

Case flow management in Zambia

Audit of case flow management and conditions of
detention in Zambia

25-26 July 2011

Lusaka

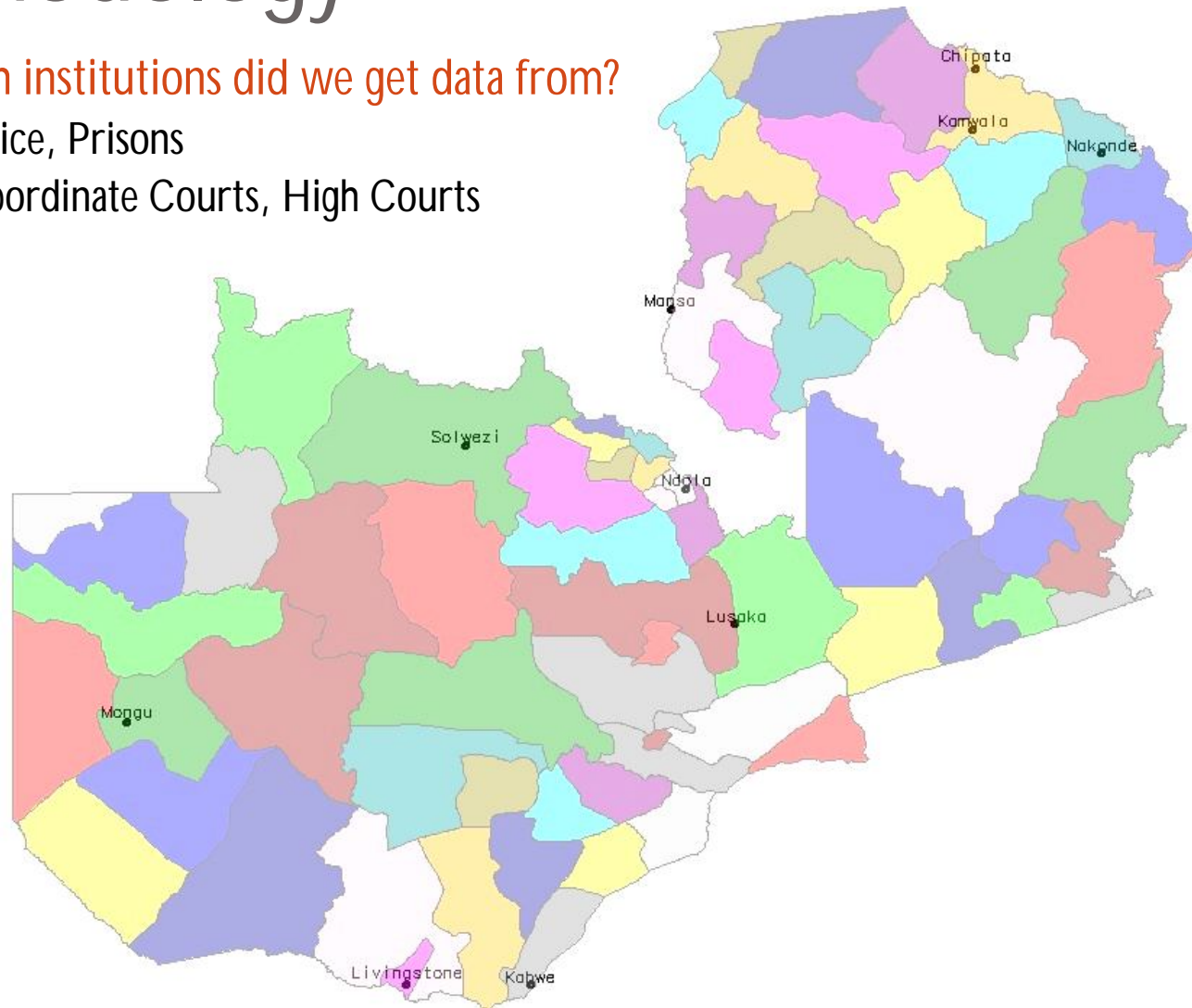
Introduction

- How much time do people spend in pre-trial detention?
 - Primary objective of case flow management section of the report was the estimation of time periods spent in custody by accused persons in the criminal justice system in Zambia
- Who is in pre-trial detention, and for what crimes?
 - Identification of characteristics of the remand prison population, as well as those of people being arrested and before the courts, the secondary objective



Methodology

- Which institutions did we get data from?
 - Police, Prisons
 - Subordinate Courts, High Courts



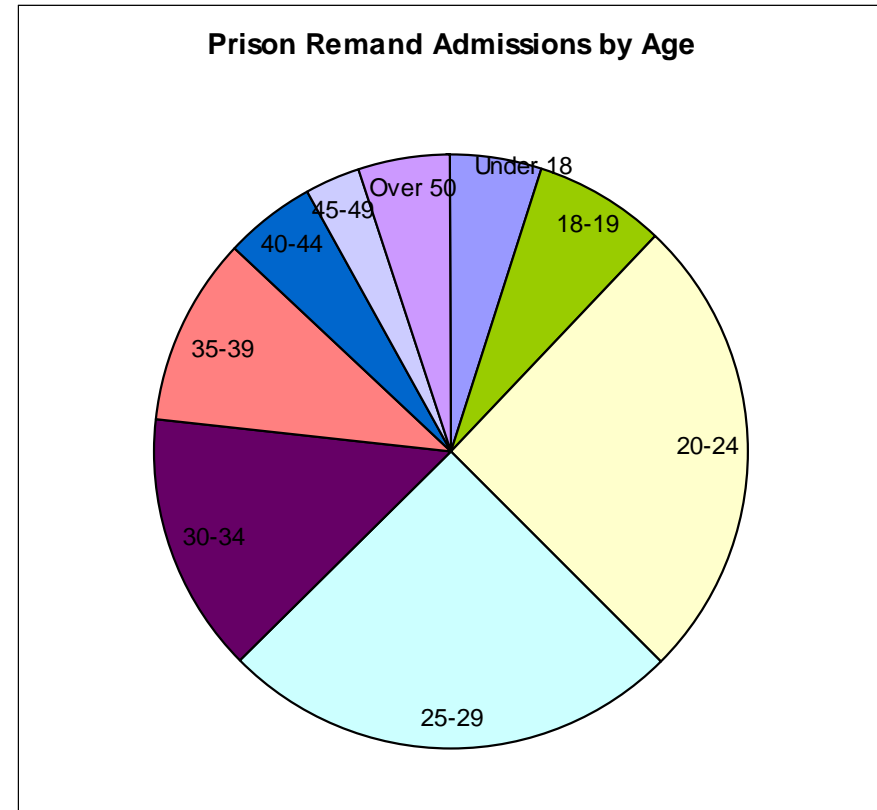
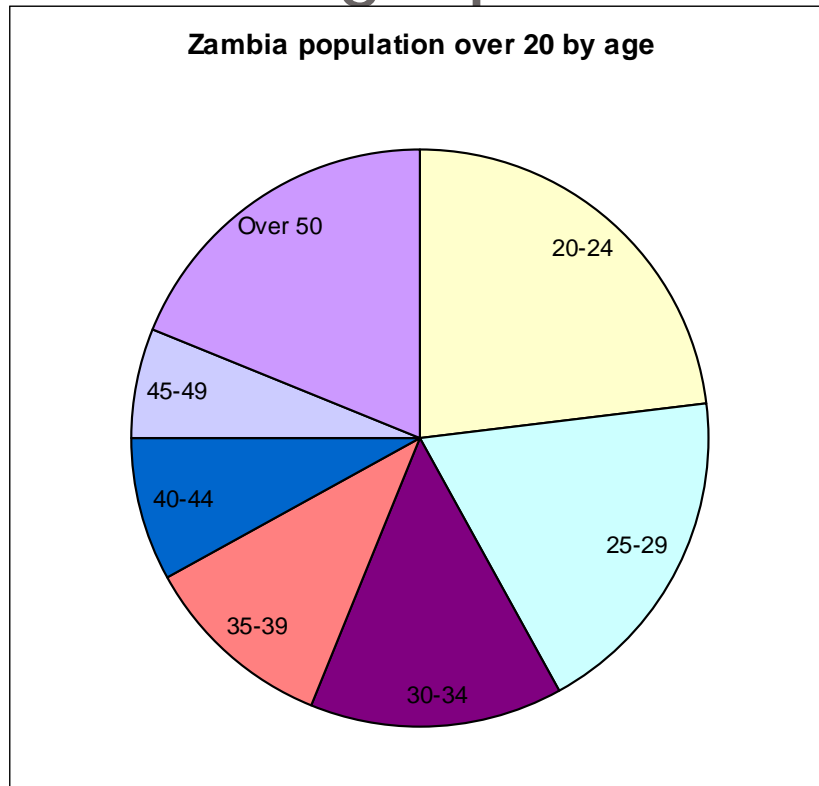
Methodology

- **How did we collect the data?**
 - From the registers of prison and police, a random sample of 40 observations from each year 2006-2011 were targeted for selection while in subordinate courts 90 observations for entire time period, 40 in High Court
 - In the courts it was necessary to locate the relevant case files for each selected entry to establish much of the information required, while in the prisons the relevant warrants had to be perused
- **Who collected the data?**
 - Fieldworkers from Zambian Human Rights Commission were trained over one week on random sampling and data collection and then carried out the fieldwork after piloting

Limitations

- Sample contains only observations from 2006 thus time periods reported on do not reflect the time periods endured by persons entering the criminal justice system prior to 2006.
- For the measurement of time periods two dates were required. These were not always available.
- Time constraints meant some data collected was not available at the time of analysis.

