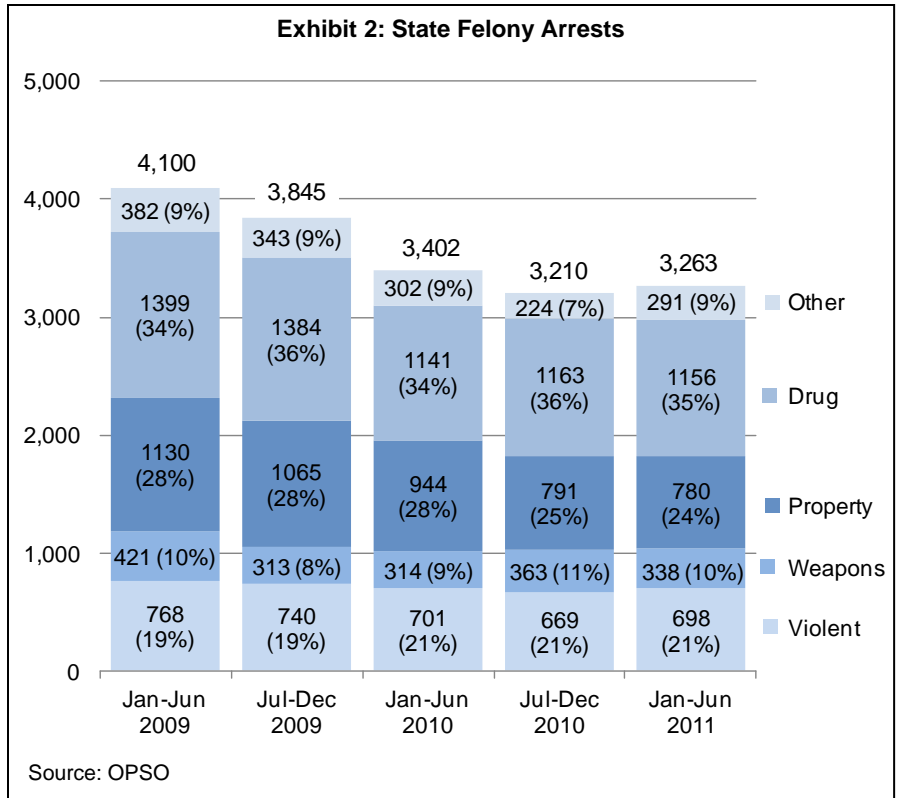
Felony arrests accounted for a growing portion of arrests in Orleans Parish (see V. Felony Arrests). While felony arrests declined by 20% from their peak of 4,100 in the first half of 2009 to 3,263 in the first half of 2011, they comprised an increasing portion of overall arrest totals. In the second half of 2009, 12% of arrests were for felony offenses which gradually increased through the first half of 2011 when 19% of all arrests were for felony offenses.

## State Felony Arrests

The MCC focuses upon felony arrests because they are the most serious charges entering the New Orleans criminal justice system. Felonies include offenses such as murder, felons with guns, residence burglary, and drug distribution. Only felony convictions can result in a sentence of greater than one year incarceration in the Department of Corrections, with violent felony convictions having one of the highest incarceration rates. Felony convictions also provide a basis for enhanced incarceration sentencing should an offender have any future felony convictions. **Exhibit 2** shows the number of felony arrests broken down by the most serious arrest charges against defendants.

**Felony arrests reduced from the first half of 2009 to the second half of 2010 and were stable in the first half of 2011.** In the first half of 2009, there were 4,100 felony arrests. Felony arrest totals then reduced 20% to 3,210 in the second half of 2010. In the first half of 2011, there was a nominal 2% increase to 3,263 suspects arrested for felony charges.

