



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
LAGOS STATE
(MARCH 2018-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 Lagos State

To ensure effective collaboration, PWAN worked with the Chief Judge of the High court of Lagos State, 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 (Ikeja and Badagry) and Civil Society Organizations including the media.

- Observation of courts began in Lagos State in March 2018, 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

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

General public, Civil Society and other relevant stakeholders through public release of findings of the events and social media engagement.

- Using the purposive sampling methodology, 25 courts (4 High Courts & 21 Magistrate Courts located in Apapa, Badagry, Isolo, Ogba, Ikeja, Igboere, Surulere), 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 **March 2018 till November 2019**. Each observer participated in daily court observation and 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. The data going to be analysed in this report are based on those observations.

Presentation of Findings- Case Monitoring

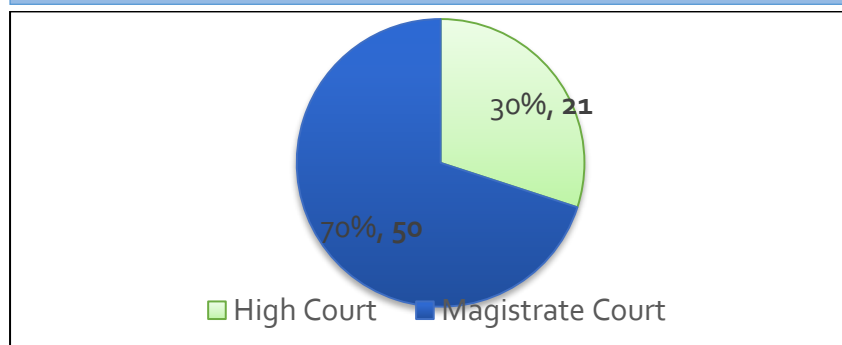
Case Information

The data presented for this observation period is based on observation from March 2018 till November 2019. In this observation period within the Lagos State, 71 cases were monitored, 21 of which were at the High Court (30%) and 50 at the Magistrate Court (70%)

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

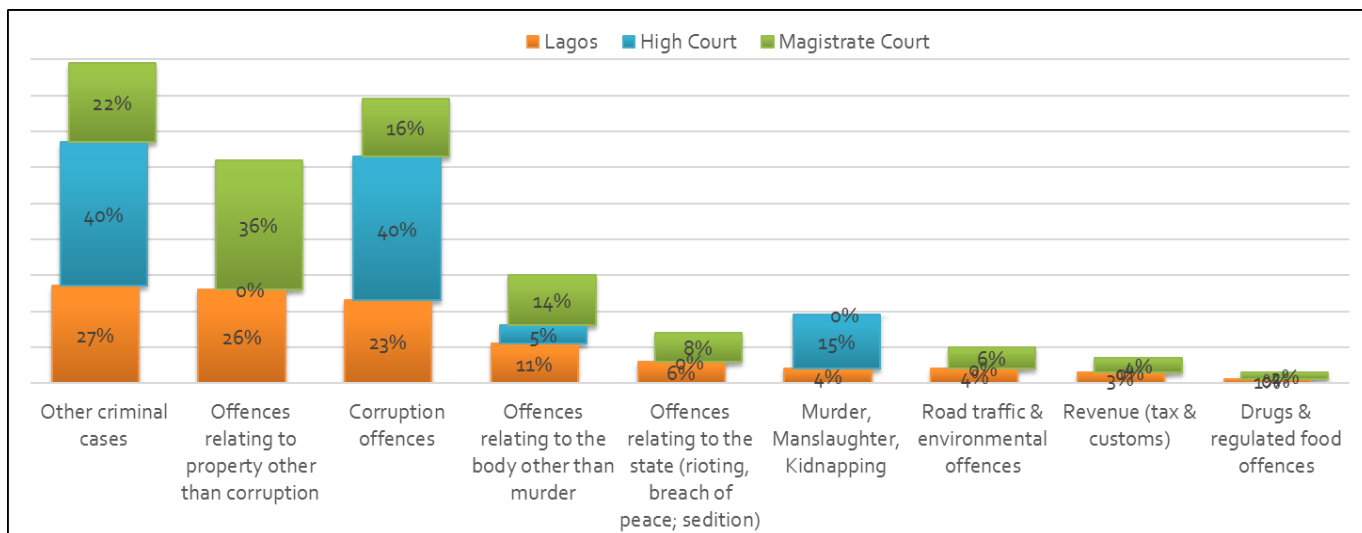
- Advanced fee fraud
- Obtaining money under false pretenses
- Fraudulent receipt of money from government agencies and parastatals
- Criminal breach of trust and cheating
- Diverting and misappropriation of funds
- Making false statements
- Impersonation
- Forgery
- Cyber Fraud

Number (and %) of cases monitored in High Court and Magistrate Court (2018-2019)



Nature of Case

During the period under review at the High Court, 40% of cases observed were corruption cases, 15% murder, manslaughter or kidnapping, 5% offences relating to the body other than murder and 40% other criminal cases. At the Magistrate courts, 16% of the cases observed were corruption offences, 8% of the cases were offences relating to the state which included rioting, breach of peace and sedition, 36% of the cases involved offences relating to property other than corruption, and 14% were offences relating to the body other than murder.



Other criminal cases: Stealing, Burglary, Armed Robbery, Kidnapping

Value of the case

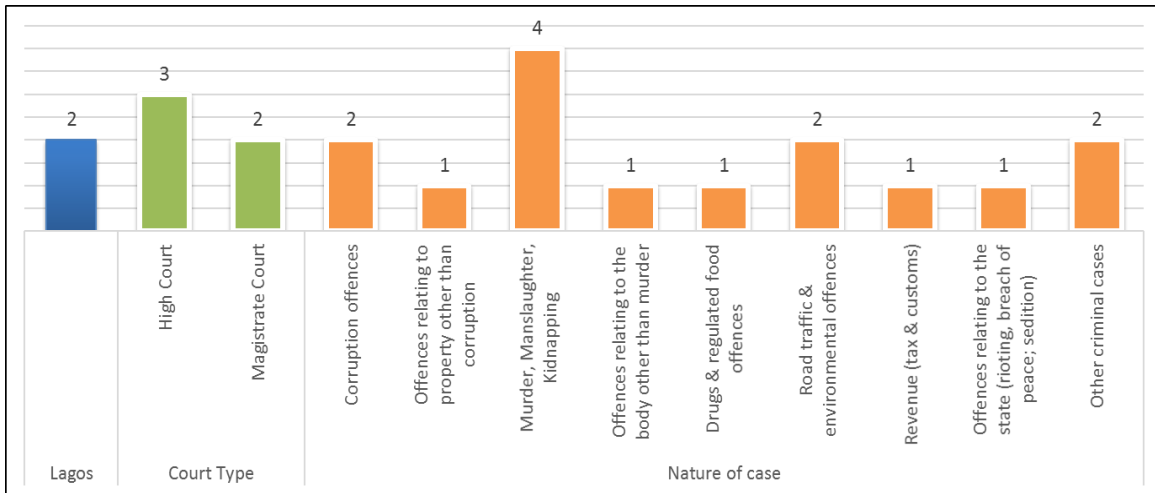
In Lagos State, 83% of criminal cases across the high courts and magistrate courts were valued below Ten Million Naira (₦ 10,000,000), 75% of which are corruption related. 7% of the cases were valued between Ten Million Naira (₦ 10,000,000) and Fifty Million Naira (₦ 50,000,000), 17% of which are corruption related. 4% of the cases were valued from Five Hundred and One Million Naira (₦ 501,000,000) and above; 8% of the cases were corruption cases.

