



METROPOLITAN CRIME COMMISSION, INC.

2008 ORLEANS PARISH JUDICIAL ACCOUNTABILITY REPORT

The Metropolitan Crime Commission (MCC) has been issuing bi-annual reports examining judicial performance in Orleans Parish since the beginning of 2007. The primary goals of this research are to enhance public understanding of the criminal justice system and to promote efficient administration of justice. Tracking the case processing efficiency of individual judges over a period of time brings transparency and accountability to judicial performance.

Background

Orleans Parish Criminal District Court has 12 elected section judges. The primary role of a judge is to serve as an independent and objective arbitrator to ensure that legal proceedings are properly and fairly conducted in accordance with the law. When the Orleans Parish District Attorney's (DA's) Office accepts a felony case for prosecution, it is randomly assigned to one of these 12 sections of court. Over time, this random allotment process should result in each of the 12 judges receiving equal numbers and similar types of cases.

Orleans Parish Criminal District Court was profoundly affected by Hurricane Katrina. The court did not fully reopen until October of 2006, 14 months after the storm. Victims, witnesses, defendants, and potential jurors were displaced which further prevented the court from resuming normal operations. Floodwaters damaged much of the evidence stored in the basement of the courthouse, which caused additional delays.

The retirement of four judges since 2007 has led to the replacement of a third of the judiciary. In 2007, Judge Charles Elloie retired from the judiciary and was replaced by Judge Laurie White who was sworn into the judiciary in December of 2007. Judge Calvin Johnson retired in early 2008 and was replaced by Judge Keva Landrum-Johnson in August of 2008. Judges Raymond Bigelow and Dennis Waldron retired at the end of

OVERALL JUDICIAL EFFICIENCY RANKINGS

Exhibit 1 presents each judge's efficiency ranking in 2008 and 2007. These are the overall rankings of judges' numbers of open felony cases, percent of felony cases more than one year old, and how long they took to close felony cases.

Consistent with 2007 results, Judges Waldron, Bigelow, and Alarcon have the highest efficiency rankings in 2008. Of these top three performing members of the judiciary, only Judge Alarcon remained in his position in 2009. Judges Waldron and Bigelow retired at the end of 2008.

Judge Derbigny ranked eighth in 2008, which is an improvement from ranking eleventh in 2007. This improvement is due to Judge Derbigny reducing the number of open cases in his inventory and the time it took to close cases in his section of court.

This is the first year of ranking Judge Laurie White who was seated as a judge in December of 2007.

Judges Hunter, Parker, and Van Davis have the lowest efficiency rankings. The lower rankings of these judges result from having larger and older dockets and from taking longer to bring cases to conclusion compared to other members of the judiciary.

2008, and their judicial seats were filled in January of 2009 by Judges Karen Herman and Robin Pittman.

Summary of Findings

This report examines three basic indicators of judicial efficiency: the number of open felony cases in each judge's inventory, the age of open felony cases, and the time it takes for felony cases to close. The MCC does not advocate greater efficiency at the expense of fairness and justice. However, applying these measures, established by the National Center for State Courts and the American Bar Association, does provide a meaningful basis for evaluating and comparing the performance of each Criminal District Court judge.

In this fourth report, the MCC finds that the judiciary continues to progress, but there is also an opportunity to improve the overall efficiency in processing criminal cases in Orleans Parish Criminal District Court:

- Case processing time for the court has reduced greatly from a median of 232 days in 2007 to 140 days in 2008.
- Judges were more consistent during 2008 in bringing cases to conclusion both in regard to the number of cases closed by each judge and the time it took to close cases.
- The percent of cases more than one year old reduced from 38% in 2007 to 21% in 2008. While this is a significant improvement, the court needs to address the fact that 21% of open cases are still more than one year old.
- The number of open felony cases pending before the judiciary increased 9% from 2007 to 2008.
- Some judges continue to lag substantially behind their peers in the various measures of efficiency, which demonstrates the need for more consistency in the administration of justice throughout Criminal District Court.

