



Welcome to the third edition of the “The Justice Watch”, a bulletin produced by the Centre for Accountability and Rule of Law (CARL) in partnership with Prison Watch Sierra Leone and Humanist Watch Salone. We are grateful for funding from the United Nations Development Programme in Sierra Leone and the U.S. State Department’s International Narcotics and Law Enforcement Affairs. In this edition, we will provide a final report of CARL’s activities relating to the Bail Regulations Monitoring project, and a comprehensive analysis of the data on the bail adjudication from the courtrooms across the country. This edition of “The Justice Watch” has utilized court monitoring data collected from 14 districts across the country on the implementation of the “Bail Regulations 2018”.

In November 2018, the Centre for Accountability and Rule of Law-Sierra Leone (CARL-SL) signed a \$100,000 grant agreement with the United Nations Development Programme’s Rule of Law section with support from the US State Department’s International Narcotics and Law Enforcement Affairs to undertake a project aimed at supporting the Sierra Leone Judiciary in implementing the “Bail Regulations 2018”. Two other organizations, Prison Watch Sierra Leone and Humanist Watch Salone, worked with CARL to implement the project. CARL made a commitment to monitor 3,000 cases in the five judicial districts of Bo, Bombali, Kambia, Port Loko and Western Area Urban. The two other implementing partners agreed to monitor cases before the Magistrate Courts in the other nine judicial districts.

## GENERAL OBSERVATIONS

### Progress:

In furtherance of the objectives of the project, CARL signed a Memorandum of Understanding with one of the leading broadcast stations in Sierra Leone, AYV Radio, to host the discussions so that other radio stations, especially those in the provinces, can join in and broadcast in real time. We organized several radio discussions targeting at least 500,000 people across this country. The project helped us a credible platform to educate the public about the Bail Regulations. During the radio call-in shows organized over a period of one year, we were able to assess the growing levels of knowledge among the public about the bail regulations.

The Bail Regulations monitoring project generated the most credible and biggest data on Sierra Leone's criminal justice system to date. With support from Prison Watch Sierra Leone and Humanist Watch Sierra Leone, CARL's effort helped not only to improve the enforcement of the Bails Regulations 2018, but it also influenced the granting of bail to at least 500 accused/remanded inmates who would otherwise have been deprived their civil liberties. In the process of monitoring the implementation of the Bail Regulations Act 2018, we were able to compile data that will be useful for case management, developing sentencing guidelines, and the legislation of legal reforms relating to access to justice. Through this initiative, we were able to enhance respect for the rule of law and hold judicial officers accountable.

Additionally, CARL regularly met with other law enforcement and justice sector actors, including the judiciary, police prosecutors, correctional service officers, traditional leaders and civil society leaders through community dialogue sessions, where some of the crucial challenges in the implementation of the Bail Regulations are discussed. The dialogue sessions presented an opportunity to educate justice and law enforcement officers whilst at the same time holding them to account with respect to the implementation of the Bail Regulations.



We also had several constructive meetings with the leadership of the judiciary. We held two national level conferences in Freetown and Bo, where we raised key issues relating to the implementation of the Bail Regulations. In the course of our monitoring, we observed that many of the teething challenges were slowly addressed, and Magistrates showed more willingness to grant bail in accordance with the Bail Regulations.



CARL also produced a simplified version of the “Bail Regulations 2018” and distributed copies extensively across the country. It is reader-friendly and reduces complex legal language into basic words to aid easy understanding. The feedbacks from our target groups have been largely positive. The simplified version, the radio and television discussions and the community engagements helped raise awareness about the Bail Regulations, and enhanced access to justice to a good number of citizens.



We also produced a quarterly bulletin, called the “Justice Watch”, which captured the highlights of our monitoring exercise. Through the bulletin, we were able to educate the public about the progress and challenges facing the implementation of the Bail Regulations. It was also used as an accountability tool through which Judges and Magistrates were questioned about their commitment to the Bail Regulations.



### **Challenges:**

- A total of 6,051 counts were involved in all the cases monitored across the 14 (fourteen) districts of the country since January, and approximately 1,800 of these offences were considered very serious. These included sexual penetration, rape,

sexual touching, wounding, robbery with violence, robbery with aggravation, physical assault etc. We observed that Magistrates were less willing to grant bail to accused persons facing the above-mentioned offences when compared to the number of instances bail was granted to persons charged with minor offences such as traffic related offences, minor larceny, abusive language, loitering, riotous conducts, etc. We further observed that most of the very serious offences were committed in the Western Area Urban and other urban areas. While the “Criminal Procedure Act 1965” and the “Bail Regulations 2018” empower the Magistrates to grant bail for most of the offences listed above, they were less willing to grant bail in respect of serious offences, which is why the rating for consistency and compliance with the Bail Regulations for courts in the Western Urban is lower.