	Lagos	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	Drugs & regulated food offences	Road traffic & environmental offences	Revenue (tax & customs)	Offences relating to the state (rioting, breach of peace; sedition)	Other criminal cases
Below N10m	83%	25%	95%	75%	87%	0%	100%	100%	100%	100%	100%	88%
N10m to N50m	7%	25%	3%	17%	7%	0%	0%	0%	0%	0%	0%	0%
N51m to N100m	4%	25%	0%	0%	0%	100%	0%	0%	0%	0%	0%	0%
N501m and above	4%	25%	0%	8%	0%	0%	0%	0%	0%	0%	0%	12%
Others (e.g. if in foreign currency indicate currency & amount)	2%	0%	3%	0%	7%	0%	0%	0%	0%	0%	0%	0%

Information on Defendants

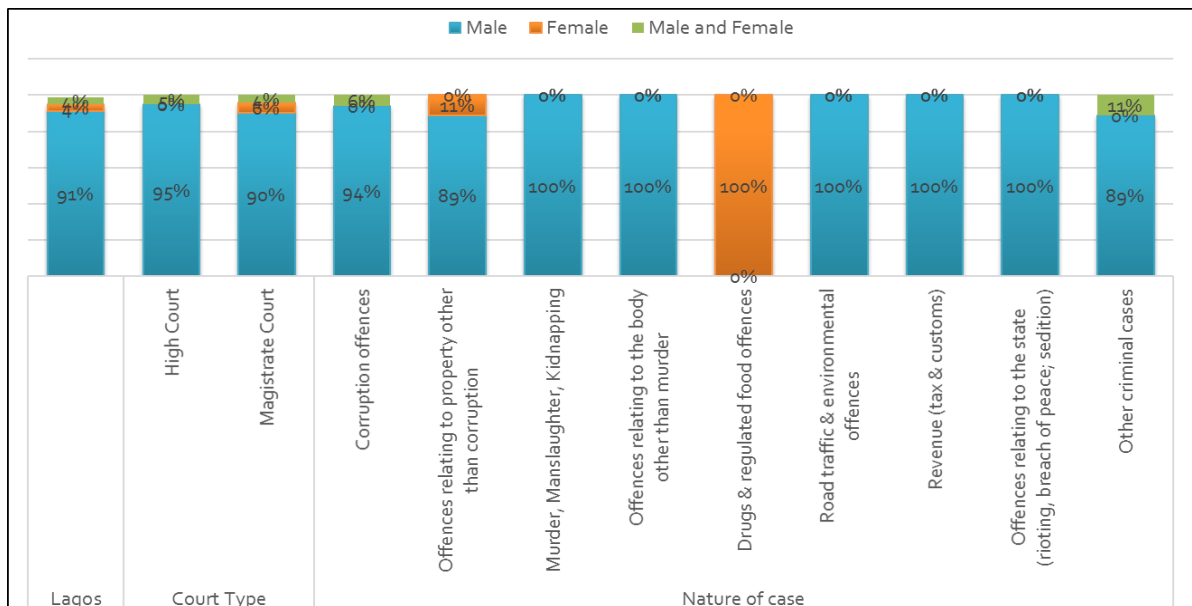
In criminal cases, the average number of defendants at the high court is 3, and at the magistrate court is 2. For corruption related offences, 2 defendants are usually involved.

Average Number of Defendants



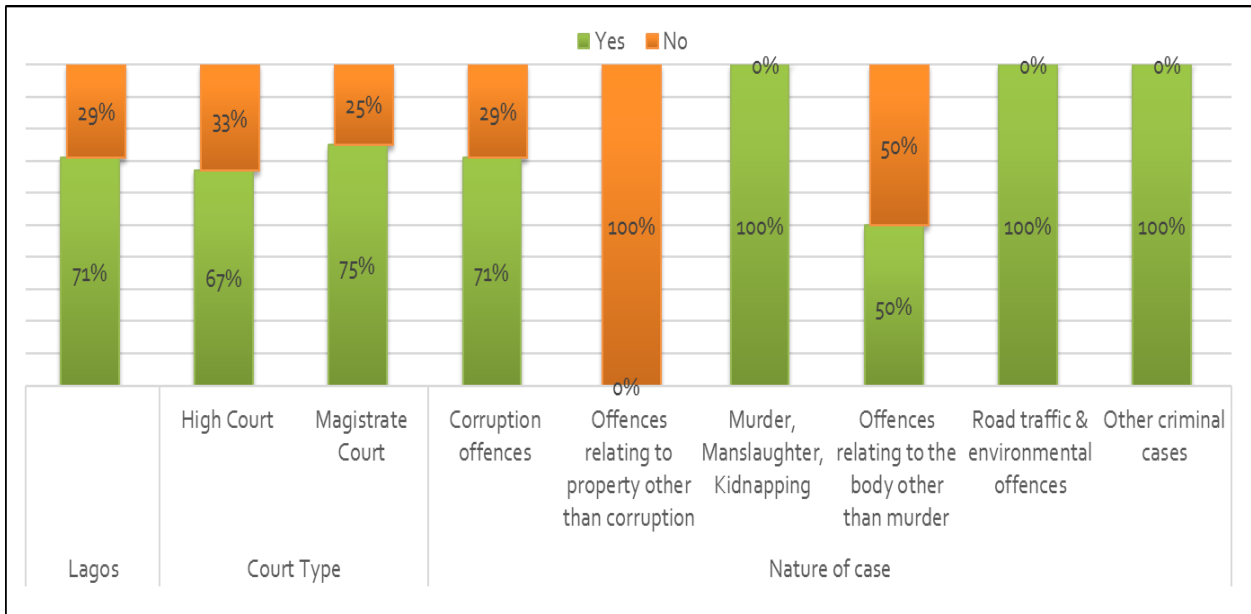
94% of defendants involved in corruption offences are male while 6% were female. In road traffic and environmental offences, Revenue offences, Murder, Manslaughter, Kidnapping, Offences relating to the body other than murder, offences against the state 100% are male. The observation also revealed that 100% of the cases involving drugs and regulated food offences were committed by females.

Gender of Defendants



As at the time of submission of this form, 71% of the corruption cases being observed are still ongoing.

As at the time of submission of this form, was the case still ongoing?



Pretrial requirements

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

The data from the period of observation shows that it takes an average of 39 days for cases filed to be assigned to a judge. For corruption cases, it takes an average of 67 days, whilst in other criminal cases it takes 70 days. Section 252(2) of the ACJL of Lagos State provides that “where information has been filed in the court, the Chief Judge shall take appropriate steps to ensure that the information filed is assigned to a judge within fifteen (15) days of its filing.”

