

A 21st Century Criminal Justice System

Part II: Improving the Operations of the Court System

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Introduction

Collaboration and coordination within the criminal justice system should begin with efforts to improve court operations and eliminate duplicative functions in the courts. New Orleans' courts are where most – if not all – of the components of the criminal justice system come together. The efficient and effective operations of the courts are critical to the overall efficiency of the criminal justice system.

As noted in our initial report, New Orleans' courts processed more than 200,000 cases in 2011. Combined, more than 38,000 cases were filed in the Criminal District Court and the Municipal Court – or more than one for every ten thousand city residents. The direct cost of court operations exceeded \$23 million in 2010. But court operations directly affect the cost and operations of every other component of the criminal justice system.

As a follow up to our initial study, this report focuses exclusively on findings and recommendations related to improving court operations and eliminating duplication.

Findings

New Orleans has More Separate Court Systems than Any Other Parish in Louisiana: Orleans Parish is the only parish in the state with both a Civil and Criminal District Court. It is one of only four parishes in the state to have a separate Juvenile Court. And it is the only parish with its own traffic court.¹ In addition to the number of different courts, there are a total of 26 judges in Orleans Parish -- 4 Municipal Court, 4 Traffic Court, 6 Juvenile Court and 12 Criminal District Court Judges – in addition to part-time judges, a magistrate and commissioners.

Staffing Patterns Suggest the Opportunity for Greater Efficiency: In some cases, the courts in Orleans Parish have overlapping jurisdiction. In virtually every case, these courts have staff – in administrator and clerk offices – that perform many of the same functions, as clerks, collection of fees and fines, court reporters, probation officers, minute clerks. The matrix on the following pages provides a detailed breakdown of job title by court:²

¹ The City's 1st and 2nd City Courts are civil and outside of the scope of this study, but they are unique as well.

² Based on data included in the Adopted 2012 City Budget.



ADOPTED 2011 POSITIONS	CRIMINAL DISTRICT COURT	CRIMINAL DISTRICT COURT CLERK	JUVENILE COURT	MUNICIPAL COURT	TRAFFIC COURT	POSITION TOTALS
ACCOUNTANT		1.00	2.00		2.00	5.00
ADMINISTRATION	23.00					23.00
ADMINISTRATIVE ASSISTANT		1.00				1.00
ADMINISTRATIVE DATA SPECIALIST						
ADMINISTRATIVE SUPPORT SPECIALIST		6.00	1.00	1.00		8.00
ASSISTANT MANAGER, FISCAL ADM.			1.00			1.00
ASST. JUDICIAL ADMINISTRATOR			1.00	1.00	2.00	4.00
ATTORNEY I			2.00			2.00
ATTORNEY TO CLERK, CRIMINAL DISTRICT COURT		1.00				1.00
CASE MANAGER	17.00		5.00			22.00
CHIEF DEPUTY CLERK, CLERK, CRIMINAL DISTRICT COURT		1.00				1.00
CLERK I		22.99		4.00	0.25	27.24
CLERK II						0.42
CLERK III						
CLERK IV					2.00	2.00
CLERK OF COURT		1.00	1.00	1.00	1.00	4.00
CLERK OF COURT, ASSISTANT				1.00		1.00
COLLECTIONS AGENT	4.00					4.00
COMMUNITY SERVICE	3.00					3.00
CORONER						1.00
CORONER'S PHYSICIAN (PATHOLOGIST)						3.00
COURIER	4.00					4.00
COURT CLERK I	0.00	30.50	1.00	0.00	3.50	35.00
COURT CLERK II		10.00	5.00			15.00
COURT CLERK, SUPERVISOR		6.00	1.00	9.00	1.00	17.00
COURT CRIER				4.00	6.00	10.00
COURT PROBATION OFFICER				3.00	1.00	4.00
COURT REPORTER	30.00	0.00	7.00	4.00	4.00	45.00
CUSTOMER SERVICE REPRESENTATIVE			1.00			1.00



