



CRIME AND JUSTICE BULLETIN 2

SENTENCING IN A MAGISTRATES' COURT

NATIONAL TASK FORCE ON CRIME PREVENTION
OFFICE OF THE ATTORNEY GENERAL

Foreword

This is the second in a series of publications designed to make information about crime and justice available to the people of Barbados and to others interested in Barbadian justice.

The first Bulletin dealt with “Recorded Crime in Barbados 1980-1999”.

Future Bulletins will deal with sentencing in the high Court and imprisonment.

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NATIONAL TASK FORCE ON CRIME PREVENTION

Sentencing in a Magistrates Court

Part of the work carried out in support of the Steering Committee on Penal Reform was a study of sentencing in a Magistrates Court. All the cases dealt with by Magistrates Court, District A, Court B2 in 1995 were the subject of the research, which was carried out by Janice Farley and Inga Rudder of the National Task Force on Crime Prevention.

Some of the results were published in 1997. The purpose of this Bulletin is to analyse the figures further and give the results rather greater publicity.

The reason for carrying out this further analysis is that the Penal Reform Act has given the Courts much more choice in the sentences available to them and the study carried out in 1997 can provide a comparison with the sentences given after the implementation of the Act. The Task Force will also be carrying out a study of sentencing practice in the High Court before the Act was implemented and hopes to publish these results in six months.

The Magistrates Courts deal with the great majority of criminal cases in Barbados and because they can pass sentences of up to 5 years their practices largely determine the size and content of the prison population. Possibly even more importantly they also provide Barbadians with daily messages about the nature of criminal justice in Barbados.

It should be noted, however, that the cases dealt with at this Court (District A) will not be representative of cases in general. The Court deals with cases from its surrounding area and as it is situated in central Bridgetown it deals with cases from there. The Court in Oistins, for example, will see a different cross-section of cases.

In 1995 the Court dealt with 77 different summary and triable either way offences but we have reduced this to 20 groupings to make the analysis more comprehensible. The contents of the groupings are detailed in Appendix 1.

Magistrates Court, District A, Court B2 dealt with 1797 cases in 1995 but there was no

information on the sentences of 9 people so our sample size for this study is 1788.

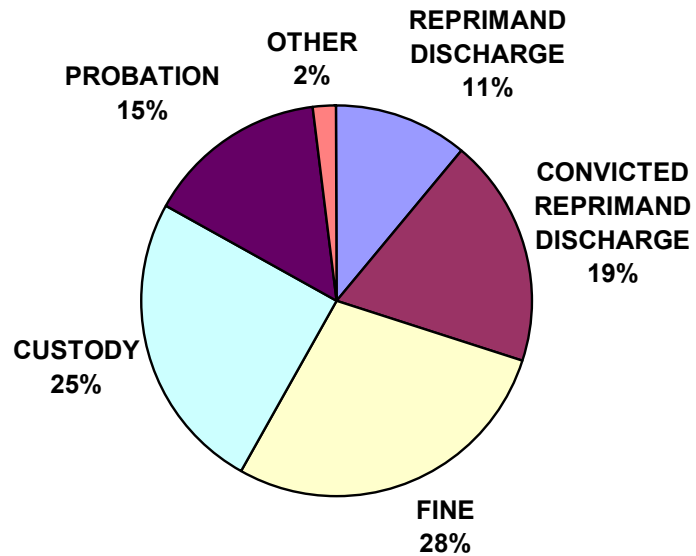
Of the 1788, 421 people had their cases withdrawn or dismissed and a further 15 were found not guilty.

These 436 cases made up 24.4% of the 1788 cases dealt with in the year. This means that there was a total of 1352 convictions.

The distribution of penalties for these 1352 convictions is shown in Chart 1 below.