Date of 'Assignment' to date of 'Service'

In the cases monitored, it was observed that it takes an average of 2 days at the high court from the date of assignment of cases, to the date of service; and 3 days at the magistrate court. For corruption related offences, it takes 2 days for assigned cases to be served to defendants. Section 252(3) of the ACJL provides that “... the appropriate court to which the information is assigned shall within fourteen (14) days of such assignment issue hearing notices to the witnesses and defendants ...”

Date of 'Service' to date of 'Arraignment':

At the high courts, it takes 7 days from the date of service, to the date of arraignment of defendants; while at the magistrate court it takes 9 days. For corruption related offences, it takes an average of 4 days for defendants to be arraigned from the time which they were served.

Average number of days taken for a case to be 'filed/transferred' and 'disposed'

	Lagos	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	Drugs & regulated food offences	Road traffic & environmental offences	Revenue (tax & customs)	Offences relating to the state (rioting, breach of peace; sedition)	Other criminal cases
Date of filing/transfer of the case' & 'Date of Assignment'	39	203	11	67	1	36	2	7	89	21	1	70
Date of filing/transfer of the case' & 'Date of Service'	29	204	11	85	6	39	6			22	3	13
Date of filing/transfer of the case' & 'Date of arraignment'	36	57	33	24	21	45	9		89	38	12	69
Date of filing/transfer of the case' & 'Date of commencement of hearing'	77	195	57	126	40	45	25	18	94	43	15	116
Date of filing/transfer of the case' & 'Date of Disposed'	69		69	15	41			18		84	16	212
Date of assignment' & 'Date of Service'	3	2	3	2	5	3	3			1	2	2
Date of Service' & 'Date of Arraignment'	9	7	9	4	14	7	5			16	12	8
Date of arraignment' & 'Date of commencement of hearing'	18	6	20	11	22	0	16		8	5	14	31
Date of commencement of hearing' & 'Date case was disposed'	20		20	0	12			0		14	32	48

Speedy trial

Date of 'Arraignment' to date of 'Commencement of hearing'

In the Lagos State, it takes an average of 18 days (6 days at the high court, 20 days at the magistrate court) from the date of arraignment to the date of commencement of hearing. For corruption offences, it takes an average of 11 days, while for other criminal cases it takes offences such as murder and manslaughter take 31 days.

Adjournments

An average of 6 adjournments are granted for criminal proceedings in Lagos State (7 at the high court, and 6 at the magistrate courts). The data further shows that for corruption cases, an average of 4 adjournments is granted while 10 adjournments are granted for other criminal cases. At the high court the most amount of adjournments sought is at the instance of the defendant with an average of 4 adjournments being recorded while adjournments at the instance of the prosecution is recorded at an average of 3.

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

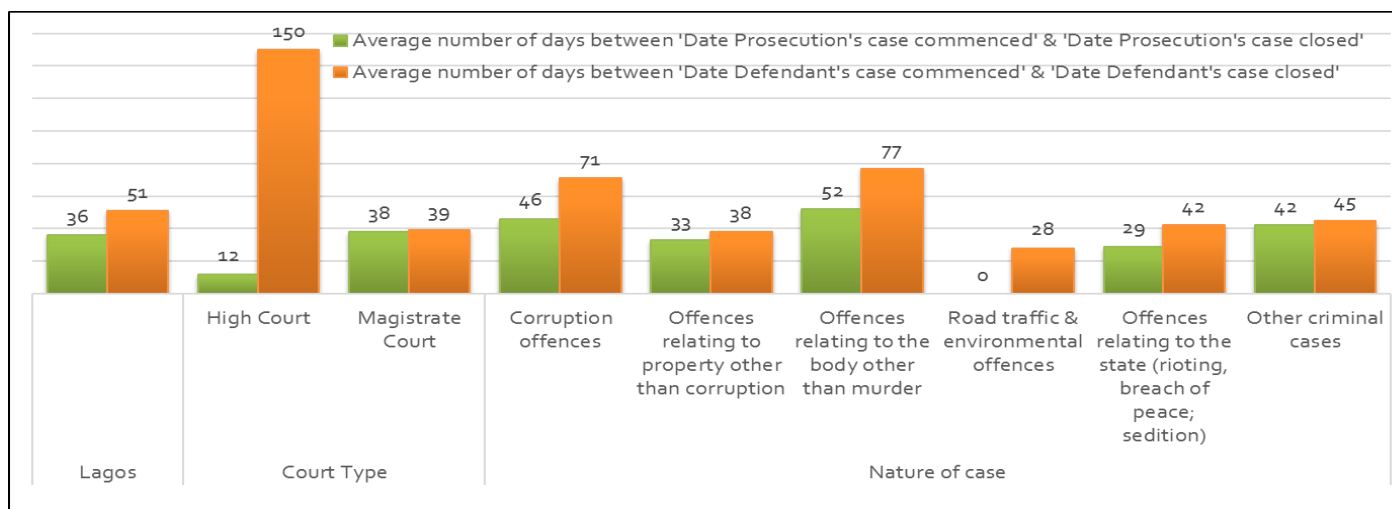
	Lagos	Court Type		Nature of case								
		High Court	Magistrate Court	Corruption offences	Offences relating to property other than corruption	Murder, Manslaughter, Kidnapping	Offences relating to the body other than murder	Road traffic & environmental offences	Revenue (tax & customs)	Offences relating to the state (rioting, breach of peace; sedition)	Other criminal cases	
Average number of adjournments granted in the case	6	7	6	4	5	9	6	4	4	5	10	
Average number of adjournments granted at the instance of the court	2	2	2	1	2	2	2	1	2	2	4	
Average number of adjournments granted at the instance of the prosecutor	2	3	2	2	2	2	2	1	1	2	5	
Average number of adjournments granted at the instance of the defendant	3	4	2	2	2	5	3	2	1	3	5	
Average number of adjournment due to other factors	2	2	2	2	2	2	3			1		

Date 'Case commenced to date 'Case closed' for parties:

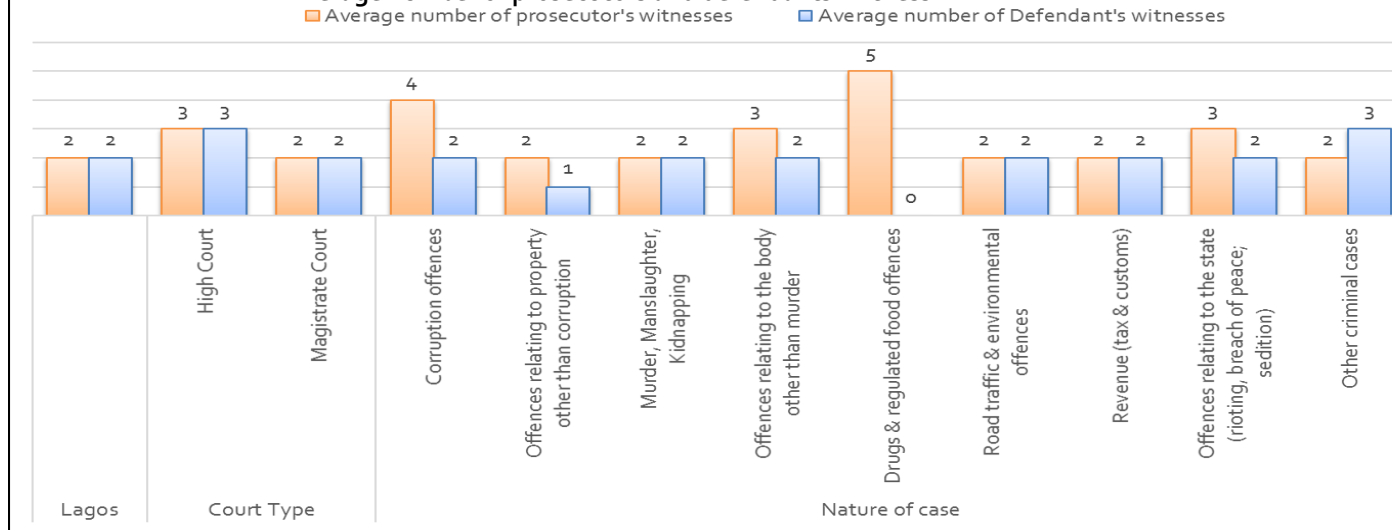
The prosecution takes an average of 36 days at the high court, and 51 days at the magistrate court to close their case. The defence takes 150 days at the high court, and 39 days at the magistrate court to close its case. For corruption related offences, it takes the prosecution 46 days to open and close its case while the defence takes a longer period of time (71 days) to

open and close its case. This corroborates the earlier data that shows the defence applies for more adjournments than the prosecution. Furthermore, the prosecution calls more witnesses than the defence in corruption matters with an average of 4 witnesses compared to the defence which calls an average of 2 witnesses.

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



Average number of prosecutors and defendants' witness



'Disposal' of cases:

An average of 50% of the cases observed were disposed of as a result of being struck out in the magistrates' court. 20% of these were corruption cases while 56% were other criminal cases. In an average of 39% of the cases, judgment was entered. 50% at the high court and 38 percent at the magistrates' court. 80% of the judgment entered was in relation to corruption cases; while in relation to road traffic and environmental offences, judgment was entered for 100% of the cases.

A nolle prosequi was entered in an average of 7% of the cases, 50% of which was at the high court.

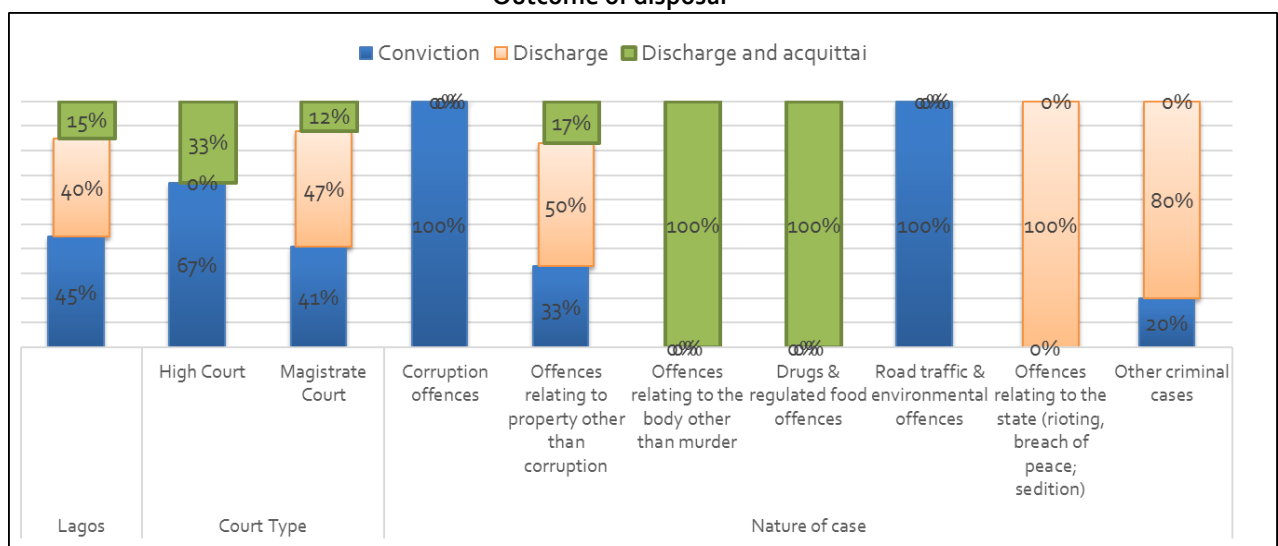
Type of disposal

	Lagos	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	Drugs & regulated food offences	Road traffic & environmental offences	Revenue (tax & customs)	Offences relating to the state (rioting, breach of peace; sedition)	Other criminal cases
Struck out (including decision on preliminary objection)	43%	0%	50%	20%	50%	50%	0%	0%	0%	100%	56%
Judgement	39%	50%	38%	80%	50%	0%	0%	100%	0%	0%	22%
Transferred to other courts	7%	0%	8%	0%	0%	50%	0%	0%	100%	0%	0%
Nolleprosequi	7%	50%	0%	0%	0%	0%	0%	0%	0%	0%	22%
Probation	4%	0%	4%	0%	0%	0%	100%	0%	0%	0%	0%

45% of cases heard in Lagos led to a conviction, 40% led to a discharge and 15% resulted in a discharge and acquittal. 67% of the cases in the high court and 41% in the magistrate court resulted in a conviction.

In relation to corruption cases, 100% of the cases observed resulted in a conviction.

