



Rule of Law And Empowerment Initiative
also known as
PARTNERS WEST AFRICA NIGERIA

**ENHANCING TRANSPARENCY AND
ACCOUNTABILITY IN THE JUDICIAL SECTOR
PROJECT.**

PRESENTATION OF FINDINGS

CASE MONITORING

FCT

(NOVEMBER 2017-NOVEMBER 2019)



**MacArthur
Foundation**

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Introduction

About PWAN

The Rule of Law and Empowerment Initiative is also known as Partners West Africa Nigeria (PWAN). Anon-governmental organization dedicated to enhancing citizens' participation and improving security governance in Nigeria and West Africa broadly. The organization's mission is achieved through our Rule of Law and Citizens Security Program Areas.

Our strategies are conducting research, collaborative advocacy, capacity building, dissemination of information and integrating the implementation of government policies such as United Nations Resolution 1325, Women Peace and Security Second Generation National Action Plan (NAP 2), Prevention and Countering Violent Extremism National Action Plan (P/CVE NAP), Administration of Criminal Justice Act/Law (ACJA/L), UN Resolution 2250 amongst others which are complementary to our strategic objectives.

We are a member of the Partners Network which is a network of 22 like-minded national organizations around the world, united by common approaches including participatory decision making, collaborative advocacy, consensus building and social entrepreneurship for democratic governance.

Through our Rule of Law program area, we aim to strengthen institutions that play a role in safeguarding society through a cooperative advocacy approach. This involves engagement and coordination of criminal justice stakeholders, ensuring access to justice for indigent persons, promoting civil society participation in anti-corruption efforts, and contributing to sustainable criminal justice reform.

About the Project

PWAN has been involved in contributing to building and strengthening the social accountability of the judicial sector since 2016¹, by collaborating with the judiciary to have citizens observers placed in selected courts to assess the court processes and in recent times the compliance to the Administration of Criminal Justice Act in the Federal Capital Territory and the Administration of Criminal Justice Laws in Ondo and Lagos States with support from the MacArthur Foundation.

Methodology

Partners West Africa Nigeria adapted 4 strategies to the observation process, namely:

- i. Expert methodology workshop
- ii. Court Observation
- iii. Case Monitoring
- iv. Criminal Justice actors' Survey on the ACJA

The Observation Process in the Federal Capital Territory, Abuja

To ensure effective collaboration, PWAN worked with the Chief Judge of the High court of the FCT, the Administration of Criminal Justice Monitoring Committee (ACJMC), Nigeria Institute of Advanced Legal Studies, the court registrars of the courts being observed, the Nigerian Bar Association (Unity Bar and Gwagwalada) and Civil Society Organizations including the media.

¹ The initial support in 2016 was provided by the US Embassy Bureau for International Narcotics and Law Enforcement (INL)

- Observation of courts began in October 2017, and since then the project has disseminated findings to (1) Stakeholders in the criminal justice sector; specifically, to the Nigeria Bar Association (NBA), Administration of Criminal Justice Monitoring Committee (ACJMC) and National Judicial Council (NJC), and (2) The Media, the General public, Civil Society and other relevant stakeholders through public release of findings of the events and social media engagement. The project has been able to engage 1,400 people on the ACJA over the past two years in the FCT.
- Engagement with stakeholders has allowed us to strengthen our methodology and develop robust findings over the years. In addition to the observation of courts, PWAN has also participated in judicial activities such as the Magistrate visitation to places of detention.
- Using the purposive sampling methodology, 20 courts (13 High & 7 Magistrate Courts in Apo, Maitama, Mpape, Jabi, Gudu, Lugbe, LifeCamp, Dutse-Alhaji, Wuse, and Gwagwalada) were selected for the observation.
- The findings in this report are based on the monitoring of criminal cases, with specific focus on anticorruption cases from **November 2017 till November 2019**. Each observer monitored at least 3 criminal cases from commencement to completion; as at the time of development of this report, some of the cases are yet to be disposed or completed.

Presentation of Findings- Case Monitoring

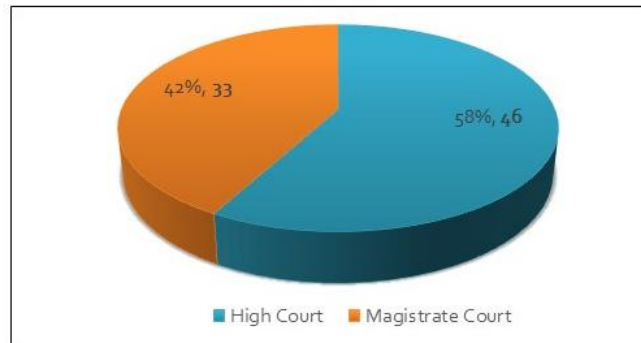
Case Information

The data presented for this observation period is based on observation from November 2017 till November 2019. In this observation period within the FCT, 79 cases were monitored, 33 of which were at the High Court (42%) and 46 at the Magistrate Court (58%); 29 of the 79 cases (20 at the high court, and 9 at the magistrate court) are corruption related.

The following is a summary of the corruption related offences monitored in court, and analyzed in this report:

- Advanced fee fraud
- Obtaining money under false pretenses
- Fraudulent receipt of money from government agencies and parastatals
- Criminal breach of trust and cheating
- Diverting and misappropriation of funds
- Making false statements
- Impersonation
- Forgery
- Cyber Fraud

