



## **PRESENTATION ON THE FINDINGS OF CASE MONITORING IN ONDO**

**(NOVEMBER 2017 –SEPTEMBER 2018)**

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### **Introduction**

The “Enhancing Transparency and Accountability in the Judicial Sector” 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. 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. We aim to achieve this through social accountability in the judicial sector.

In other to ensure effective collaboration, Partners West Africa – Nigeria worked with the state High Courts in the Federal Capital Territory (FCT), Lagos & Ondo; Administration of Criminal Justice Monitoring Committee; the Nigerian Bar Association (Akure, Gwagwalada, Ikeja, Lagos Island, & Unity Branches), Nigeria Institute of Advance Legal Studies, civil society organizations & the media.

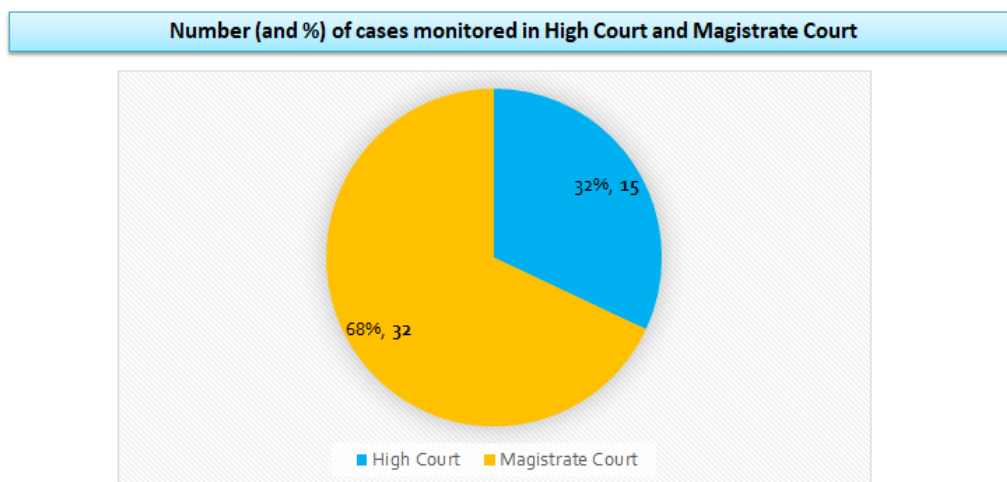
A total of 65 court rooms are being observed in the three states (FCT -20, Lagos- 25 and Ondo – 20).

### **Methodology**

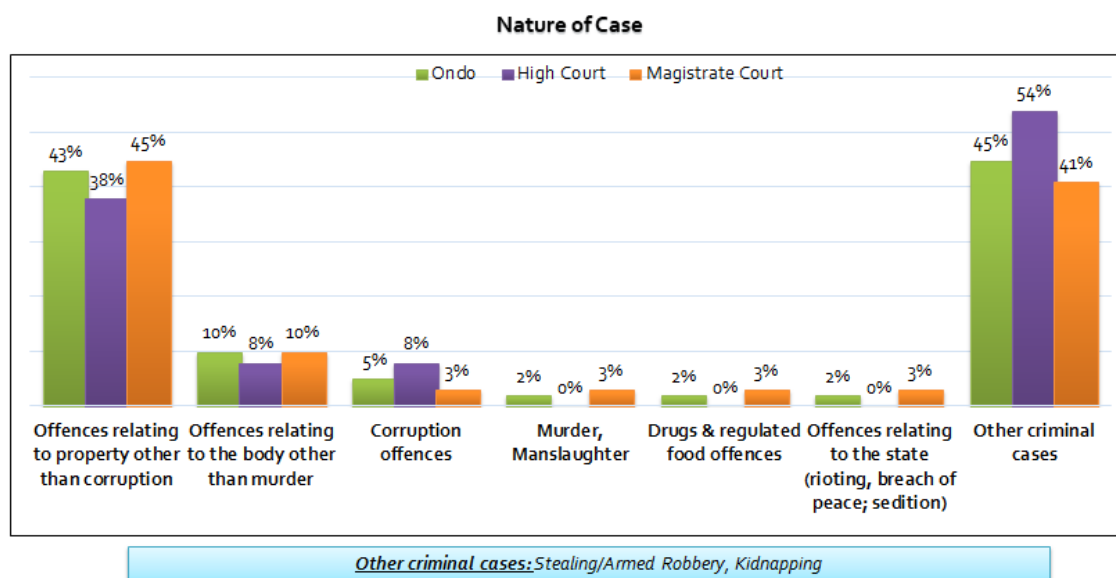
One of the strategies PWAN adopted to monitor the level of compliance to the Administration of Criminal Justice Act/ Law is the monitoring of cases. Observers were asked to select 3 cases each (majorly criminal cases, and civil in some instances) for which they would observe from commencement to disposal. The findings below are based on cases that commenced in November 2017, some of which have been concluded, to September 2018.

## PRESENTATION OF FINDINGS

A total of 47 cases were monitored from September 2017 to November 2018; 15 (32%) of them being observed at the High Court, and 32 (68%) at the Magistrate Court as shown in the chart below