Prison Remand Admissions Demographics

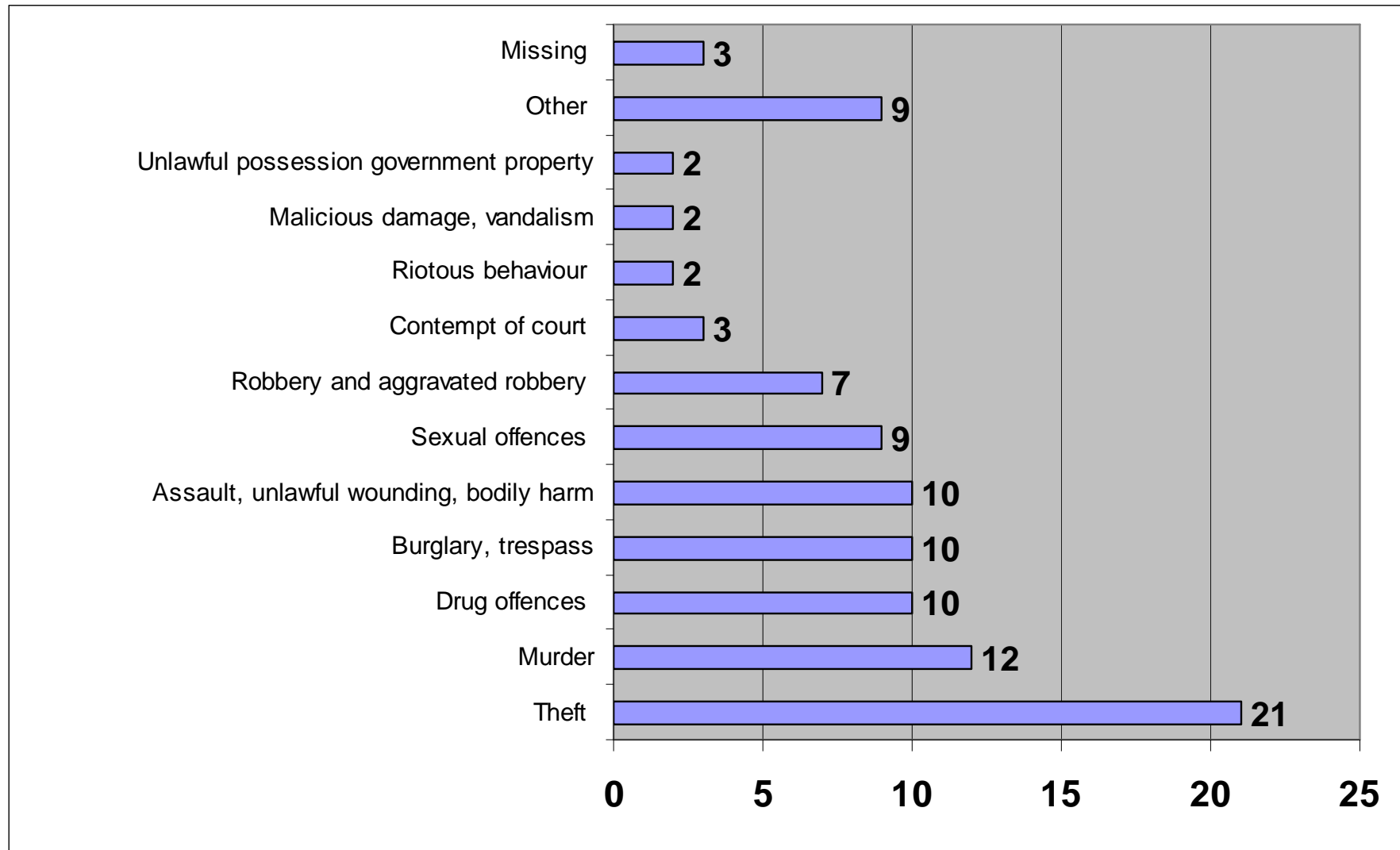


- 98% of people entering remand in Zambia are male
- People aged 20-29 comprise over half of admissions and are over-represented compared to the Zambia population
- Just under 1% were aged over 70

Prison Remand Admissions Ethnicity

- According to the Central Statistical Office of Zambia there are 72 ethnic groups in Zambia. The proportional contribution of each ethnic group to remand admissions was compared to composition of Zambia
- Bemba and Tonga, two of the larger ethnic groups, appear to be under-represented in remand admissions (14% and 5% instead of 18% and 13% nationally), while Ushi and Kaonde are over-represented (7% and 5% instead of 2% and 3% nationally).
- The high number missing values (22%), and the location of the particular prisons chosen in the sample, must be borne in mind.

Prison Remand Admissions Offences (%)

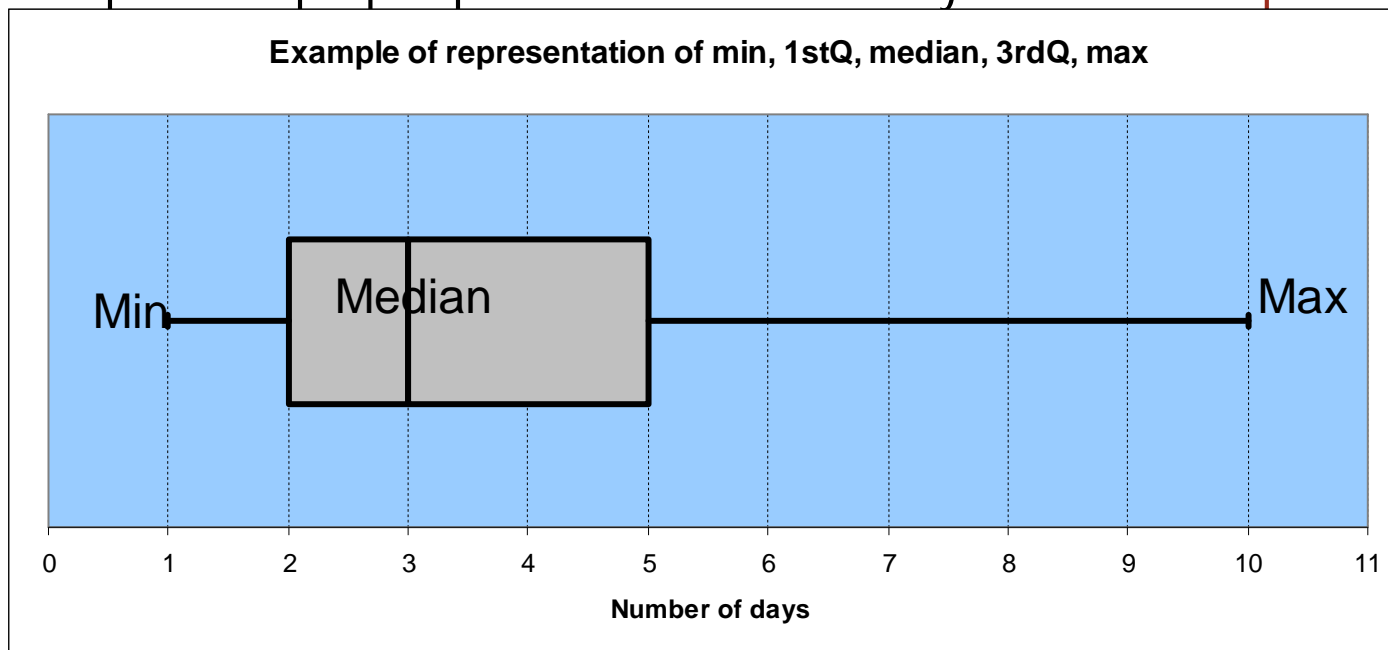


Days on prison remand

- The time on remand reported on here is the time between admission and the last court date as reflected on the warrant
- May not reflect the entire time period actually spent on remand
- The average (mean) time period spent by prisoners on remand in the sample ranged from 18 days in Kamwala to 246 days in Kabwe
- The median ranged from 7 days in Kamwala to 112 days in Kabwe Maximum
- Wide variation within, and among prisons
- The mean for all prisons was 51 days