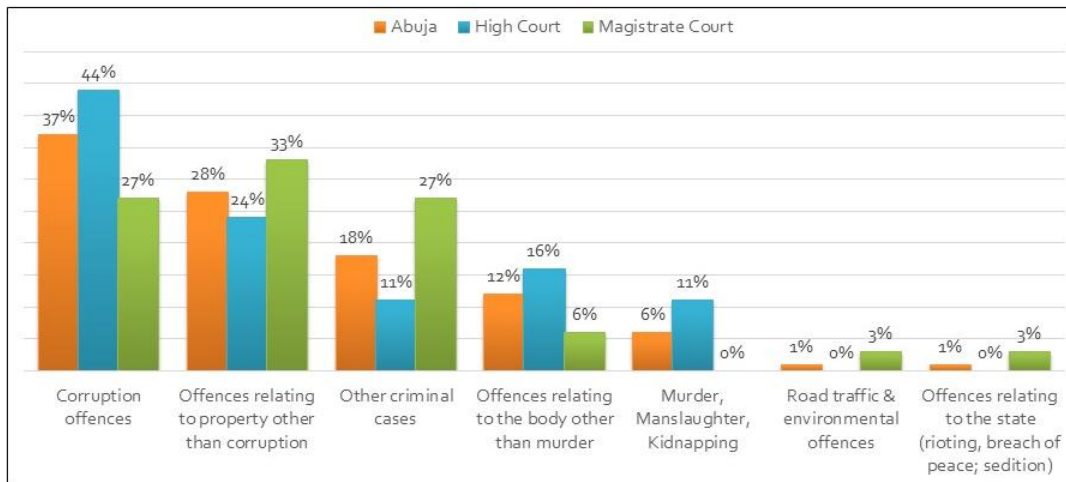
Number (and %) of cases monitored in High Court and Magistrate Court (2017-2019)



Nature of Case

During the period under review at the High Court, 44% of cases observed were corruption cases, 24% offences relating to property other than corruption, 11% murder, manslaughter or kidnapping, 16% offences relating to the body other than murder and 11% other criminal cases. At the Magistrate courts, 27% of the cases are corruption cases including offences such as criminal breach of trust and cheating, 33% offences relating to property other than corruption, and 6% offences relating to the body other than murder.

Nature of Case



Other criminal cases: Forgery, Robbery, Criminal Conspiracy, Theft, Cheating, Slander, Defamation of character

Value of the case

In the FCT, 58% of criminal cases across the high courts and magistrate courts were valued below Ten Million Naira (₦ 10,000,000), 44% of which are corruption related. 26% of the cases were valued between Ten Million Naira (₦ 10,000,000) and Fifty Million Naira (₦ 50,000,000), 28% of which are corruption related. All cases valued above One Hundred Million Naira (₦ 100,000,000), and those of foreign currency were strictly corruption cases.

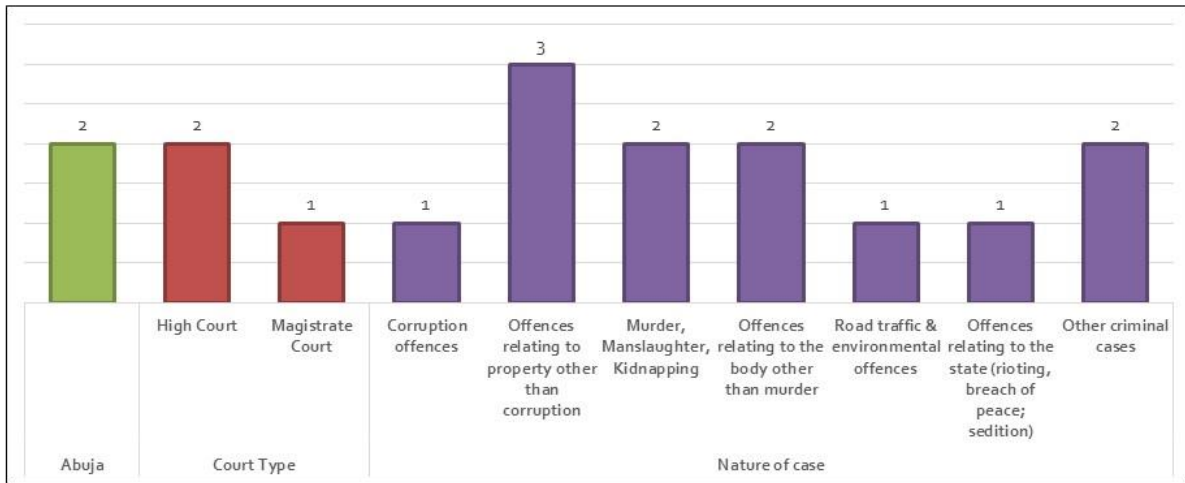
Value of the case

	Abuja	Court Type		Nature of case				
		High Court	Magistrate Court	Corruption offences	Offences relating to property other than corruption	Offences relating to the body other than murder	Road traffic & environmental offences	Other criminal cases
Below N10m	58%	32%	95%	44%	69%	67%	100%	73%
N10m to N50m	26%	42%	5%	28%	31%	33%	0%	18%
N101m to N250m	2%	3%	0%	4%	0%	0%	0%	0%
N251m to N500m	4%	6%	0%	4%	0%	0%	0%	9%
N501m and above	4%	6%	0%	8%	0%	0%	0%	0%
Others (e.g. if in foreign currency indicate currency & amount)	6%	10%	0%	12%	0%	0%	0%	0%

Information on Defendants

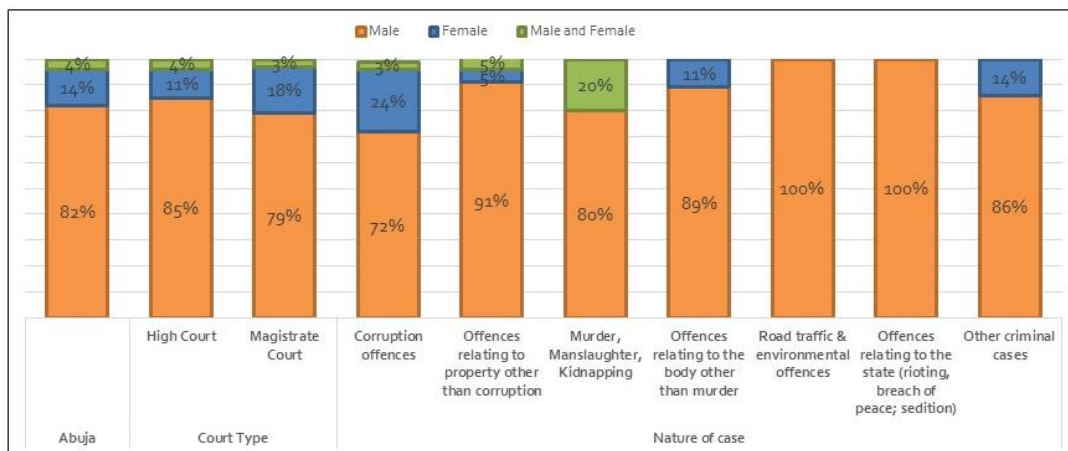
In criminal cases, the average number of defendants at the high court is 2, and at the magistrate court is 1. For corruption related offences, 1 defendant is usually found to be involved.

