Metropolitan Crime Commission

Performance of the New Orleans Criminal Justice System 2003-2004

The Metropolitan Crime Commission (MCC) has conducted an analysis of the performance of the New Orleans criminal justice system, which finds a court system that sends an increasingly low percentage of defendants to prison for violent and serious crimes; and, a system that is increasingly overwhelmed with defendants prosecuted for misdemeanor offenses. In short, our criminal justice system fails to put violent and habitual offenders behind bars. An analysis of a representative sample of cases adjudicated at Criminal District Court (CDC) from October 2003 through September 2004 finds that:

- Only 5% of all convictions in CDC were for violent offenses.
- 60% of all convictions in CDC were for misdemeanor offenses, 47% for misdemeanor possession of marijuana or possession of drug paraphernalia, essentially making CDC a misdemeanor court.
- Two out of three (67%) convictions were for simple drug possession.
- Only 7% of those arrested by the NOPD in 2003-2004 were eventually sentenced to prison, a 41% decrease in the incarceration rate since 1999-2000.
- Judges of Orleans CDC are less likely than judges in other jurisdictions to incarcerate individuals convicted of felony offenses, particularly drug distribution.

Central to turning this faltering system around is harnessing the resources of the New Orleans Police Department (NOPD) and the District Attorney's (DA's) Office early on in the preparation of criminal cases by changing the dynamics of the current case screening process. The case screening process includes the NOPD preparing arrest reports and the DA's Office deciding what charges, if any, to bring against a defendant.

The MCC finds that the case screening system in New Orleans continues to present structural barriers that inhibit a more effective and integrated working relationship between the NOPD and the Assistant District Attorneys (ADA's) in the Screening Division of the DA's Office. Specifically, the case screening system prevents arresting officers who establish probable cause for arrests from interacting with screening ADA's who must decide whether or not to prosecute defendants. The result is the greatly reduced performance of our criminal justice system.

Data presented in this MCC report document the outcomes of criminal cases and demonstrate the failure of our justice system agencies, including the courts, to remove violent and repeat offenders from the streets of New Orleans.

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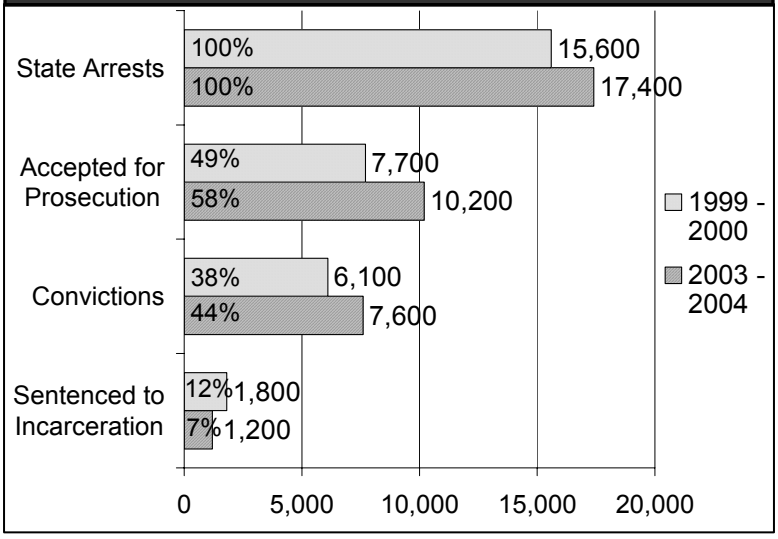
Outcomes of Criminal Cases

MCC researchers took a representative 10% sample of all arrests made from October 1, 2003, through September 30, 2004. The sample included a total of 1,735 arrests. These cases include all individuals arrested in New Orleans on state felony and misdemeanor charges.

An analysis of the data, presented in **Exhibit 1**, found that while more individuals were arrested, prosecuted, and convicted in 2003-2004 compared with 1999-2000, fewer individuals were actually incarcerated. In fact, the incarceration rate fell substantially from an already low 12% of those arrested in 1999-2000 to 7% in 2003-2004, a decrease of 41%. A principal reason for the falling incarceration rate was a decrease in the severity of charges between arrest and conviction.

Exhibit 1: Arrest Outcomes



Decreasing Severity in Charges at Conviction

Although 68% of arrests are for felony offenses, *felonies comprise only 40% of convictions.* There are several underlying reasons for the general weakening in the severity of charges adjudicated at CDC:

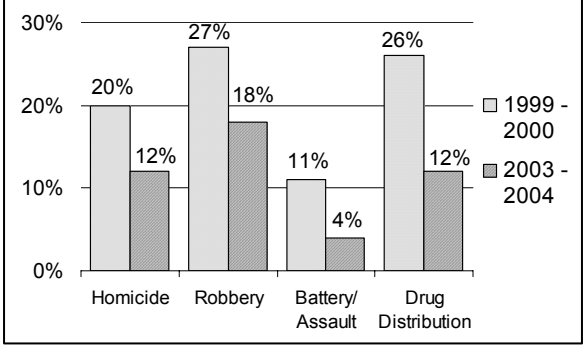
- A low charge acceptance rate of 39% for violent offenses, which are offenses most likely to lead to incarceration.
- A high charge acceptance rate of 64% for drug possession offenses, which are offenses that rarely result in incarceration
- A four-fold increase in the rate of plea-bargaining, up from 1% of arrests in 1999-2000 to 4% in 2003-2004.
- An increased dismissal rate of 7%, up from 4% in 1999-2000.

