



METROPOLITAN CRIME COMMISSION, INC.

Orleans Parish Criminal Justice System Accountability Report

MAY 2013

The Metropolitan Crime Commission (MCC) routinely issues reports monitoring the performance of the New Orleans Police Department (NOPD) and the Orleans Parish District Attorney's (DA's) Office. These reports examine Orleans Parish arrests, felony cases accepted for prosecution, and closed felony cases in order to track how police apply their resources to apprehend criminal suspects and how well the NOPD and DA's Office coordinate their efforts to prosecute and convict felony offenders. District Attorney Leon Cannizzaro was sworn into office in November of 2008, and Superintendent Ronal Serpas was appointed Chief of the NOPD in May of 2010. This report examines arrests from 2009 through 2012 and reviews outcomes of felony arrest in 2011 in order to analyze transitions in criminal justice system performance over the past several years.

Arrests in Orleans Parish

Arrests declined in 2010 and 2011, but they began to increase in 2012. **Exhibit 1** presents the total numbers of arrests in Orleans Parish over the previous four years. Total arrests reduced by 45% from 59,974 in 2009 to 33,117 in 2011. Then, arrests increased 5% to 34,672 in 2012.

The most common type of arrest from 2009 through 2012 was "Other State Arrests" (see **I. Other State Arrests**). These arrests are typically the result of out of parish warrants for minor offenses such as traffic or misdemeanor violations. Probation and parole violations and contempt of court charges are also included in "Other State Arrests." After "Other State Arrests" reduced by 48% from 22,357 in 2009 to 11,582 in 2011, they increased by 29% to 14,917 in 2012. The rise in "Other State Arrests" is the lone cause of greater numbers of arrests in 2012 and is the only increase in any category of arrest since 2009.

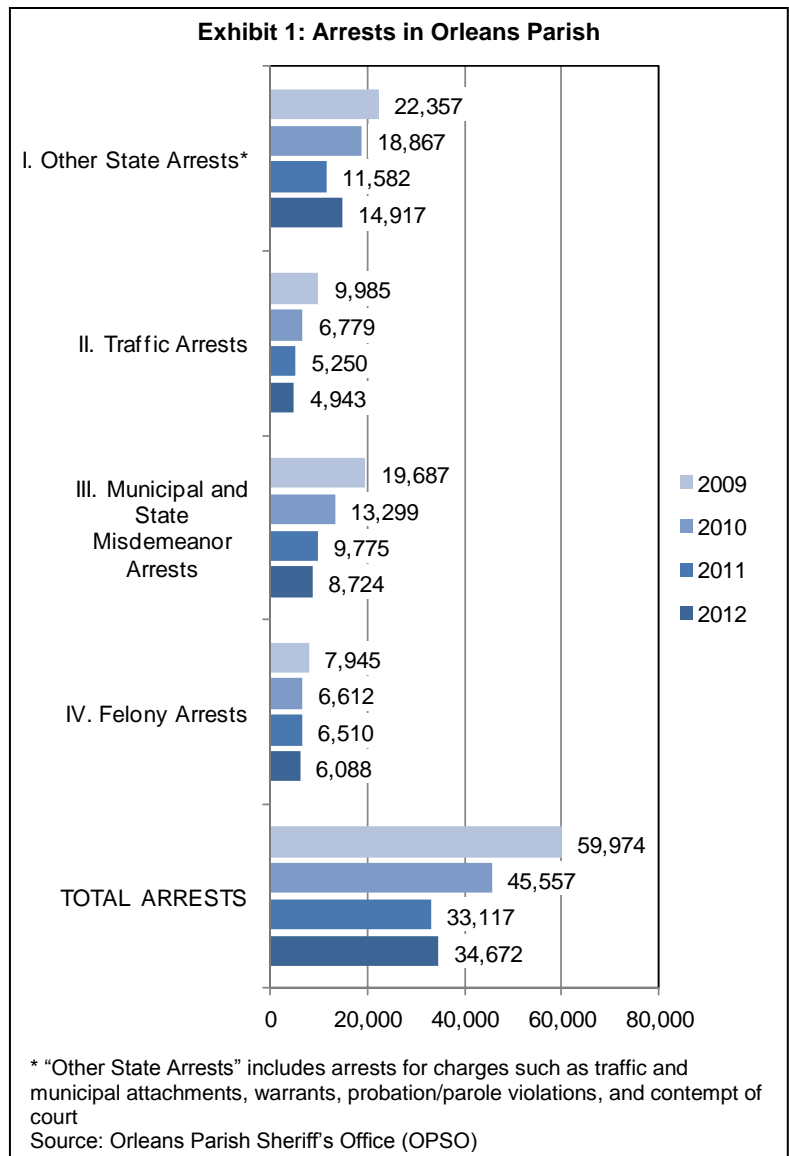
Arrests for traffic violations decreased 6% from 5,250 in 2011 to 4,943 in 2012 (see **II Traffic Arrests**). Compared to the 9,985 traffic arrests in 2009, traffic arrests fell by 50% over the previous four years.