Explanatory note on time periods

- The **minimum** is the shortest time spent in custody spent by any one person
- The **median** is the middle time spent in custody – the number of people spending less time in custody than the median is equal to the number of people who spent longer than the median
- The **maximum** is the longest time in custody spent by any one person
- A quarter of people spent less time in custody than the **first quartile**
- A quarter of people spent more time in custody than the third **quartile**



Prison Remand Admissions

Days on remand

Kabwe Maximum

Kabwe

Lusaka Central

Mansa

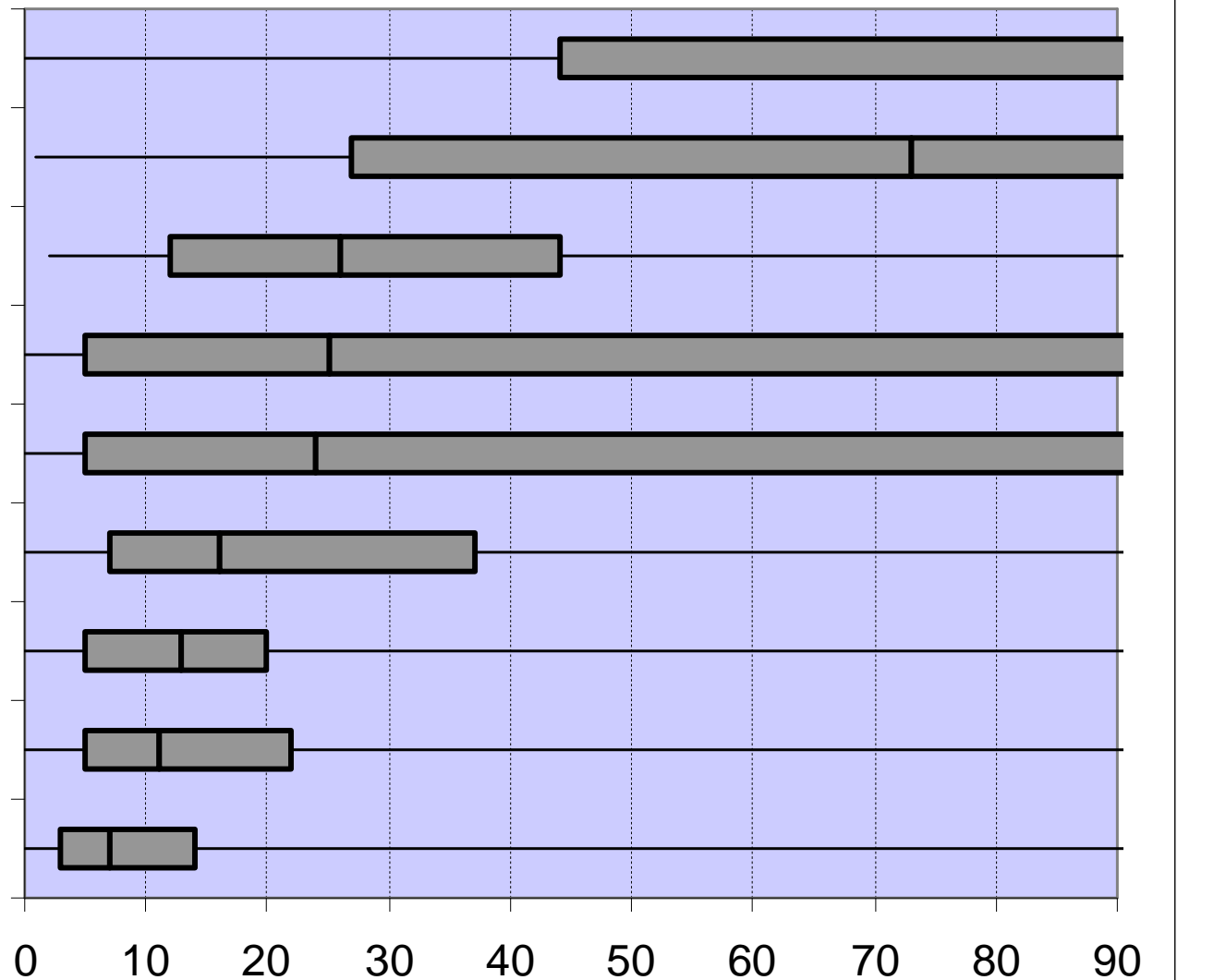
Livingstone

Ndola

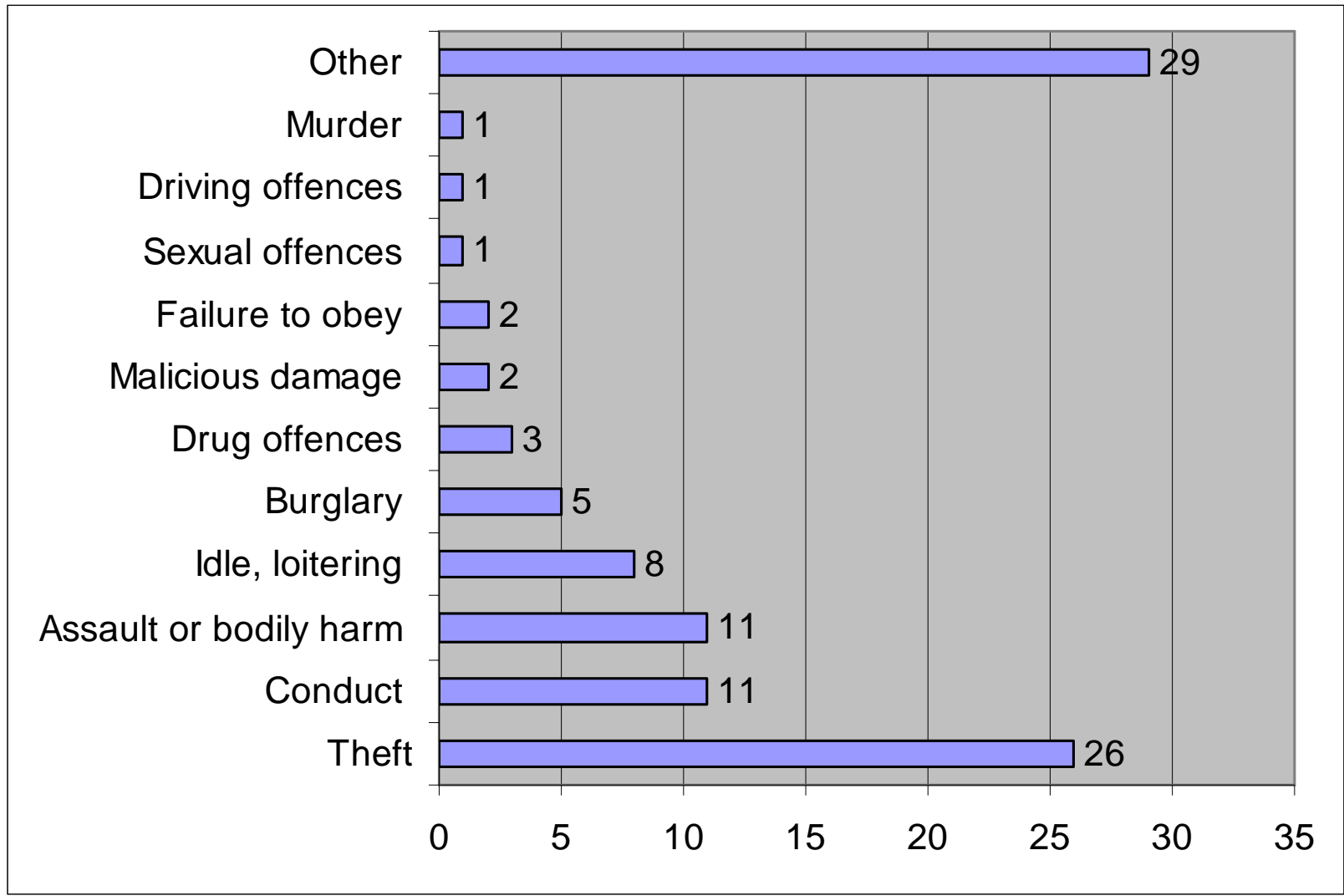
Chipata

Solwezi

Kamwala

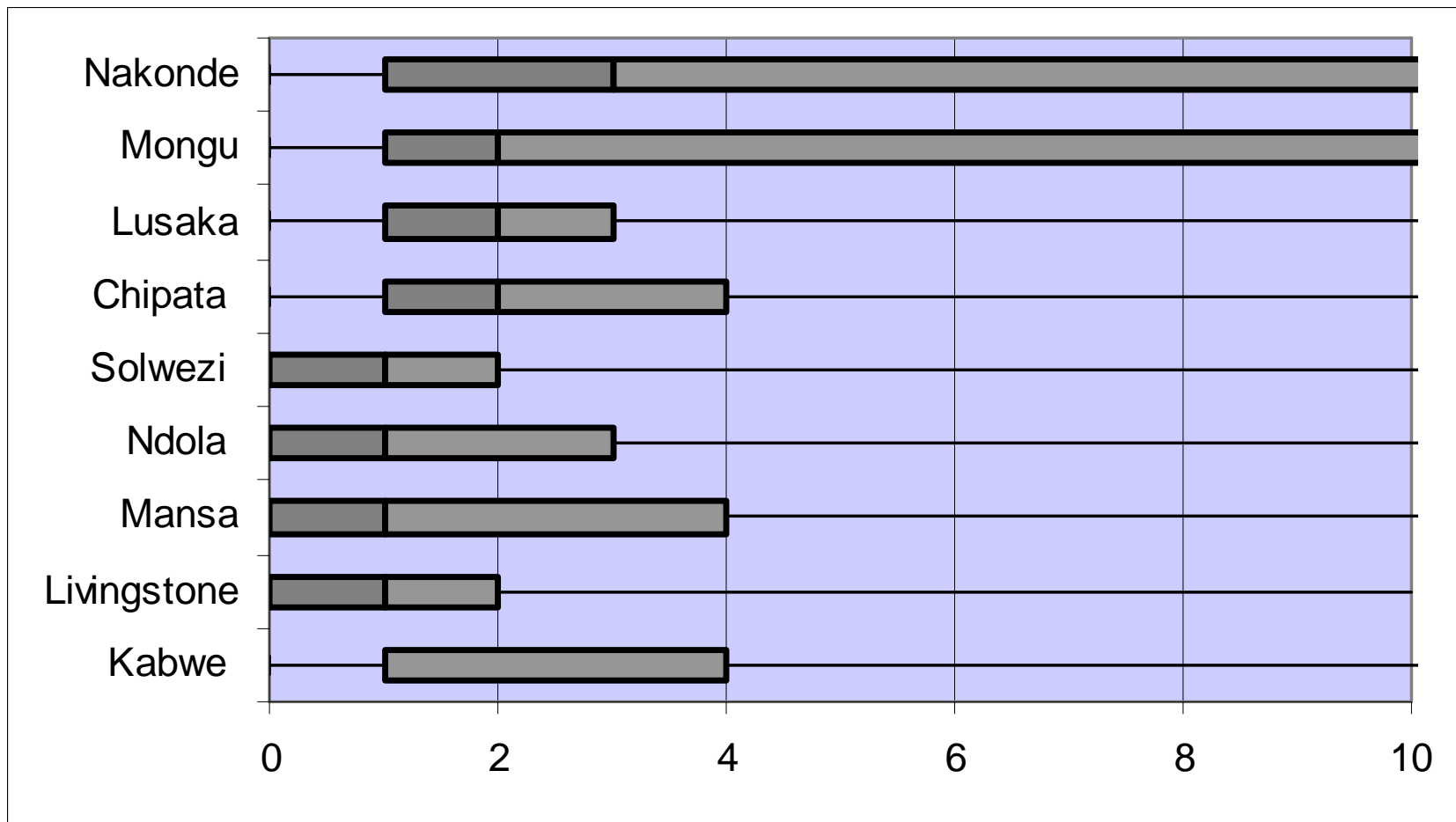


Police Detention Offences (%)



