



PRESENTATION ON THE FINDINGS OF CASE MONITORING IN LAGOS STATE

(MARCH 2018 – SEPTEMBER 2018)

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Introduction

The Enhancing Transparency and Accountability in the Judicial Sector project is a 3-year project being implemented by the Rule of the Law and Empowerment Initiative (also known as Partners West Africa – Nigeria) with support from MacArthur Foundation. To ensure effective collaboration, Partners West Africa–Nigeria worked with the state High Courts in the Federal Capital Territory (FCT), Lagos & Ondo States; Administration of Criminal Justice Monitoring Committee (ACJMC); the Nigerian Bar Association (Akure, Gwagwalada, Ikeja, Lagos Island, & Unity Branches), Nigeria Institute of Advanced Legal Studies, Civil Society Organizations & the media.

The goal of the project is to enhance integrity in the Nigerian Judicial system through court observation; promote implementation of the Administration of Criminal Justice Act/Law in the FCT, Lagos & Ondo states; enhance citizen’s participation in judicial processes and improve access to information on judicial proceedings with regards to compliance of the ACJA/L. We aim to achieve this through social accountability in the judicial sector.

A total of 65 court rooms are being observed in the three states (FCT -20, Lagos- 25 and Ondo – 20).

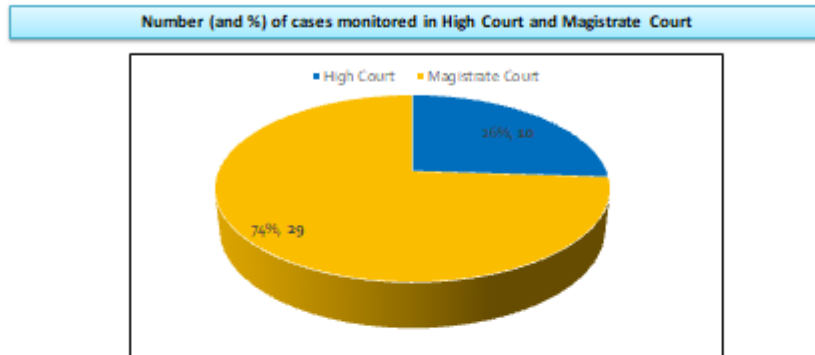
Methodology

One of the strategies PWAN adopted to monitor the level of compliance to the Administration of Criminal Justice Act/Law is the monitoring of cases. Observers were asked to select 3 cases each (mainly criminal cases, and civil in some instances) for which they would observe from commencement to disposal. The findings below are based on cases whose monitoring commenced in March 2018, some of which have been concluded, to September 2018.

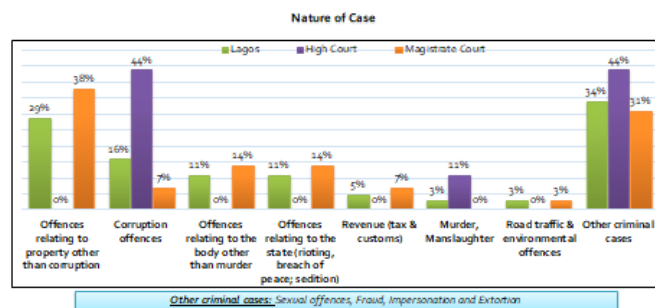
Presentation of Findings

1. Nature of Cases

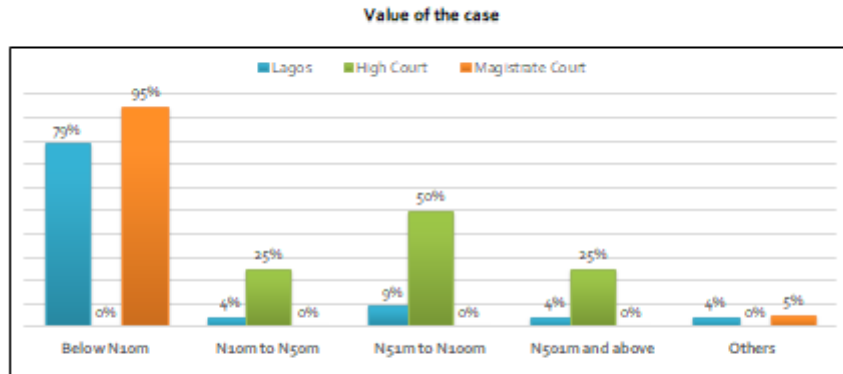
A total of 39 cases were monitored from March 2018 to September 2018; 10 (26%) of them being observed at the High Court, and 29 (74%) at the Magistrate Court.