Average Number of Defendants



72% of defendants involved in corruption offences are male. 100% of defendants involved in road traffic & environmental offences, and offences relating to the state (rioting, breach of peace, sedition) are male. The observation also revealed that majority of cases in which accused persons are female are cases related to murder, manslaughter and kidnapping (20%).

Gender of Defendants



Pretrial requirements

Date of 'Filing/ transfer' to date of 'Assignment':

In the FCT, it takes an average of 16 days (13 days at the high court, 20 days at the magistrate court) from the date of filing/transfer of a case, to the date of assignment. For corruption offences, it takes an average of 6 days, while offences such as murder and manslaughter take 23 days to be assigned. PWAN wishes to commend the Chief Judge of the FCT High Court for adhering to Section 382 (1) of the ACJA which states that 'Where an information has been filed in the court, the Chief Judge shall take appropriate steps to ensure that the information filed is assigned to a court for trial within 15 working days of its filing'.

Date of ‘Assignment’ to date of ‘Service’:

Section 382 (2) of the ACJA states that ‘On assigning the information, the court to which the information is assigned shall within 10 working days of the assignment issue notice of trial to the witnesses and defendants and a production warrant properly endorsed by the Judge in respect of the defendant charged, where he is in custody, for the purpose of ensuring his appearance on the date of arraignment, and the Chief Registrar shall ensure the prompt service of the notice and information not more than 3 days from the date they are issued.’

Section 390 also states that ‘The Sheriff or other proper officer shall, on receipt of the information and notice of trial, serve the person named in the notice at least 7 working days before the date specified on the notice.’

In the cases monitored, it was observed that it takes 35 days at the high court from the date of assignment of cases, to the date of service. For corruption related offences, it takes 27 days for assigned cases to be served to defendants.

Date of ‘Service’ to date of ‘Arraignment’:

At the high courts, it takes 129 days from the date of service, to the date of arraignment of defendants. For corruption related offences, it takes 249 days for defendants to be arraigned from the time which they were served.

Pre-trial requirements- Average number of days from date of filing, to assignment and service

AVERAGE NUMBER OF DAYS BETWEEN:	Abuja	Court Type		Nature of case						
		High Court	Magistrate Court	Corruption offences	Offences relating to property other than corruption	Manslaughter, Kidnapping	Offences relating to the body other than murder	Road traffic & environmental offences	Offences relating to the state (rioting, breach of peace; sedition)	Other criminal cases
Date of filing/transfer of the case' & 'Date of Assignment'	16	13	20	6	20	23	3	0	0	30
Date of assignment' & 'Date of Service'	20	35	0	27	20	1	3			37
Date of Service' & 'Date of Arraignment'	76	129	1	249	9	6	20			7
Date of filing/transfer of the case' & 'Date of arraignment'	81	127	13	120	60	63	79	0	0	68

The average number of days for pre-trial proceedings from filing of cases by the prosecution, to arraignment of defendants is 81 (127 at the high courts, and 13 at the magistrate courts). For corruption related offences it takes 120 days for pretrial proceedings to be completed.

Speedy trial

Section 396 (3) of the ACJA states that ‘Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial.’

Sub section (4) further provides that ‘Where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than five adjournments from arraignment to final judgment provided that the interval between each adjournment shall not exceed 14 working days.’

Finally, Sub section (5) states that ‘Where it is impracticable to conclude a criminal proceeding after the parties have exhausted their five adjournments each, the interval between one adjournment to another shall not exceed seven days inclusive of weekends.’

At the Magistrate courts, the ACJA provides in Section 110 (4) that ‘Where a charge is preferred under subsection (1) (a) and (b) of this section and the trial does not commence within 30 days of bringing the charge, or trial has commenced but has not been completed after 180 days of arraignment on that charge, the Court shall forward to the Chief Judge the particulars of the charge and reasons for failure to commence the trial or to complete the trial.’

Section 374 (3) further provides that ‘Where the Magistrate grants an adjournment at a request under subsection (1) of this section, the adjournment shall not be for a period exceeding 15 days, and the Magistrate may grant the defendant bail.’

The data below, provides an insight into compliance with the above sections:

Adjournments

An average of 14 adjournments are granted for criminal proceedings in the FCT (19 at the high court, and 8 at the magistrate courts). Further disaggregation based on at whose instance adjournment was granted reveals that most adjournments are granted at the instance of the court (8) closely followed by at the instance of prosecutors (7). For corruption related offences, an average of 8 adjournments are granted, with the highest requester being the prosecution (6).

Average number of adjournments granted at the instance of the court, prosecutor, defendant and other factors