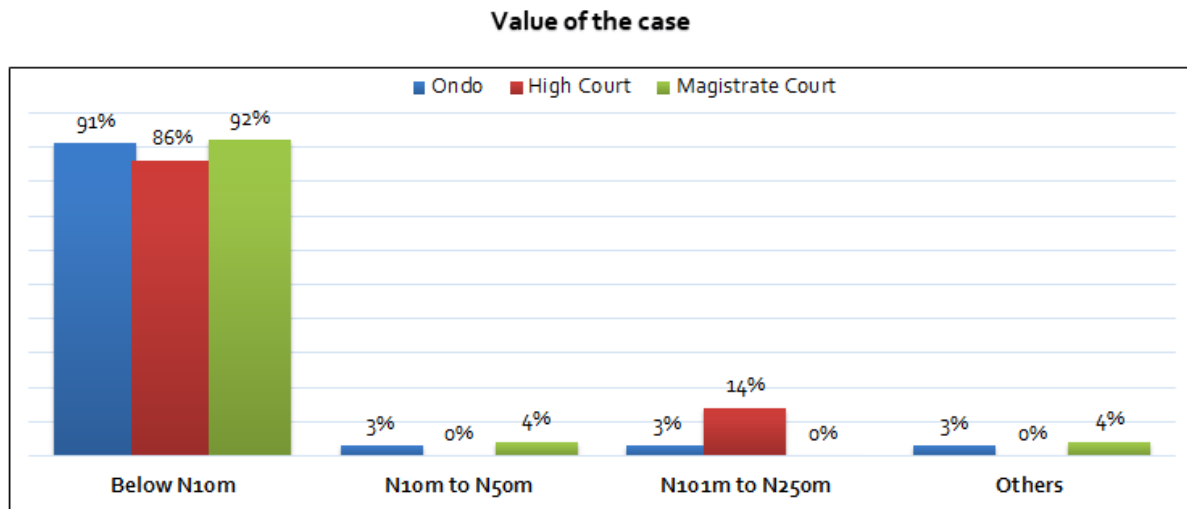
### 1. Nature of Cases Monitored



The chart above shows that 43% of cases monitored were related to offences involving property other than corruption 38% of which were monitored at the High court and 45% at the Magistrate

courts. Offences relating to the body other than murder revealed 8% at the High court, 10% at the Magistrate courts. 8% of corruption cases at the High court and 3% at the Magistrate court were monitored. A total of 45% other criminal cases were monitored ranging from stealing/armed robbery and kidnaping, the disaggregates by courts showed 54% at the High Court and Magistrate court 41%.

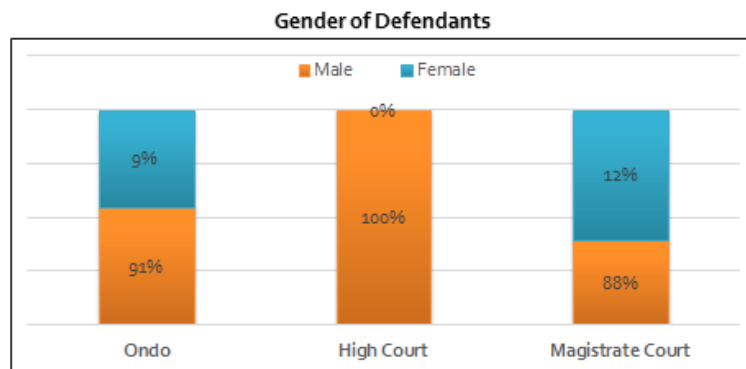
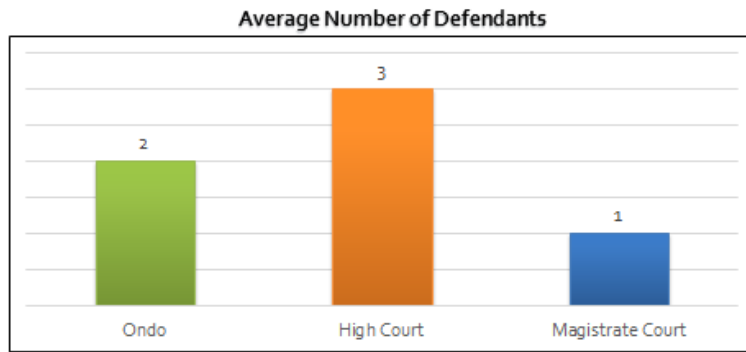
## Value of Cases



Where it is applicable, 91% of the cases were valued at below ₦10m (Ten million Naira), 3% valued between ₦10m (Ten million Naira) and ₦50m (Fifty million Naira), and another total of 3% from ₦501m (One Hundred and one Million Naira) and above.

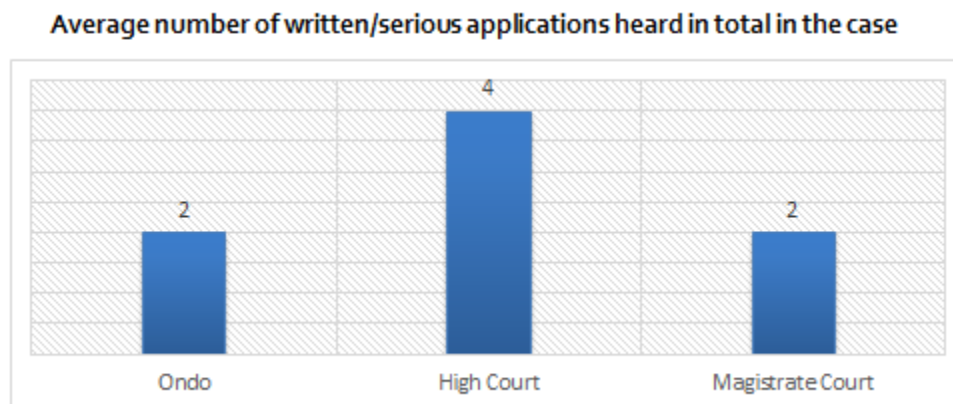
## Number and Gender of Defendants

Looking at the chart below, the average number of defendant at the High court shows 3 100% of them Male and no female while at the Magistrate court average number is 1 showing 88% male and 12% female



### Number of Written Applications

The average number of written/ serious applications heard in total as shown in the chart below is 4 at the High Court, and 2 at the Magistrate Courts.