Outcome of disposal



Nature of punishment

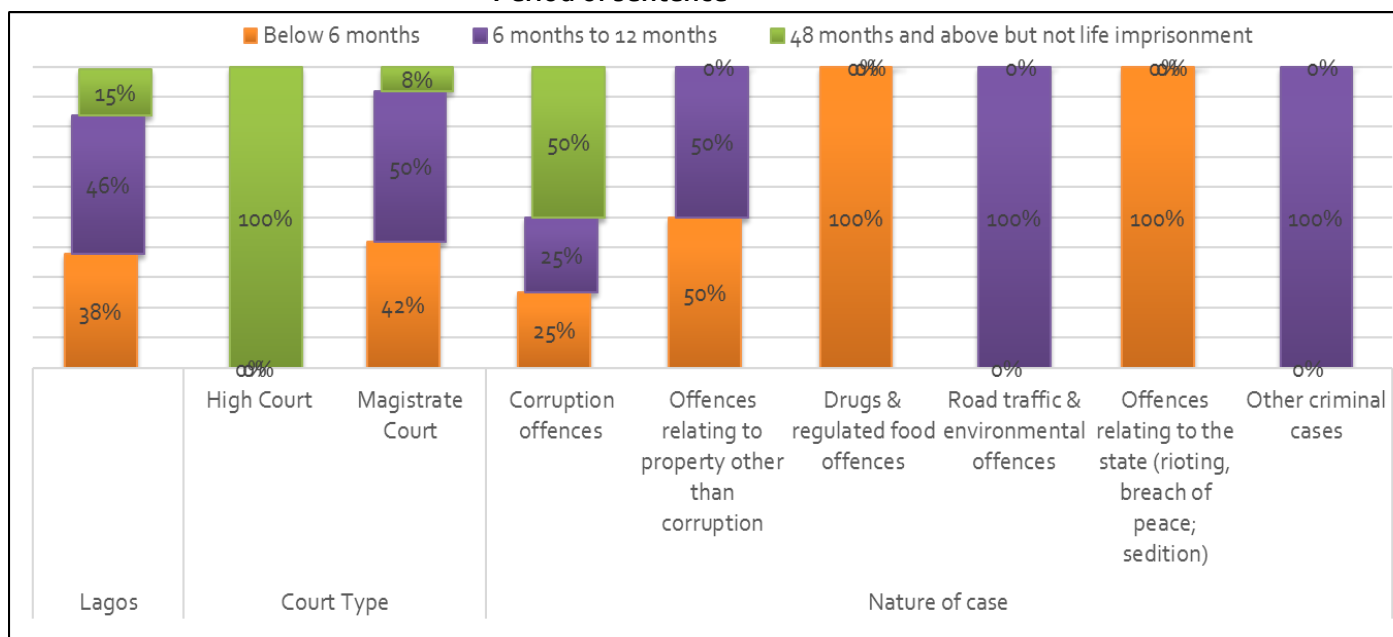
38% of the cases observed ended with fines being imposed. 50% at the high court and 36% at the magistrate's courts. An average of 40% of the cases were corruption cases. 31% of the cases disposed of resulted in a prison sentence. 50% at the high court and 29% at the magistrates' court. 40 percent of which were in relation to corruption cases. Where a prison sentence was ordered, 50% of defendants in corruption cases were ordered to serve a sentence of 48 months and above but not life imprisonment.

It is commendable to note that in compliance with sections 347 of the ACJL which provides for community service, an average of 31% of defendants were sentenced to community service while compensation was awarded to 6% of the victims.

Nature of punishment

	Lagos	Court Type		Nature of case					
		High Court	Magistrate Court	Corruption offences	Offences relating to property other than corruption	Drugs & regulated food offences	Road traffic & environmental offences	Offences relating to the state (rioting, breach of peace; sedition)	Other criminal cases
Fine	38%	50%	36%	40%	17%	0%	100%	100%	50%
Prison sentence	31%	50%	29%	40%	33%	0%	0%	0%	50%
Community service	31%	50%	29%	20%	33%	100%	0%	0%	50%
Forfeiture of asset(s)	12%	100%	0%	40%	0%	0%	0%	0%	0%
Compensation (to victims)	6%	0%	7%	20%	0%	0%	0%	0%	0%
Others	6%	0%	7%	0%	17%	0%	0%	0%	0%

Period of sentence



Bail

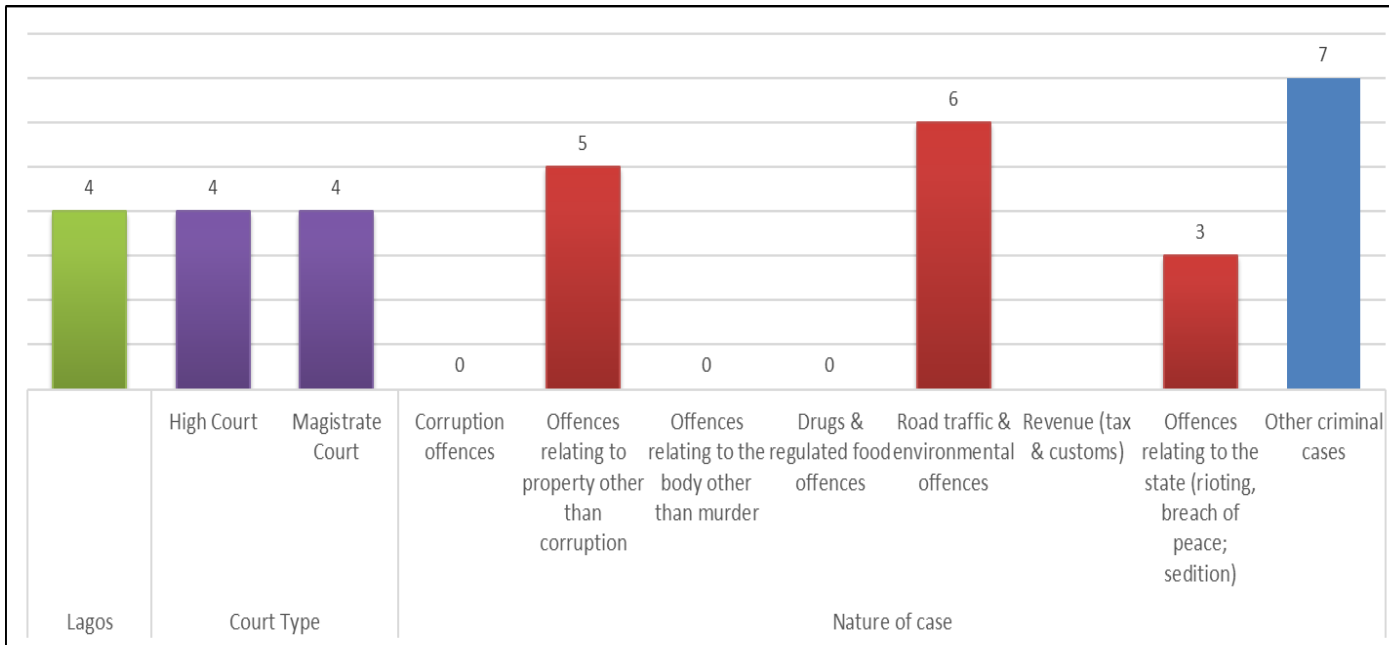
Section 115 (2) of the ACJL states that ‘where a defendant is charged with a felony other than a felony punishable with death, the court may if it thinks fit, admit him to bail.’

Section 116 provides for the security for bail and leaves it at the discretion of the court so far as it is not excessive and is based on the circumstances of the case.

116(2) “the court may require the deposit of money or any other security as specified by the court from the applicant or the defendant and/or his surety before the bail is approved.”

The data shows that it takes an average of 4 days from the date bail was applied for and decided upon both at the high court and the magistrate court.