EXHIBIT 1: Overall Judicial Efficiency Rankings

2008	2007	Judge
1	1	Judge Dennis Waldron*, Section F
2	2	Judge Raymond Bigelow*, Section I
3	3	Judge Terry Alarcon, Section L
4 – Tie	4	Judge Camille Buras, Section H
4 – Tie	n.a.	Judge Laurie White, Section A
6	7 – Tie	Judge Frank Marullo, Section D
7	6	Judge Benedict Willard, Section C
8	11	Judge Darryl Derbigny, Section J
9	9	Judge Lynda Van Davis, Section B
10	7 – Tie	Judge Julian Parker, Section G
11	10	Judge Arthur Hunter, Section K

NOTES: Due to fluctuations in the sitting judge, Section E is not part of overall judicial rankings. Section E of Criminal District Court was vacated by the retirement of the honorable Judge Calvin Johnson in early 2008, and the seat was filled with temporary ad hoc judges until Judge Landrum-Johnson was sworn in during August of 2008.

* Judges Bigelow and Waldron retired at the end of 2008

CASE PROCESSING EFFICIENCY

Case processing efficiency is measured by examining each judge's number of open felony cases, percent of open felony cases more than one year old, and time to close felony cases. Largely based upon standards established by the American Bar Association (ABA), these performance measures are recognized by the National Center of State Courts as valid and reliable indicators of judicial performance. Assessing court performance in these areas provides information to gauge the efficiency of each judge's felony case management practices and serves as an educational tool for the public on judicial performance.

Many factors can affect the time it takes to process a criminal case, including the severity of charges, whether a trial is involved, and the number of pretrial motions. However, cases are randomly allotted or assigned to sections of court, which should result in judges receiving caseloads that are balanced in their levels of intricacy and difficulty. Therefore, analyzing an individual judge's performance using the methodology applied herein establishes the effectiveness of his or her case management skills. Solid judicial performance results from good docket management practices, such as timely scheduling of court events and well-defined continuance policies. Adopting such practices establishes a judicial culture of productivity and greater efficiency within a courtroom.

Exhibit 2: Inventory of Open Cases

A judge's open felony inventory or docket is made up of open cases assigned to his or her section of court for adjudication. Judges are responsible for managing open cases until they close by reaching a final disposition of a guilty plea, trial verdict, or dismissal.

Exhibit 2 shows each judge's average number of open felony cases at the end of each quarter in 2008. Fewer open cases indicates more efficient and effective docket management practices, which results in a smaller inventory of open cases.

On average, 202 cases were open in each section of court in 2008. This is a 9% increase from the average of 185 open cases per section in 2007.¹

Judges Bigelow and Waldron applied case management strategies that resulted in substantially lower inventories of open cases compared to other members of the judiciary. Judges Hunter, Van Davis, and Parker had the largest open case inventories and averaged more than 250 open cases in their sections in 2008. In addition, newly elected Judge Landrum-Johnson in Section E inherited one of the largest open inventories of 2008.