Regarding plea-bargaining, 99% of plea-bargained cases were originally felony offenses. However, as a result of the plea-bargaining process, only 36% of plea-bargained cases led to felony convictions. Misdemeanor convictions are much less likely to result in incarceration. In addition, any future criminal convictions are less likely to result in incarceration if a defendant does not have a prior felony conviction.

Declining Incarceration Rates

The relevance of these outcomes to the declining incarceration rate – and getting individuals who commit violent and serious crimes off the street and behind bars – is revealed in the fact that the percentage of individuals who were arrested and later incarcerated declined for every category of offense in 2003-2004 compared with 1999-2000. Examples of decreased incarceration rates are presented in **Exhibit 2** below:

Exhibit 2: Percent Incarcerated by Most Serious Charge AT ARREST



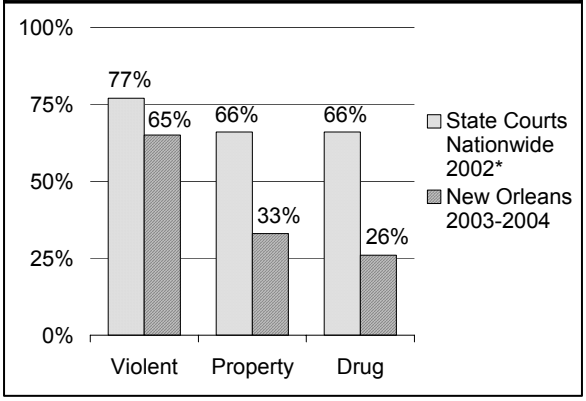
- Only 12% of homicide arrests resulted in incarceration in 2003-2004, compared to 20% in 1999-2000.
- Eighteen percent (18%) of 2003-2004 robbery arrests ended in sentences to incarceration, down from 27% in 1999-2000.
- Battery and assault incarceration rates fell from 11% to 4% in the two study periods.
- Incarcerations from drug distribution arrests fell by more than half, from 26% in 1999-2000 to 12% in 2003-2004.

National Comparisons

When comparing the prevalence of violent, property, and drug offenses in state courts nationwide, the New Orleans criminal justice system demonstrates stark differences in its response to crime.

- Sixty-five percent (65%) of New Orleans arrests are for drug offenses, compared to the national rate of 31%.
- The NOPD is arresting individuals for violent offenses (15%) at less than half the rate of jurisdictions nationwide (31%).
- Nationwide, violent offenses make up 23% of felony convictions, a rate over three times that of New Orleans (7%).
- As shown in **Exhibit 3**, the judges of CDC sentence felons to incarceration far less often than other state courts.
    - Of particular note, the incarceration rate for felony drug convictions in CDC is only 26% (25% for possession, 32% for distribution) compared to a national incarceration rate of 66% (62% for possession, 68% for distribution).

Exhibit 3: Incarceration Rates for Felony Convictions



* Source: *Felony Sentences in State Courts, 2002*; Bureau of Justice Statistics; December 2004

Conclusions and Recommendations

At its most basic, the problem documented in this report is the failure of our justice system to convict and imprison violent, serious, and repeat offenders, and the result is violence that appears to be spiraling out of control.

The MCC fully recognizes that the recommendations offered in this report do not address the core causes of crime in our community, problems that include a high poverty rate, an inadequate public education system, and lack of career opportunities. The solutions to these underlying problems are well beyond the scope of the criminal justice system.

We believe, however, that these recommendations provide a realistic framework for a collaborative, integrated effort by the NOPD, the DA's Office, and the court to successfully target violent, serious, and repeat offenders.

Recommendation 1: Arresting Officers, following review at the district level, should submit cases directly to Assistant District Attorney screening personnel for felony violent, felony property, and drug distribution arrests as well as arrests involving individuals with multiple prior felony convictions.

Recommendation 2: The NOPD should videotape the interrogation of suspects in all cases involving violent felonies and habitual offenders.

Recommendation 3: The District Attorney's Office, in cooperation with the NOPD and the Criminal Sheriff's Office, should expand its program that prioritizes the prosecution of violent felony and habitual offenders.

Recommendation 4: The NOPD and District Attorney's Office should measure their success based on the percentage of arrests that result in convictions.

Recommendation 5: Criminal District Court Judges should substantially increase the number of drug dealers sent to jail.

Recommendation 6: Increase compensation for Assistant District Attorneys and officers of the New Orleans Police Department.

To view the full MCC report, Performance of the New Orleans Criminal Justice System 2003-2004, please visit our website: www.metrocrimeno.org