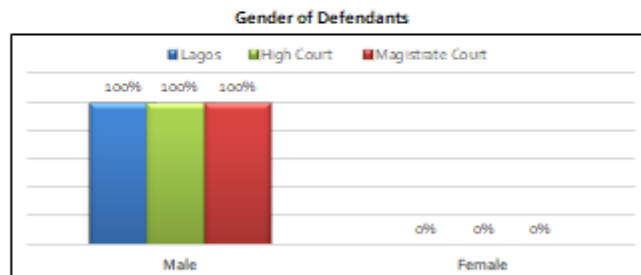
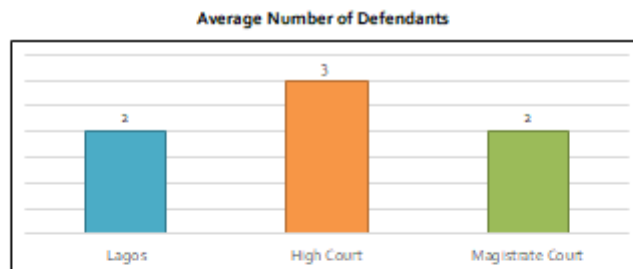
Of the 10 cases monitored in the High Court, 44% are Corruption offences, 11% are 'Murder or Manslaughter' cases, and 44% are other Criminal cases ranging from Forgery, robbery, criminal conspiracy, theft etc. At the Magistrate Courts, 31% of the 39 cases observed are comprised of cases of Forgery, Robbery, Criminal conspiracy, Criminal breach of trust, theft, cheating, and slander, amongst other offences; 7% for Corruption offences, 14% offences relating to the body other than murder and 38% offences relating to property other than corruption.



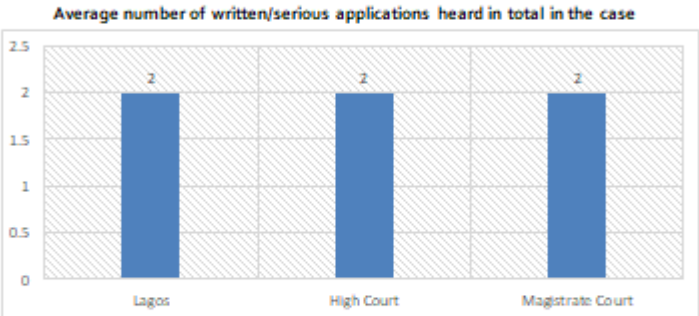
Where applicable, 79% of the monitored cases were valued at below ₦10m (Ten million Naira), 4% valued between ₦10m (Ten million Naira) and ₦50m (Fifty million Naira), 9% valued between ₦51m (Fifty-one million Naira) and ₦100m (One Hundred Million Naira), and 4% of cases valued from ₦501m (Five Hundred and one Million Naira) and above.



On average, the number of defendants standing trial is 3 at the High Court, and 2 at the Magistrate Court; 100% of whom are male.



The average number of written/serious applications heard in total in the monitored cases is 2 in each of the courts.