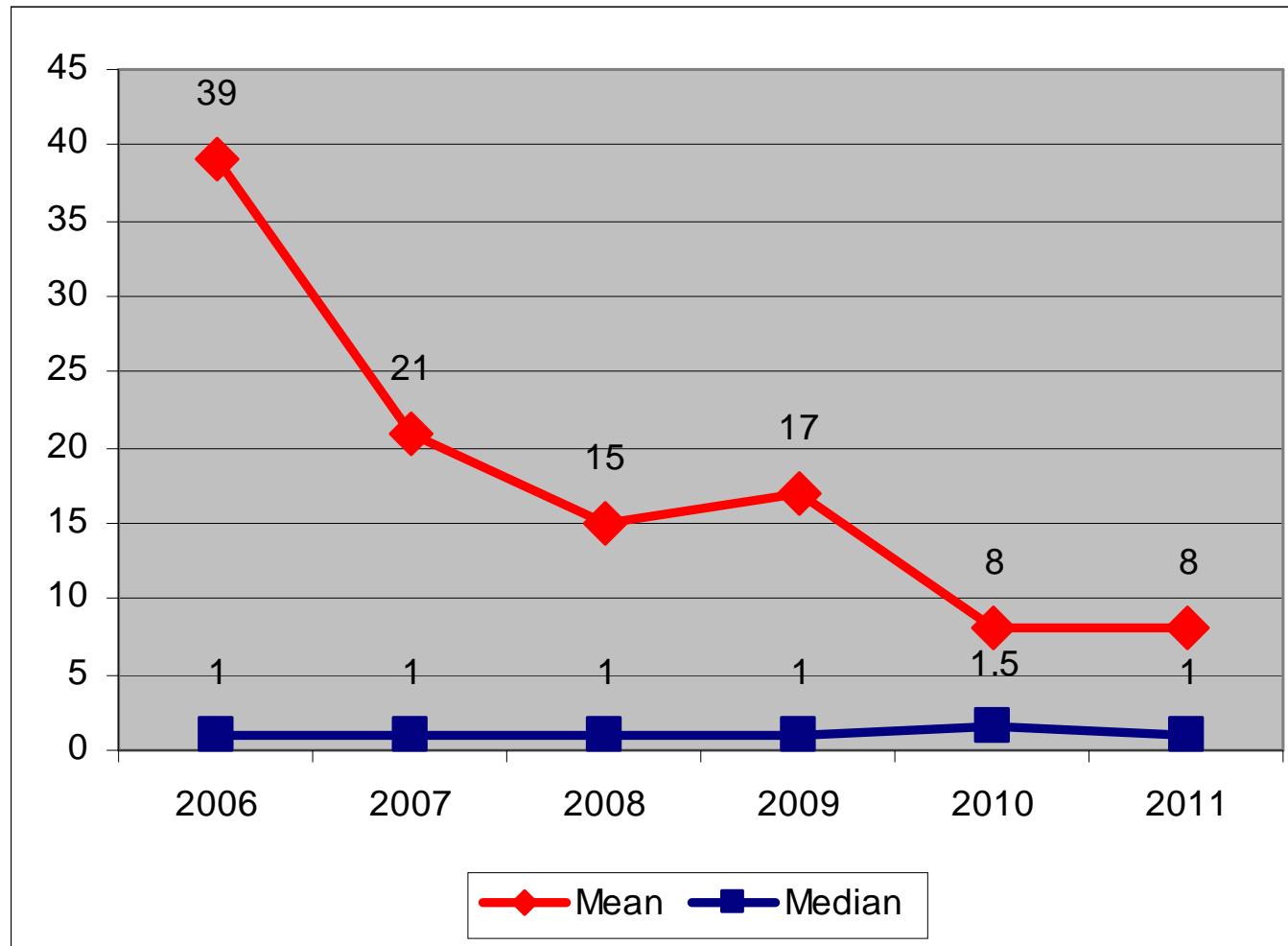
Police Detention

Days in detention



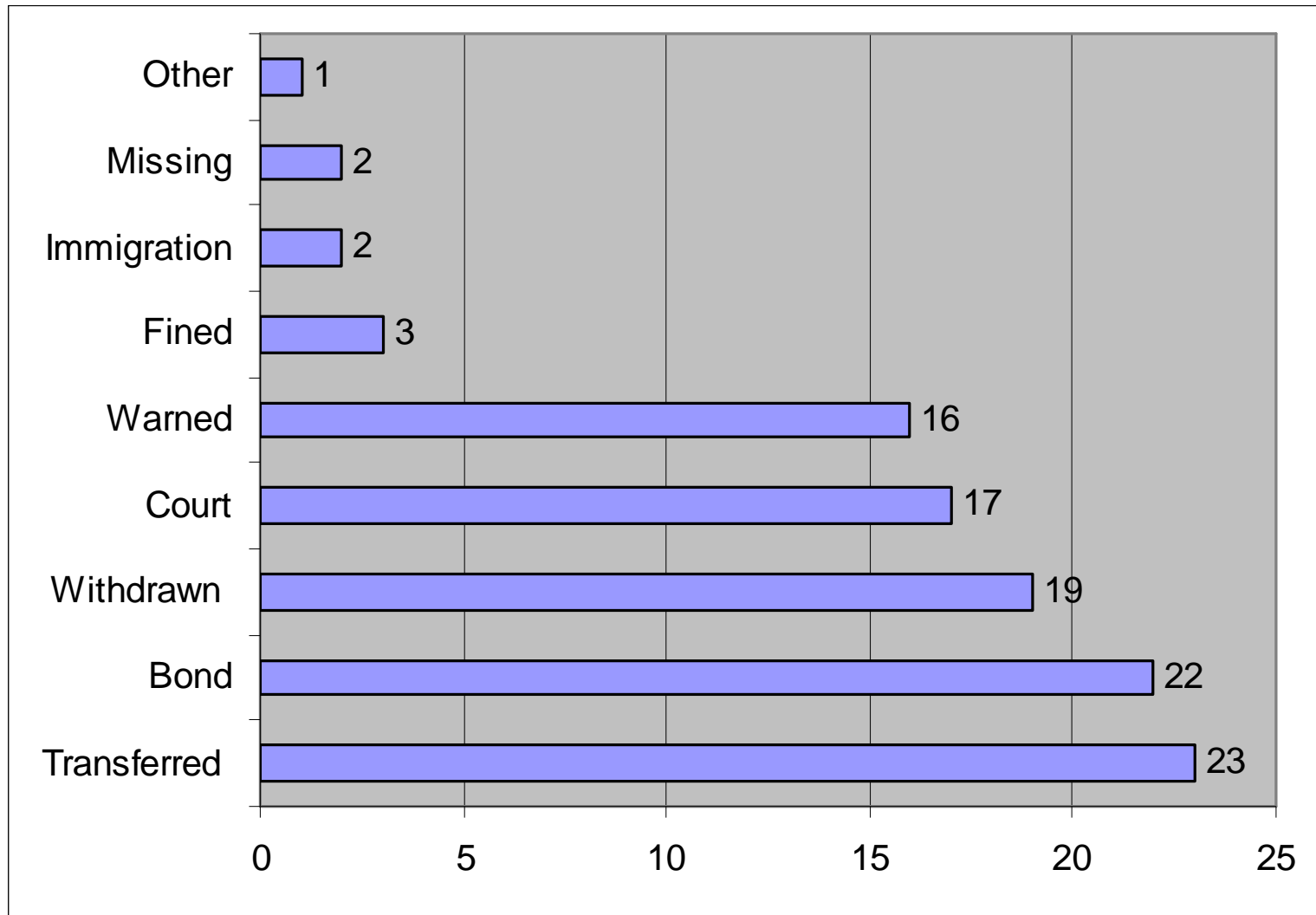
Police Detention

Days in detention, 2006-2011



Police Detention

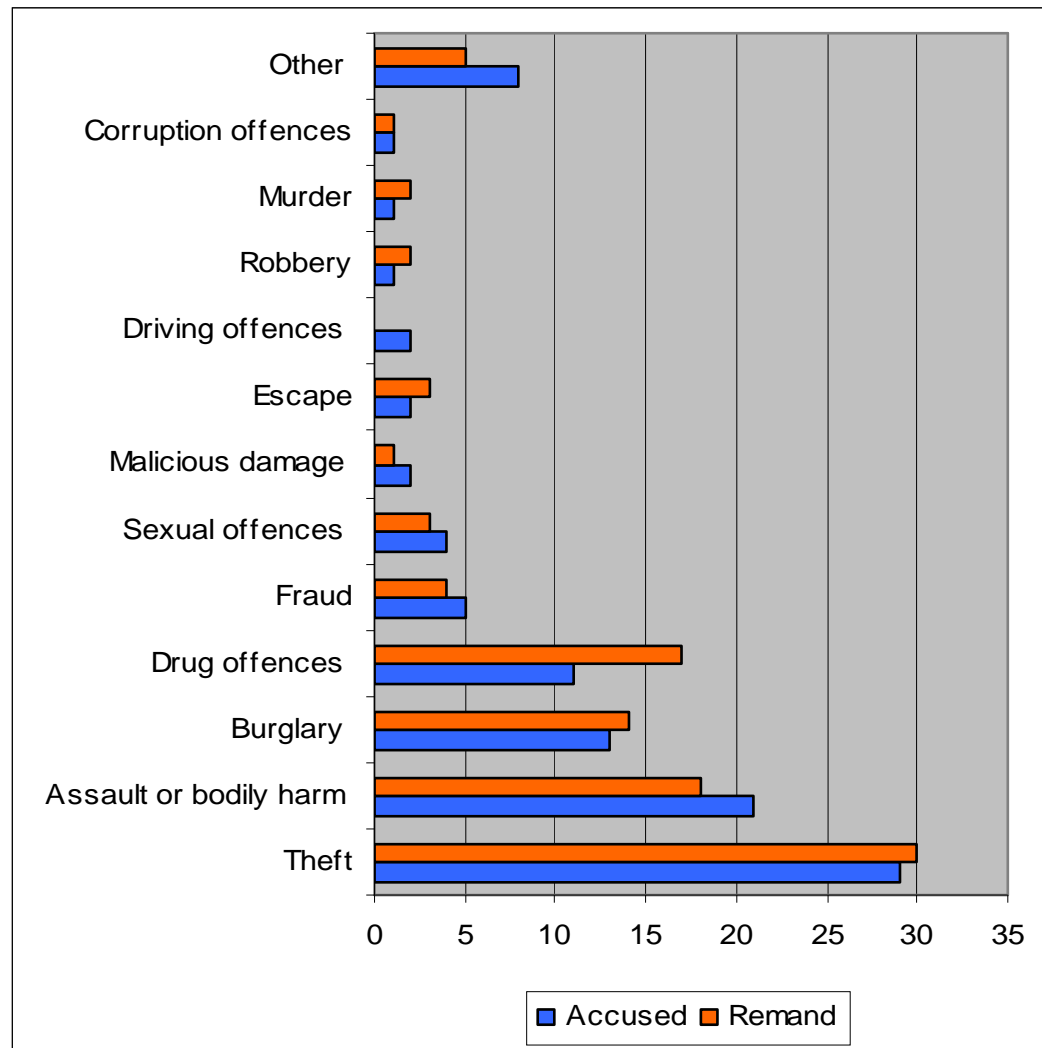
Average days in detention, by reason



Subordinate Court Accused Demographics

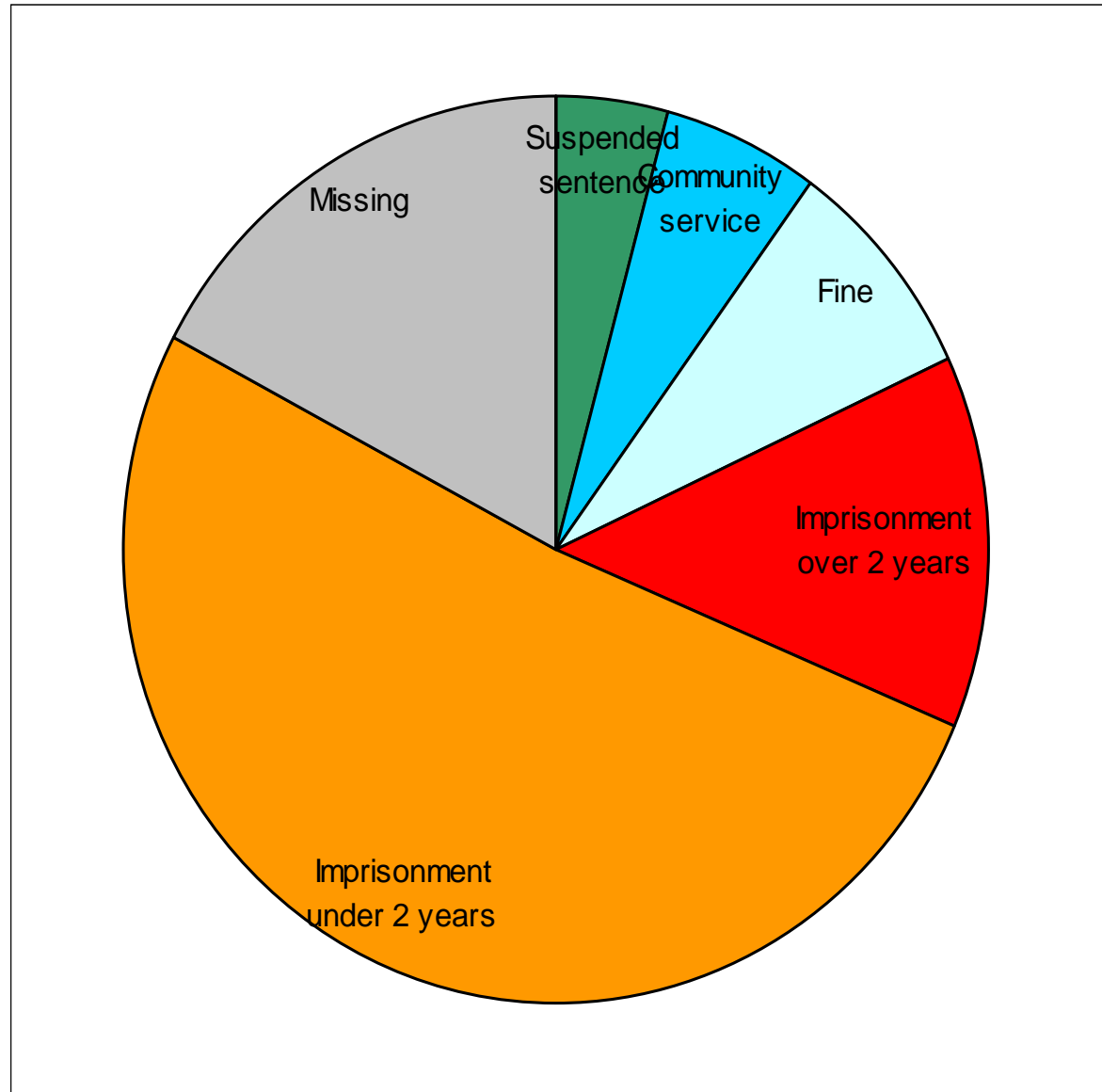
- 96% of accused in Zambia are male
- The age composition matches the age composition of remand closely, suggesting no bias by age in denying bail
- Some 94% of people before the subordinate courts were there in relation to one offence only
- Custody status at the time the case was concluded (or current custody status if the case was continuing) indicated that 54% of accused persons before the subordinate were held on remand