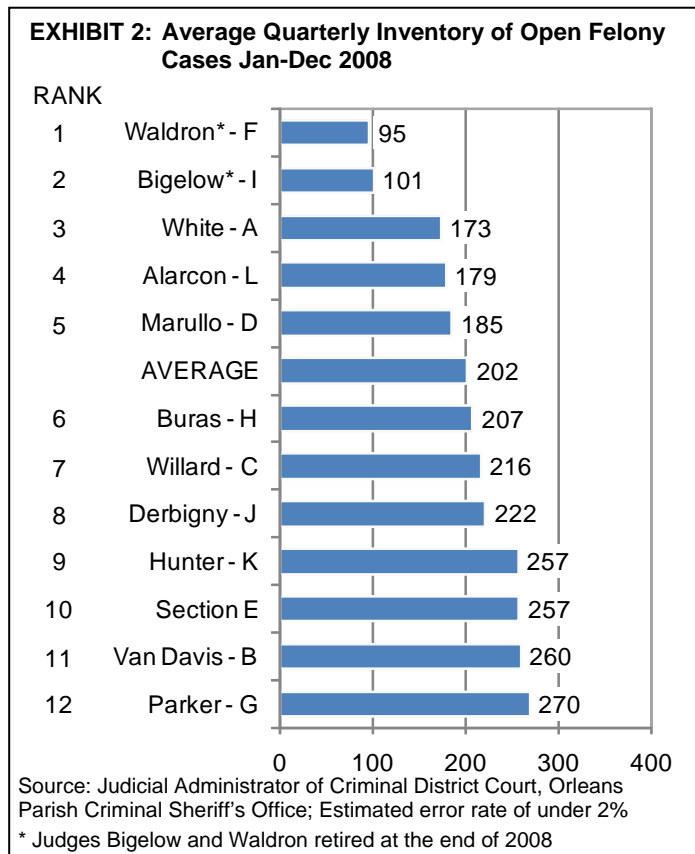


Exhibit 3: Percent of Cases Over One Year Old

The percent of cases over one year old provides an indication of the age of a judge's inventory. ABA standards call for all felony cases to close within one year of a defendant's arrest. To focus upon the time a case was under a judge's management, the MCC measured the time a case was allotted to a judge rather than from the time of arrest used in ABA standards. Cases over one year old are out of compliance with national standards and may be considered "backlogged".

Exhibit 3 shows the average percent of a judge's open cases more than one year old at the end of each quarter of 2008.

Open cases more than one year old made up an average of 21% of open inventories in 2008, which is a significant improvement from the 38% of cases more than one year old in 2007.

On average, 33% of the cases before Judge Hunter were more than one year old, and 28% of cases assigned to Judges Derbigny and Parker were over one year old. Judges Hunter, Derbigny, and Parker are allowing their older cases to languish, while Judges with a smaller percent of cases more than one year old have more effective case management strategies.

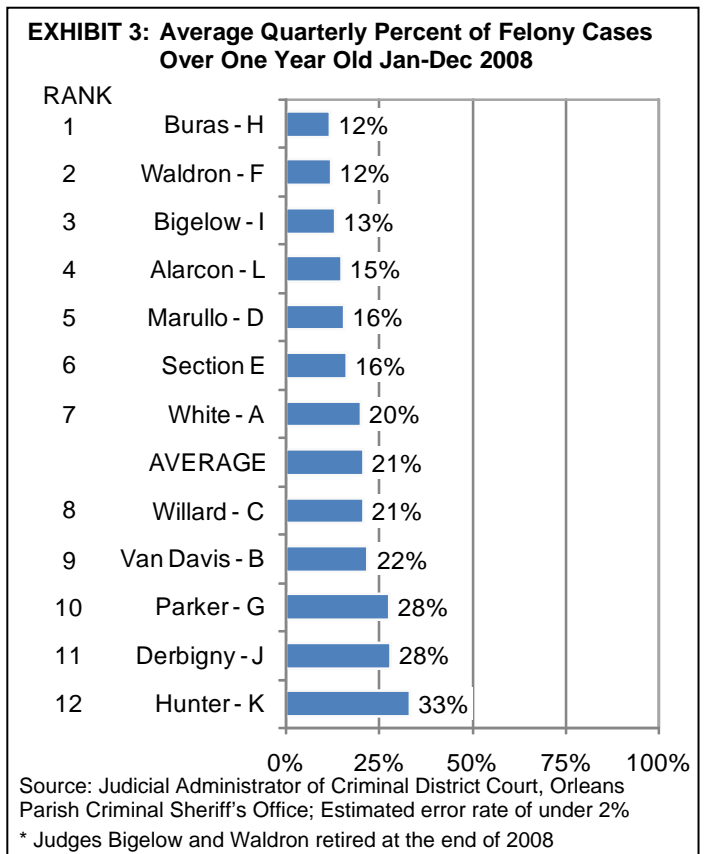


Exhibit 4: Felony Case Processing Time

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 and unavailable to appear in court was not included in these calculations.