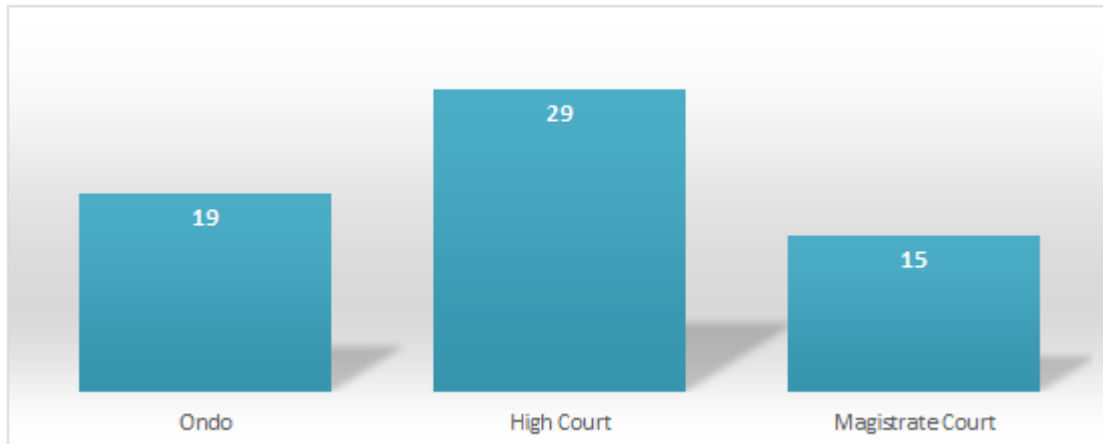
## 2. Speedy Trials

### a) Pre Trial and Trial Requirements

#### Assignment of Information and Issuance of Notice of Trial

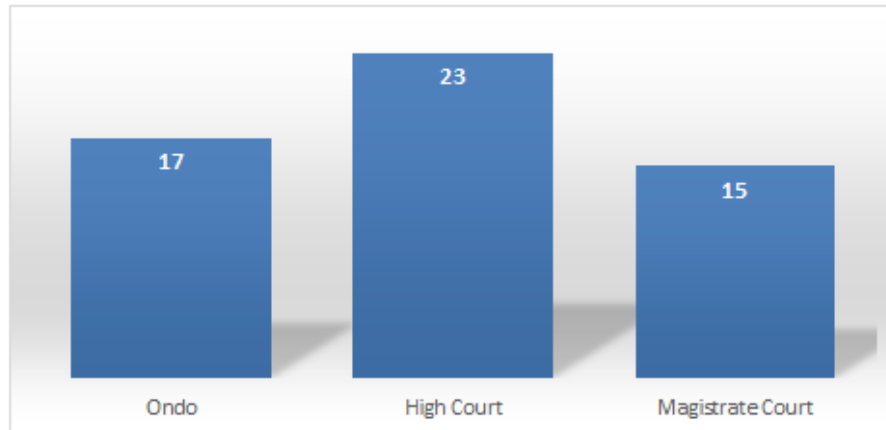
The chart below shows the average number of days between 'Date of filing/ transfer of the case', and 'Date of Assignment' is 15, at the magistrate court, which is in accordance with Section 352 (1) of the ACJL, that states that the Chief Judge shall take appropriate steps to ensure that the information filed is assigned to the court for trial within 15 days of its filing. But the High court showed an average of 29 days, which is way above the 15 day's timeframe.

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



The findings analysis below has also revealed that the average number of days between Assignment and Service is 17. Specifically, the High Court takes about 23 days to serve notice of trial and Magistrate court take about 15days. ` Section 382 (2) of the ACJL instructs the court to issue notice of trial within 14 working days of assignment, and the Chief Registrar to serve notice not more than 3 working days from the date of issue.

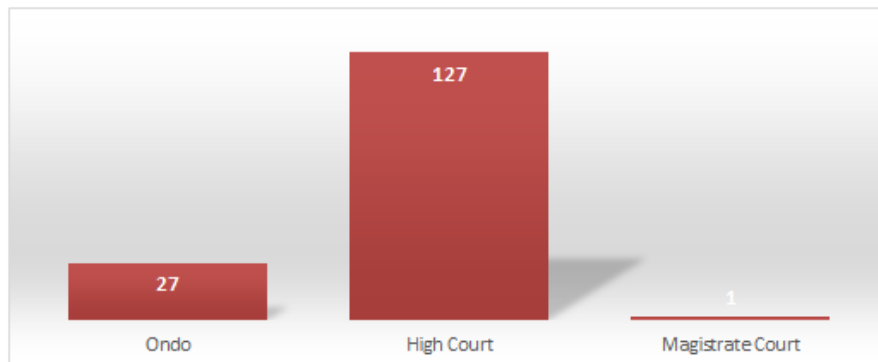
Average number of days between 'Date of assignment' & 'Date of Service'



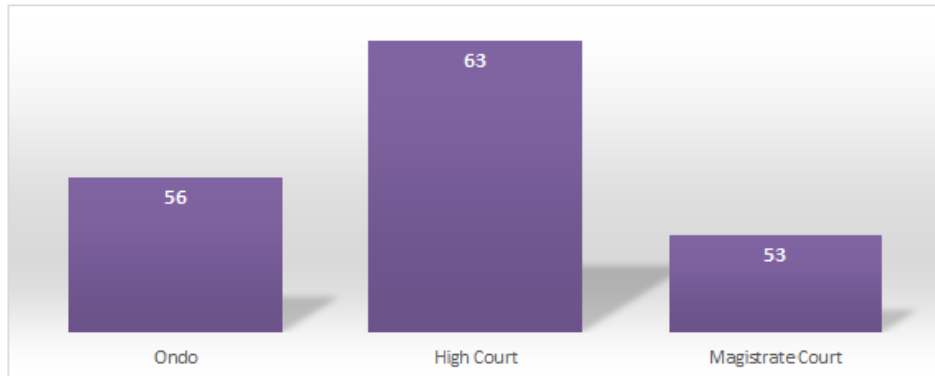
### **Arraignment and Commencement of Hearing**

The average number of days between 'Date of Service' and 'Date of Arraignment' as indicated in the findings is 27, while the number of days between 'Date of Arraignment' and 'Date of Commencement of Hearing' is 56; 63 in the High Courts, and 53 in the Magistrate Courts.