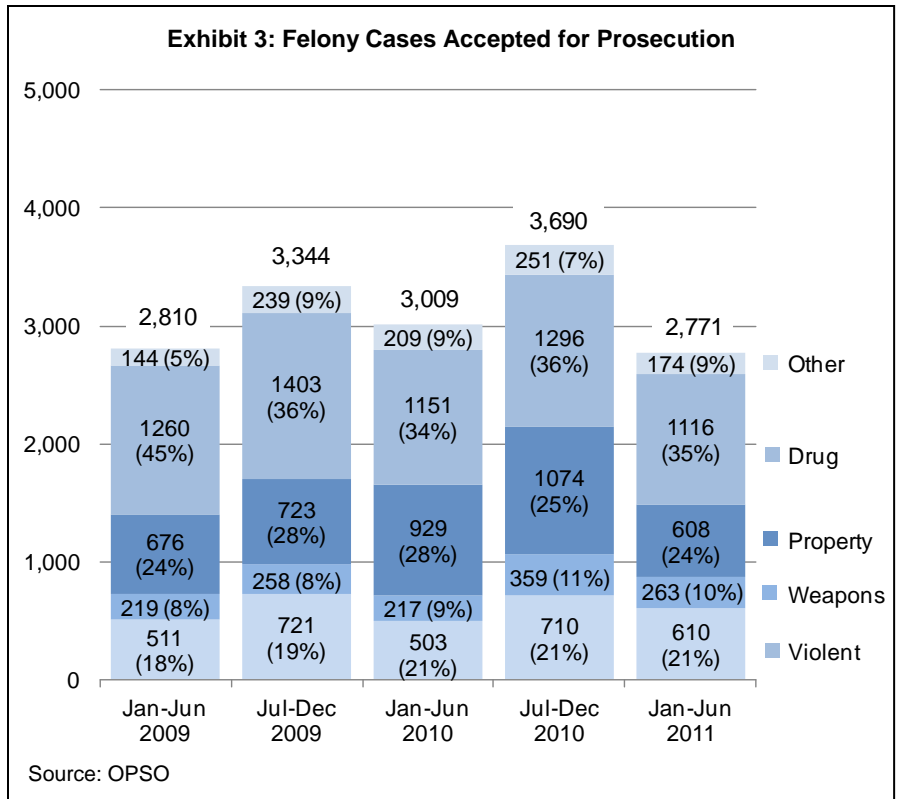
The types of felony charges have been consistent over the past two and a half years. For example, violent felony arrests consistently accounted for 19% to 21% of felony arrests and weapons felony offenses consistently accounted for 8% to 11% of all arrests.



## Felony Cases Accepted for Prosecution

For each new state arrest, police compile evidence against an arrestee and prepare a report that is submitted to the DA's Office. The DA's Office reviews the police report and evidence and then accepts charges for prosecution if the evidence appears strong enough to prove a defendant's guilt and obtain a conviction. When the DA's Office deems it does not have sufficient evidence to obtain a conviction, the case is refused and the prosecution ceases. In some instances, the DA's Office refers a case to another entity such as the federal court system.

**There was a large increase in the number of newly accepted felony cases in the second half of 2010 followed by a significant reduction in accepted felony cases in the first half of 2011 (see Exhibit 3).** After the DA's office accepted 3,009 felony cases in the first half of 2010, they increased by 23% to 3,690 in the second half of 2010, their highest level since the beginning of 2009. Accepted felony cases then decreased 25% to 2,771 in the first half of 2011. The 2,771 accepted felony cases in the first half of 2011 is the fewest accepted cases for any six month period over the previous two and a half years.



The spike in accepted cases during the second half of 2010 partially results from the DA's Office accepting large numbers of cases based upon arrests before the six month study period. In the second half of 2010, 28% of accepted felony cases were based upon arrests before the beginning of the study period in July of 2010. Comparatively, 13% of accepted cases in the first half of 2011 were the result of arrests prior to the beginning of the study period in January of 2011.

## Closed Felony Cases

The prosecution of an accepted case ends through a guilty plea, a trial verdict (of guilty or not guilty), or dismissal. A dismissal occurs when the DA's Office drops previously accepted charges against a defendant. In some instances, dismissed cases are later reinstated as new cases. **Exhibit 4** presents the outcomes of closed cases from the first half of 2009 through the first half of 2011.