Judges Waldron and Bigelow had the shortest case processing times, and it took the longest for cases to close before Judges Hunter and Van Davis. Judge Hunter had a median case processing time of 214 days, which is four and a half months longer than Judge Waldron's case processing time of 78 days.

As a whole, the judiciary continues to show improved efficiency in closing felony cases. The median case processing time for felony cases of 140 days in 2008 is three months shorter than the median case processing time of 232 days in 2007.

Some of the decrease in case processing times results from a reduction in the number of backlogged cases. In 2007, 29% of the cases that closed predated Hurricane Katrina, compared to 9% of closed cases that predated the storm in 2008.

Although some of the case processing time improvement results from fewer backlogged cases, the median processing time for post-Katrina cases improved two weeks from 129 days in 2008 to 143 days in 2007.

Ninety percent (90%) of cases accepted after Hurricane Katrina that closed in 2008 were open for less than one year. This is a slight improvement from 87% of post-Katrina cases that closed in under a year during 2007. A study of large urban counties by the Bureau of Justice Statistics found that 87% of felony cases closed within a year of a defendant's arrest.² The court as a whole appears to be closing cases at a similar pace to what is seen nationwide. However, Judges Hunter and Van Davis have unacceptably high case processing times that lower overall court performance.

Judges show improved consistency in bringing cases to conclusion. In 2008, there was a 136-day range between the highest 214-day case processing time and the lowest 78-day case processing time. In comparison, there was more than a 300-day difference between the highest and lowest case processing times in 2007. Judges are also more consistent in the number of cases closed within their sections of court. In 2008 judges ranged from closing 344 to 209 cases, a 135 case difference. Comparatively, in 2007 there was a range of 271 cases from 418 closed cases to 147 closed cases.

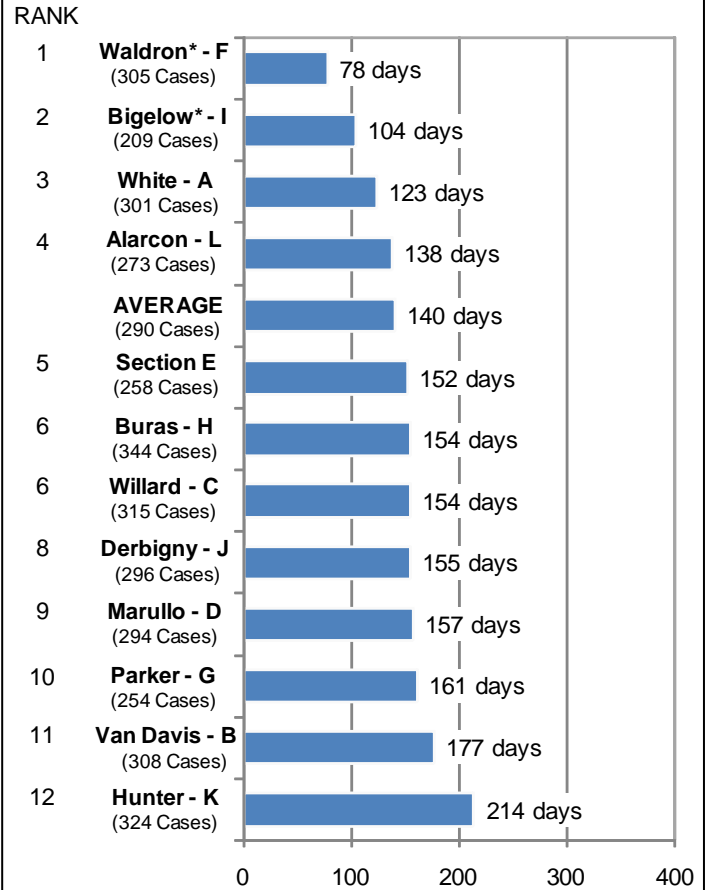
Exhibit 5: Increasing Open Case Inventories

The inventory of open cases throughout all sections of Criminal District Court increased in 2008, but the types of pending cases did not show much change. Exhibit 5 presents the average number of open cases from each quarter of 2008 and 2007 along with the types of crimes associated with each case.