ADOPTED 2011 POSITIONS	CRIMINAL DISTRICT COURT	CRIMINAL DISTRICT COURT CLERK	JUVENILE COURT	MUNICIPAL COURT	TRAFFIC COURT	POSITION TOTALS
CUSTOMER SERVICE SPECIALIST						
DEPUTY CLERK OF COURT			1.00			1.00
DOMESTIC VIOLENCE CLERK						
DRUG TESTING	4.00					4.00
DWI CLERK, TRAFFIC COURT					2.00	2.00
EQUIPMENT OPERATOR I						3.00
EXECUTIVE ASSISTANT			5.00			5.00
EXECUTIVE ASSISTANT TO CLERK						
FIELD AGENTS	10.00					10.00
JUDGE	12.00		6.00	4.00	4.00	26.00
JUDGE AD HOC				1.00	1.00	2.00
JUDICIAL ADMINISTRATOR		1.00	1.00	1.00	1.00	4.00
JURY ADMINISTRATOR	1.00					1.00
JURY CLERICAL	4.00					4.00
JURY COMMISSIONER	4.00					4.00
JURY PROCESS SERVER	3.00					3.00
LAW CLERK	13.00					13.00
MANAGEMENT SERVICES SUPERVISOR		3.00			1.00	4.00
MEDICAL ATTENDANT						2.00
MESSENGER	3.00					3.00
MINUTE CLERK	17.00	0.00	7.00	4.00	5.00	33.00
OFFICE ASSISTANT	0.00	1.00	2.00	9.25	43.50	59.75
OFFICE ASSISTANT III				1.00		1.00
OFFICE MANAGER						
OFFICE SUPPORT SPECIALIST		1.00	1.00		2.00	4.00
POLICE TECHNICAL SPECIALIST TRAINEE						1.00
PROGRAM COORDINATOR-RESTITUTION			1.00			1.00
PROGRAM SPECIALIST		2.00			1.00	3.00
PROPERTY CLERK						
PUBLIC SAFETY OFFICER			3.00			3.00
SECRETARY	13.00			2.00	4.00	19.00



ADOPTED 2011 POSITIONS	CRIMINAL DISTRICT COURT	CRIMINAL DISTRICT COURT CLERK	JUVENILE COURT	MUNICIPAL COURT	TRAFFIC COURT	POSITION TOTALS
SENIOR COURT PROBATION OFFICER				1.00	2.00	3.00
SENIOR OFFICE ASSISTANT				1.00	1.00	2.00
SPECIAL INVESTIGATOR						1.00
TRANSLATOR	2.00					2.00
URBAN POLICY SPECIALIST IV						
URBAN POLICY SPECIALIST V		2.00				2.00
<i>Grant Funded FTEs</i>			27.00			
AGENCY TOTALS³	167.00	90.49	82.00	52.25	90.25	481.99

³ Includes elected judges



There is little coordination across different courts in the administration of these similar functions. In total, across all courts – and including clerk and administrative functions – there were over 450 FTEs⁴ employed by the court system in New Orleans, more than double the number of FTEs in the District Attorney’s office and approximately 17 FTEs per judge. There were 245 FTEs in Criminal District Court – in both the Clerk’s office and reporting to the judges – or 20.5 FTEs per judge (not including the Magistrate). Similarly, there are 86.5 FTEs in the Traffic Court – or 21.6 per judge. By comparison, there were 76 FTEs in the Juvenile Court – approximately 12.7 per judge (and that includes staff responsible for cases that would not be considered part of the criminal justice system, but are within the court’s jurisdiction) and 48.25 FTEs in the Municipal Court or just above 11 per judge.