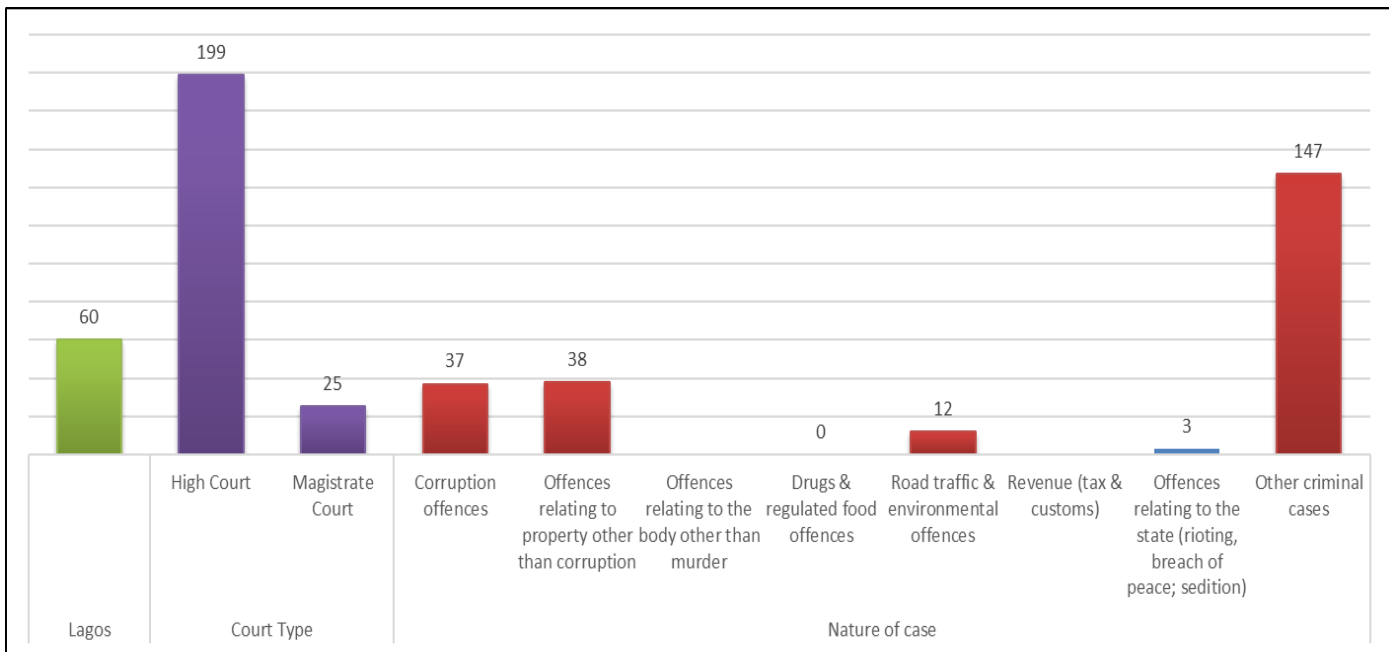
Average number of days between 'Date when bail was applied for' & 'Date when bail application was decided'



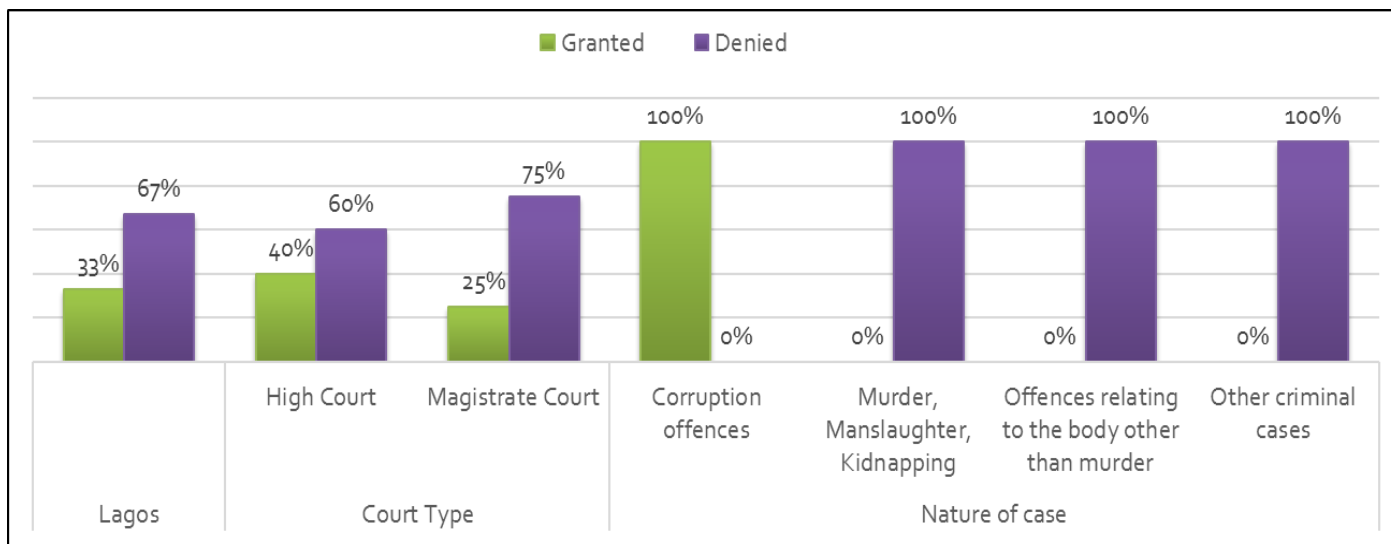
It takes an average of 60 days between the date when bail was granted and the date when the release warrant was signed. It takes about 199 days at the high court and 25 days at the magistrate court. For corruption cases, it takes an average of 37 days.

33% of all bail applications made are granted while 67% are denied. 40% of bail applications made at the high court are granted while 75% of applications made at the magistrate court are denied. 100% of bail applications made in relation to corruption cases are granted.

Average number of days between 'Date when bail was applied for' & 'Date when release warrant was



Was the bail application granted or denied?



In 56% of cases where bail is granted, the court grants it subject to the production of 2 or more sureties. At the high court, the data shows that this is required 100% of the time while at the magistrate court it is required 45% of the time. In relation to corruption cases, it is required 80% of the time.