Municipal and state misdemeanor arrests had the largest reduction (see **III. Municipal and State Misdemeanor Arrests**). They reduced by 11% from 9,775 in 2011 to 8,724 in 2012. Compared to the 19,687 municipal and state misdemeanor arrests in 2009, there has been a 56% reduction in arrests for these violations since 2009. As these types of arrests went down, there was a 59% increase in municipal summonses from 9,379 in 2009 to 14,908 in 2012.¹ Changes in municipal ordinances are the likely cause of large reductions in arrests coupled with increased issuance of summonses for these offenses. In December of 2010, the New Orleans City Council enacted municipal ordinances that mirrored many non-violent state misdemeanor laws and broadened police discretion to issue summonses for these violations. Additionally, the DA's Office transferred prosecution of most state misdemeanor violations to Municipal Court thereby allowing Criminal District Court to devote all of its resources and attention to felony cases.

Felony arrests had the lowest level of decline over the past four years (see **V. Felony Arrests**). There was an overall 23% reduction from 7,945 felony arrests in 2009 to 6,088 in 2012.

Summary of Findings

- 2012 total arrests in Orleans Parish moderately increased over 2011 largely due to higher numbers of out of parish warrant arrests for offenses such as traffic and municipal violations.
- Felony arrest to felony conviction rates were consistent across the past two years with 45% of 2010 felony arrests and 44% of 2011 felony arrests resulting in felony convictions.
- Felony conviction rates for violent felony arrests improved from 37% for 2009 arrests to 41% for 2011 arrests, and weapons felony conviction rates improved from 40% for 2009 arrests to 49% for 2011 arrests.
- The 44% felony conviction rate for 2011 arrests is a significant improvement over 2007's 24% conviction rate but continues to lag behind the 56% felony conviction rate found nationwide.



State Felony Arrests

Much of the MCC's examination of the New Orleans criminal justice system's performance focuses on felony violations because they are the most serious crimes facing the community. Felonies include murder, felons with guns, burglary, drug distribution, and any offense punishable by a sentence of over one year in the Department of Corrections, with violent felony and weapons felony convictions having the highest incarceration rates. Felony convictions also provide a basis for longer sentences to incarceration 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.

As stated previously, felony arrests declined over the past four years. From 2009 to 2010, total felony arrests reduced by 17% from 7,945 to 6,612. Thereafter, total felony arrests decreased more gradually and went down 6% from 6,510 in 2011 to 6,088 in 2012. Declining numbers of police officers within the NOPD likely contributed to fewer felony arrests.

Violent felony arrests had the lowest decline as confirmed by an overall 10% decrease from 1,508 in 2009 to 1,364 in 2012 and a nominal 2% decrease from 1,387 in 2011.

Weapons felony charges include possession of a firearm with narcotics or being a felon in possession of a firearm. They had an overall 28% reduction from 734 in 2009 to 532 in 2012. Property and drug felony arrests also had substantial decreases over the previous four years. The 1,532 property felony arrests in 2012 is a 30% reduction from 2,195 in 2009. Drug felony arrests had an overall 25% decrease from 2,783 in 2009 to 2,099 in 2012.