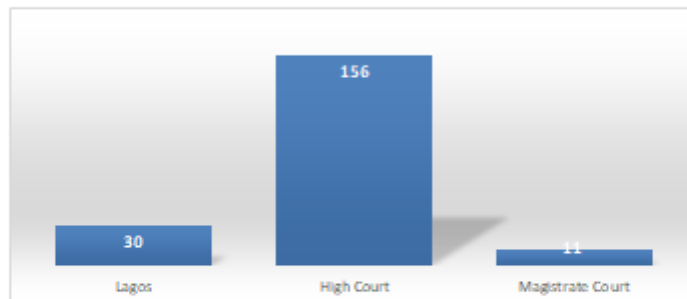
2. Speedy Trial

a) Pre Trial and Trial Requirements

Assignment of Information and Issuance of Notice of Trial

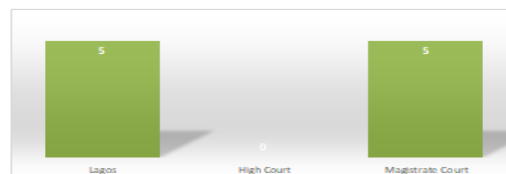
The average number of days between 'Date of filing/ transfer of the case', and 'Date of Assignment' is 30, which considerably contravenes Section 252 (2) of the ACJL, that states that the Chief Judge must ensure that cases filed is assigned to a court for trial within 15 working days of its filing.

Average number of days between 'Date of filing/transfer of the case' & 'Date of Assignment'



Findings have also revealed that the average number of days between Assignment and Service is 5. The value for High Court is inconclusive and therefore not reliable. Section 252 (3) of the ACJL instructs the court to issue hearing notice within 14 days of assignment, and the Chief Registrar to serve notice not more than 3 days from the date of issue.

Average number of days between 'Date of assignment' & 'Date of Service'

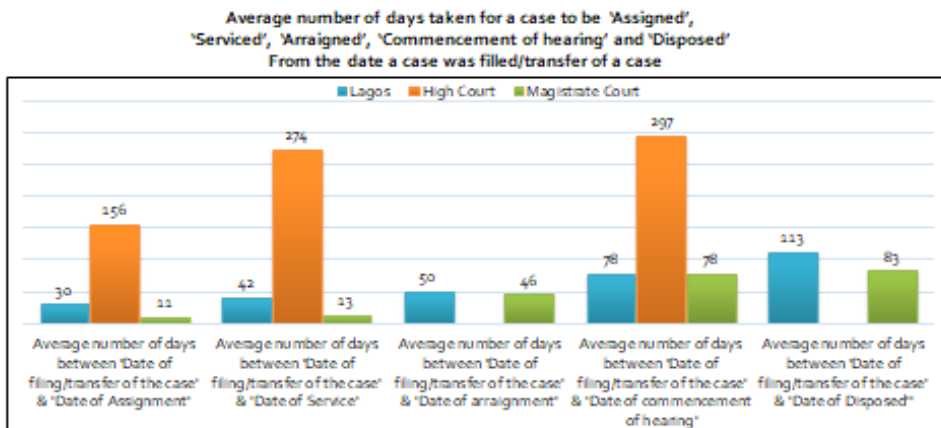


Arrestment and Commencement of Hearing

The average number of days between 'Date of Service' and 'Date of Arrestment' in Magistrate courts is 13, while the number of days between 'Date of Arrestment' and 'Date of commencement of hearing' is 29. Again, there is no reliable and conclusive value for High Court, but analysis shows that there is an average number of 3 days between 'Date of arrestment' & 'Date of commencement of hearing'.



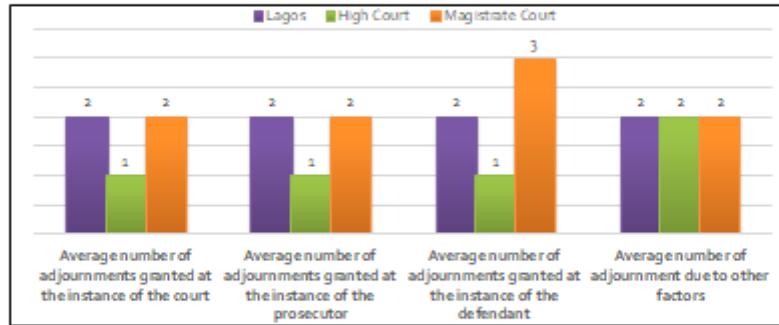
On average, it takes 156 days between 'Date of filing/transfer of the case' & 'Date of Assignment' in the High court. It takes 274 days on average between 'Date of filing/transfer of the case' & 'Date of Service' in the High Court. It also takes an average of 297 days between 'Date of filing/transfer of the case' and 'Date of commencement of hearing' in the High court.