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



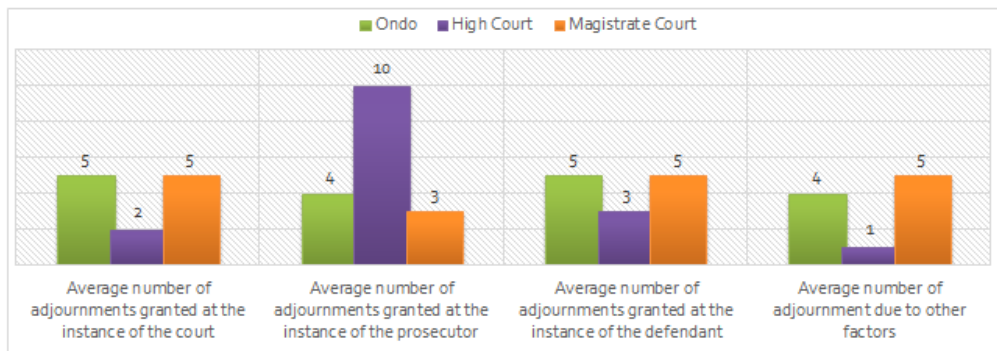
Average number of days between 'Date of arraignment' & 'Date of commencement of hearing'



#### a) Day to Day adjournments

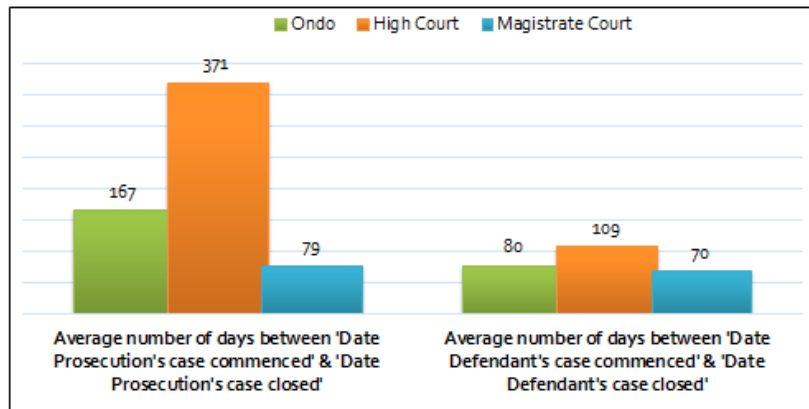
On average, the number of adjournments granted at the instance of the court is shown to have the highest value- 5, closely followed by number of adjournments granted at the instance of the prosecutor – 5. For the defendant, 5, and other reasons 4.

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



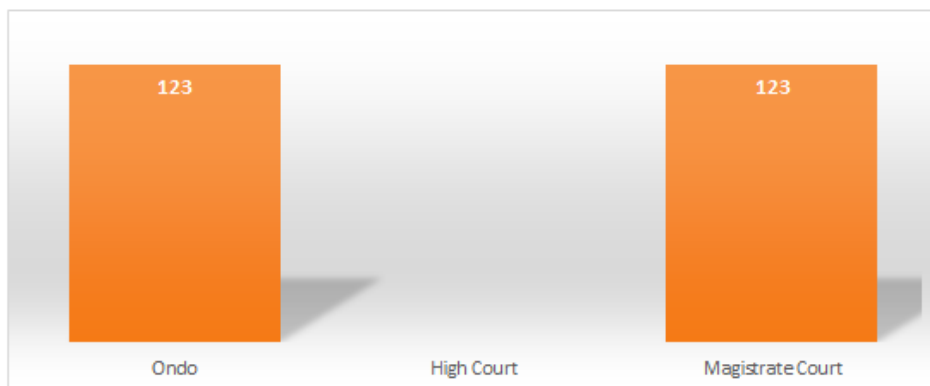
The average number of days between date case commenced, and date case closed for both parties as revealed in the chart below. The prosecution takes an average of 167 days (371 in the High Courts, and 79 in the Magistrate Courts) to close its case, while defense takes an average of 80 days (109- High Court; 70 - Magistrate Court).

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' therefore, is 123 and 0% at the High Court, and 123 at the Magistrate Courts.

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

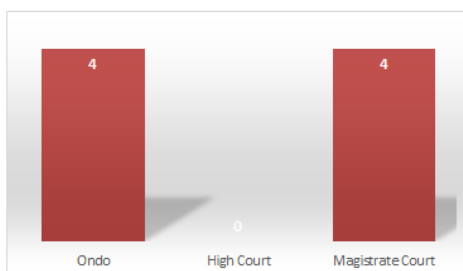


### 3. Bail

The analysis shows average number of days between 'Date when bail was applied for', and 'Date when bail application was decided' is 4 in Ondo. For time decision on bail application, and date when release warrant was signed, an average number of 5 days was observed.

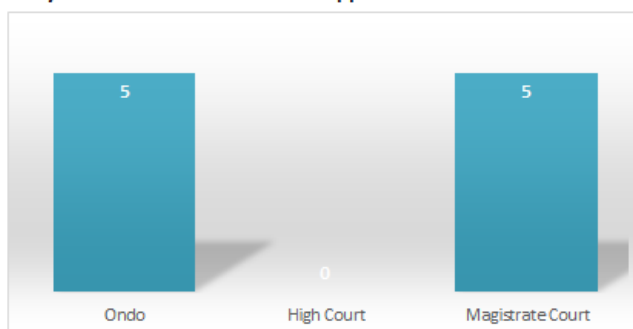


Average number of days between 'Date when bail was applied for' & 'Date when bail application was decided'



Note: The value '0' means 'the same day'

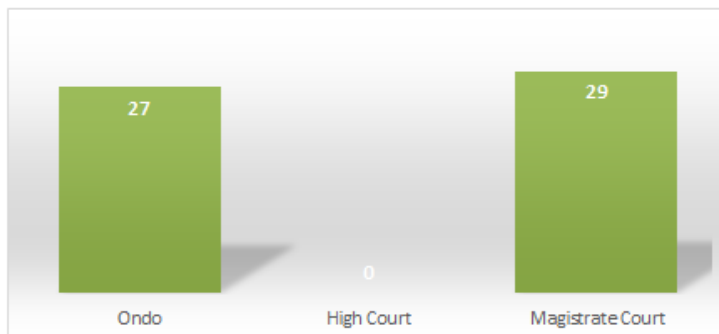
Average number of days between 'Date when bail was applied for' & 'Date when release warrant was signed'



Note: The value '0' means 'the same day'