Subordinate Court Accused Offence profile compared to remand



- Comparing accused offence profile with remand offence profile suggests that:
- Remand more likely for those on murder, robbery, escape, drug offences, burglary and theft charges
- Remand less likely for those on malicious damage, sexual offences, fraud, assault or bodily harm charges

Subordinate Court Sentences



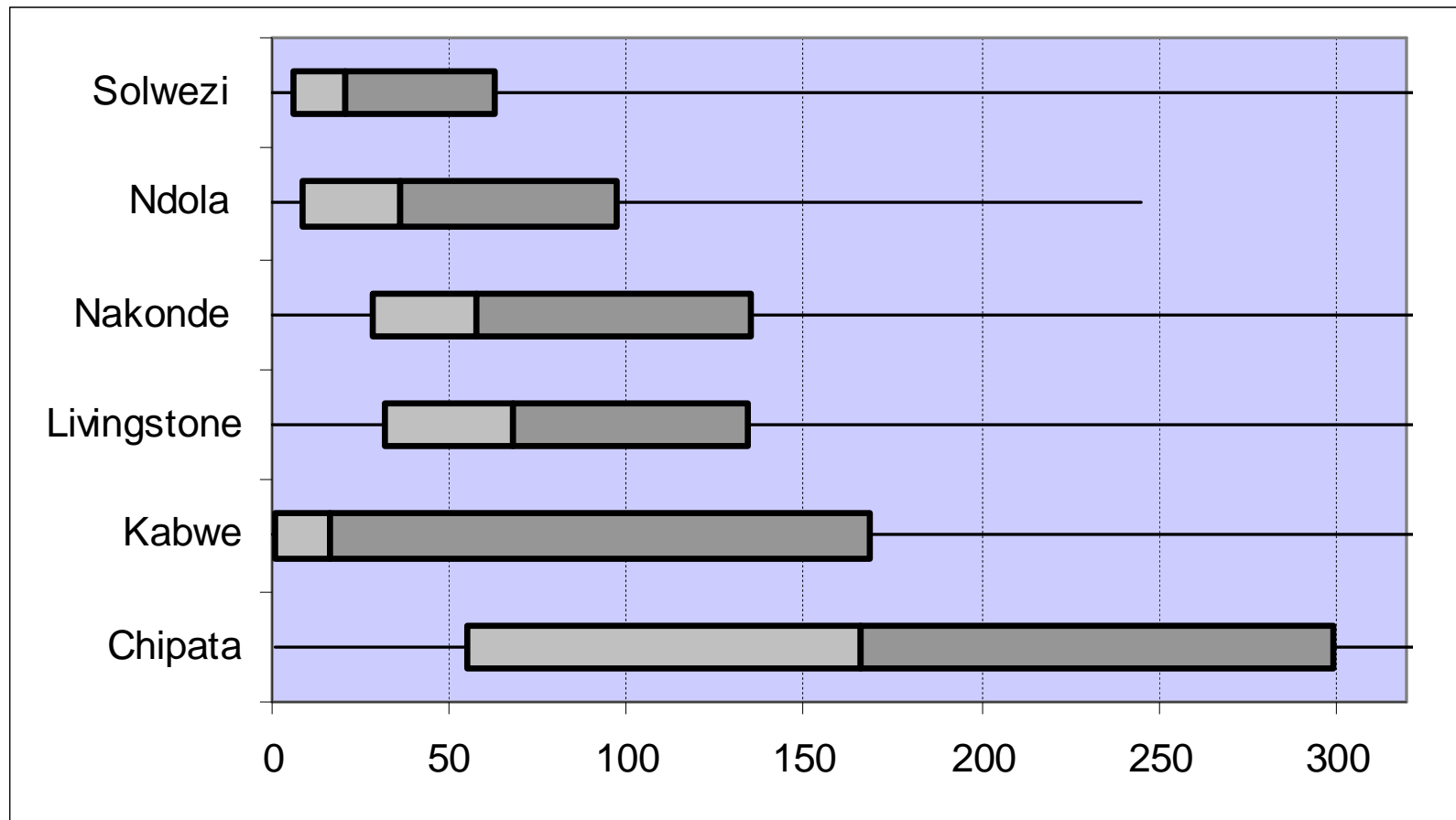
Subordinate Courts

Days from entry to first appearance

- In all the subordinate courts except Livingstone, in the majority of cases the date entered or filed is the same as the day of first appearance in the court. Thus the median for Zambia is 0 days.
- Due to the presence of a few large values in the dataset, the mean (average) time period from entry to first appearance ranges between 0 and 124 days in the six courts. The weighted mean for all six courts i.e. the estimate for Zambia as a whole, was calculated at 11 days.