b) Day to Day adjournments

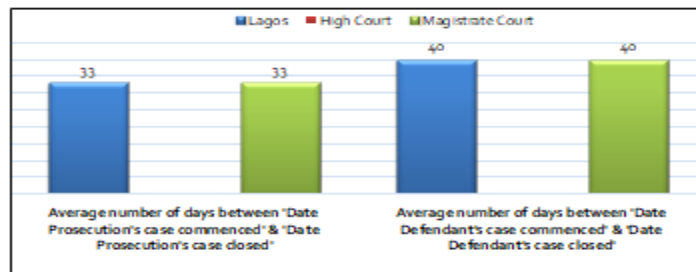
On average, the number of adjournments granted at the instance of the defendant is shown to have the highest value in the Magistrate court. The next significant number of adjournments is the one granted due to other factors in both courts.

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



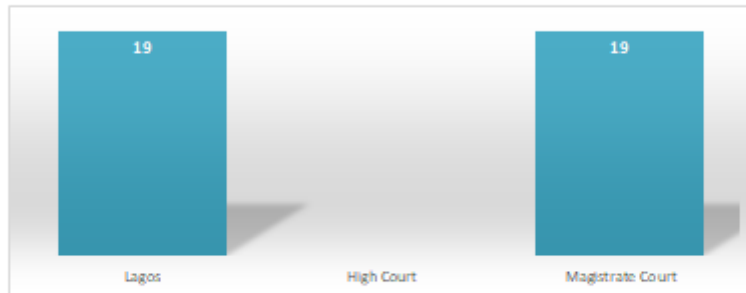
This corroborates the average number of days between case commencement, and case closure for both parties in Magistrates courts. The prosecution takes an average of 33 days to close their case in Magistrate Courts, while defense takes an average of 40 days to close their case. Again, the High Court has no reliable data for this variable/question due to the very low number of observations that produce this result. So it is inconclusive at best.

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



The average number of days between 'Date of Commencement of Hearing' and 'Date case was disposed' is 19 at the Magistrate Courts. As has already been mentioned above, none of the cases been monitored at the High Courts has gone to its rational conclusion or been disposed of yet, which do not give room to calculate days taken to dispose of a case.

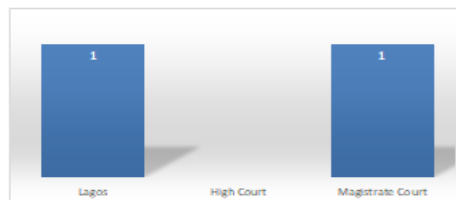
Average number of days between 'Date of commencement of hearing' & 'Date case was disposed'



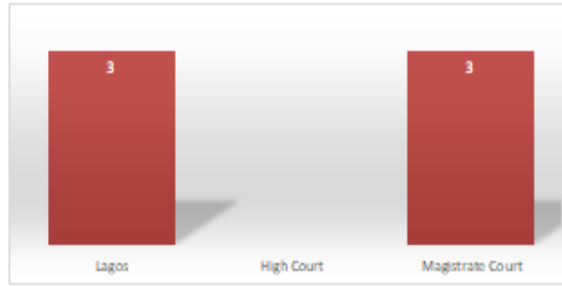
3. Bail

There is an average of one (1) day between 'Date when bail was applied for', and 'Date when bail application was decided' in the Lagos Magistrate Courts. From the observation, it takes an average number of 3 days between bail application, and when release warrant is signed in Magistrate courts.