- ▶ We also observed a pattern of inconsistency in determining bail conditions for accused persons. For instance, for similar offences, Magistrates ordered different bail conditions to different accused persons, irrespective of whether their social, economic and criminal record was similar.
- ▶ We further observed that in some instances bail conditions were so onerous that most accused persons were unable to fulfill the conditions. These situations led to most accused persons being remanded at different correctional facilities across the country.
- ▶ Furthermore, we observed that there is limited knowledge of the “Bail Regulations 2018” among police prosecutors across the country. During our interactions with prosecutors, it was evident that they had received little or no instruction in respect of the Bail Regulations. In one of the dialogue sessions in the North, police prosecutors confessed that they had no idea about how to prepare an affidavit, which is a key provision of the Bail Regulations for them. They also expressed the lack of access to computers to prepare court papers.
- ▶ Another major challenge confronting the implementation of the Bail Regulations is the unwillingness of persons to enter into recognisances on behalf of defendants/accused persons. Magistrates in the provinces are generally more willing to grant bail to persons charged with minor offences, but they usually struggle to get sureties who can enter into their recognisances. One of the reasons for this, is the fact that some of these accused persons are not ordinarily resident in the towns where the courts are located.

- ▶ Again, another key challenge affecting the release of accused persons from remand is the unavailability of NRA offices in most districts across the country. In some cases, mostly for minor traffic related offences, accused persons are remanded whilst their relatives look for the nearest NRA office to pay fines. For instance, accused persons who are fined in Kambia and Port Loko town will have to travel to Lungi to locate an NRA office to deposit their payments. There are instances where accused persons have spent days at correctional facilities because they could not have access to pay fines imposed on them by judicial authorities.
- ▶ We also observed the incarceration of delinquent juvenile with adults at the same remand facilities. According to correctional officers, the problem lies with the police prosecutors who charge these juveniles as adults and are therefore mixed with the general adult population in remand facilities.

This edition provides data both for the final monitoring quarter (September – December) as well as a summary of the annual monitoring data.

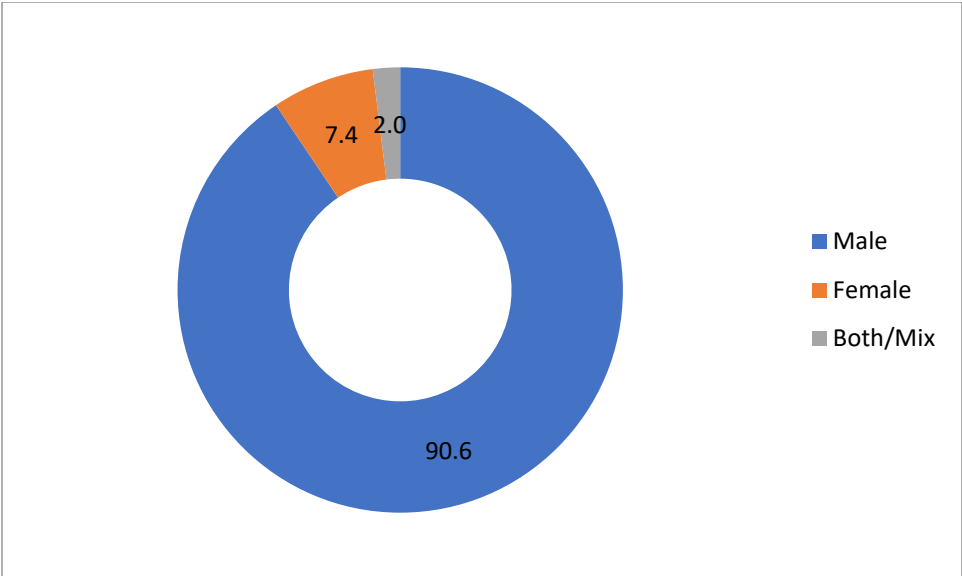
In the final quarter of monitoring September – November 2019, the Centre for Accountability and Rule of Law (CARL) and its implementing partners (Prison Watch Sierra Leone and Humanist Watch Salone) monitored and analyzed 1,974 cases across 14 judicial districts in the country. The analysis of the 1,974 cases monitored shows the following findings:

Of the 1,974 cases monitored and analyzed, 1,788 were male accused persons, representing 90.6 %.