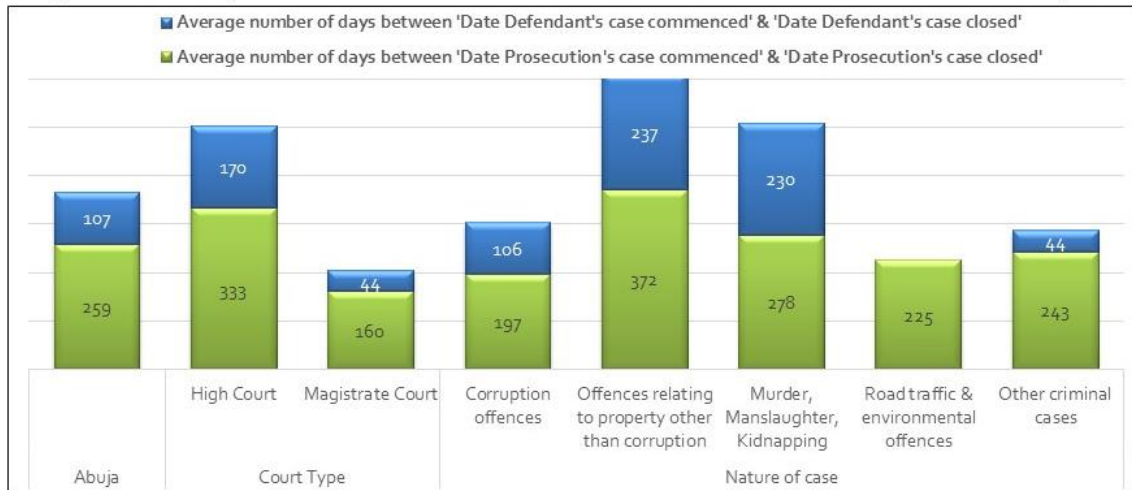
	Abuja	Court Type		Nature of case				
		High Court	Magistrate Court	Corruption offences	Offences relating to property other than corruption	Murder, Manslaughter, Kidnapping	Offences relating to the body other than murder	Other criminal cases
Average number of adjournments granted in the case	14	19	8	8	14	31	33	16
Average number of adjournments granted at the instance of the court	8	8	9	3	7	12	13	11
Average number of adjournments granted at the instance of the prosecutor	7	8	4	6	7	9	9	8
Average number of adjournments granted at the instance of the defendant	4	5	2	2	5	8	10	2

A further analysis of individual case files revealed that 5% of Judges adhere 90% of the time to daily adjournment provision while 3% judges adhere to the provision of 2 weeks adjournment.

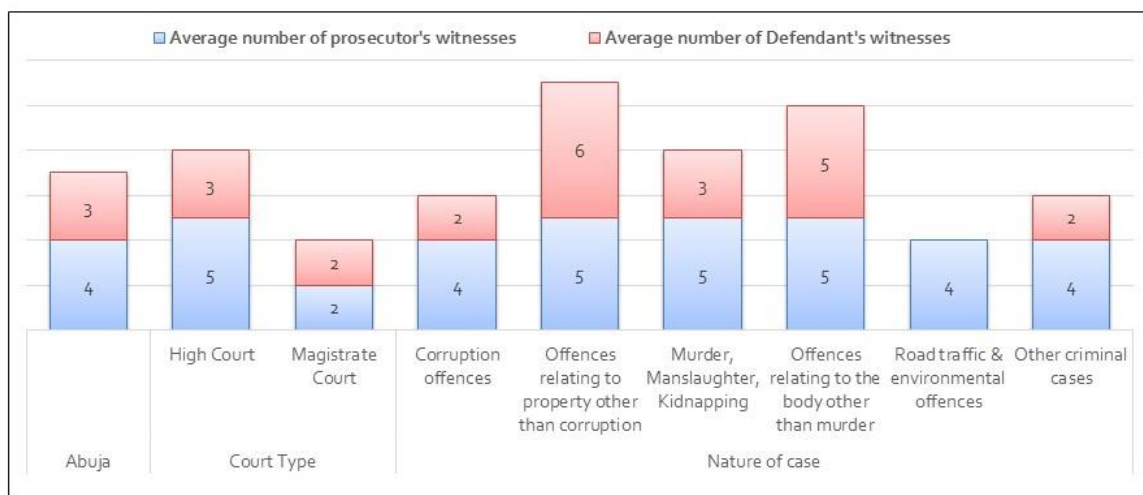
Date from 'Case commenced to 'Case closed' for legal practitioners:

The prosecution takes an average of 333 days at the high court, and 160 days at the magistrate court to close their case. The defence takes 170 days at the high court, and 44 days at the magistrate court to close its case. For corruption related offences, it takes the prosecution a longer time (197 days) to close its case when compared to the defence (106 days). This corroborates the number of adjournments granted by both parties, further proving that the prosecution expends more time during trial than the defence. The prosecution also calls more witnesses at the high court (5) than the defense (3); in corruption related matters, the prosecution calls an average of 4 witnesses, as opposed to 2 witnesses by the defence counsel.

Average number of days between date case commenced & closed for the 'Prosecution' and 'Defendant persons'



Average number of prosecutors and/defendants' witness



Date of ‘Arraignment’ to date of ‘Commencement of hearing’, and date of ‘Disposal’:

From the date of arraignment of defendants, it takes an average of 62 days (78 at the high court, and 40 at the magistrate courts) for hearing to commence. In corruption related offences however, it takes 91 days from arraignment to commencement of hearing.

It takes an average of 570 days (19 months) from commencement of hearing, to the date of disposal in the FCT; specifically, it takes 706 days (23 months, 16 days) at the high courts and 502 days at the magistrate courts (16 months, 22 days). For corruption related cases, it takes an average of 444 (14 months, 24 days) days for disposal of cases from the date of commencement of hearing

Trial proceedings- Average number of days from Arraignment to Commencement of Hearing and Disposal

AVERAGE NUMBER OF DAYS BETWEEN:	Abuja	Court Type		Nature of case						
		High Court	Magistrate Court	Corruption offences	Offences relating to property other than corruption	Murder, Manslaughter, Kidnapping	Offences relating to the body other than murder	Road traffic & environmental offences	Offences relating to the state (rioting, breach of peace; sedition)	Other criminal cases
Date of arraignment' & 'Date of commencement of hearing'	62	78	40	91	49	4	44	13	21	60
Date of commencement of hearing' & 'Date case was disposed'	570	706	502	444	622					578

Date of ‘Filing/ transfer’ to date of ‘Disposal’

For the 79 cases observed in the FCT, PWAN has observed that it takes an average of 781 days (26 months, 1 day) from the date of filing/ transfer of the case, to the date of disposal. This can further be disaggregated across the high courts (1032 days which is 34 months, 12 days) and magistrate courts (530 days which is 17 months, 20 days). For the cases relating to corruption, we have observed that it takes 969 days (32 months, 9 days) from date of filing of the case, to date of disposal; this reveals that corruption cases take longer to be disposed of, as compared to other criminal matters.