Total FTEs, by Court	# of Judges	Total FTEs	FTEs per Judge
Criminal District Court	12	245.49	20.5
Juvenile Court	6	76.00	12.7
Municipal Court	4	48.25	12.1
Traffic Court	4	86.25	21.6
Total	26	455.99	16.5

Based on data and on anecdotal information from interviews across the court system, there are significant opportunities for staffing efficiencies. In interviews, Traffic Court officials conceded that it would be possible to perform its current administrative functions with one-quarter fewer staff. Despite the increase in workload for the Municipal Court, staff from that court indicated that they were working harder but the workload was being managed. The Criminal District Court Clerk indicated that it has a practice of double staffing certain courts with clerks in the event that one clerk goes on leave during trial: in addition, staff is assigned to courtrooms even when court is out of session.

If average staffing were reduced to a rate of 13 FTEs per judge, it would result in a reduction of staffing in clerk and administrative functions from approximately 456 FTEs to 338 FTEs – or a drop of over 25 percent.

Court Case Processing Time Contributes to New Orleans’ High Incarceration Rate:

A mid-year 2010 analysis by the Bureau of Justice Statistics found that Orleans Parish Prison was ranked 23rd in the nation in average daily population – just behind Davidson County, Tennessee (total population of 628,133) and just ahead of Riverside County, California (total population of 2.2 million).

Part of Orleans Parish Prison’s ranking is explained by the use of the local jail for housing state and federal inmates. As of October 7, 2011, 1,519 were inmates were being held pre-trial, 814 were state inmates housed locally, 412 were probation or parole violators and 120 were locally sentenced. During 2011, Orleans Parish Prison also held a relatively small number of federal prisoners.⁵

⁴ This analysis does not include judicial positions and is based on the data presented above. Actual staffing may currently be lower. For example, in response to a request to review this draft report, the Judicial Administrator of the Traffic Court noted that the Court currently has 71 FTEs or 17.7 FTEs per judge. Other courts may similarly have fewer current FTEs.

⁵ Updated Orleans Parish Prison Population Projections, The JFA Institute, October 2011.



Even without the state inmate population, the Orleans Parish Prison has had high incarceration rates. With 1,639 locally arrested inmates, New Orleans had a local incarceration rate of 454.3 inmates per 100,000 residents. By comparison, as of mid-year 2010, the nation's two largest local jail systems -- New York City and Los Angeles County -- had respectively -- 159.6 and 183.7 inmates per 100,000 residents.

The Sheriff closed one of its facilities, the House of Detention, in April 2012. According to the Sheriff, since that closure, daily population is approximately 1,791 pre-trial inmates and 601 state inmates. Orleans Parish Prison no longer holds federal inmates.

With the reduction and elimination of federal and state inmates, the overall population of the jail should decline. Moreover, with the implementation of a pre-trial service program, the number of defendants being held pre-trial due to their inability to make bail or post bond should also be reduced.

For inmates who remain held pre-trial, the longer it takes to reach a disposition in a criminal case involving a defendant incarcerated pre-trial, the higher the pre-trial population will be on a daily basis. National standards call for 180 day time to disposition for felonies and 90 day time to disposition for misdemeanors.⁶ Based on data from the District Attorney's office, felony cases resulting in pleas of guilty had an average time to disposition of 308 days in Criminal District Court in 2011 and misdemeanor cases resulting in guilty pleas had an average time to disposition of 191 days. Cases going to trial took longer for both felonies -- 421 days -- and misdemeanors -- 211 days. The District Attorney's time to disposition is from the time that office receives a case -- and therefore is a longer period than arraignment to disposition.