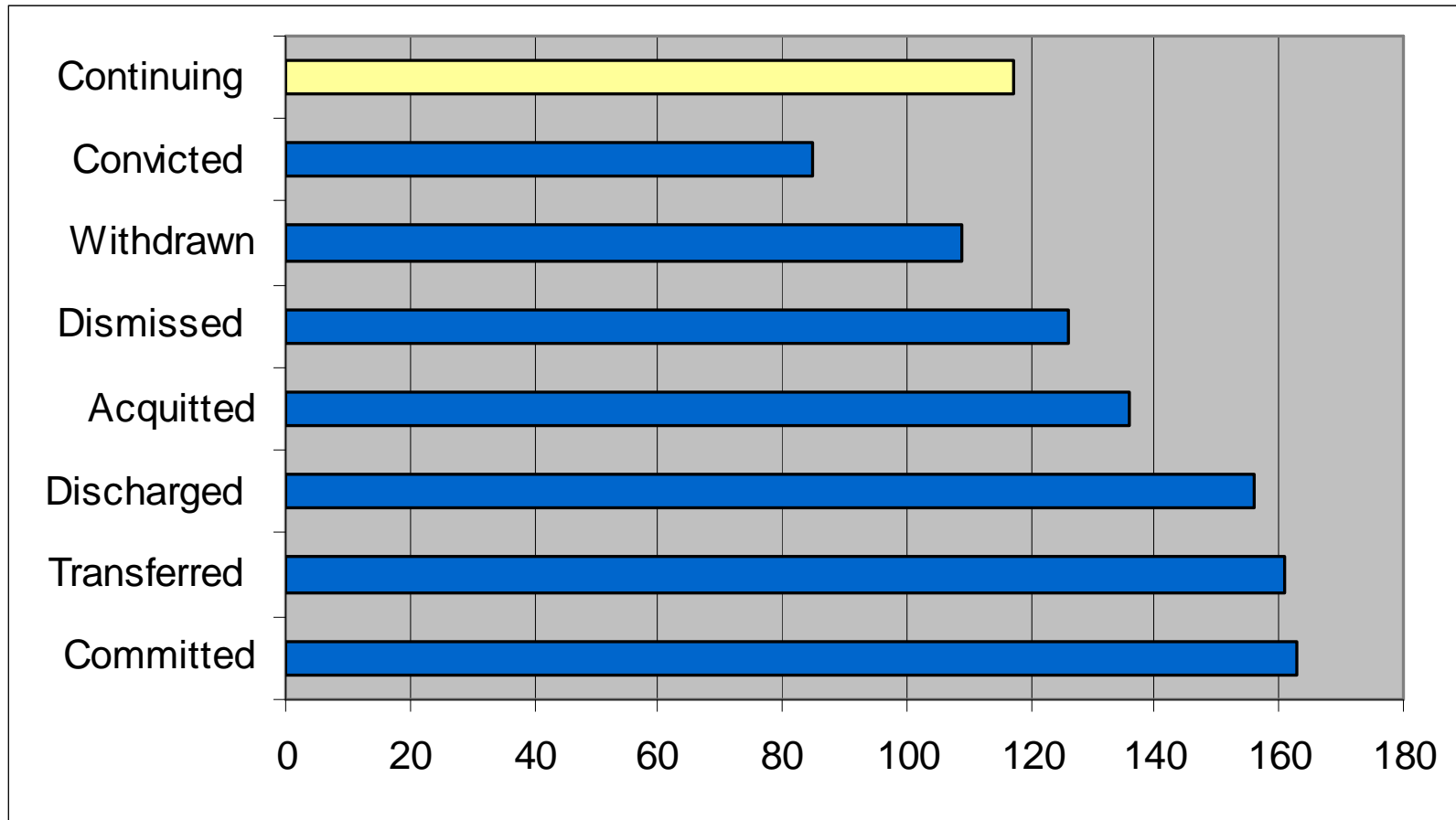
Subordinate courts

Days from first appearance to outcome



Subordinate Courts

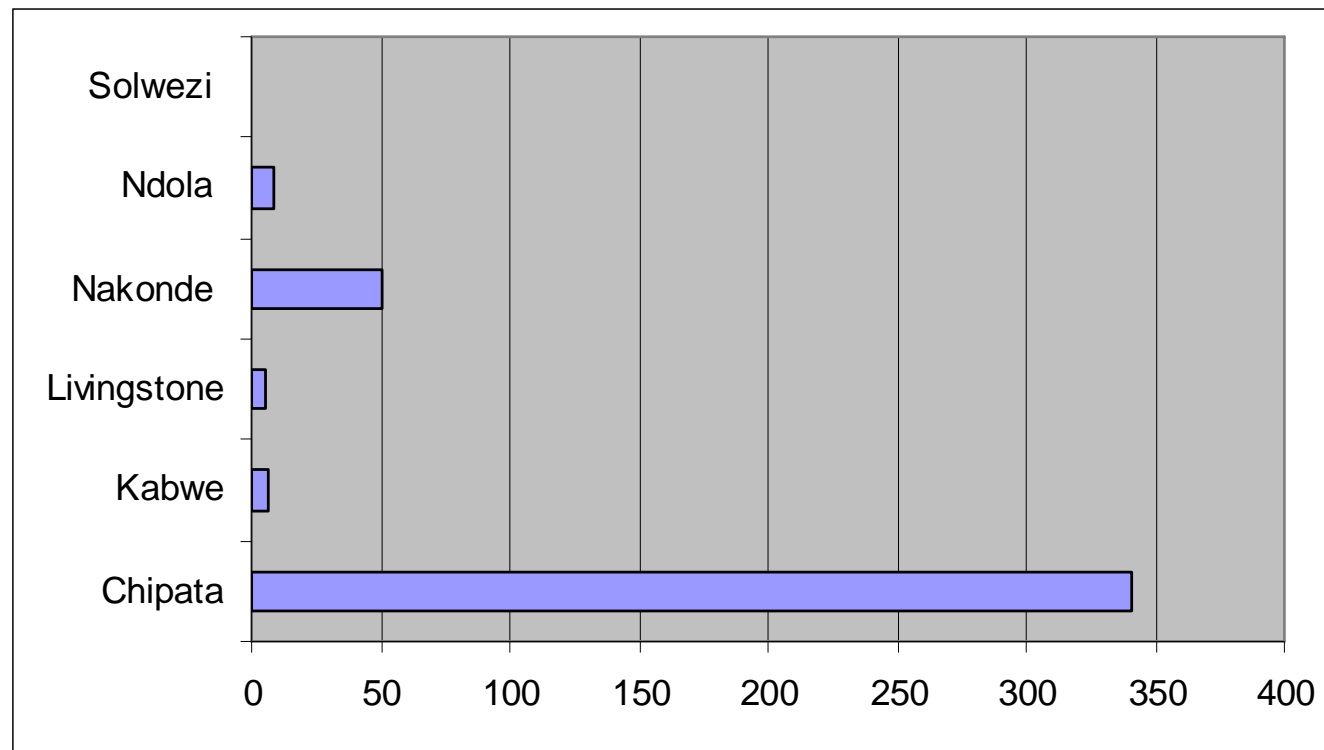
Average days to outcome



Subordinate Courts

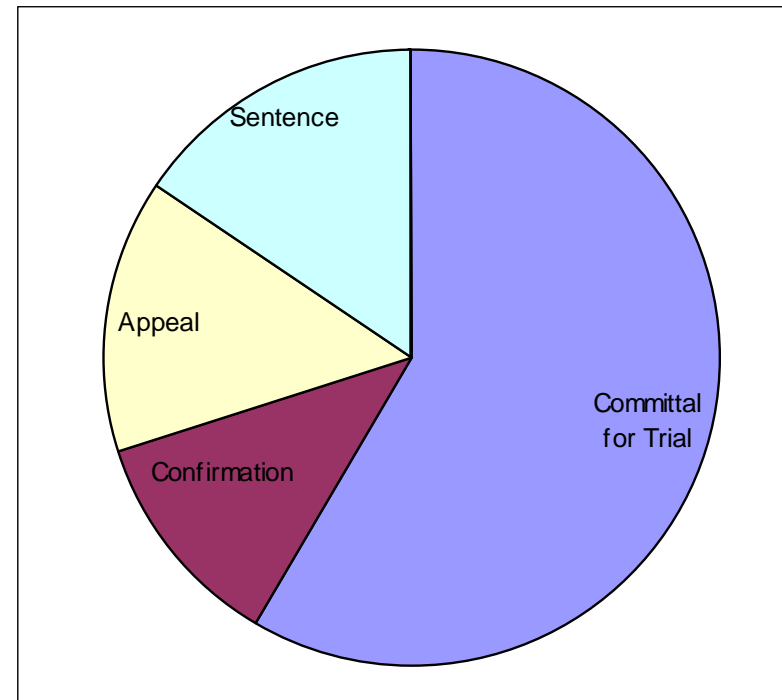
Days from conviction to sentence

- The average for this time period for all six courts was 42 days
- However there was a great deal of variation among the courts, with the average ranging from 0 days in Solwezi to 342 day in Chipata