**Closed felony cases followed the same trend as accepted cases in which there was a substantial increase in felony convictions in the second half of 2010 followed by a sizeable reduction in closed cases during the first half of 2011.** Closed felony cases increased 51% from 2,203 in the first half of 2010 to 3,337 in the second half of 2010, which was followed by a sizeable 38% decrease to 2,084 closed cases during the first half of 2011. The 2,084 closed cases in the first half of 2011 is the fewest number of closed cases for any six month period over the past two and a half years. Previously, closed cases reduced 13% from 2,533 in the first half of 2009 to 2,206 in the second half of 2009 and did not change in the first half of 2010.

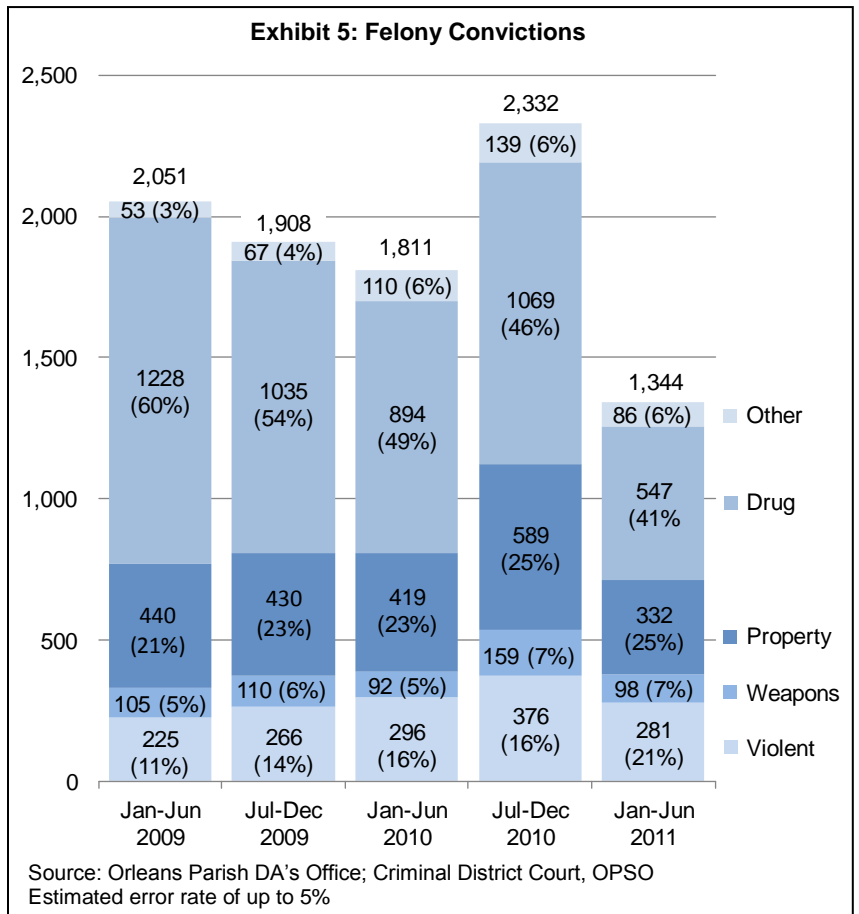
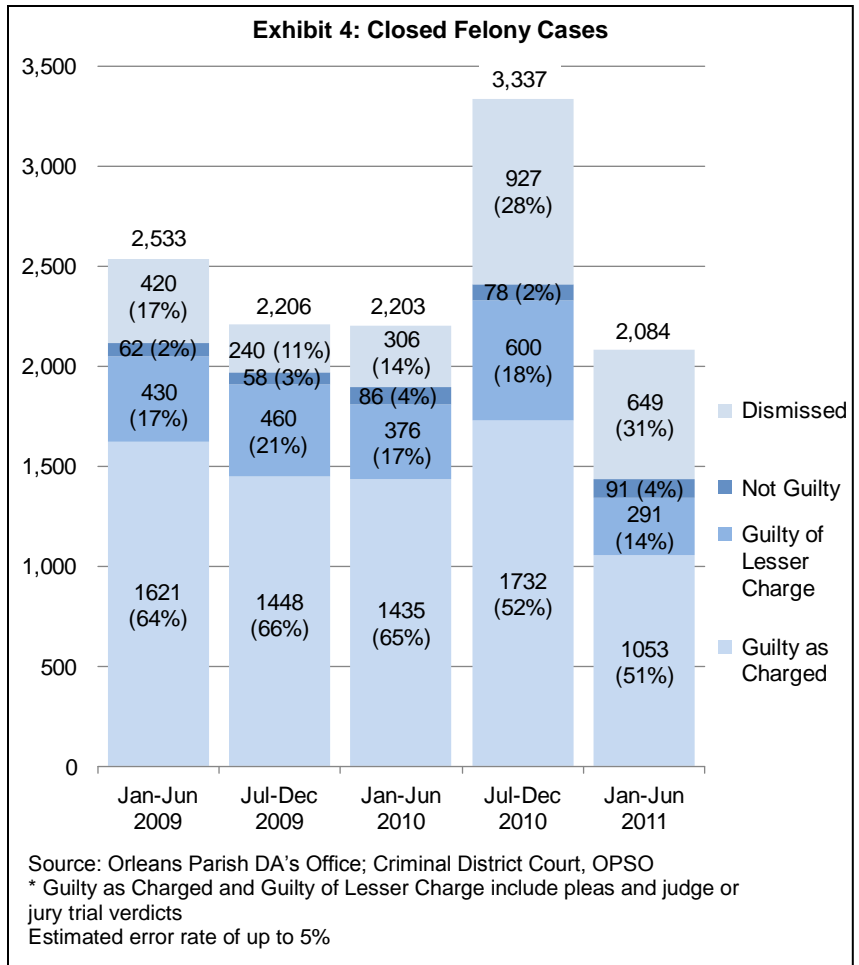
**Dismissed cases increased in the first half of 2011.** The number of felony cases closing through dismissal rose from a low of 11% of all closed cases in the second half of 2009 to 31% in the first half of 2011. An expanded diversion program and an initiative to dismiss older non-prosecutable cases caused a large portion of the increase in dismissals.<sup>2</sup> Cases dismissed through a defendant's participation in the diversion program accounted for 6% of closed cases in the second half of 2010 and 10% of closed cases in the first half of 2011. The dismissal of old non-prosecutable cases made up 9% of closed cases in the second half of 2010 and 1% of closed cases in the first half of 2011. If these diversion and non-prosecutable cases are excluded, the dismissal rate in the second half of 2010 is 13% and the dismissal rate in the first half of 2011 is 20%. A 20% dismissal rate in the first half of 2011 is the highest level of dismissals since the beginning of 2009.