Of the 1,974 cases monitored and analyzed, 147 were female accused persons, representing 7.4 %.

Of the 1,974 cases monitored and analyzed, 39 were cases that involved both male female (mixed) accused persons, representing 2.0 %.

**Figure 1: Distribution of monitored cases by Gender.**



Of the 1,974 cases analyzed, below is an analysis of accused persons by age:

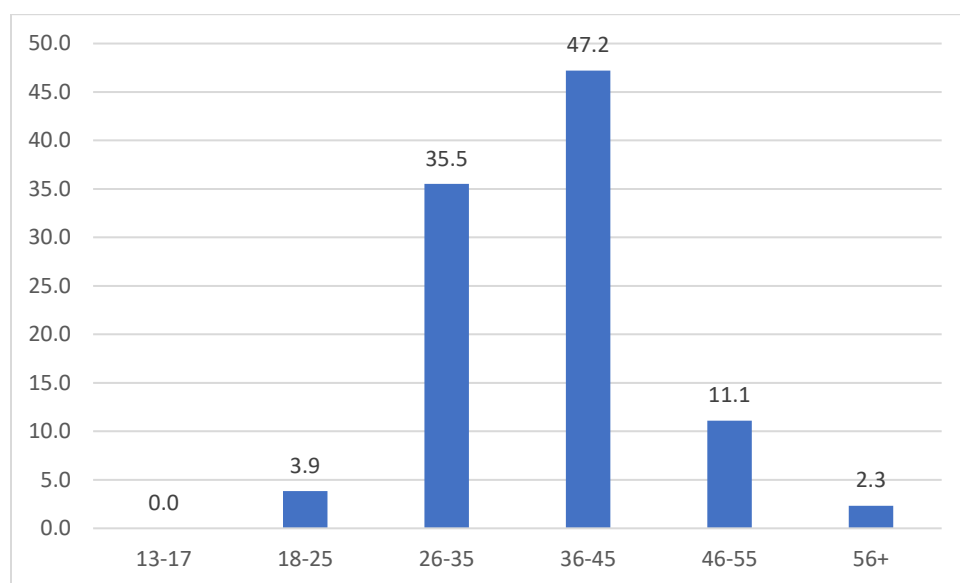
- 76 of the accused persons were aged between 18-25, representing 3.9 %.
- 701 of the accused persons were aged between 26-35, representing 35.5 %.



- 932 of the accused persons were aged between 36-45, representing 47.2 %.
- 219 of the accused persons were aged between 46- 55, representing 11.1 %.
- 46 of the accused persons were aged between 56+, representing 2.3 %.

**Note**, from the 1,974 cases monitored, no accused was recorded to be between the age of 13-17 (juvenile).

**Figure 2: Distribution of monitored cases by Age (percentage).**



Of the 1,974 cases monitored, below is an analysis of cases monitored by district:

- ✓ 964 cases were monitored from Western Area Urban, representing 48.8 % of all cases.
- ✓ 202 cases were monitored from Bo, representing 10.2 % of all cases.
- ✓ 231 cases were monitored from Kenema, representing 11.7 %.
- ✓ 131 cases were monitored from Port Loko, representing 6.6 %.
- ✓ 76 cases were monitored in Bombali, representing 3.9 %.

- ✓ 64 cases were monitored in Western Area Rural, representing 3.2 %.
- ✓ 66 cases were monitored from Pujehun, representing 3.3 %.
- ✓ 54 cases were monitored from Kambia, representing 2.7 %.

**Table 1: Distribution of cases by District (frequency & percentage).**

District	Frequency	Percentage
<b>Bo</b>	202	10.2
<b>Bombali</b>	76	3.9
<b>Bonthe</b>	48	2.4
<b>Kailahun</b>	23	1.2
<b>Kambia</b>	54	2.7
<b>Kenema</b>	231	11.7
<b>Koinadugu</b>	28	1.4
<b>Kono</b>	25	1.3
<b>Moyamba</b>	49	2.5
<b>Portloko</b>	131	6.6
<b>Pujehun</b>	66	3.3
<b>Tonkolili</b>	13	0.7
<b>W/Urban</b>	964	48.8
<b>W/Rural</b>	64	3.2
<b>Total</b>	1974	100.0

Of the 1,974 cases monitored across the 14 districts, 2,513 was the total number of offences preferred/charged. Below is an analysis of multiple offences by districts:

- ❖ Western Area Urban recorded 1,254 offences, representing 49.9 %.
- ❖ Kenema recorded 270 offences, representing 10.7 %.
- ❖ Bo recorded 260 offences, representing 10.3 %.
- ❖ Port Loko recorded 182 offences, representing 7.2 %.
- ❖ Bombali recorded 3.9 offences, representing 3.9 %.
- ❖ Western Area Rural recorded 71 offences, representing 2.8 %.