The number of open felony cases rose 9% to 2,422 in 2008 from 2,218 in 2007. The increase in inventories is largely attributable to more cases being accepted for prosecution. The MCC recorded that 3,481 felony cases closed in 2008, which is an 8% increase from the 3,238 cases that closed in 2007. There was a 25% increase in new cases accepted for prosecution; from 4,075 new felony cases in 2007 to 5,113 in 2008.³

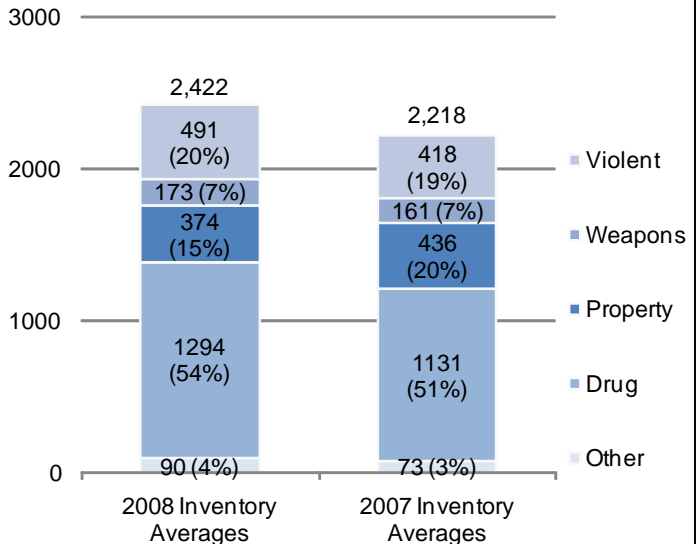
While the inventory of open felony cases increased, the types of pending cases changed very little. The only changes in the types of cases were a small increase in drug cases and a decrease in property cases. There were similar ratios of violent, weapons, and other cases throughout 2007 and 2008. The number of open homicides was very consistent in 2007 and 2008. On average, 111 homicide cases were open at any given time, and the number of cases ranged from 104 to 121.

EXHIBIT 4: 2008 Median Felony Case Processing Times (Number of cases closed per section in parentheses)



Source: Judicial Administrator of Criminal District Court, Orleans Parish Criminal Sheriff's Office, Orleans Parish District Attorney's Office; Estimated Error rate of under 5%
* Judges Bigelow and Waldron retired at the end of 2008

EXHIBIT 5: 2008 & 2007 Open Case Inventories – Average Inventories by Types of Criminal Cases



Source: Judicial Administrator of Criminal District Court, Orleans Parish Criminal Sheriff's Office; Estimated error rate of under 2%
NOTE: "Other" cases include charges such as escape, failure to register as a sex offender, and crime against nature

CONCLUSIONS

The efficiency of the judiciary of Orleans Parish Criminal District Court has shown steady improvement since the beginning of 2007. The court has dramatically lowered its backlog of aging criminal cases and reduced the time it takes to bring cases to conclusion. Cases more than a year old comprised 21% of open cases inventories in 2008, compared to 38% in 2007. Case processing time has fallen dramatically from a median of approximately seven and half months in 2007 to approximately four and half months in 2008. Additionally, the judiciary closed 8% more cases in 2008 than in 2007.

In addition to improving the efficiency of criminal case processing, the judiciary made improvements in becoming more consistent in bringing criminal cases to conclusion. Compared to previous analyses, judges are closing similar numbers of cases and there is less variation in the median time for cases to close before different members of the judiciary.

The MCC commends the judiciary for the substantial improvements in case processing efficiency, especially in consideration of the challenges that the court has faced over the previous two years.