Average number of days from Filing to Disposal

AVERAGE NUMBER OF DAYS BETWEEN:	Abuja	Court Type		Nature of case						
		High Court	Magistrate Court	Corruption offences	Offences relating to property other than corruption	Murder, Manslaughter, Kidnapping	Offences relating to the body other than murder	Road traffic & environmental offences	Offences relating to the state (rioting, breach of peace; sedition)	Other criminal cases
Date of filing/transfer of the case' & 'Date case was Disposed''	781	1032	530	969	704					670

Bail

Section 45 (1) of the ACJA states that 'A court, on issuing a warrant for the arrest of a suspect in respect of a matter other than an offence punishable with death, may, if it thinks fit by endorsement on the warrant, direct that the suspect named in the warrant be released on bail on his entering into such a recognizance for his appearance as may be required in the endorsement.'

Section 45 (2) further provides that the endorsement shall specify,

'(a) the number of sureties, if any;

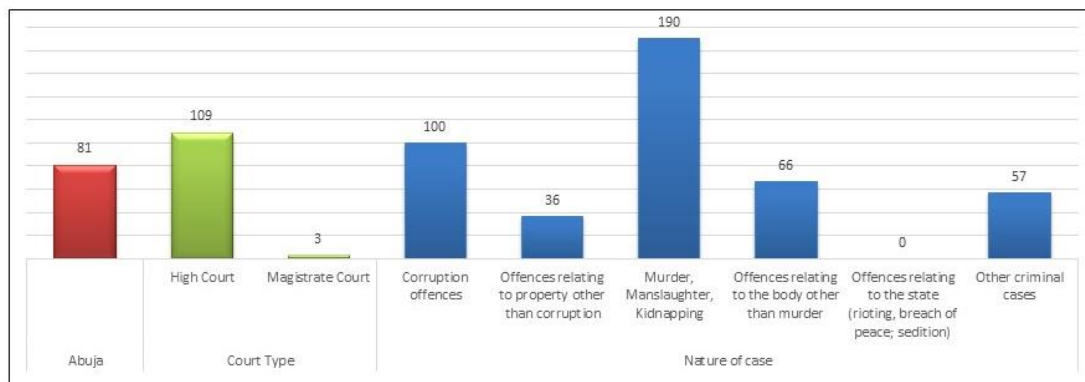
(b) the amount in which they and the suspect named in the warrant are, respectively, to be bound; or are to provide as cash security on the request of the surety or suspect;

(c) the court before which the arrested suspect is to attend; and

(d) the time at which the suspect is to attend, including an undertaking to appear at a subsequent time as may be directed by any court before which he may appear.'

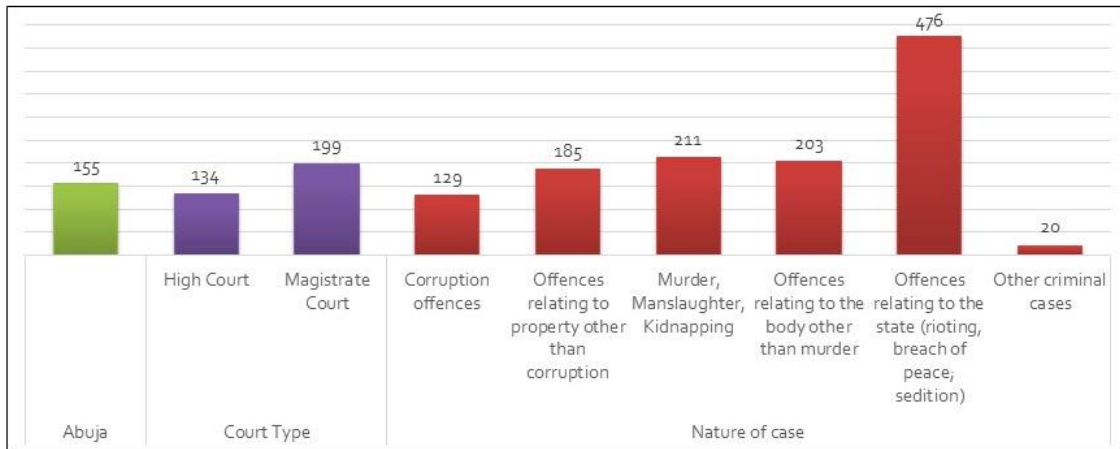
The average number of days between the date when bail was applied for, and date the application was decided is 81 (109 in the high courts, and 3 at the magistrate courts). For corruption offences, it takes an average of 100 days, that is 3 months 3 weeks for bail applications to be decided.

Average number of days between 'Date when bail was applied for' & 'Date when bail application was decided'



86% of bail applications heard are granted, while 14% are denied. For the corruption cases monitored, bail was granted 100% of the time. It takes 134 days (4 months, 14 days) at the high court, and 199 days (6 months, 19 days) at the magistrate court for the release warrant to be signed from the date bail application was decided. For corruption cases, it takes 129 days (4 months, 9 days) for release warrants to be signed from the date bail application was decided.

Average number of days between 'Date when bail application was decided' & 'Date when release warrant was signed'



52% at the high court, and 53% at the magistrate courts grant bail with conditions of 2 or more sureties. 35% at the high court and 53% at the magistrate court grant bail with the condition of 1 surety, while 43% at the high court, and 26% at the magistrate court grant bail with conditions of One million Naira (₦ 1,000,000) to Twenty-Five Million Naira (₦ 25,000,000).