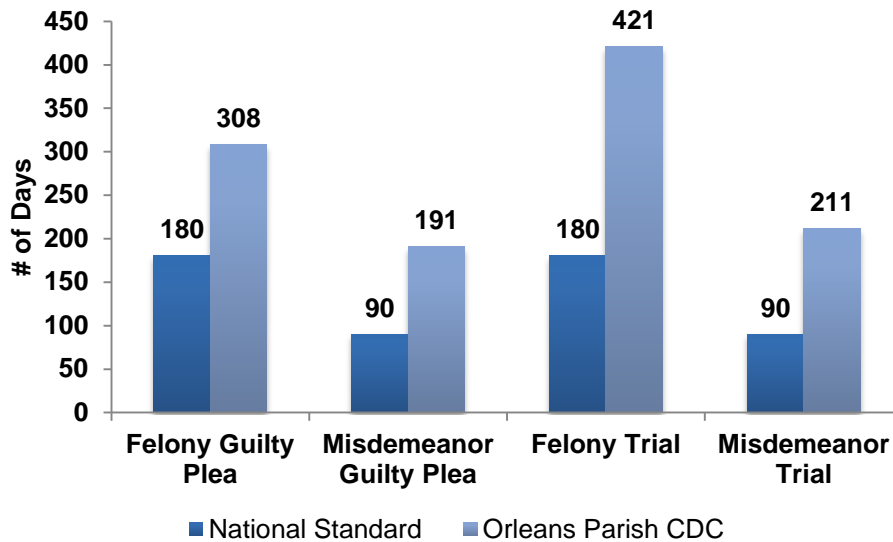
Case processing in Orleans Parish also exceeded actual average national case processing time. The most recent national data, from 2006, suggests that time from arrest to sentencing for all felons -- both those sentenced as a result of conviction and as a result of plea -- is an average of 265 days, higher than the recommended benchmark but significantly lower than in New Orleans.⁷

⁶ American Bar Association Case Processing Standards

⁷ Sourcebook of Criminal Justice Statistics available at www.albany.edu/sourcebook/pdf/t5502006.pdf.



New Orleans vs. Best Practices: Time to Disposition of Felony and Misdemeanor Cases⁸



Different Courts Have Overlapping, but Uncoordinated Alternative Programs: The Criminal District Court has a series of specialized courts that are designed to provide alternatives for criminal defendants and targeted programs. These include Mental Health, Drug and Domestic Violence court programs. The Juvenile Court also has a series of alternative to detention programs, including targeted specialized services for juvenile offenders – especially those with substance abuse problems. Municipal Court has obtained funding for a program for drug offenders. Yet, there is no coordination among and between these different programs. The Sheriff also operates a relatively small day reporting center as an alternative to incarceration and works with the state on providing assistance to offenders leaving prison and returning to the community.

The one example of a coordinated approach is the electronic monitoring program run by the Sheriff that serves both the Criminal District Court and the Juvenile Court. Data from the Criminal District Court indicates that, with the exception of the Domestic Violence Court, the number of defendants being admitted into these specialized court programs has consistently declined over the last three years.

There is No Data on Fine Collection Rates in Criminal, Municipal or Traffic Court: As discussed in our initial report, New Orleans courts are all greatly dependent on fines and fees collected from defendants to support their budgets. Fines are frequently imposed as a sentence in all courts – especially in Traffic Court. While courts are dependent on funds from fines, none have formal programs for the collection of fines. None use the power, under state law, to collect fines against tax refunds. And none use outside collection agencies for fine collection.

Fine delinquency is frequently a problem for courts – especially for courts that lack formal programs for collection. Collection rates in some jurisdictions are well below fifty

⁸ Based on data from the Orleans Parish District Attorney's Office and the American Bar Association



percent – often leaving millions of dollars uncollected and allowing many defendants to fail to fulfill their punishment for traffic or criminal offenses.

Absent reliable data from the courts, a recent audit conducted of the Traffic Court suggests that fine collection from that court – which, according to the Inspector General’s 2011 report generated more than \$12 million in fines and fees and other revenue in 2010 – is below fifty percent.

Moreover, both the Traffic Court audit and the Inspector General’s report on Traffic and Municipal Court suggest widespread problems in the accountability and allocation of those fine revenues that are collected.

Access to Evidence Remains a Problem with the Criminal District Court Clerk: The Criminal District Court Clerk is responsible for maintaining evidence in Criminal District Court cases. With funding from the Police and Justice Foundation, there have been efforts to update the maintenance of evidence. There remains work to be done however – both in eliminating certain old evidence, improving access to evidence and improving access to the office.