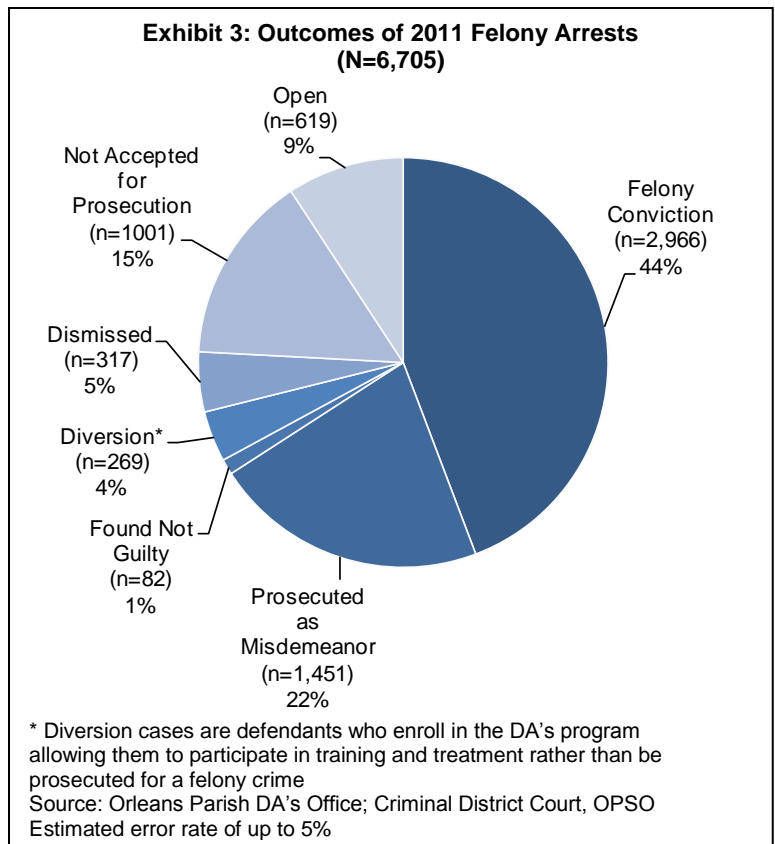
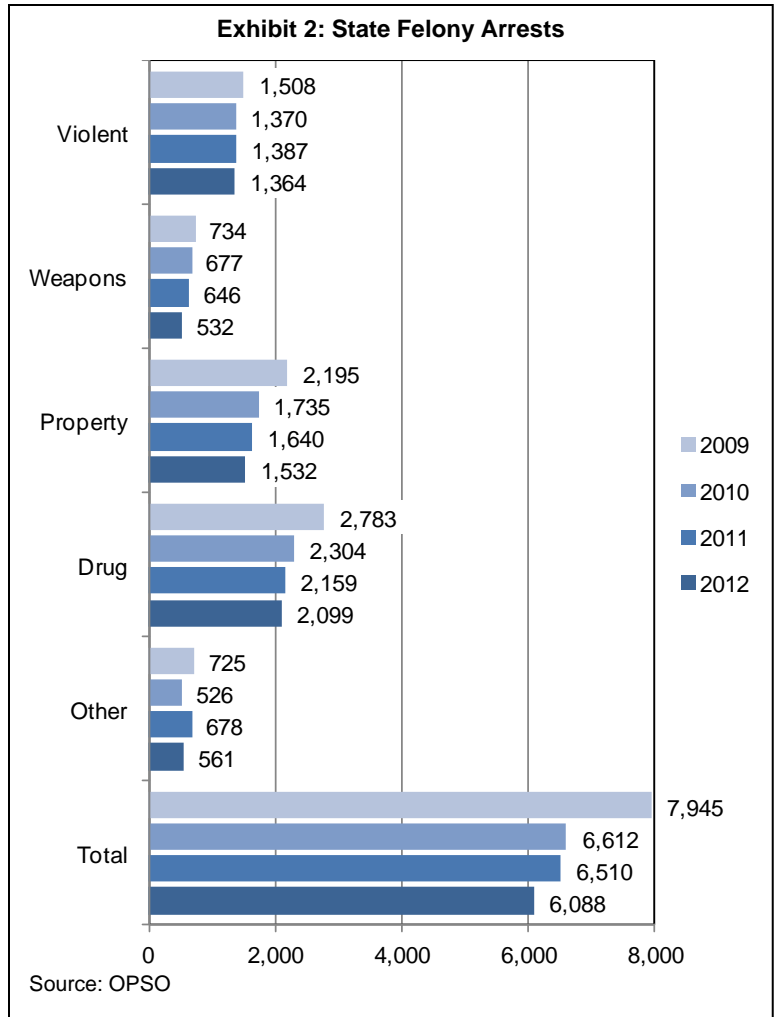
Outcomes of 2011 Felony Arrests