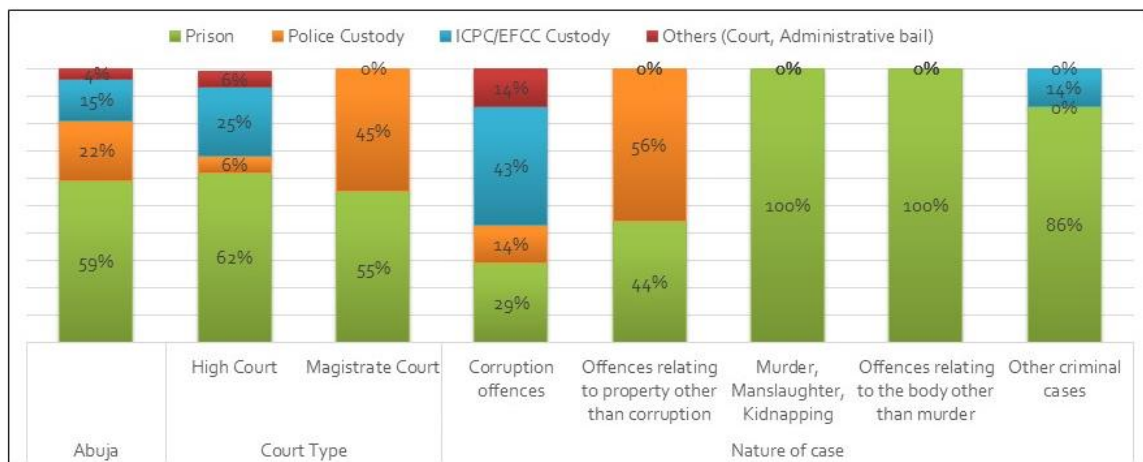
For corruption related offences, 64% require bail of two sureties or more, 43% require 1 surety, and 29% require One million Naira (₦ 1,000,000) to Twenty-Five Million Naira (₦ 25,000,000). Surrendering of international passport as a condition for bail is only observed in corruption related offences.

Terms & Conditions of the Bail

	Abuja	Court Type		Nature of case						
		High Court	Magistrate Court	Corruption offences	Offences relating to property other than corruption	Murder, Manslaughter, Kidnapping	Offences relating to the body other than murder	Road traffic & environmental offences	Offences relating to the state (rioting, breach of peace; sedition)	Other criminal cases
2 or more sureties	52%	52%	53%	64%	43%	67%	67%	0%	0%	50%
1 surety	43%	35%	53%	43%	36%	33%	0%	100%	100%	50%
N1m to N25m	36%	43%	26%	29%	29%	100%	67%	0%	100%	25%
Present person of status (e.g. Director in civil service or traditional ruler)	17%	17%	16%	7%	36%	0%	33%	0%	0%	12%
Landed property	12%	9%	16%	7%	14%	33%	33%	0%	100%	0%
To surrender international passport	7%	13%	0%	21%	0%	0%	0%	0%	0%	0%
Self-recognisance	5%	0%	11%	7%	7%	0%	0%	0%	0%	0%
N26 to N50m	5%	9%	0%	7%	7%	0%	0%	0%	0%	0%
N51m to N100m	2%	4%	0%	0%	7%	0%	0%	0%	0%	0%
To obtain permission before travel out of the country	2%	0%	5%	0%	7%	0%	0%	0%	0%	0%
To present tax clearance	2%	4%	0%	0%	7%	0%	0%	0%	0%	0%
Others	5%	9%	0%	0%	7%	0%	33%	0%	0%	12%

While awaiting decision on bail, 62% of defendants at the high court, and 55% of defendants at the magistrate court, are remanded in prison custody. In the magistrate courts however, 45% of defendants were remanded in police custody while awaiting decision on bail. For corruption related offences, 43% are remanded in ICPC/EFCC custody, 14% in police custody and 29% in prison custody.

Place of Detention while awaiting decision on bail including of children/young persons



Prosecution and Defence

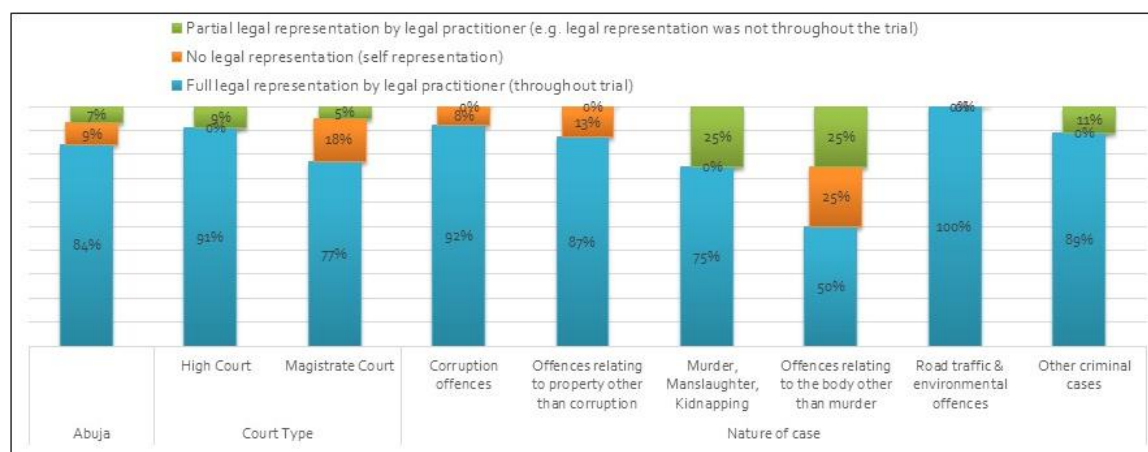
For corruption cases, 41% were prosecuted by the Economic and Financial Crimes Commission (EFCC), 31% by the Nigeria Police Force (NPF) and 14% by the Independent Corrupt Practices Commission (ICPC). The NPF has been observed to prosecute corruption related offences such as criminal breach of trust and cheating especially at the Magistrate courts. Of the total cases monitored, the NPF serves as the most predominant prosecuting agency at 44%