Chart 1

PENALTIES IMPOSED

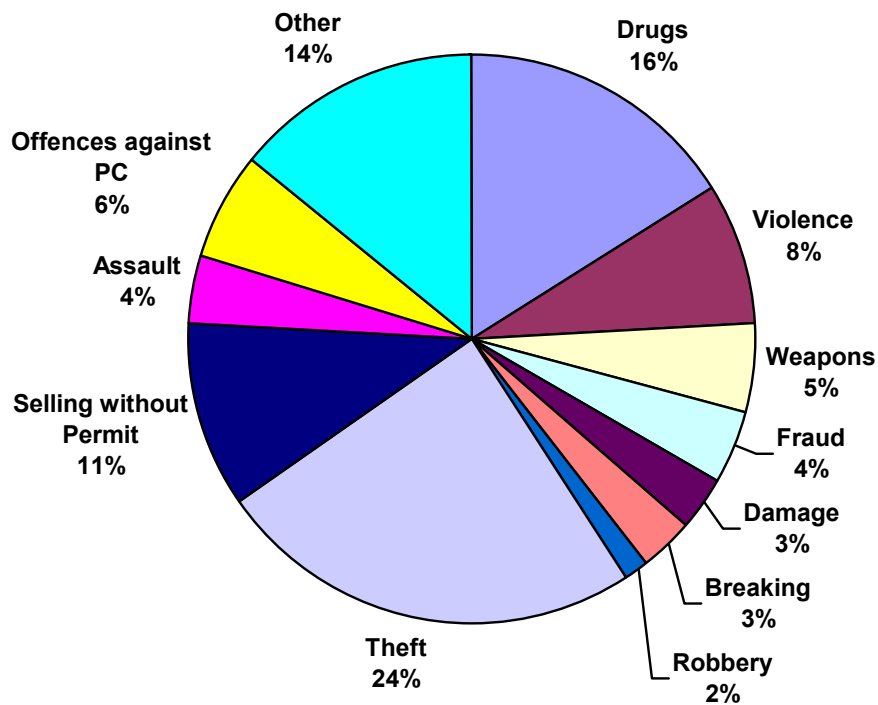


As can be seen the fine was the most common penalty (28%) although the total of CRD (convicted, reprimand and discharged) and RD (reprimand and discharge) was a little higher at 30%. Custody was used for a quarter and probation for 15% of the cases.

A simplified distribution of offence types dealt with by the court is shown in Chart 2. (The full list of offence types– along with the basic data is shown in Appendix 2).

Chart 2

OFFENCES DEALT WITH BY THE COURT



The most common offence dealt with at the Court was theft which made up 24% of all offences. The next most common were drug related offences (mainly possession) at 16%. The next most common was Selling without a Permit and then violent offences. Only 3% of the cases were for burglary and 1.5% for robbery – this is because most robberies and burglaries are dealt with at the High Court.

Sentences for each Offence

Table 1 shows the sentences passed for each offence type. (In this table the same groupings have been used as in Chart 2).

Sentence/Offence

Table 1

% of Different Sentences for each Offence

OFFENCE	CUSTODY	FINE	PROBATION	CRD/RD
Drugs	13	62	5	20
Violence	21	25	30	21
Weapons	11	41	10	38
Fraud	60	6	28	7
Damage	0	62	22	14
Breaking	85	4	6	4
Robbery	86	0	14	0
Theft	44	24	20	12
Selling without Permit	0	16	0	84
Assault	6	39	30	26
Offences Against PC	17	21	7	55
Other	16	13	16	45

Custody was the most used disposal for robbery, breaking, fraud and theft (ranging from 86% to 44% of disposals). The fine was most commonly used for drugs, damage, weapons offences and assault.

Probation was used in a significant proportion of violence, fraud, damage, theft and assault offences. And the two reprimand disposals were used for selling without a permit (84% of all

disposals) offences against police constables (55%), “other” offences (mostly minor summary offences) and weapons related offences.