**Table 2: Distribution of offences by Districts (frequency & percentage).**

District	Number of Offences	Percentage	Offences per monitored cases
Bo	260	10.3	1.3
Bombali	98	3.9	1.3
Bonthe	83	3.3	1.7
Kailahun	30	1.2	1.3
Kambia	52	2.1	1.0
Kenema	270	10.7	1.2
Koinadugu	43	1.7	1.5
Kono	42	1.7	1.7
Moyamba	49	1.9	1.0
Portloko	182	7.2	1.4
Pujehun	66	2.6	1.0
Tonkolili	13	0.5	1.0
WU	1254	49.9	1.3
WR	71	2.8	1.1
National	2513	100.0	1.3

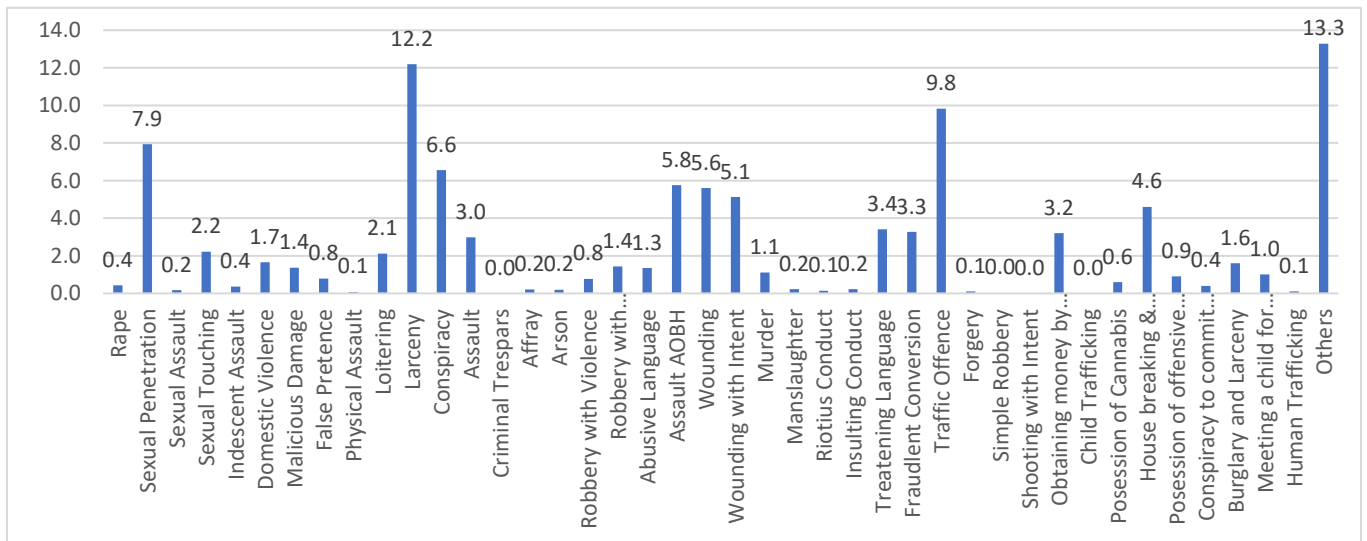
### **MOST PREVALENT OFFENCES**

Below is an analysis of some of the most prevalent offences from the 2,513 counts of offences monitored across the 14 districts:

- Of the 2,513 counts of offences monitored, larceny recorded 346, representing 12.2 %.
- Sexual Penetration recorded 269 counts, representing 7.9 %.
- All sexual related offences (rape, sexual penetration, sexual assault and sexual touching) recorded 313, representing 12.5 %.
- Conspiracy related offences recorded 210 counts, representing 6.6 %.
- Wounding with intent recorded 185 counts, representing 9.4 %.

- Traffic related offences recorded 164 counts, representing 8.3 %
- Wounding recorded 131 counts, representing 6.6 %.
- Assault AOBH recorded 124 counts, representing 6.3 %.
- Robbery with Aggravation recorded 98 counts, representing 1.4 %.