Name of Prosecuting Agency

	Abuja	Court Type		Nature of case						
		High Court	Magistrate Court	Corruption offences	Offences relating to property other than corruption	Murder, Manslaughter, Kidnapping	Offences relating to the body other than murder	Road traffic & environmental offences	Offences relating to the state (rioting, breach of peace; sedition)	Other criminal cases
NPF	44%	31%	61%	31%	62%	40%	56%	0%	0%	43%
EFCC	19%	33%	0%	41%	10%	0%	0%	0%	0%	7%
AG/Moj	13%	13%	12%	3%	19%	60%	11%	0%	100%	7%
Others - specify	10%	4%	18%	7%	10%	0%	0%	100%	0%	21%
ICPC	6%	11%	0%	14%	0%	0%	0%	0%	0%	7%
NAPTIP	4%	7%	0%	0%	0%	0%	33%	0%	0%	0%
Private prosecution/fiat/direct complaint	4%	0%	9%	3%	0%	0%	0%	0%	0%	14%

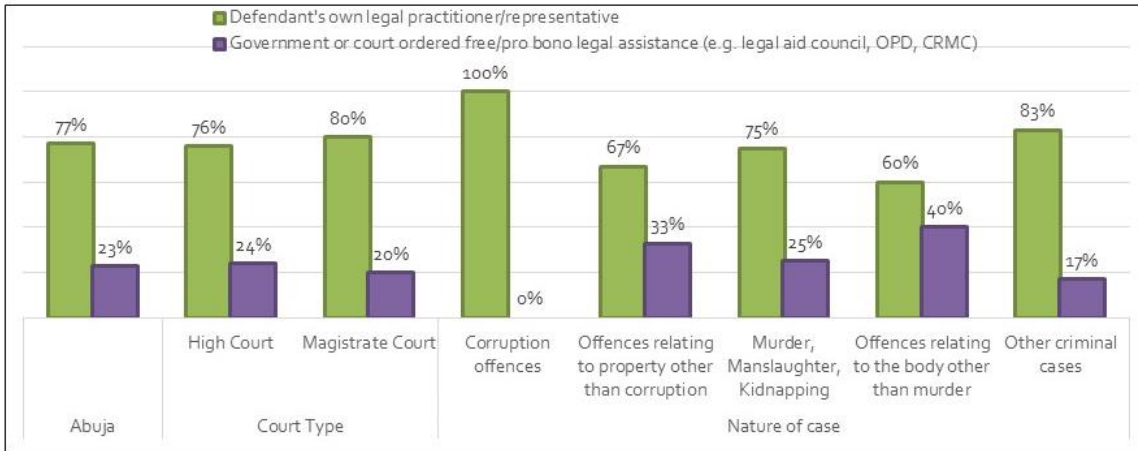
91% of defendants at the high court have full legal representation, while 9% have partial legal representation. At the magistrate courts 77% have full legal representation, 5% have partial legal representation, and 18% have no legal representation. With regard to legal representation for defendants, 92% of defendants in corruption related offences have full legal representation, while 8% have no legal representation.

Nature of Representation for Defendant



24% of defendants at the high court and 20% of defendants at the magistrate court who had legal representation were represented by government/ court ordered pro bono legal practitioners. All defendants in corruption related offences who had legal representation were represented by their own legal practitioners.

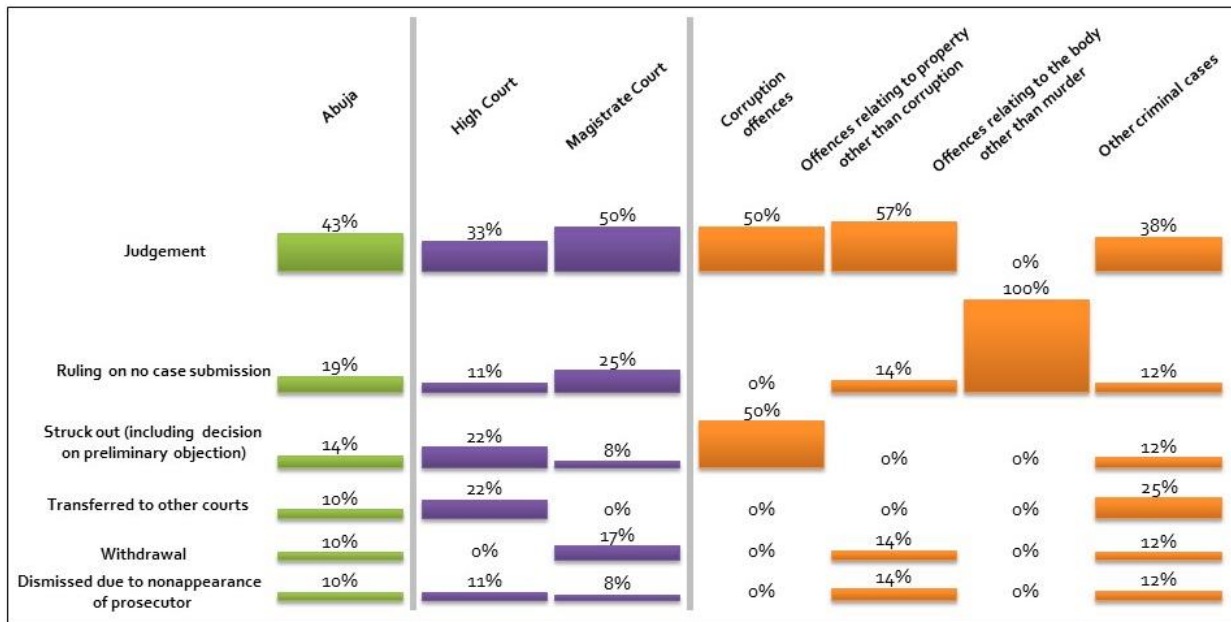
Who was Responsible for Full or Partial Representation