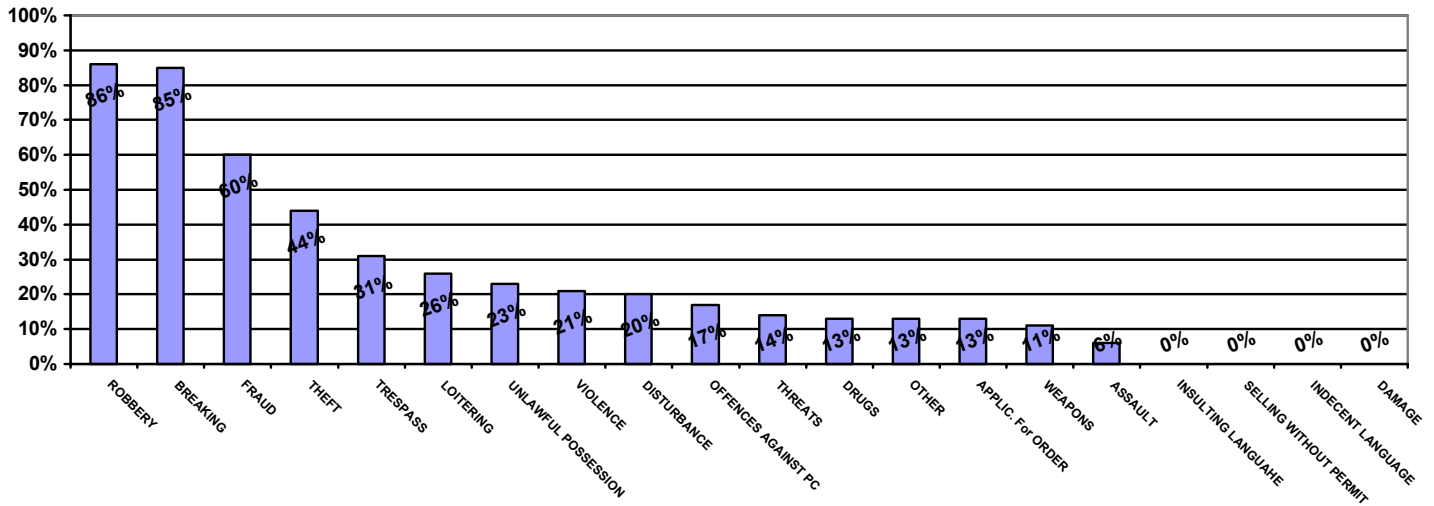
There will be a more thorough discussion on the use of non-custodial disposals later in the Bulletin.

Use of Custody

This section looks in more detail at the use of custody. Overall 25% of the cases received a custodial sentence. The proportion of offence groups varied greatly from about 86% of the robbery down to none of those found guilty of criminal damage. Chart 3 below shows the proportion of each offence group which received custody. (This chart shown the custody rates for the longer list of offences).