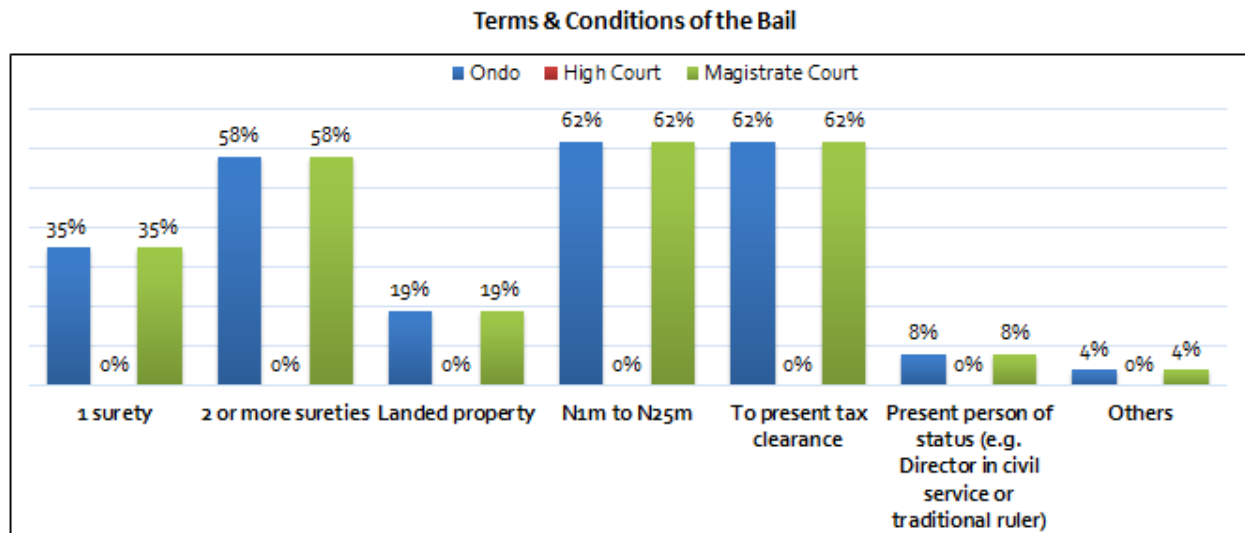
On the average there is a total of 27 days (0% in the High Court, and 29 in the Magistrate Courts) between date when bail application was signed, and date the release warrant was signed.

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

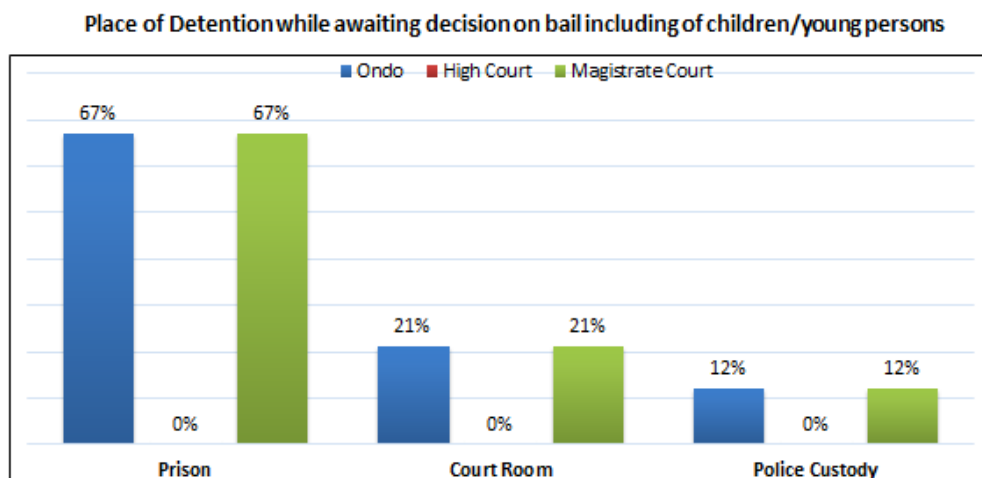


Note: The value '0' means 'the same day'

0% and 58% of defendants in the High court and Magistrate court respectively, were granted bail with terms of 2 or more sureties; an average of 30% granted bail to the sum of N1m (One million Naira) to N25m (Twenty Five million Naira); and 17% were required to present a person of status.

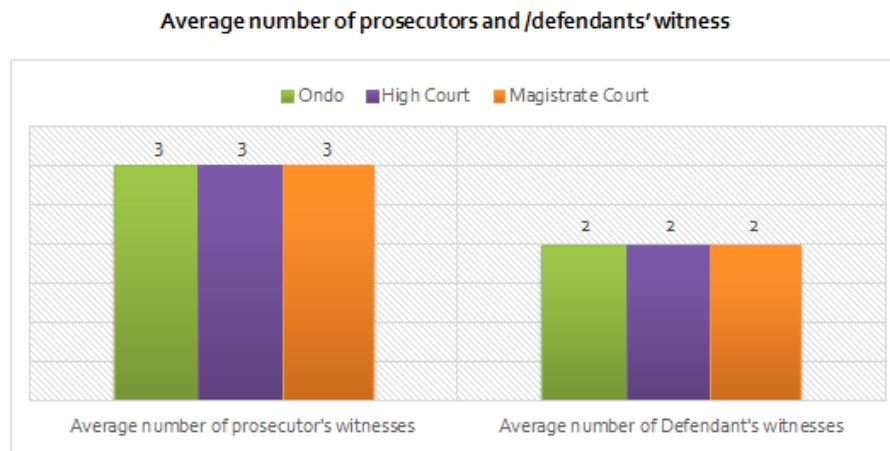
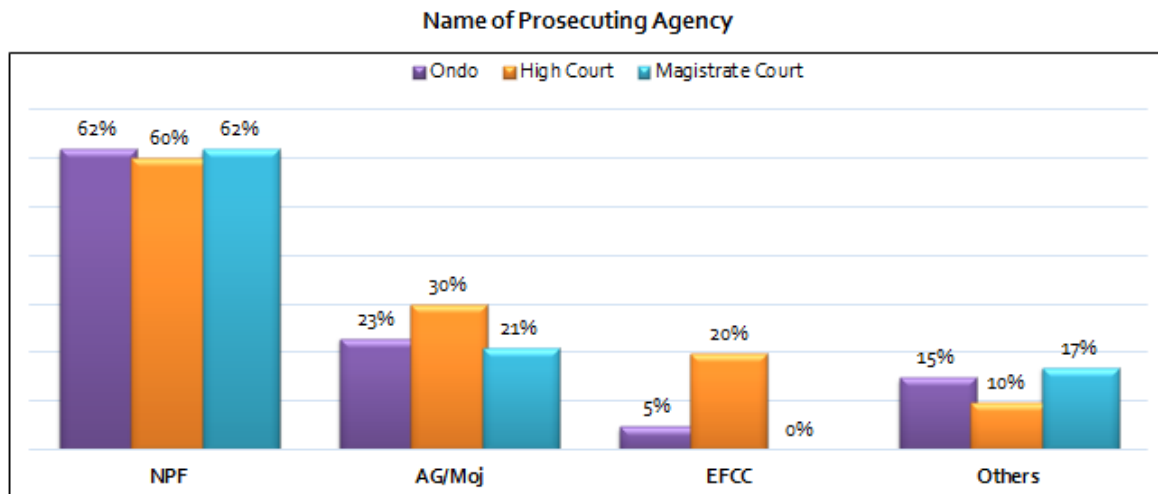