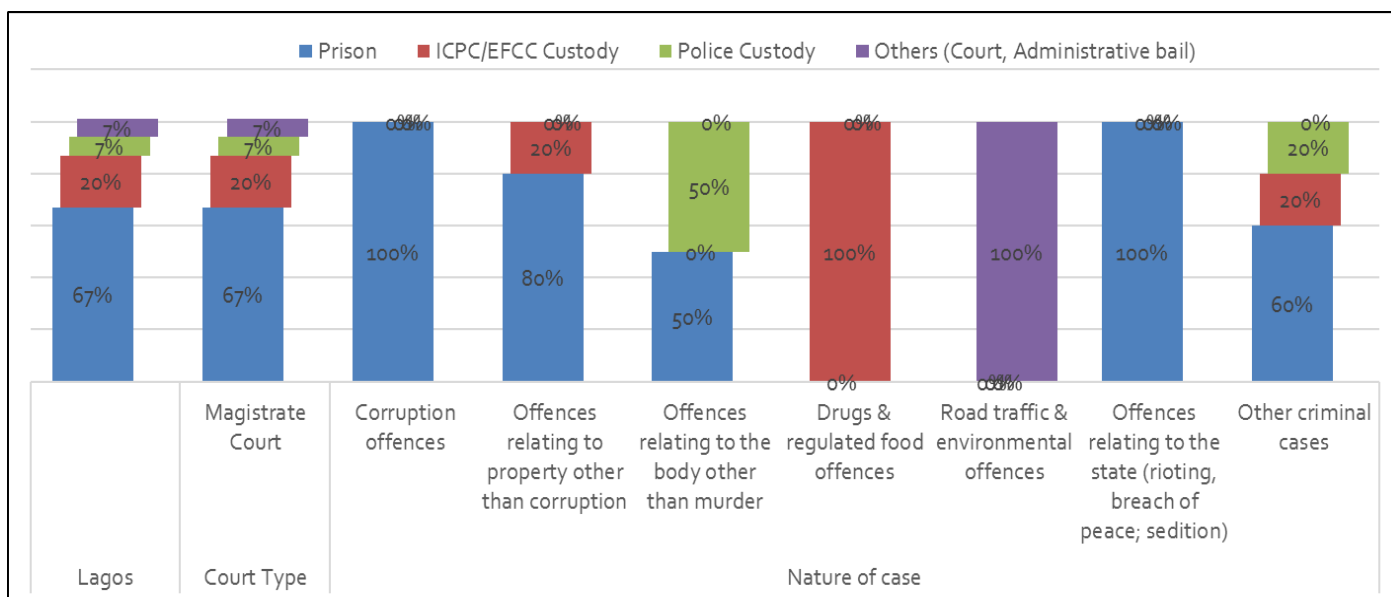
In an average of 37% of the cases, the court grants bail subject to One million Naira (₦ 1,000,000) to Twenty-Five Million Naira (₦ 25,000,000). In relation to corruption offences, these conditions are required in 80% of the cases. Surrendering of international passport as a condition for bail is observed in corruption related offences and other criminal cases.

Terms & Conditions of the Bail

	Lagos	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	Drugs & regulated food offences	Road traffic & environmental offences	Revenue (tax & customs)	Offences relating to the state (rioting, breach of peace; sedition)	Other criminal cases
2 or more sureties	56%	100%	45%	80%	62%	50%	0%	0%	0%	100%	50%
N1m to N25m	37%	80%	27%	80%	12%	0%	0%	0%	0%	0%	62%
To present tax clearance	37%	80%	27%	60%	38%	25%	0%	0%	100%	0%	38%
1 surety	33%	0%	41%	0%	50%	25%	0%	100%	0%	100%	38%
Landed property	22%	60%	14%	40%	0%	0%	100%	0%	0%	0%	38%
Present person of status (e.g. Director in civil service or traditional ruler)	15%	60%	5%	40%	12%	0%	0%	0%	0%	0%	12%
Self-recognition	11%	0%	14%	20%	0%	0%	0%	0%	100%	0%	12%
To surrender international passport	7%	40%	0%	20%	0%	0%	0%	0%	0%	0%	12%
Others	7%	0%	9%	0%	0%	25%	0%	0%	0%	0%	12%

While awaiting decision on bail, 67% of defendants at the high court, and 67% of defendants at the magistrate court, are remanded in prison custody. For corruption offences, 100% of defendants are remanded in prison custody.

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



Prosecution and Defence

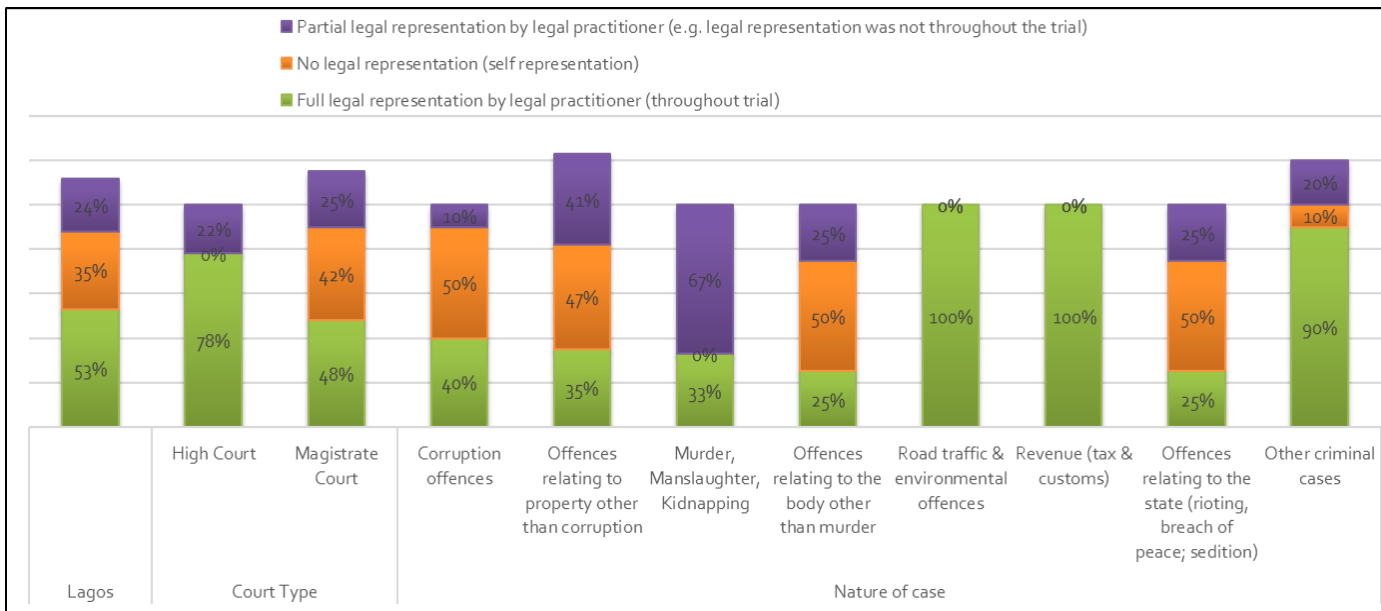
For corruption cases, 46% of the cases observed were prosecuted by the Attorney-General/Ministry of Justice, 31% were prosecuted by the Economic and Financial Crimes Commission (EFCC) and 15% were prosecuted by the Nigeria Police Force (NPF). The NPF on an average of 44%, prosecuting the highest amount of criminal cases in Lagos.

Name of Prosecuting Agency

Name of Prosecuting Agency	Lagos	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	Revenue (tax & customs)	Offences relating to the state (rioting, breach of peace; sedition)	Other criminal cases
NPF	44%	7%	57%	15%	61%	0%	25%	50%	100%	75%	47%
AG/Moj	28%	40%	24%	46%	11%	100%	75%	0%	0%	0%	13%
EFCC	11%	47%	0%	31%	0%	0%	0%	0%	0%	0%	20%
Private prosecution/flat/direct complaint	11%	0%	15%	8%	17%	0%	12%	50%	0%	0%	13%
ICPC	3%	0%	4%	0%	6%	0%	0%	0%	0%	0%	7%
NSCDC	2%	7%	0%	0%	0%	0%	0%	0%	0%	0%	7%
Others	2%	0%	2%	0%	6%	0%	0%	0%	0%	25%	0%

53% of defendants at the high court have full legal representation, while 78% have full legal representation at the magistrate court. In regards to corruption offences, 40% of defendants were fully represented by a legal practitioner, 50% had no legal representation or chose to represent themselves while 10% had partial representation.