Chart 3

USE OF CUSTODY FOR EACH OFFENCE

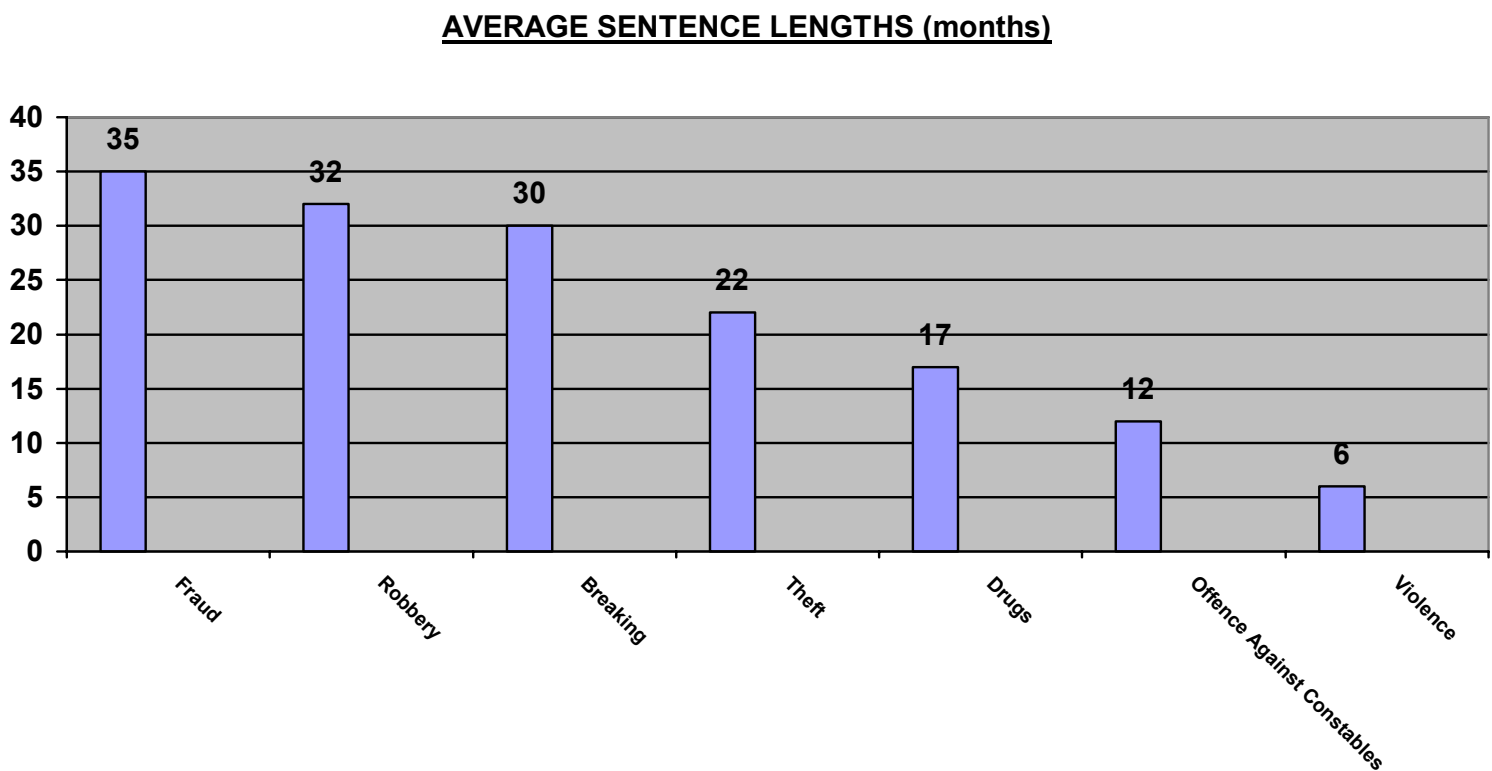


It is notable that only in the cases of robbery, breaking and fraud did more than 50% receive custody. The next highest was theft with 44%. 21% of those found guilty of violence were imprisoned and 13% of the drugs offenders. Some of the less common offences which were likely to receive custodial sentences were trespass (31% of disposals) and loitering (26%).

Custodial Sentence Lengths

For those who received custody the average sentence length given varied considerably. Seven of the offence groups had more than 10 people sentenced to custody. For these groups the average sentence length is shown in Chart 4.

Chart 4



As can be seen from the Chart, fraud, breaking and robbery all received average sentences of 30 months or more. These are the groups which also had imprisonment rates of 60% or more. They are clearly the offences the court saw as the most serious.

It can also be seen that the violent offenders dealt with in this court received relatively short sentences (average 6 months) while those drug offenders who were sent to prison received 18 months on average.

Overall average sentence lengths will only be available after the study of sentencing in the High Court has been completed.

Non-Custodial Sentences

Table 2 shows how different non-custodial sentences were used by the courts. In this table we show the proportionate use of non-custodial sentences for each offence-type.

The use of different non-custodial sentences by the courts gives very useful clues as to their attitude to different offences. The use of the fine indicates that the court wishes to punish rather than treat, the use of probation indicates that the court believes that the offender is a suitable case for treatment and the use of the reprimand indicates that the offence is not seen as very serious nor needing treatment.

Table 2

Non-Custodial Disposals - % given for each offence type

	Fine	Probation	RD/CRD
Drugs	71	6	23
Violence	32	38	26
Weapons	46	11	43
Fraud	14	71	14
Damage	62	22	14
Breaking	29	43	29
Robbery	0	100	0
Theft	42	37	21
Selling without Permit	16	0	84
Assault	41	31	27
Offences Against PC	26	9	66
Other	16	18	53
Total	38	20	40

Probation is hardly used for drug offences at all. Presumably this means that the court does not think suitable treatment is available for drug offenders. If treatment programmes were available I would expect the court of use Probation to a much greater extent.