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



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

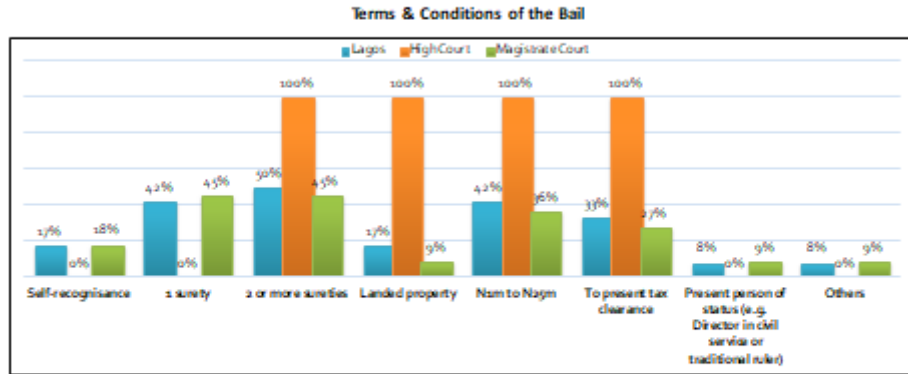


In total, it takes an average of 23 days (in the Magistrate Courts) between date of bail application, and date the release warrant was signed.

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

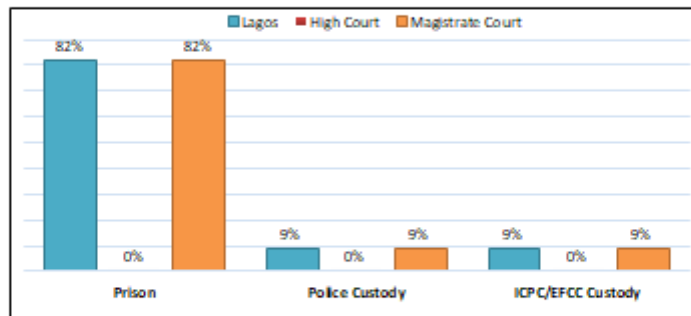


100% and 45% of defendants in the High court and Magistrate court respectively, were granted bail with terms of 2 or more sureties; an average of 42% granted bail to the sum of N1m (One million Naira) to N25m (Twenty Five million Naira); and 8% were required to present a person of status.



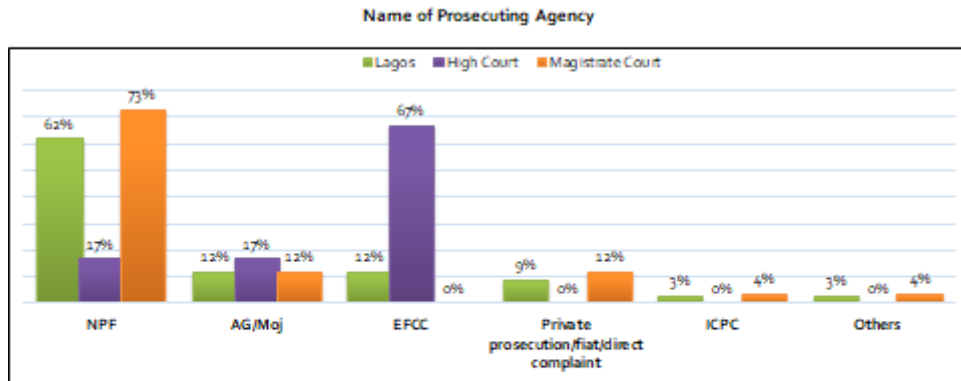
82% of defendants were detained in Prison (by Magistrate courts), 9% in Police Custody, and 9% in ICPC/EFCC Custody while awaiting decision on bail. This is inclusive of children/ young persons.

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

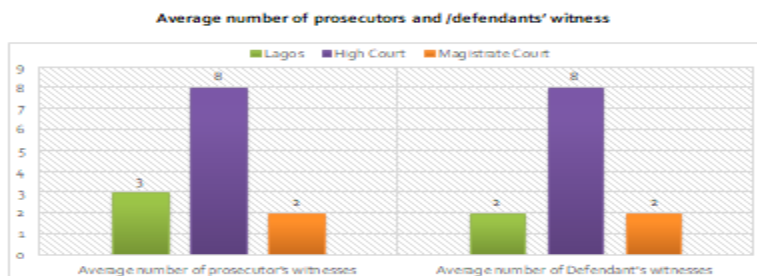


4. Prosecution and Defense

Prosecution of defendants is carried out by the Nigerian Police (62% mostly in Magistrate courts), followed closely by the Economic and Financial Crimes Commission (EFCC) (12% in High courts), and the Ministry of Justice (12%); ICPC, NAPTIP, NDLEA and others constitute an average of 23%.