67% of defendants were detained in Prison, 12% in Police Custody, and 21% in the court room while awaiting decision on bail. This is inclusive of children/ young persons.



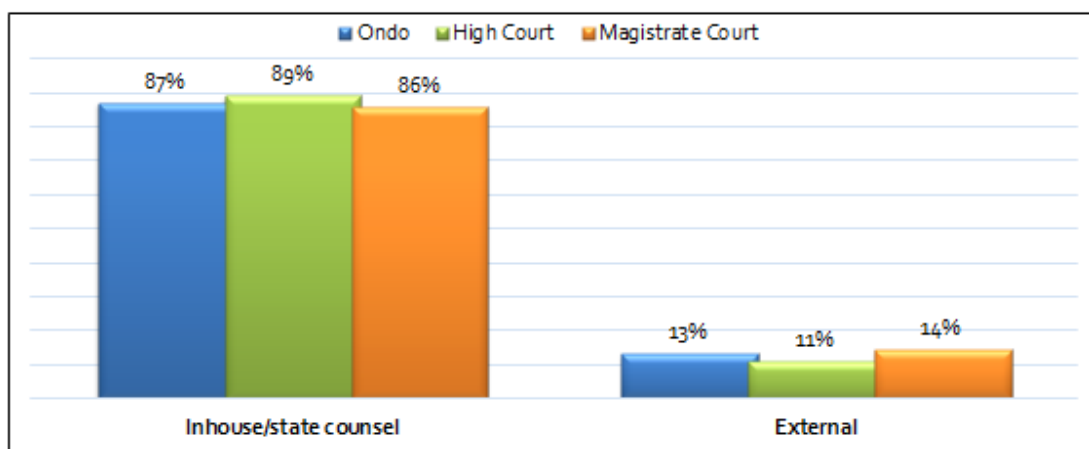
#### 4. Prosecution and Defense

Prosecution of defendants is carried out by the Nigerian Police at (62%), followed closely by Attorney General/Ministry of Justice with (23%) the Economic and Financial Crimes Commission (EFCC) (5%), and ICPC, NAPTIP, NDLEA and others constitute an average of 15%. In respect to the number of witnesses called an averages of 3 witnesses for the prosecution are called in the High Court and Magistrate Courts respectively. The defense calls an average of 2 witnesses across the High Courts and Magistrate Courts.

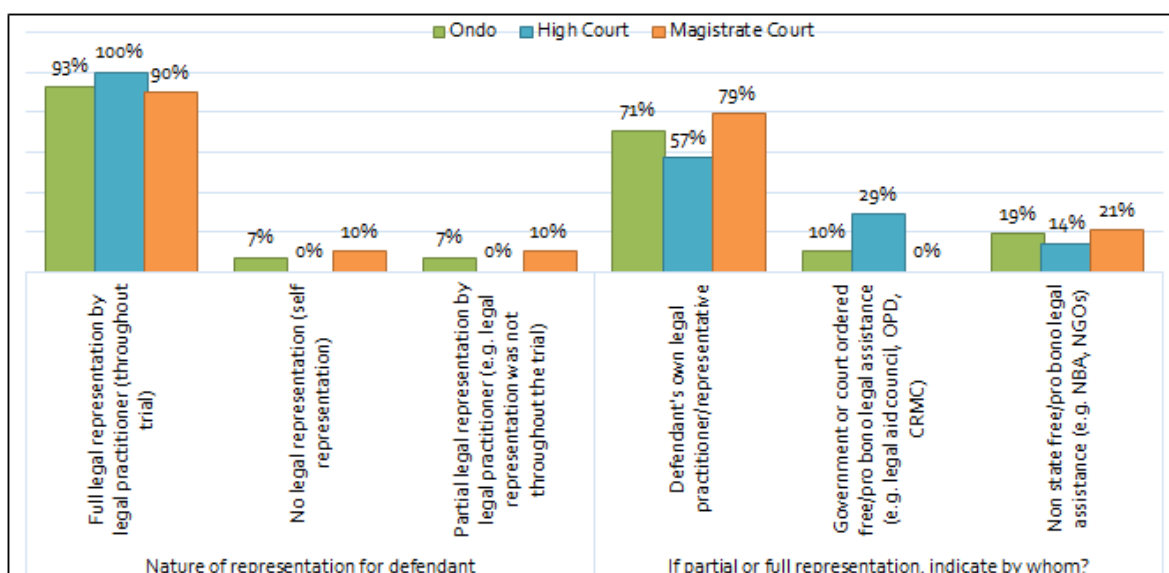


In the cases observed, 87% of prosecution by a state agency was provided by in house counsel. With regards to defense, 93% of defendants have full/ partial legal representation by a legal practitioner throughout trial. Of this number, 71% are the 'Defendant's own legal representative', and 19% are 'Government or court ordered free/ pro bono legal assistance'.