For each new state arrest, police compile evidence against an arrested subject and prepare a report that is submitted to the DA's Office. The DA's Office reviews the police report and evidence. The DA's Office then accepts charges for prosecution if the evidence appears strong enough to prove guilt and obtain a conviction. Sometimes, charges are upgraded from misdemeanors to felonies or lowered from felonies to misdemeanors. When the DA's Office deems it does not have sufficient evidence to obtain a conviction, a case is refused and not accepted for prosecution. In some instances, the DA's Office refers a case to another entity such as the municipal or federal court systems.

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 the charges against a defendant. In some instances, dismissed cases are later reinstated as new cases. MCC analysis includes reinstated cases in felony case outcomes.

Exhibit 3 presents the outcomes of all felony arrests from 2011. There are 195 more felony cases examined than recorded felony arrests because some defendants originally arrested with misdemeanor offenses later had their charges upgraded to felony crimes. For example, a misdemeanor simple battery arrest may have been upgraded to a felony aggravated battery prosecution.

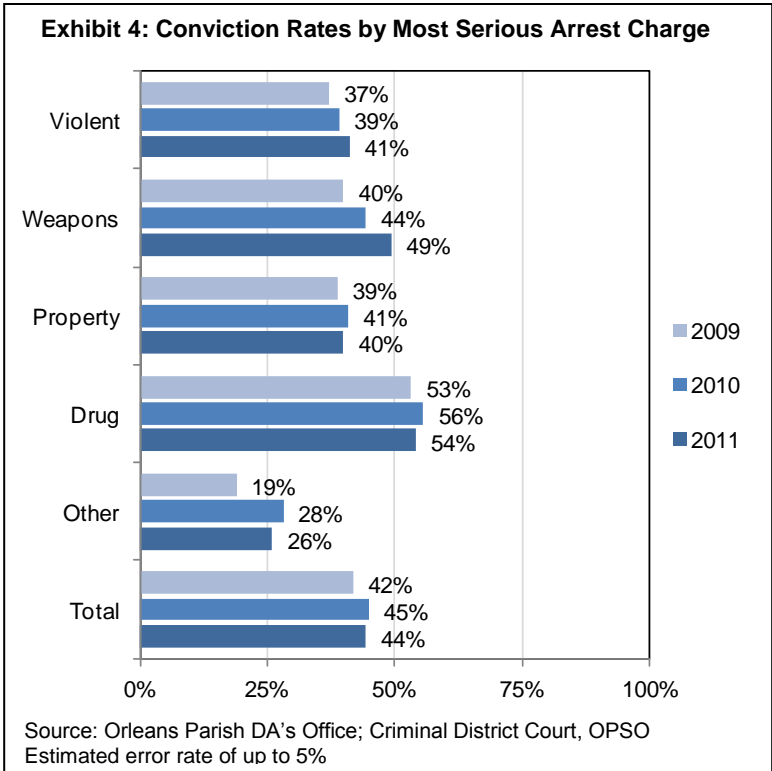
Outcomes from 2011 arrests are examined during 2013 to allow time for most cases to close. Twenty-one percent (21%) of cases were open more than a year from the time of arrest including 9% of cases that remained open as of early April 2013 when data collection concluded.