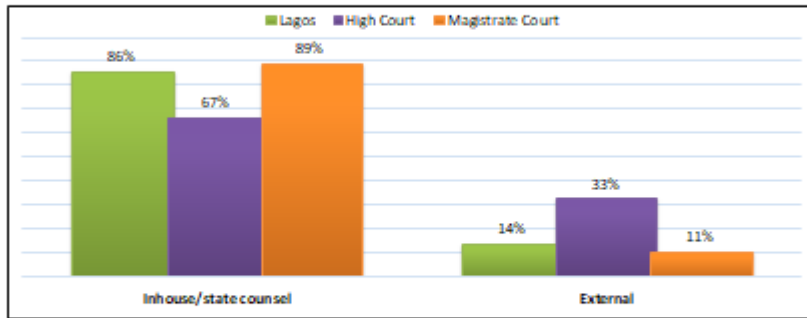


An average of 8 and 2 prosecutor's witnesses are called in the High Court and Magistrate Courts respectively, while the defense also calls an average of 8 and 2 witnesses across the High Courts and Magistrate Courts.

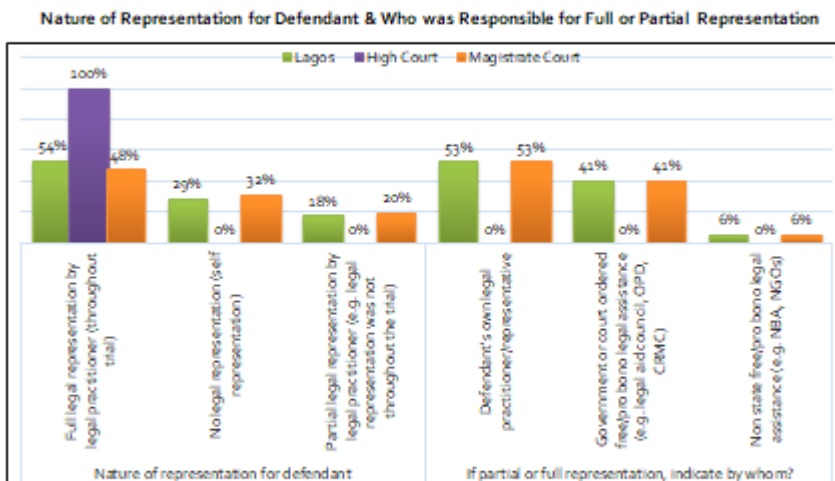


In the cases observed, 86% of prosecution by a state agency was provided by in-house/state counsel.

If prosecution is by a state agency, indicate if lead counsel is in-house/state counsel or an external solicitor?

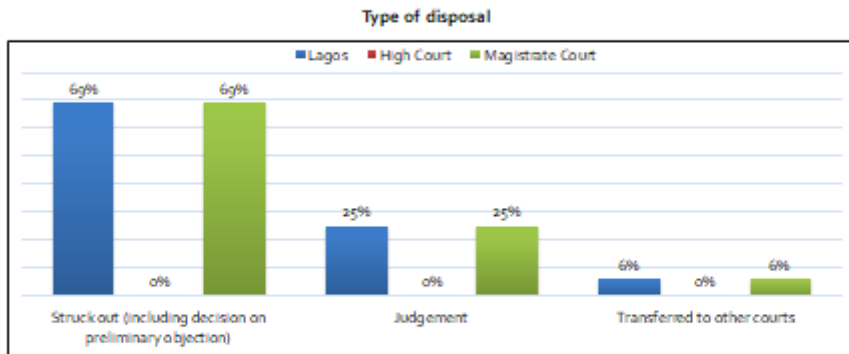


With regards to defense, 72% of defendants have full/ partial legal representation by a legal practitioner throughout trial. Of this number, 53% are the ‘Defendant’s own legal representative’, while 42% are ‘Government or court ordered free/ pro bono legal assistance’.