The other offence for which the fine is used very significantly is criminal damage.

The only offences where probation is used more than the fine or reprimand are fraud, breaking and violence.

The reprimand is used for the great majority of selling without a permit offences and offences against a police constable (this says quite a lot about the perceived seriousness of these offences).

For weapons offences the fine or the reprimand together account for 89% of non-custodial

disposals.

Dismissals, Withdrawals and Not Guilty

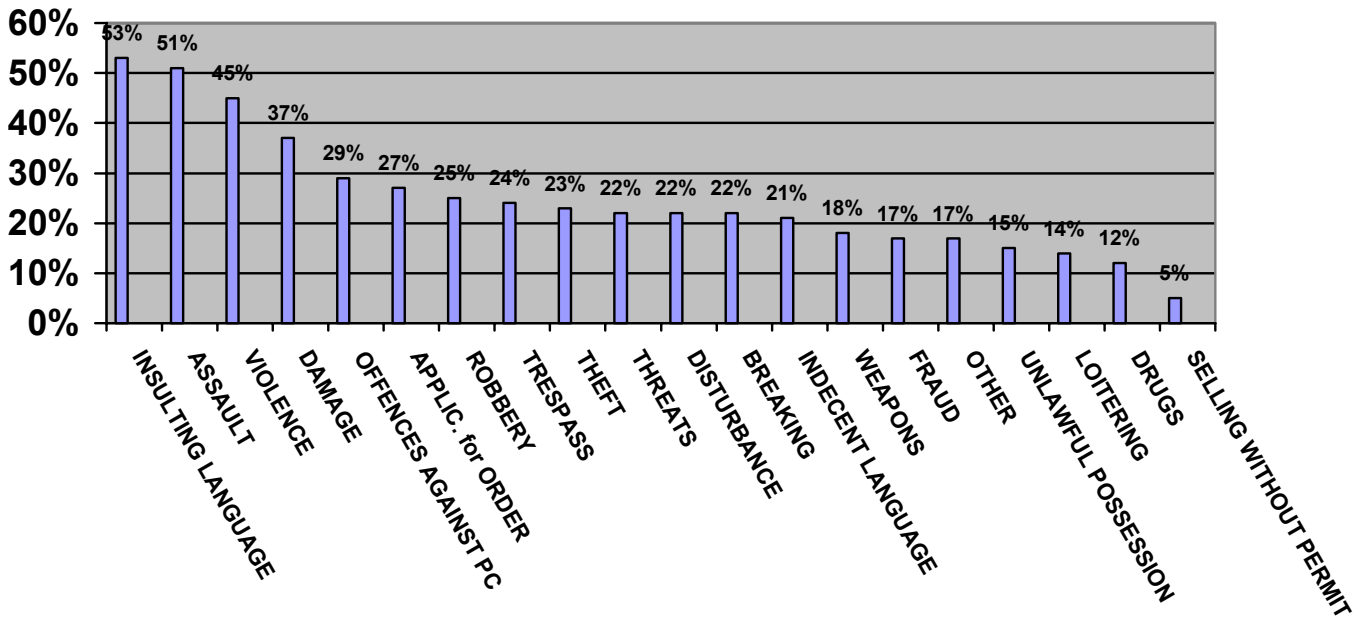
This is a very interesting category. Cases in this group are either not proceeded with or are dismissed for some reason (either because of the actions of the magistrate or prosecutor) or are found not guilty. They are the cases where there is not a conviction.

Virtually 25% of all cases fall into this category.

Chart 5 shows the proportions not proceeded against by offence.

Chart 5

PROPORTION OF CASES DISMISSED OR NOT GUILTY



The variation does not appear to be random. There is, for example, a very high rate of dismissal/withdrawals on assault cases (51%) and in violence cases (45%). This is almost certainly because the victim of the violence or assault (probably the spouse or girlfriend) will have asked for the charge to be withdrawn because the offender and

victim have “made up”. The other offence type with a high withdrawal rate is criminal damage (37%). This could well be for the similar reasons as for the violence cases.