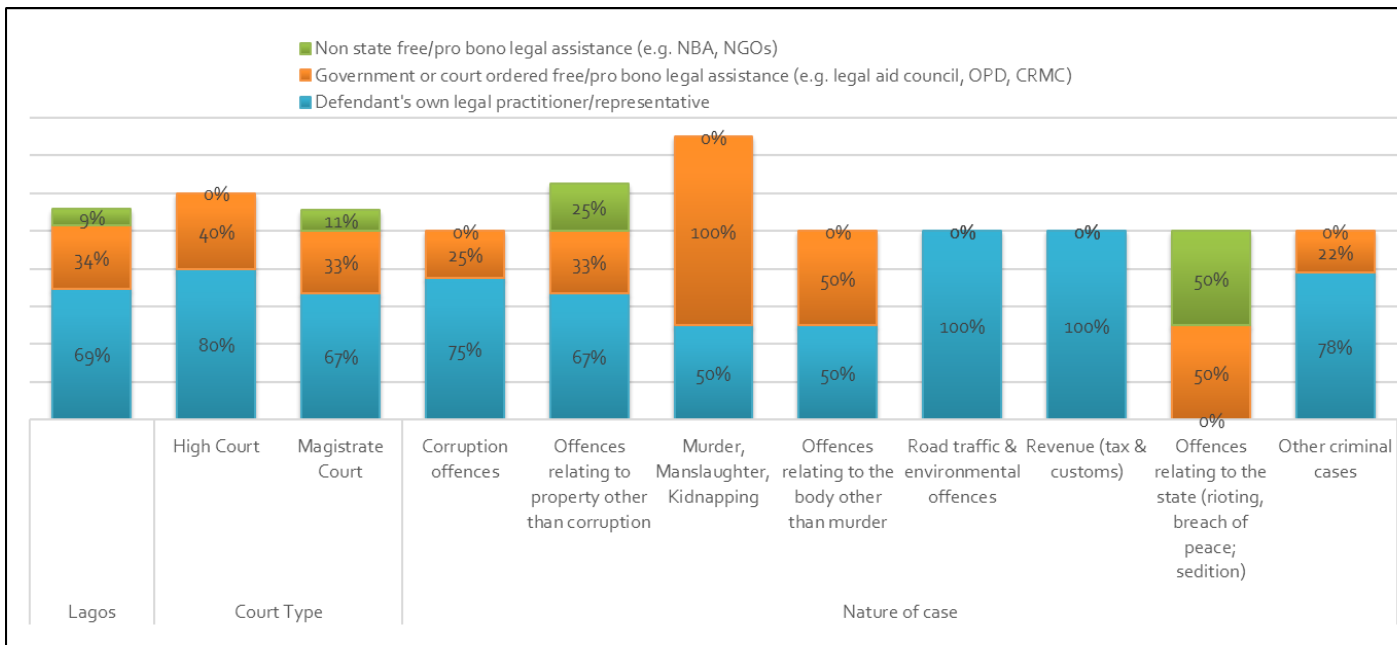
Nature of Representation for Defendant



69% of defendants in Lagos were represented by a legal practitioner instructed by them while 34% were represented by a government or court ordered/pro-bono lawyer. 80% of the defendants at the high court and 67% at the magistrates' court were represented by a legal practitioner instructed. Defendants who had legal representation were represented by their own legal practitioners.

In relation to corruption offences, 75% of defendants were represented by legal practitioners instructed by them while 25% were represented by government or court ordered pro-bono lawyers.

Who was Responsible for Full or Partial Representation?



Key findings on Anti-Corruption cases

- There is a delay in assignment of cases filed to judges as the data shows that it takes an average of 39 days for cases filed to be assigned to a judge. For corruption cases, it takes an average of 67 days, whilst in other criminal cases it takes 70 days. This is contrary to section 252(2) of the ACJL that states that assignment should be done within 15 days from the date of filing.

- On an average it takes 2 - 3 days from date of assignment to date of service. This shows that the registrars of the court are in compliance with Section 252(3) of the ACJL by ensuring that defendants are served before the prescribed 14 days after assignment of cases.
- At the High Courts, it takes 7 days from the date of service, to the date of arraignment of defendants; while at the magistrate court it takes 9 days. For corruption related offences, it takes an average of 4 days for defendants to be arraigned from the time which they were served. It is highly commendable that in line with objectives of the ACJL of Lagos State which provides for speedy disposal of cases, defendants are arraigned quickly.
- Regarding trial proceedings, it has been observed that in corruption cases it takes 37 days from the moment a bail application is made to the time the release warrant is signed. This is significantly less in comparison to other criminal offences that takes 147 days. We are also mindful of the fact that perfection of the bail conditions contributes to this fact and therefore encourage the courts to grant bail on liberal terms based on the circumstances of each case.
- The data shows that in 80% of corruption cases, 2 or more sureties are required in order to admit the defendant to bail and 80% of defendants are admitted to bail with conditions from 1m to 25 million. Again, the courts are encouraged to grant bail on liberal terms in deserving matters.
- Adjournments in corruption cases at the instance of the court is low as the data shows that only 1 adjournment is sought while adjournments sought by both the prosecution and defence are also low with an average of 2 adjournments. We commend the efforts of all the parties in ensuring that delay is reduced in handling criminal cases.
- There is a long period of time between when a corruption case is filed and when hearing commences with an average of 126 days. We encourage the courts and all parties to ensure that this time frame is monitored into in order to ensure compliance with the objectives of the ACJL.
- It was observed that only 20% of the corruption cases monitored were struck out; this shows that the courts go into the substantive suit and determine the matter rather than dispose of the matter based on preliminary issues or technicalities. Section 260 (2) of the ACJL states that “an objection to the sufficiency of evidence disclosed in the proof of evidence attached to the information, shall not be raised before the close of the prosecution’s case.”
- In 100% of the corruption cases monitored, 100% of the defendants involved were remanded in prison custody and 40% of the cases were disposed of by the forfeiture of the defendant’s assets.

Recommendations

1. **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/rosters for inspection of detention facilities, vacation times, official assignments to avoid conflicts and adjournments of cases.

2. **Case Management:** Proper case management system is required so as to track when cases are filed in order to ensure that they are assigned and commenced as early as possible in order to avoid delays and matters being in court for a long period of time.
3. **Plea Bargaining:** we employ the Attorney General to, in deserving cases, explore the option of a plea bargain agreement in line with section 75 of the ACJL.
4. **Fines in lieu of imprisonment:** We encourage the courts to use its discretion to impose fines in lieu of imprisonment where the case warrants such, in accordance with section 316 of the ACJL.
5. **Community Service:** We commend the courts for sentencing defendants to community service in lieu of sentence or fine and recommend that this practice continues in compliance with the ACJL.