Of the 6,705 felonies processed in 2011, 2,966 or 44% resulted in felony convictions. The quarter (25%) of felony arrests that did not result in convictions for any offense are comprised of 15% of cases not accepted for prosecution, 1% found not guilty in a judge or jury trial, 5% that were accepted and later dismissed, and 4% of defendants that participated in the DA's diversion program which allows defendants to receive counseling and training in lieu of conviction.

In 22% of felony arrests, charges were reduced to misdemeanor offenses upon being accepted for prosecution or when plea bargained from a felony to a misdemeanor.

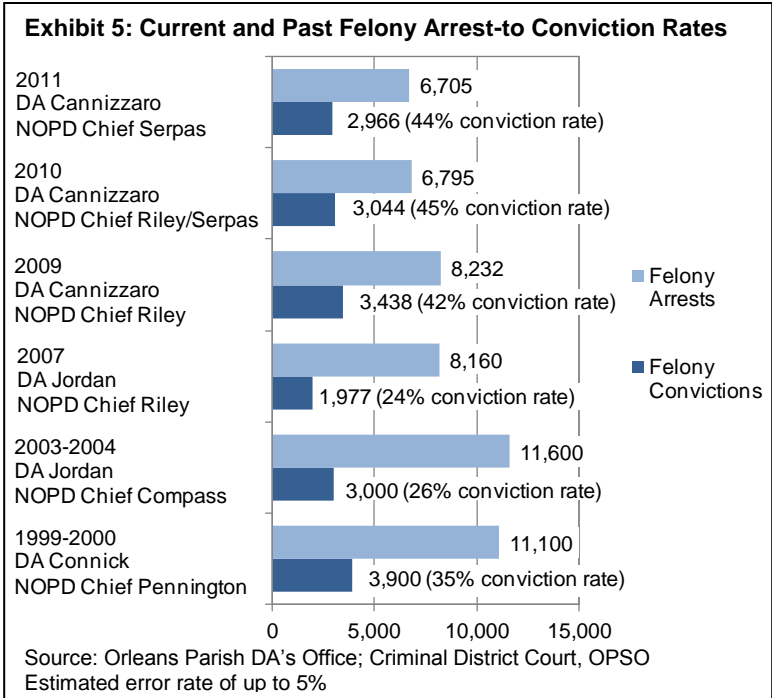
Exhibit 4 shows the percentages of arrests for different types of felony charges from 2009 through 2011 that resulted in felony convictions. The 44% felony conviction rate for 2011 felony arrests is essentially unchanged from the 45% rate found for 2010 felony arrests. Felony conviction rates have gradually increased for weapons and violent felony arrests while remaining consistent for property and drug felony arrests. The arrest to conviction rate for violent felonies increased from 37% for 2009 to 41% for 2011. For weapons felony arrests, the felony conviction rate increased from 40% for 2009 to 49% for 2011. Property felony conviction rates ranged from 39% to 41% while drug felony conviction rates ranged from 53% to 56%.



Changes in Conviction Rate

Exhibit 5 presents the numbers of felony arrests, numbers of felony convictions, and felony conviction rates across six MCC studies dating back to 1999. The felony conviction rates for 2010 and 2011 arrests are much higher than what was found prior to 2009. In 2007 as the criminal justice system was in the midst of recovering from Hurricane Katrina, felony conviction rates reached their lowest point of 24%. Previously, the MCC measured a 26% felony conviction rate in a 2003-2004 study period and a 35% felony conviction rate in a 1999-2000 study period.