**Figure 3: Distribution of monitored cases by offences (% of all offences).**

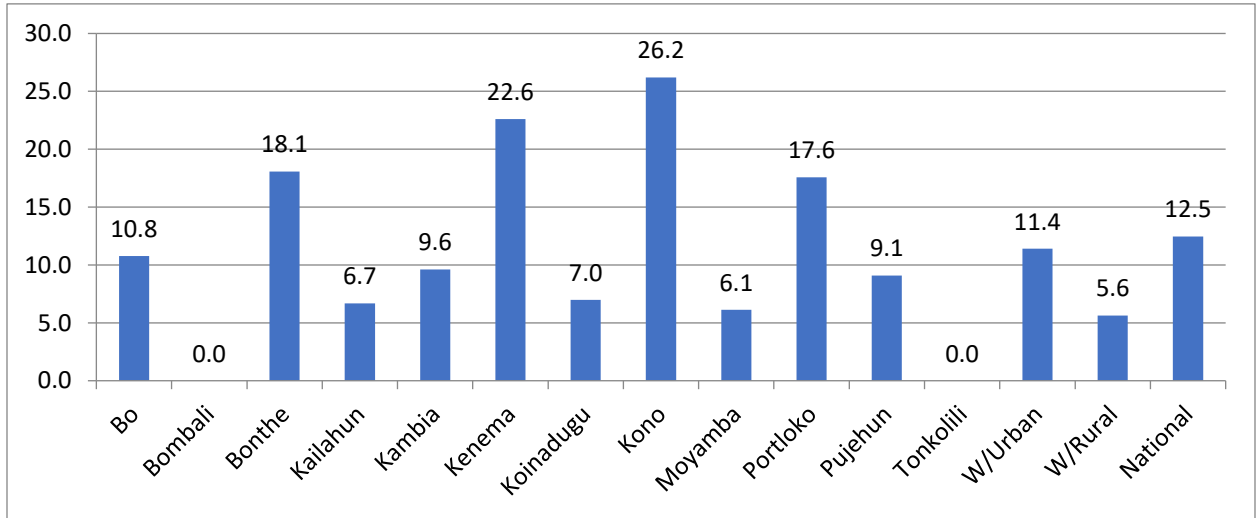


Of the total 2,513 count charges monitored, below is an analysis of all sexual related offences by districts:

- ❖ Western Area Urban recorded 1,254 offences and 143 were sexual related offences, representing 11.4 %.
- ❖ Kenema recorded 270 offences and 61 were sexual related offences, representing 22.6 %.
- ❖ Bo recorded 260 offences and 28 were sexual related offences, representing 10.8 %.
- ❖ Port Loko recorded 182 offences and 32 were sexual related offences, representing 17.6 %.

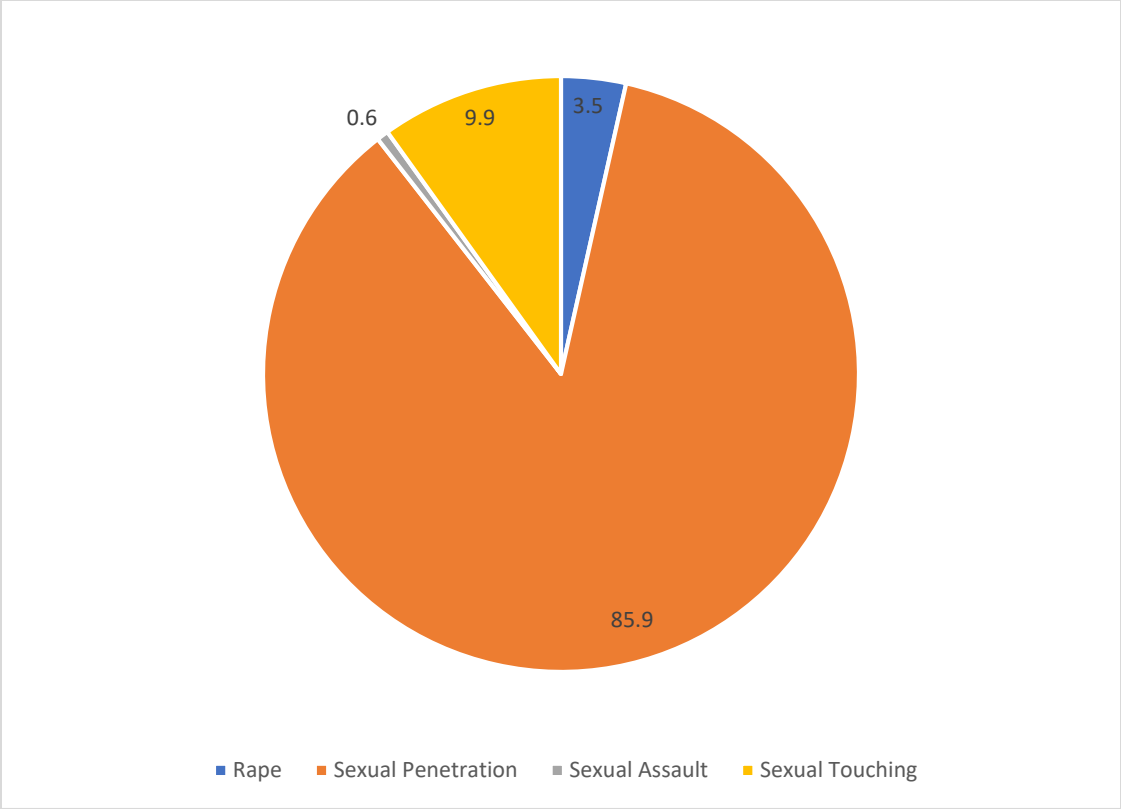
- ❖ Bonthe recorded 83 offences and 15 were sexual related offences, representing 18.1 %.