There has been instability in the leadership of the District Attorney's Office. After the resignation of District Attorney Eddie Jordan in October of 2007, there were two interim District Attorneys until newly elected District Attorney Leon Cannizzaro was sworn into office in November of 2008. Although much of the dedicated upper management and staff of the District Attorney's Office have remained in place, the judiciary had to address transitions in decision-making and policy philosophies of four District Attorneys across a two-year span.

The composition of the judiciary itself has faced challenges and seen several changes. A quarter of the judiciary, Judges Derbigny, Hunter, and Van Davis, faced opposition for their positions in the elections in the fall of 2008. Each of these judges won their elections and successfully retained their positions, but the need to campaign presented a distraction from their core duty of managing the criminal cases comprising their dockets. The retirements of Judge Charles Elloie in July of 2007 and Judge Calvin Johnson in January of 2008 resulted in the turnover of two judicial seats in 2007 and 2008.

The court faces new challenges from losing three of the most experienced and efficient members of the judiciary to retirement in 2008. In total, the court has lost 66 years of combined judicial experience through the retirement of Judges Bigelow and Waldron at the end of 2008 and the retirement of Judge Calvin Johnson at the beginning of 2008. Judges Bigelow and Waldron ranked as the two most efficient members of the judiciary in MCC analyses, which further underscores the experience and potential productivity loss within the court.

Although all judges have shown improvement from 2007 to 2008, there are still wide disparities in efficiency measures across different members of the judiciary. Five judges had

inventories that averaged fewer than 200 open cases and three judges had inventories greater than 250 open cases. Six sections of court had inventories with 16% or fewer cases more than a year old and three judges' inventories had inventories with at least 28% of their cases greater than a year old. Performance disparities demonstrate that judges can apply courtroom procedures that improve case processing efficiency and reduce the backlog of older cases and the size of open case inventories.

Judges Hunter, Parker, and Van Davis stand out as being among the four lowest ranked members of the judiciary in all efficiency measures under study. These judges have larger inventories of open cases, a larger pool of cases more than a year old, and take the longest time to bring cases to conclusion.

The three newly elected members of the judiciary, Judges Herman, Landrum-Johnson, and Pittman, are entering the court at a time when open felony cases inventories are increasing. There were 25% more felony cases accepted for prosecution in 2008 than in 2007, and court felony inventories rose 9% from 2007 to 2008.

The MCC respectfully encourages the judiciary to continue to strive for greater efficiency in docket management. The judiciary has greatly reduced the number of older felony cases, but 21% of open cases in 2008 were more than one year old. American Bar Association standards call for all felonies to close within a year, and more than one in five open cases are out of compliance with this standard.

One potential way to reduce the backlog of cases more than one year old is to prioritize the oldest cases and violent felony cases. Prioritizing violent felony cases may improve witness and victim cooperation, which can be stymied by repeated continuances and delays. Public confidence in the judiciary and criminal justice system may be undermined by unnecessary case delays and protracted case processing times. Prolonged case processing also increases the time and expense of prosecutors, defense counsel, police, and sheriff's deputies who must repeatedly prepare for court appearances. Additionally, civilian victims, witnesses, and defendants are adversely impacted by judicial inefficiency. Focusing upon older cases will make dockets more current, minimize the time it takes to process criminal cases, and improve the efficiency of the judicial process.

While the court has reduced case processing time and the backlog of older cases, there continues to be a high rate of cases more than a year old and some judges appear to be falling significantly behind their peers. The court has lost three of its most experienced and efficient judges at a time when there is a rise in new cases and inventories are growing. The court has demonstrated the ability to improve efficiency and must continue to make improvements as it welcomes new members and embraces new challenges.

Acknowledgements

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¹ "2007 Orleans Parish Judicial Accountability Report" Metropolitan Crime Commission, Apr 2008; <http://www.metropolitancrimecommission.org/html/documents/2007JudicialAccountabilityReport4.14.08.pdf>

² "Felony Defendants in Large Urban Counties, 2002" Bureau of Justice Statistics, February 2006

³ NOTE: A portion of defendants in newly accepted felony cases will fail to appear in court and go at large. At large cases are not included in open case inventories.