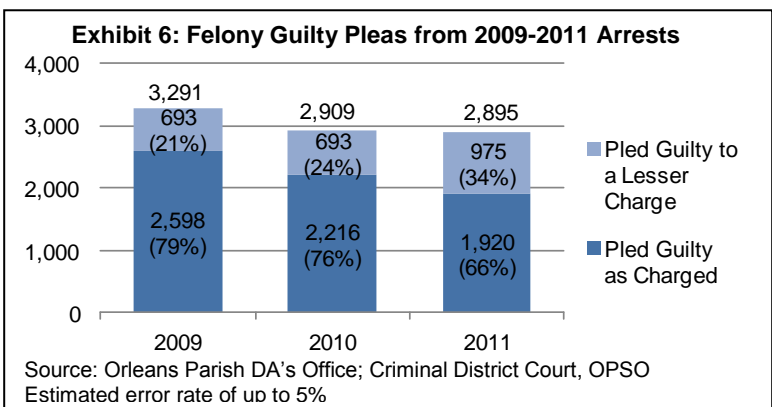
Although felony arrests are increasingly more likely to result in convictions, the raw numbers of felony convictions decreased for 2009 through 2011 arrests. As a result of fewer felony arrests, the numbers of felony convictions fell 14% from 3,438 for 2009 arrests to 2,966 for 2011 arrests.



Plea Bargaining

From 2009 through 2012, 96% of felony convictions were the result of defendants pleading guilty to their original or reduced felony charges. **Exhibit 6** shows the numbers of felony arrests that concluded by defendants pleading guilty as charged or guilty to a lesser charge from 2009 through 2011. Examples of pleading guilty to a lesser charge include the DA's Office amending an armed robbery charge to a simple robbery or a possession with intent to distribute narcotics case being amended to simple possession.

2011 felony arrests were much more likely than arrests from 2009 or 2010 to have defendants plea bargain and plead guilty to lesser charges. Pleading guilty to lesser charges accounted for 21% of pleas in 2009 which increased to 24% of pleas in 2010. In 2011, pleading guilty to lesser charges rose to account for a third (34%) of all guilty pleas. As plea bargains increased, there was also an increase the incarceration rate for plea bargained cases. In plea bargained cases for 2010, 42% of defendants were sentenced to incarceration compared to 49% of 2011 plea bargained cases that resulted in incarceration.*



CONCLUSIONS

Arrests for minor out of parish warrants increased while arrests for all other types of offenses, including felonies, declined. These transitions in arrests took place as Uniform Crime Reports by the NOPD showed an 8% increase in violent crime and a 2% decrease in property crime.²

Arrests for out of parish warrants remain the most common type of arrest and usually result in little jail time while consuming an inordinate amount of officers' time to process. In the spring of 2010, state legislation granted officers discretion not to arrest individuals with out of parish warrants for misdemeanor violations including traffic and municipal offenses. Previously, police were legally compelled to arrest anyone with a warrant for any violation. In the years following passage of this legislation Orleans Parish arrests for "Other State Arrests," which are largely comprised of out of parish warrants, dropped significantly by 48% from 2009 to 2011, and then the trend of fewer "Other State Arrests" reversed in 2012 as these arrests increased by 29%. The NOPD is experiencing a manpower shortage of historic proportions as the number of officers fell 18% from 1,539 in May of 2010 when Chief Serpas overtook the department to 1,266 officers in November of 2012.² At a time when police manpower is critically low, the department appears to be unnecessarily expending significant resources to arrest individuals who failed to resolve petty charges committed in another parish. Parishes issuing warrants for minor offenses rarely accept custody of an arrestee resulting in the arrestees' immediate release, but only after the NOPD has spent hours of officers' time and the city has incurred the expense of booking offenders into Orleans Parish Prison.

Police have transitioned from primarily using arrests to enforce municipal and state misdemeanor offenses to more frequently relying on summonses. Municipal and state misdemeanor arrests fell sharply by 56% from 2009 to 2012 while municipal summonses had a substantial 59% increase. Traffic arrests also had a significant 50% reduction from 2009 to 2012. Fewer arrests and greater use of summonses for low level offenders is a positive trend that shows police are strategically reserving arrests for the most significant crimes and criminals.

Arrests for felony offenses have decreased but at a lesser rate than traffic, municipal, and state misdemeanor arrests. The number of felony arrests decreased by 23% from 2009 to 2012 and violent felony arrests had a smaller 10% decrease. A smaller rate of decrease in felony arrests may indicate police maintained an emphasis on felony crimes with dwindling manpower.