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



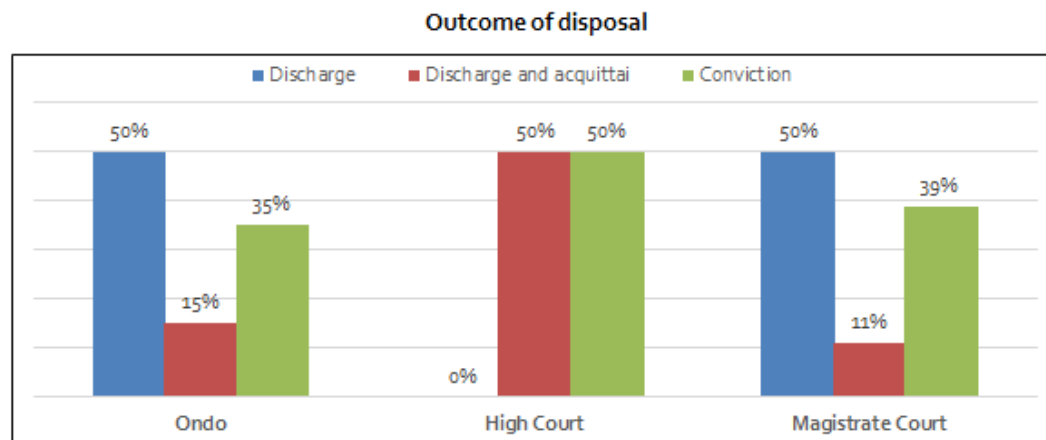
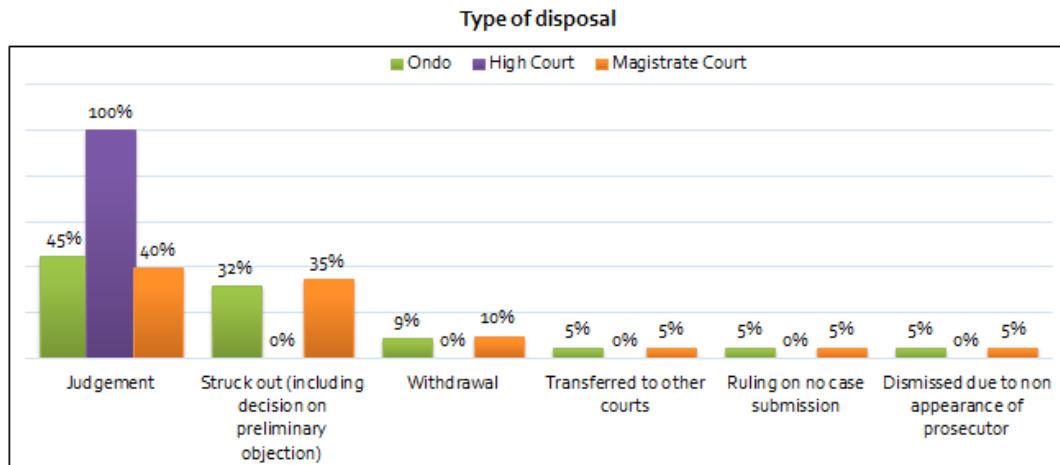
Nature of Representation for Defendant & Who was Responsible for Full or Partial Representation



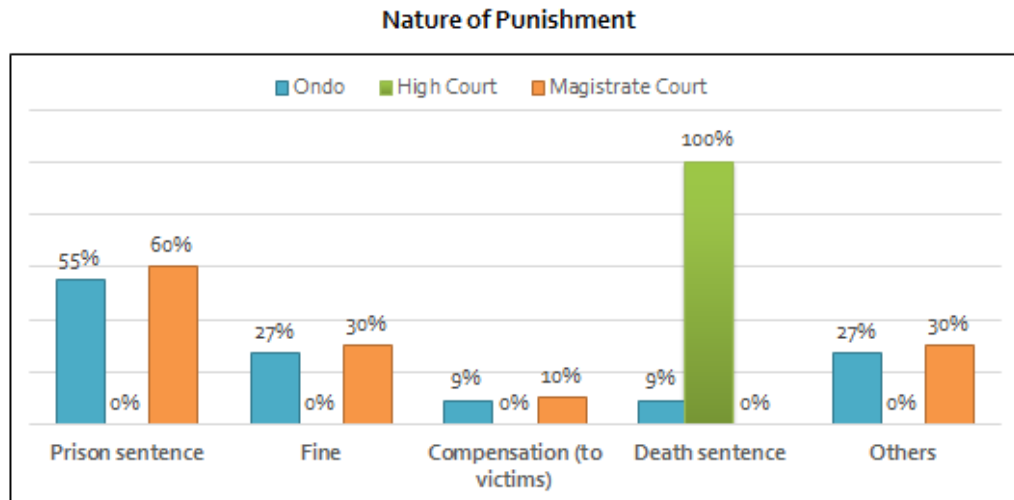
## 5. Disposal of Cases

As regards the disposal of cases in Ondo state, 45% of cases are disposed via judgement, 32% are struck out (including decision on preliminary objection), and 5% are transferred to other courts, 5% ruling on no case submission. 5% of the cases were disposed of as a result of the nonappearance of prosecutors at Magistrate courts. Worthy of note is the absence of dismissal due to non-appearance of prosecutors in the High Court. In respect to the outcome