Other reasons for dismissals and withdrawals will be because the magistrate believes the evidence to be weak or because of repeated prosecution adjournments.


Conclusion

This has been a study of the sentencing practice of only one magistrates’ court but it has been useful nonetheless.

At the time of the study the number of possible disposals available to the court was very limited. As a result of the Penal Reform Act the courts have much greater choice – including community service orders, suspended sentences and mediation.

It will be very interesting to see how sentencing practices changes over the next few years and this study will help in that process.

Contents of the 20 offence groups used in the Bulletin

1. Drugs - includes possession and unlawful possession of apparatus.
 2. Violence serious bodily harm, grievous bodily harm, actual bodily harm, wounding, unlawful beating.
 3. Weapons - unlicensed firearm, unlawful possession of ammunition, firearm, weapon, armed with offensive weapon.
 4. Fraud - false pretences, deception, incurring a debt, uttering, fraud, fraudulent conversion, forgery
 5. Malicious damage
 6. Breaking - breaking and entering, breaking and entering and larceny, possession of housebreaking equipment, going equipped.
 7. Robbery.
 8. Theft - all larceny offence and receiving
 9. Indecent language
 10. Selling without a permit
 11. Causing a disturbance
 12. Assault
 13. Offences against Constable - assault PC., resisting arrest, obstruct PC.
 14. Unlawful possession of articles
 15. Trespass
 16. Threats
 17. Application for orders – protection orders, probation orders, breach probation
 18. Insulting language
 19. Loitering
 20. Other - illegal entry, attempted rape, physical abuse, verbal abuse, throwing missiles, littering, interference, gambling, discharge firearm, jet ski offences, stone throwing, obstruction, accosting passers by, indecent exposure, breaking the queue, failing to move, vehicle without lights, no restaurant licence, soliciting passersby, abusive language, no bell, no number plate, disorderly conduct, conveying of motor vehicle.
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Appendix 2

Sentencing in a Magistrates' Court

	> 6 month	6 month -> 1 year	1 y. < 2 y.	2y. < 5 y.	CUSTODY	Fine	Probation	Convicted/ Rep/Disch	Rep/Disch Warned	Protection Order	NON CUSTODIAL	Dismissed Withdrawn	Not Guilty	Convicted	Whole Sample
Drugs	6	11	1	11	29	133	11	32	11	0	187	29	1	216	246
Violence	15	6	0	1	22	27	32	12	10	3	84	83	5	108	194
Weapons	5	2	1	0	8	29	7	21	6	0	63	16	0	71	87
Fraud	0	0	2	30	32	3	15	1	2	0	21	10	1	53	64
Damage	0	0	0	0	0	23	8	2	3	1	37	18	4	37	59
Breaking	1	1	8	30	40	2	3	0	2	0	7	13	0	47	60
Robbery	0	1	2	15	18	0	3	0	0	0	3	7	0	21	28
Theft	25	13	40	67	145	77	67	20	18	0	182	94	3	327	424
Indecent Language	0	0	0	0	0	4	3	9	7	0	23	6	0	23	29
Selling w.o. permit	0	0	0	0	0	23	0	91	28	0	142	7	0	142	149
Disturbance	5	0	0	0	5	7	4	5	4	0	20	7	0	25	32
Assault	1	1	1	0	3	21	16	5	9	0	51	56	0	54	110
Offences Against P.C.	3	1	10	0	14	18	6	28	18	0	70	34	1	84	119
Unlawful possession	3	2	0	0	5	3	3	3	8	0	17	4	0	22	26
Trespass	3	0	1	1	5	1	6	2	2	0	11	5	0	16	21
Applic. f or orders	0	0	0	2	2	1	0	0	3	10	14	6	0	16	22
Insulting language	0	0	0	0	0	0	2	0	5	0	7	8	0	7	15
Loitering	1	3	1	0	5	1	2	8	3	0	14	3	0	19	22
Threats	0	3	0	0	3	2	5	0	2	9	18	6	0	21	27
Other	2	3	1	0	6	7	5	18	8	1	39	9	0	45	54
Total	70	47	68	157	343	382	198	257	149	24	1010	421	15	1352	1788