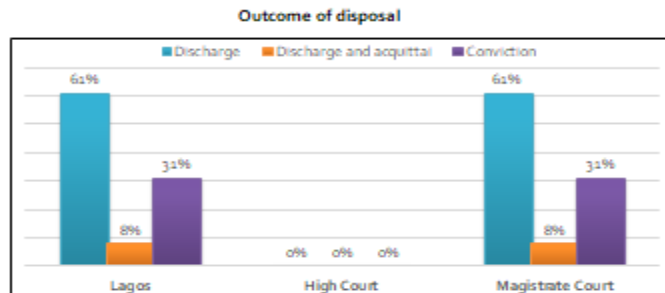


5. Disposal of Cases

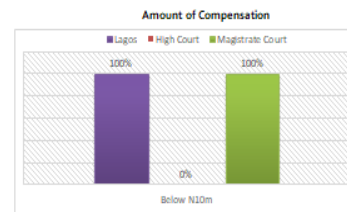
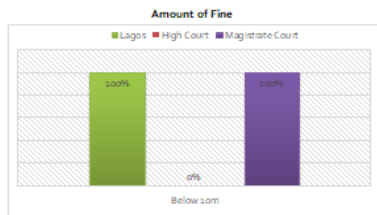
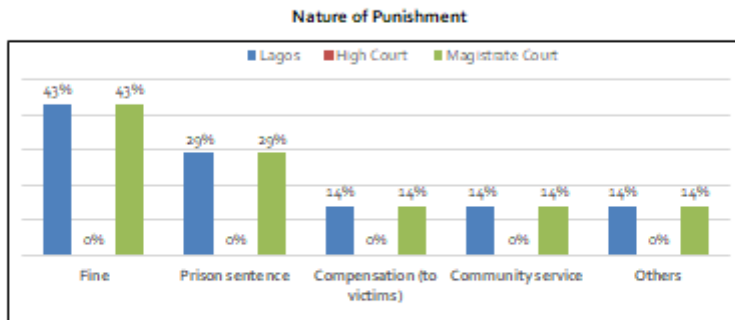
25% of cases are disposed via judgement, 69% are struck out (including decision on preliminary objection), and 6% are transferred to other courts.



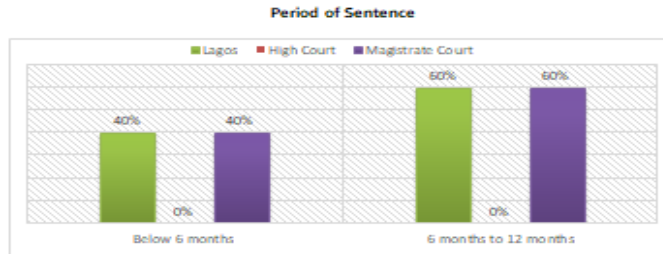
61% of cases disposed of are discharged, 8% are discharged and acquitted, and 31% have a conviction.



Of the percentage convicted, 43% are required to pay a fine in the Magistrate Courts; 29% are sentenced to prison; while 14% are required to pay compensation to victims, or perform community service, or given any other punishment.



The amount of fine and compensation is usually below ₦10 million 100% of the time for convicted persons in Magistrate courts.



The Magistrate courts observed sentence 60% of convicted persons to between 6 to 12 months in prison, while 40% of convicts are sentenced below 6 months.

Recommendations

- **Assignment of Cases:** PWAN would like to underpin the importance of adhering to Section 252 (2) of the ACJL which mandates the Head of Court to assign cases for trial within 15 days of filing. We have instances where it takes a long time to get dates after charges have been filed in court, causing suspects to be held in stations much longer than necessary. A charge once filed, whether electronically or manually should be assigned immediately, especially for criminal cases involving corruption and violent crimes. We suggest that the head of the criminal division should always notify the Chief Judge to assign criminal cases with need for immediate action.
- **Alternatives to Prison Sentencing:** Section 341-348 provide for Probation, and Suspended Sentencing/ Community Service respectively. There is a need to effectively institute these innovative measures as alternatives to prison sentencing in both High Courts and Magistrate courts which would encourage speedy trial, and reduce incidences of pretrial detention.
- **Discharge of duties by parties/ representatives:** It is necessary to enforce all fines for non-appearance of all parties, as provided for in the ACJL to reduce frivolous adjournments, and ensure speedy trial.