**Figure 4: Distribution of Sexual related offences by districts (percentage)**



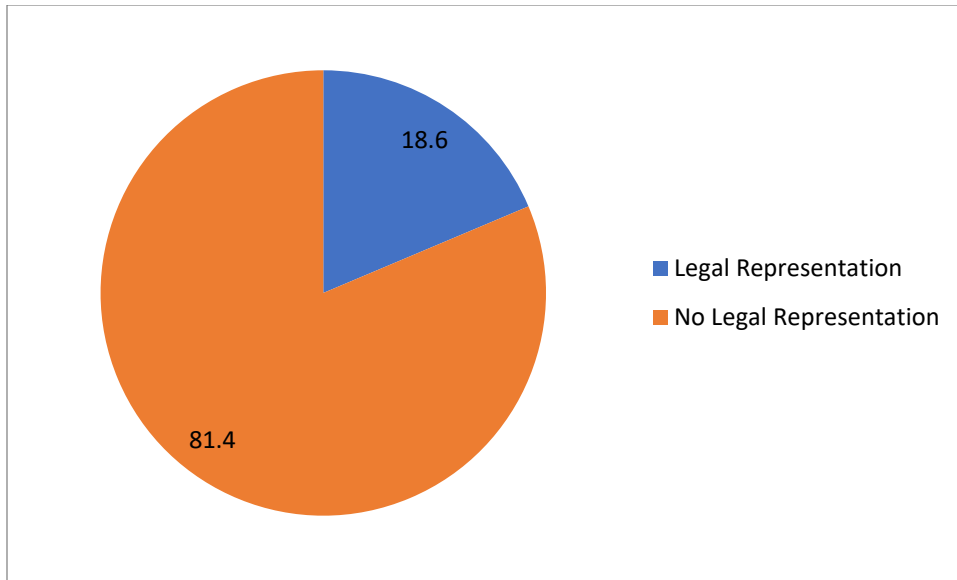
Of all the 313 sexual related offences that were monitored nationally, sexual penetration recorded the highest, with 269 of the total offences, representing 85.9 %. Sexual penetration remains the second most prevalent offence in the country. Sexual touching is the second most sexual related offence with 31, representing 9.9 %.

**Figure 5: Distribution of sexual offences (percentage)**



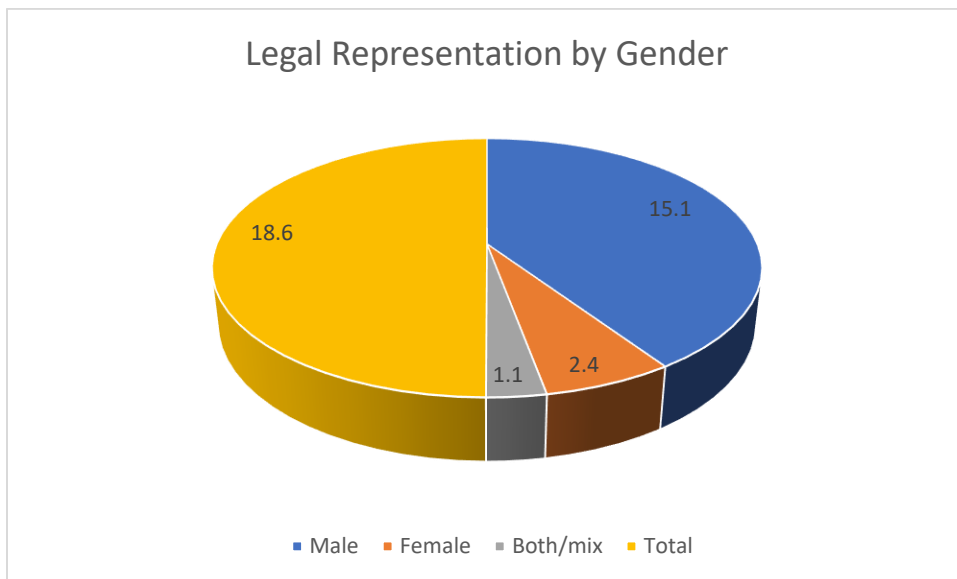
Of the 1,974 cases monitored across 14 districts in the country, 368 of accused persons had legal representation in court, representing 18.6 %. In 1,606 of the cases monitored, however, there was no legal representation for the accused, representing 81.4 %. Of the 368 cases that were represented by lawyers in court, 166 were granted bail whilst 202 were not, despite having lawyers representing them in court. Of the 1,606 cases that had no lawyers representing them in court, 529 were granted bail and 1,077 were not granted bail.