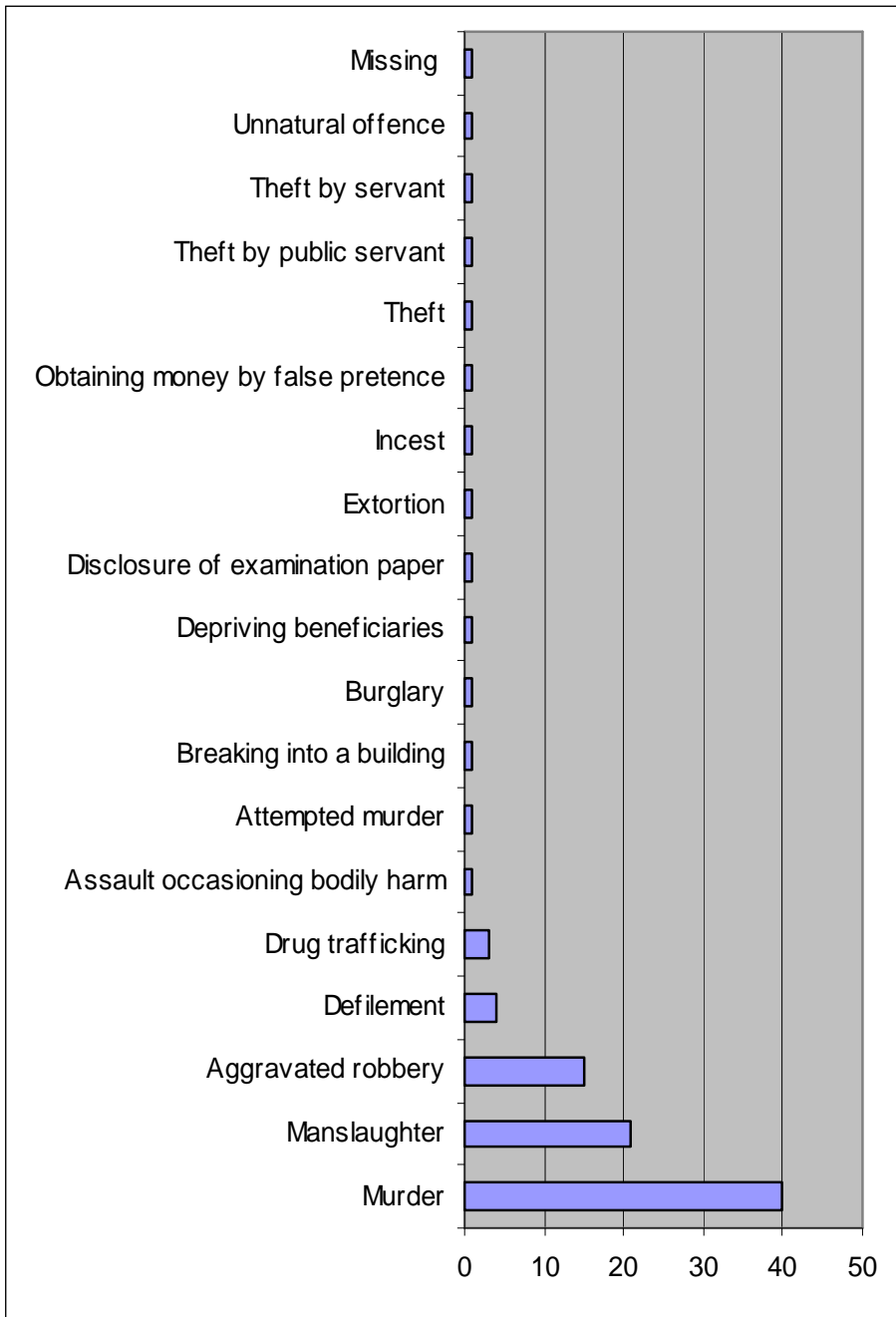
High Courts Work profile

- Summary data was available from four high Courts (Ndola, Chipata, Livingstone and Mongu). This data indicates these courts register on average 123 matters each year, of which 73 are committals for trial. It is however unclear from the High Court registers how many matters are *completed* each year.



High Court Accused Characteristics

- Only 80 observations with detailed High Court information
- Some 98% of the High Court sample comprised male accused persons.
- Age was missing in 58% of the sample; all accused for whom age was known were 18 or older.
- Although murder and manslaughter comprised 61% of offences before the High Court, a range of other less serious offences were also heard before the High Court.



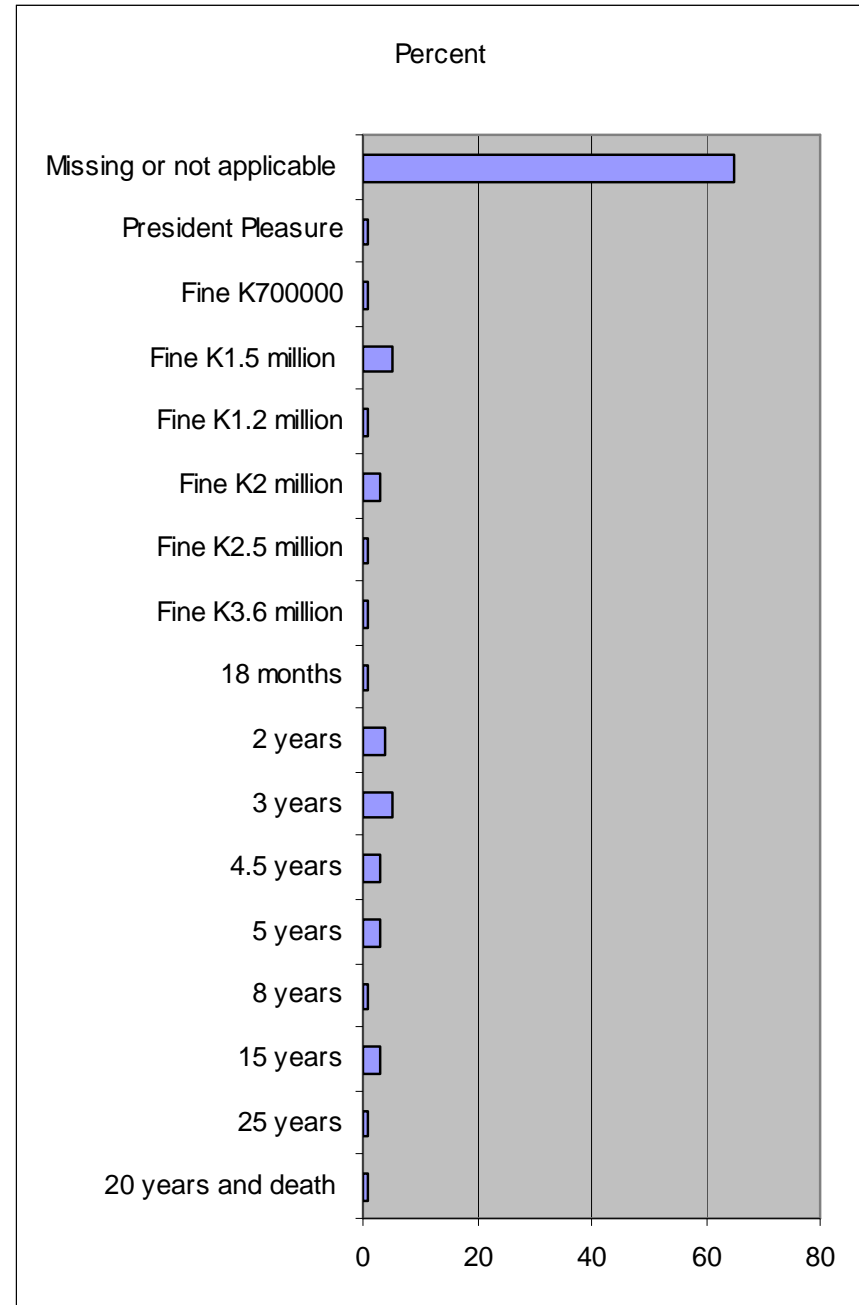
Mongu High Court

Days from arrest to sentence

- The mean for this court was 504 days (one year and five months) from the date of arrest to date of sentence.
- The minimum time period was 143 days (five months) while the maximum was 1221 days (three years and three months).
- The lower quartile (the value which a quarter were less than) was 297 days and the upper quartile (the value which a quarter of the sample as more than) was 673 days.
- The median, the middle value, was 374 days, which is just more than a year.

High Court Sentences

- Results suggests a preference by the courts for fines for white collar offences
- Sentences also suggest only a few very serious cases warranting more than ten years imprisonment



Conclusions

- Zambia's achievement in steadily reducing the average time in police detention from 39 days in 2006 to 8 days in 2011 must be acknowledged.
- Nevertheless time periods in police detention remain a cause for concern in the Zambia audit. The legislative limit of 24 hours appears not to be achievable for a large proportion of detained persons.
- Deprivations of liberty by police for a range of minor offences also raise concern. Admission to police detention could be reduced by a fifth simply by removing persons arrested on offences such as 'loitering' from police detention.

Conclusions

- The impact of legislation restricting bail for some offences, particularly drug offences, is readily apparent from a comparison of the remand population offence profile to the profile of cases before the courts.
- Remand is highly likely for persons before the courts, with more than half of people tried in the subordinate courts being held on remand.
- Amongst the court data the greatest source of concern is the longer time periods applicable to cases transferred to other courts or committed to the High Court. The data from the High Courts suggests these courts are able to process the cases presented to them. This suggests the delay arises in the committal process.

Conclusions

- Of further concern is the longer time periods (compared to conviction) applicable to cases ultimately withdrawn. This suggests a failure to properly screen cases at an early stage to prevent long periods in custody being spent by persons who are ultimately never convicted of an offence.
- Variations in time periods by location suggest the influence of local factors. The isolation of Chipata is probably indicated in the delays experienced there.
- While the mean for remand imprisonment appears reasonable at 56 days, the last quartile and the maximums observed are serious sources of concern and suggest a lack of safety nets for the identification and prevention of inordinate delays for individuals in the criminal justice system

Recommendations

- Re-training of police on the right to police bond and changes to local practice on the requirements for police bond
- Review of bail legislation restricting bail by offence type
- Review of the committal process and design of an expedited process to enrol matters in the High Court
- Implementation of an early screening process to be adopted by prosecutors to expedite withdrawals
- Identification and implementation of mechanisms to identify instances of inordinate delay in relation to persons on remand and to trigger review of such cases.