The NOPD's numbers of commissioned officers is at its lowest level in 35 years making it more important than ever to strategically focus police manpower on the most serious offenders. Misdemeanor offenders, even if arrested, rarely stay in jail for long. Police can optimize their diminishing manpower resources by increasing the use of summonses in lieu of arresting non-violent misdemeanor offenders which will allow police to devote more time to investigating and arresting felony offenders.

The felony conviction rate for 2011 arrests remained at its highest level recorded by the MCC. After felony conviction

rates fell to a low of 24% for 2007 arrests, the felony conviction rate increased to 42% for 2009 arrests. Thereafter, the felony conviction rate increased to 45% for 2010 arrests and had a nominal change to 44% for 2011 arrests. As the felony conviction rate remained unchanged, the rate of plea bargains increased substantially from 24% of pleas for 2010 to 34% of pleas for 2011 while plea bargained cases resulted in sentences to penitentiary time at an increasing rate.

Although the overall felony conviction rate remained consistent for 2011 arrests, there was a gradual improvement in the violent felony conviction rate from 37% in 2009 to 41% in 2011. The weapons felony conviction rate improved significantly from 40% in 2009 to 49% in 2011.

Higher felony conviction rates, particularly for violent and weapons felony offenses, demonstrate improved coordination between police and prosecutors. An 85% majority of 2011 felony arrests were accepted for prosecution as misdemeanor or felony offenses, which shows the overwhelming majority of felony arrests made by police translated into prosecutions by the DA's Office. **Maintaining high felony arrest to conviction rates along with gains in violent and weapons felony prosecutions demonstrates police and prosecutors have forged a more effective and productive working relationship that successfully focuses on the most significant cases handled by the criminal justice system.** The increase in plea bargains may further reflect the strength of criminal prosecutions as defense attorneys recognize greater likelihoods of conviction and work to reduce clients' sentences.

While 2009 through 2011 experienced the highest felony conviction rates ever achieved, the New Orleans criminal justice system continues to lag behind the performance of what is seen in courts nationwide. The most recent study conducted by the Bureau of Justice Statistics on felony defendants from 2006 found that 56% of felony arrests resulted in felony convictions.⁴ Nationwide statistics also show that 11% of felony arrests result in misdemeanor prosecutions compared to 22% of 2011 New Orleans felony arrests that resulted in misdemeanor prosecutions.

* * *

Arrest statistics show a blend of decreased arrests for minor municipal, state misdemeanor, and traffic offenses but arrests for felonies decreased and greater numbers of individuals were brought to jail for minor out of parish warrants. Conviction statistics reveal police and prosecutors maintained the highest overall felony conviction rates recorded for the New Orleans criminal justice system but raw numbers of felony arrests and convictions went down in 2010 and 2011 as the criminal justice system lagged behind nationwide felony conviction rates. Continued refinement in arrest strategies to bring greater numbers of felony offenders to justice combined with further increases in felony conviction rates are necessary in order for the New Orleans criminal justice system to be in line with national performance and expand beyond improvements of the recent past.

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 Greg Uddo, and Chelsey Thomas. 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.

*See supplemental exhibits 13 and 14 at www.metropolitancrimecommission.org

¹ Source: New Orleans Municipal Court

² Source: NOPD UCR statistics, <http://new.nola.gov/getattachment/1d12f336-3be2-4c57-b20d-b8c7e853ca88/UCR-2012-Year-End/>

³ Source: "City of New Orleans 2013 Proposed Budget – NOPD" PowerPoint presentation,

<http://new.nola.gov/getattachment/NOPD/Reform-and-Publications/2013-NOPD-BUDGET-PRESENTATION-FINAL-11-12-12.pptx/>

⁴ "Felony Defendants in Large Urban Counties, 2006", Bureau of Justice Statistics, May 2010 (<http://bjs.ojp.usdoj.gov/content/pub/pdf/fdluc06.pdf>)