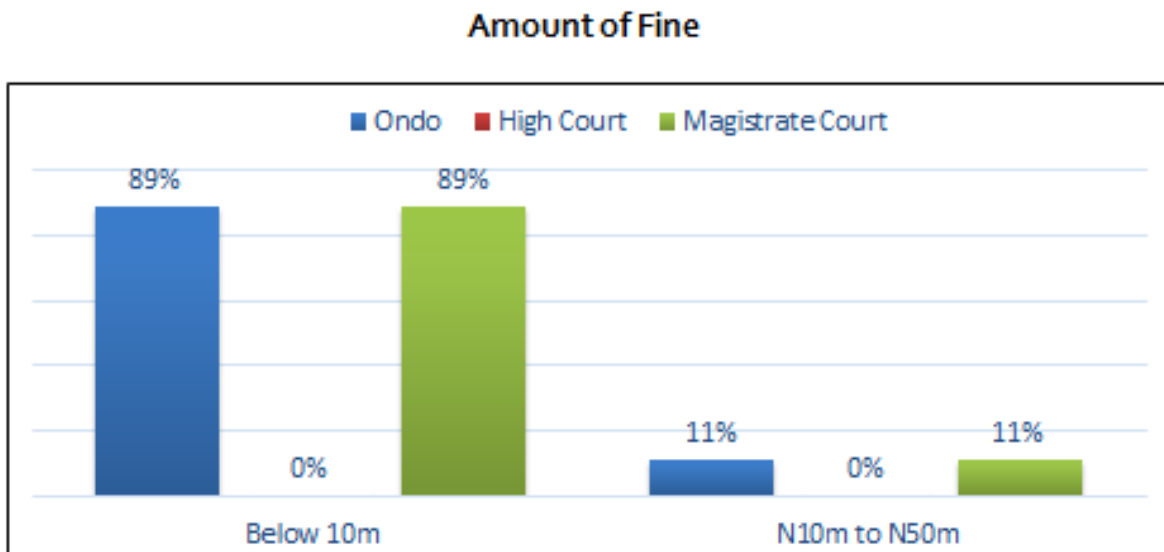
of disposal, 50% of cases disposed of, are discharged, 15% discharged and acquitted, while 35 % are convicted.



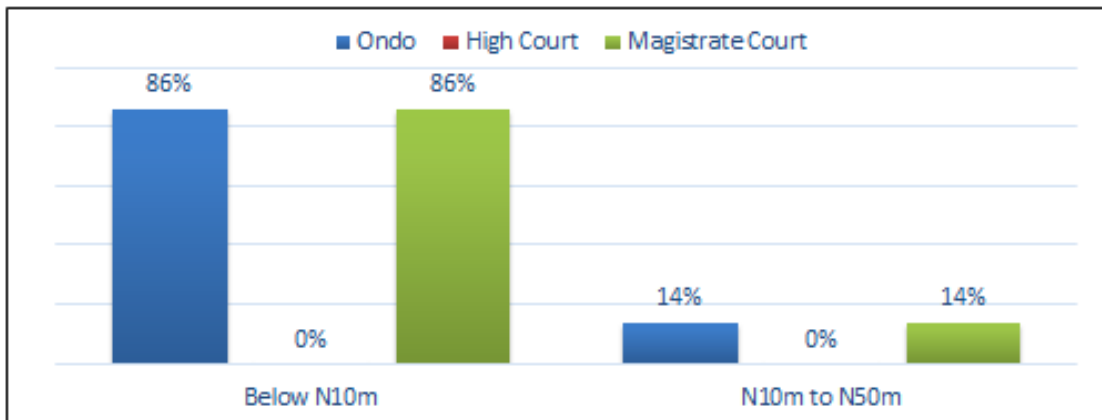
Of the percentage of people convicted, 55% are sentenced to prison 30% pay a fine in the Magistrate courts, 9% are required to pay compensation to the victim. However in the High court in Ondo state 100% of convicted person receive a death sentence.



In the charts below the fine below 10m is 89% while 10m to 50m is observed at 11%. Amount of compenstion revealed 86% for the amount below 10m and 14% for 10m to 50m.

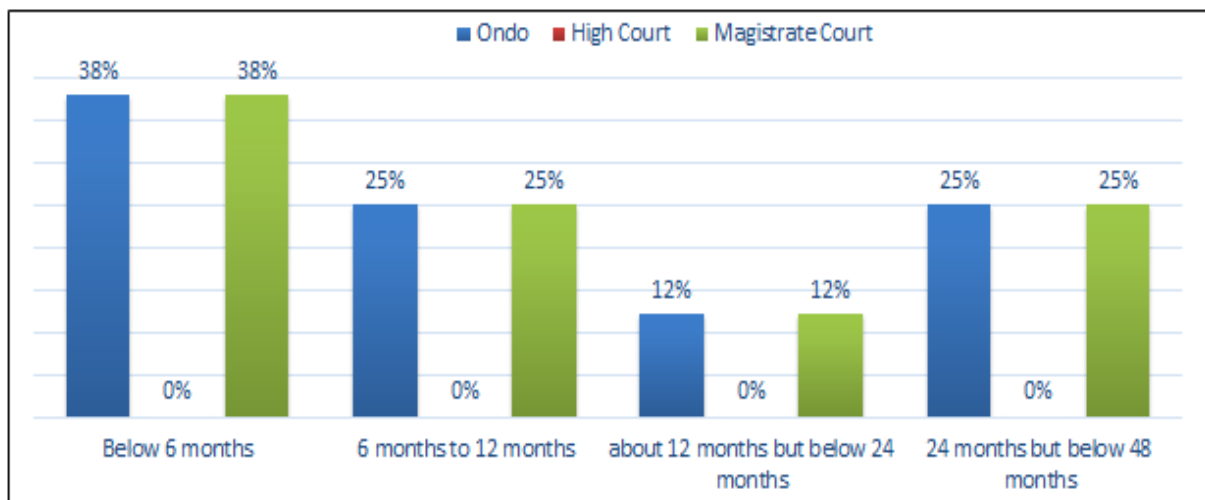


### Amount of Compensation



The High Courts as indicated in the analysis below sentence 38% of convicted persons to 6months to 12 months, 12% were convicted to about 12 months but below 24 months while 25% were 24months but below 48 months.

### Period of Sentence



## Recommendation

- PWAN recommends that the Ondo state Government and Judiciary make provisions for alternatives to Prison Sentencing: as stipulated in Section 406-409, and Section 412- 466 which 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.
- The ACJL states that the Chief Judge shall take appropriate steps to ensure that the information filed is assigned to the court for trial within 15 days of its filing, which is in accordance with Section 352 (1). PWAN would like to recommend that the Judiciary adhere to this section of the law to enhance speedy trials as the observation revealed that it takes more than 15 days to assign a case noticed at the High courts.
- 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.
- We also recommend that the Ondo state Chief Judge take a cue from the FCT to set up Declogging panels for the criminal cases in the state. This is to enable the decongestion of cases in the courts in Ondo state.