## Felony Convictions

**Felony convictions rose significantly in the second half of 2010 and then declined in the first half of 2011 (see Exhibit 5).**

The 2,332 felony convictions in the second half of 2010 is the largest number of convictions since the beginning of 2009. In particular, the second half of 2010 saw more violent felony and weapons felony convictions than any other six month period over the past two and a half years.

Felony convictions fell 42% from the second half of 2010 to 1,344 in the first half of 2011, which was the lowest number of convictions since the beginning of 2009. The largest decreases in felony convictions from the second half of 2010 to the first half of 2011 were a 49% reduction in drug convictions and a 44% decrease in property convictions. The smallest decline was a 25% decrease in violent felony convictions.



## CONCLUSIONS

Over the past two and a half years, the NOPD substantially reduced the number of arrests in Orleans Parish, primarily by utilizing legally granted discretion to arrest fewer minor offenders. During the same time, arrest trends and initiatives within the DA's Office caused wide fluctuations in accepted cases, closed cases, and dismissals.

**The MCC commends the NOPD's significant reduction in arrests for minor offenses.** During the first half of 2011, the total number of arrests reduced 45% from their peak in the second half of 2009,

There was a large reduction in "Other State Arrests" which went down 51% from the second half of 2009 to the first half of 2011. In the spring of 2010, the Louisiana State Legislature passed House Bill 107 granting officers greater discretion to not arrest individuals with out of parish warrants for misdemeanor offenses. Previously, the NOPD arrested thousands of individuals each year for minor warrants such as nonpayment of a traffic citation or municipal fine. These minor offenders were typically released from jail within a day or less, because the jurisdiction issuing the warrants chose not to extradite these defendants. The NOPD appears to be applying discretion granted through legislative reform to significantly curtail arrests for minor out of parish warrants.