Prosecutorial Diversion Programs May Have Limited Impact Due to Eligibility Restrictions and Terms: The District Attorney’s office has a program designed to divert certain drug offenders from prosecution and thus, from incarceration. The current capacity of the diversion program is 1,100 offenders. The number of defendants diverted from prosecution increased from 2009 to 2010 – from 729 to 1,254 – only to decline to 473 defendants in 2010.

According to the District Attorney, the program is limited by overall capacity. Certain repeat drug offenders, however, were not eligible for the program. Moreover, some defendants eligible for diversion may have declined that option: diversion results in supervision for a relatively long period of time – up to two years – and requires payment of a \$200 fee. The alternative – a short jail stay and probation – may have been viewed as a less punitive alternative.

The City Attorney does not have a diversion program for defendants in Municipal Court. In other words, defendants must graduate to a felony level offense before they can be eligible for treatment under supervision of prosecutorial staff.

Recommendations

Support Consolidation of Courts and Reduction in Judicial Staffing: As is the case throughout Louisiana, there should be a single Municipal Court that hears misdemeanors, ordinance violations and traffic cases – the City should seek legislation eliminating the Traffic Court. Moreover, given the shift of misdemeanor cases to Municipal Court, the Commissioner positions within the Criminal District Court should be eliminated or simply left unfilled.

Create a Single Office of Judicial Administration: The City should work with the Chief Judges of each of the courts and the Criminal District Court Clerk to create a single citywide Office of Judicial Administration (OJA). The OJA would provide all support services – including staffing of clerk, courtroom and judicial support functions – for all criminal courts serving New Orleans. To preserve the independence of the



judiciary, the Judicial Administrator would be selected by a panel consisting of the City's CAO, the Chief Judge of Municipal Court, the Chief Judge of Criminal District Court, the Chief Judge of Juvenile Court and the Clerk of Criminal District Court.

All court employees would report to the Judicial Administrator, even while preserving titles within their respective court and clerk offices. The Judicial Administrator would develop a single budget for all courts that maximizes cross-court collaboration on technology, sharing floating clerks between courts, office support, fine and fee collection and administration of bond and bail. In other words, court employees would work for and report to the Office of Judicial Administration and be assigned to specific courts or court duties.

The Judicial Administrator Should Work with the Criminal District Court Clerk to Improve Processes and Access to Records: The Criminal District Court Clerk should continue efforts to better organize, dispose of and electronically inventory evidence. There should also be continued investments in technology, including electronic imaging of historical records. In addition, the new Judicial Administrator should work with the Clerk – in consultation with regular users of the Clerk's office in the District Attorney and Public Defender's office – to implement improvements in the office's operations.

Conduct a Detailed Study of the Sheriff's Provision of Security Services in the Courts: The Sheriff received \$2.4 million from the City in 2011 for court services and an additional \$100,000 for Traffic and Municipal Court security: according to the Sheriff's 2011 budget report, 61 staff members were assigned to these duties.

The Sheriff notes that there are currently 38 deputies and 2 supervisors assigned to Court Security. Additionally, the Sheriff reports that there are 13 Subpoena/Capias deputies and 2 supervisors who assist when needed with the security in court.⁹

Deputy Sheriffs staff courtrooms in the Criminal District Court and also provide security for the Criminal District Court building. Both judges and attorneys expressed concern about security issues in the courthouse, including the performance of Deputy Sheriffs. The new Judicial Administrator and the Sheriff should commission a detailed study of both the quality and cost of courthouse and courtroom security. All courthouse personnel should be fully engaged in this analysis.

Courts Should Adopt a Series of Strategies to Reduce Case Processing Time: Speedier case processing allows for more efficient use of scarce court and other criminal justice resources. For example, the Municipal Court – as part of consolidation with Traffic Court – should create a rotation for weekends and holidays to allow for expedited case processing. The Criminal District Court should explore creation of a separate arraignment part that would allow for one judge to move toward early case resolution. Police and the District Attorney should return to a five day standard for non-victim cases and adopt an overall standard of six days from arrest to a decision on whether to file a bill of information.