**Figure 6: Distribution of monitored cases by Legal Representation (percentage)**



Of the 368 (18.6 %) cases that had legal representation, 299 were male accused persons. 48 of the females accused persons had legal representation, and 19 cases with legal representation involved both male and female accused persons.

**Figure 7: Distribution of monitored cases by Legal and Gender Representation (percentage)**

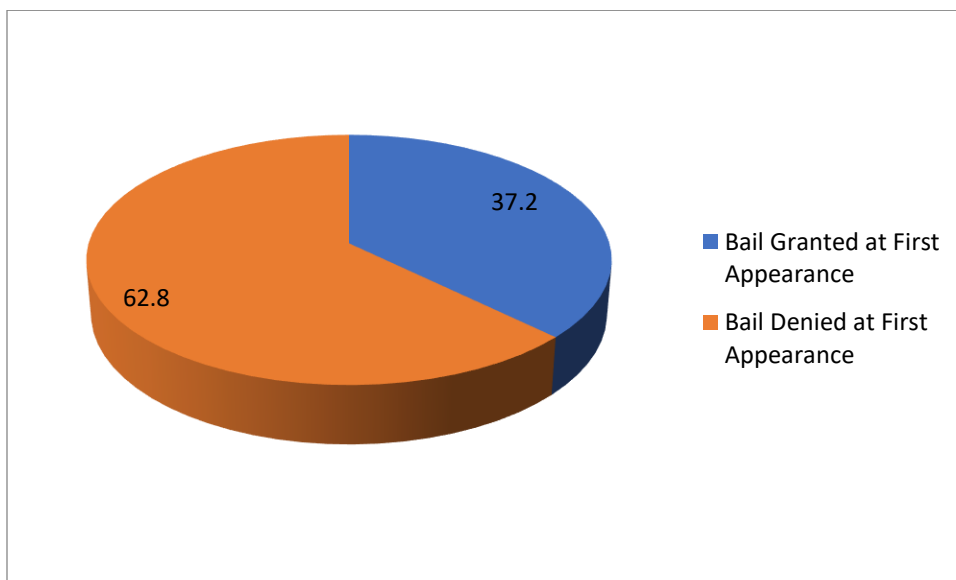


Below is an analysis of monitored cases that were remanded because of various reasons, irrespective of whether they had legal representation or not:

- 129 accused persons, representing 6.5 %, were remanded for “failure to meet bail conditions”.
- 17 accused persons, representing 0.9%, were remanded for “failure to pay court fees or fines”.

Of all the 1,974 monitored cases across the 14 districts, 750 (38.0%) were arraigned for the first time. Of the 750 first appearance cases, 279 (37.2 %) were granted bail. However, 471 (62.8 %) accused persons were refused bail on their first appearance. Cases in which bail was granted at the first time of asking related mostly to minor offences such as abusive language, loitering, minor traffic related. However, there were few instances of bail being granted at first appearance for major offences. Magistrates were generally reluctant to grant bail in cases relating to rape, sexual penetration, wounding with intent, robbery with aggravation, and fraudulent conversion.