Municipal arrests showed the largest decline of 61% from their peak in the first half of 2009 to the first half of 2011. At the same time, the NOPD increased the use of municipal summons by 52%. Higher numbers of municipal summons coupled with fewer municipal arrests indicates a transition in how police enforce municipal laws. Police are utilizing summonses in lieu of arresting many nonviolent and petty municipal offenders to address municipal violations without reducing enforcement.

State felony arrests reduced significantly from their highest level in the first half of 2009 but steadily accounted for an increased percentage of arrest totals from the second half of 2009 through the first half of 2011. This trend may signal a philosophy shift in which the NOPD strategically focuses resources on the quality of felony arrests rather than mass quantities of arrests involving nonviolent misdemeanor offenders. The MCC commends the NOPD's increased use of summonses and respectfully encourages the NOPD to continue examining opportunities to further optimize the use of manpower to investigate felony crimes and arrest felony offenders.

**Wide variations in newly accepted felony cases entering the court system resulted in large increases and decreases in the numbers of closed felony cases.** The second half of 2010 had the highest number of accepted felony cases since the beginning of 2009, which resulted in the largest number of closed felony cases during that same time. In the first half of 2011, newly accepted cases and closed cases declined in to their lowest levels over the past two and a half years.

**Initiatives within the DA's Office brought resolution nonviable older cases and offered many defendants a chance to participate in a diversion program rather than receive a felony conviction.** In the second half of 2010, the DA's Office undertook an initiative to identify older cases that

passed their prescription periods and could no longer be prosecuted. These cases had been open for several years and surpassed the legally mandated time limits for the DA's Office to bring a case to conclusion. When the DA's Office identified a nonviable case, it was dismissed. In the second half of 2010, approximately 300 cases or 9% of closed cases were dismissed because the DA's Office determined the case was past its prescription period. There were approximately 20 cases dismissed for surpassing the prescription period which accounted for 1% of closed cases in the first half of 2011.

The second half of 2010 and the first half of 2011 show a broad expansion of the DA's diversion program. The diversion program allows individuals with accepted felony cases to voluntarily participate in pre-trial supervision and receive resources such as counseling to address the underlying causes of their criminal violations. A defendant who successfully participates in the diversion program has his or her case dismissed which provides an opportunity to avoid the negative and stigmatizing impact of having a felony conviction. In the first half of 2010, a nominal number of cases were dismissed for participation in the diversion program. In the second half of 2010, approximately 190 cases making up 6% of all closed cases were dismissed when a defendant participated in the diversion program, which increased to approximately 210 cases comprising 10% of all closed cases in the first half of 2011.

**The dismissal rate for accepted felony cases increased during the first half of 2011.** Overall, 31% of closed cases in the first half of 2011 were dismissals. The dismissal rate for the first half of 2011 reduces to 20% when excluding the 10% of cases dismissed for participation in the diversion program and the 1% of cases dismissed for being open beyond their prescription period. There are many valid reasons for cases to be dismissed such as when a witness ceases cooperating or a police officer essential to a case is terminated from the NOPD. However, the 20% dismissal rate in the first half of 2011 is a significant increase from the 11% to 14% dismissal rates from the second half of 2009 through the second half of 2010. The increase in dismissals is indicative of more cases being accepted for prosecution that do not meet the legal standard required to obtain a conviction. The MCC respectfully encourages the DA's Office to closely monitor screening practices to determine the underlying cause of increased dismissals and modify any practices that allow nonviable cases to progress in the criminal justice system.

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The past two and half years have seen broad transitions within the New Orleans criminal justice system. Arrests reduced by almost half and the DA's Office expanded the diversion program to offer defendants opportunities to avert felony convictions that could limit their future prosperity. The DA's Office also worked to bring resolution to older felony cases by dismissing pending cases that were no longer prosecutable. These changes offer an opportunity to further improve the utilization of criminal justice system resources and better focus on violent and repeat offenders who most significantly threaten community safety.

## Acknowledgements

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<sup>1</sup> Source: New Orleans Municipal Court

<sup>2</sup> Source: Orleans Parish District Attorney's Office