⁹ In response to our request for comments on this draft report, the Sheriff noted that "these numbers do not include the transportation and movement of inmates to court. On an average we move 80 inmates daily to court and back to the housing units. The number of deputies mentioned above are not included in the team of deputies to accomplish these tasks. This does not include the bus as well as other equipment needs for these moves. Furthermore, we average 12 high security inmate movements per week which involves our Special Operations Division personnel. These movements require 3 deputies for every inmate. As you can see there are quite a few more deputies involved in court security than indicated in your report and the amount received from the attorney for court services includes more than security in the courtrooms."



Expand Pre-Trial Services and Alternatives to Incarceration: Consolidation of the various court alternative and diversion programs should enable the courts to increase the number of offenders who are eligible for non-incarceration alternatives. The availability of additional alternatives should both reduce the number of offenders eventually sentenced to parish prison – and to state prison. But it should also reduce the number of defendants being held pre-trial by creating more options for both prosecutors and defendants seeking to reach a plea agreement. Consolidation of resources should also allow for more regular evaluation of the effectiveness of different alternative programs – both with regard to actual diversion from incarceration and relative success in reducing recidivism.

Similarly, the Pre-Trial Services program should be closely monitored to determine when and how it can best be brought to scale. As of now, the program will only likely cover sixty to seventy percent of felony cases and no misdemeanor cases. If successful, the program should have a significant impact in reducing reliance on bail and bond as conditions of pre-trial release and thereby reduce the need for and cost of capacity in Orleans Parish Prison.

Improve the Use of Fines as an Alternative Sanction: While the current criminal justice system is greatly dependent on fine revenue for its operations, little focus has been given to the legitimate role that fines can play as an alternative sanction to incarceration. Courts should develop an approach that more closely aligns the amount of a fine to the seriousness of offense and to a defendant's ability to pay. Information from indigency determinations and from pre-trial assessments can be used to more carefully assess ability to pay. A day fines model – where fine levels are calibrated based on daily income – should be developed for New Orleans with recommended fine levels based on offense, past record and income.

Use of a day fines-like model would increase fairness and transparency in the system. It would also increase the likelihood that even economically disadvantaged offenders would be more likely to pay. As part of the larger comprehensive initiative, the courts should follow model programs – such as those in the State of Texas – that encourage immediate payment of fines, allow the use of credit cards for payments and take advantage of all options under state law for collection. The courts' efforts at collection should be closely coordinated with other City revenue collection efforts through the Department of Finance.

Effective use of fines as an alternative sanction will require that courts regularly track data on delinquency. This should include regular reporting on delinquency rates as well as annual information on the amount of outstanding, uncollected fines – as well as a process for writing off certain uncollected fine debt. Eventually, the courts should have a goal of 80 percent collection on all fines levied as sanctions.

Expand Prosecutorial Diversion Programs through Changes in Eligibility and Term: The District Attorney should expand participation in diversion programs to allow more offenders who would benefit from the program to do so. Diversion needs to include both lower level offenders and more serious offenders. More offenders participating would reduce workload in the courts, as well as costs to the City as a result of incarceration.

For example, a snapshot analysis of the Orleans Parish Prison population found that there were 763 inmates being held pre-trial for drug or non-violent charges (excluding



burglary). An additional 76 inmates had been sentenced to Parish Prison after being convicted of City misdemeanors. Assuming this snapshot analysis reflected ADP throughout the year; the per diem cost of these inmates to the City was \$6.9 million. In other words, if expansion of diversion would affect just ten percent of that population, potential savings to the City would be \$690,000 per year.

The cost of additional diversion could be assumed under the existing program – and additional defendants might be attracted to participate – if the terms of diversion were modified to allow for shorter doses of intervention. For example, reducing a period of treatment and diversion from two years to one year might have little impact on program success but would double program capacity.