Disposal of Cases

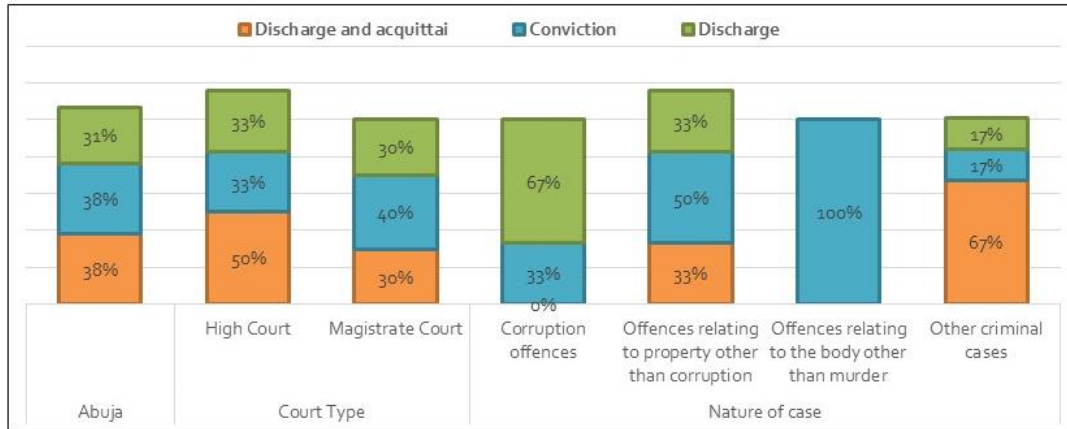
33% of cases monitored at the high court, and 50% of cases monitored at the magistrate court were disposed via judgement at the high court. Worthy of note is the disposal of corruption cases; 50% of which judgement was delivered, and 50% of which were struck out.

Type of disposal

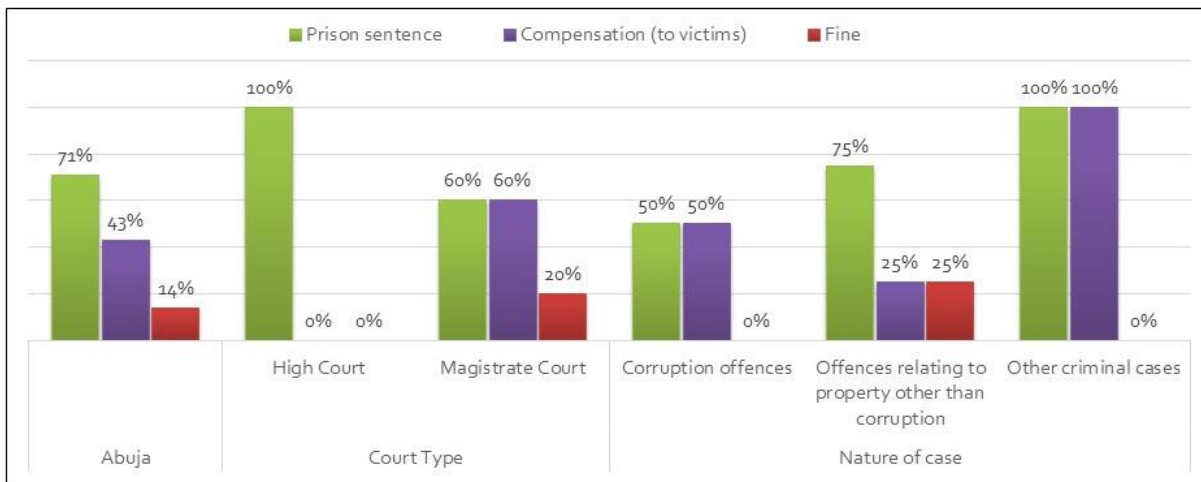


For those in which judgements were delivered, 38% of defendants were discharged and acquitted, 31% were discharged and 38% were convicted. For the corruption related offences, 50% of defendants were convicted, 33% discharged and 33% discharged and acquitted. 50% of convicted defendants in corruption matters were sentenced to prison, while 50% were asked to pay compensation to victims all below Ten Million Naira (₦ 10,000,000).

Outcome of disposal



Nature of Punishment



Key findings on Anti-Corruption cases

- Arraignment of persons accused of corruption related offences after service has been issued, takes a much longer time as compared to other criminal cases (249 days compared to 20 days in other criminal cases). This consequently affects the overall time frame for pre-trial proceedings.
- Regarding trial proceedings, it has also been observed that corruption cases take a longer period from arraignment till commencement of hearing. It takes 91 days (approximately 3 months) for commencement of hearing post arraignment, as compared to other criminal cases which take 49 days or less.
- It seemingly takes a shorter period for bail proceedings to be dispensed with for corruption cases as compared to other criminal cases. It takes 100 days for bail applications to be decided and 129 days for release warrants to be signed, as compared to 190 days and 476 days respectively, in other criminal matters.
- Agencies responsible for prosecuting corruption related matters (EFCC, NPF and ICPC) are seen to be responsible for delays in corruption related matters. They request for the most adjournments in cases of this nature (6 as compared to 2 requested by the defence) and take a longer time to close their case (197 days as compared to 106 days by the defence).
- 50% of the corruption cases monitored were struck out; this includes decisions on preliminary objections such as issues of jurisdiction of court to hear the matter.

Recommendations

1. *Effective prosecution of anticorruption cases:* Prosecuting agencies are advised to conclude all investigations before drafting charges on corruption related matters. This will reduce the requests for frivolous adjournments and curtail striking out of corruption related matters from courts.
2. *Prompt arraignment of defendants:* Prosecuting agencies/ agencies responsible for detention of suspects in anticorruption matters are advised to arraign suspects promptly, to avoid delays. The courts should also the adhere to the day to day adjournments or 14 days interval in adjournments while adjourning cases for arraignment.
3. *Discharge of duties by parties/ representatives:* The courts should implore the intention of the ACJA on 'speedy trial and effective dispensation of justice' to exercise their discretion on erring parties and their representatives in courts; it is necessary to enforce all fines for non-appearance of all parties, as provided for in the ACJA
4. *Alternatives to Prison Sentencing:* Section 455-459, and Section 460- 466 provide for Probation, and Suspended Sentencing/ Community Service respectively. There is a need to institute these measures as alternatives to prison sentencing, especially in the High courts, to encourage speedy trial, and reduce Pre-Trial detention.
5. *Introduce 'court managers or administrators' in the justice sector:* Court clerks may be assessed and retrained for that purpose. They will be responsible for, amongst things, harmonizing periods/roasters for inspection of detention facilities, vacation times, official assignments to avoid conflicts and adjournments of cases.