**Figure 8: Distribution of cases per % of bail granted or denied at first appearance (percentage).**

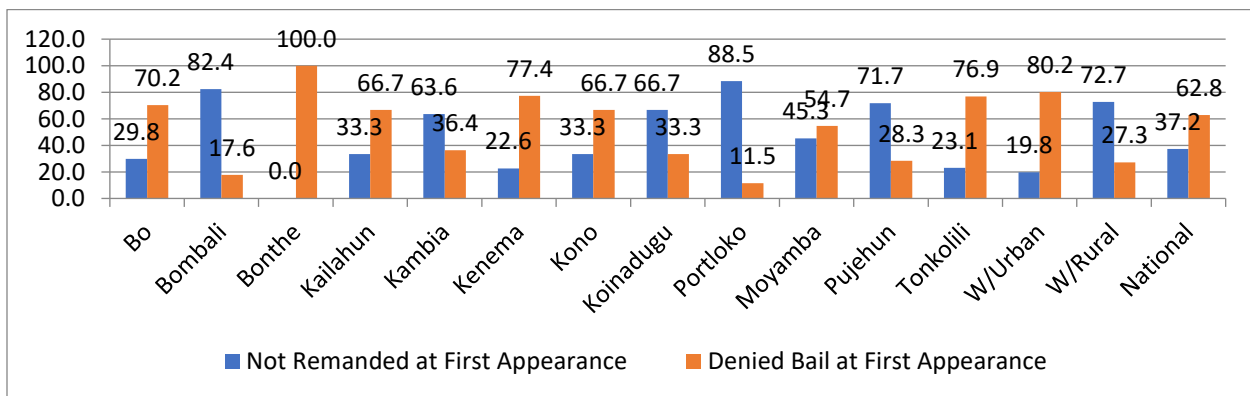




The following is a representation of accused persons released on bail or remanded at first appearance on a district by district basis:

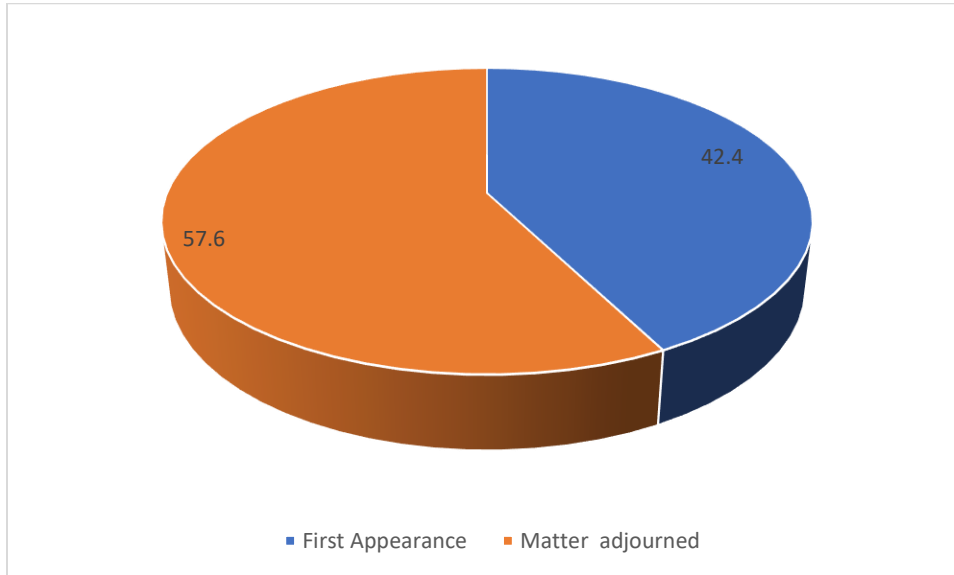
- 278 first appearance cases were monitored in Western Area Urban. 55 accused persons were granted bail at first appearance, representing 19.8 %. 223 accused persons were refused bail at first appearance, representing 80.2 %.
- 104 first appearance cases were monitored in Bo District. 31 accused persons were granted bail at first appearance, representing 29.8 %. 73 accused persons were refused bail at first appearance, representing 70.2%.
- 84 first appearance cases were monitored in Kenema District. 19 accused persons were granted bail at first appearance, representing 22.6 %. 65 accused persons were refused bail at first appearance, representing 77.4%.
- 60 first appearance cases were monitored in Pujehun District. 43 accused persons were granted bail at first appearance, representing 71.7 %. 17 accused persons were refused bail at first appearance, representing 28.3 %.
- 53 first appearance cases were monitored in Port Loko District. 24 accused persons were granted bail at first appearance, representing 45.3 %. 29 accused persons were refused bail at first appearance, representing 54.7 %.
- 44 first appearance cases were monitored in Kambia. 28 accused persons were granted bail at first appearance, representing 63.6 %. 16 accused persons were refused bail at first appearance, representing 36.4 %.

**Figure 9: Distribution of accused by district released on bail at first appearance by districts (percentage)**



Of the 1,974 monitored cases nationally, 837 had no previous adjournments. In other words, they were first appearance cases, representing 42.4 %. Of the 1,974 monitored cases, 1,137 had been adjourned at least once, representing 57.6 %.

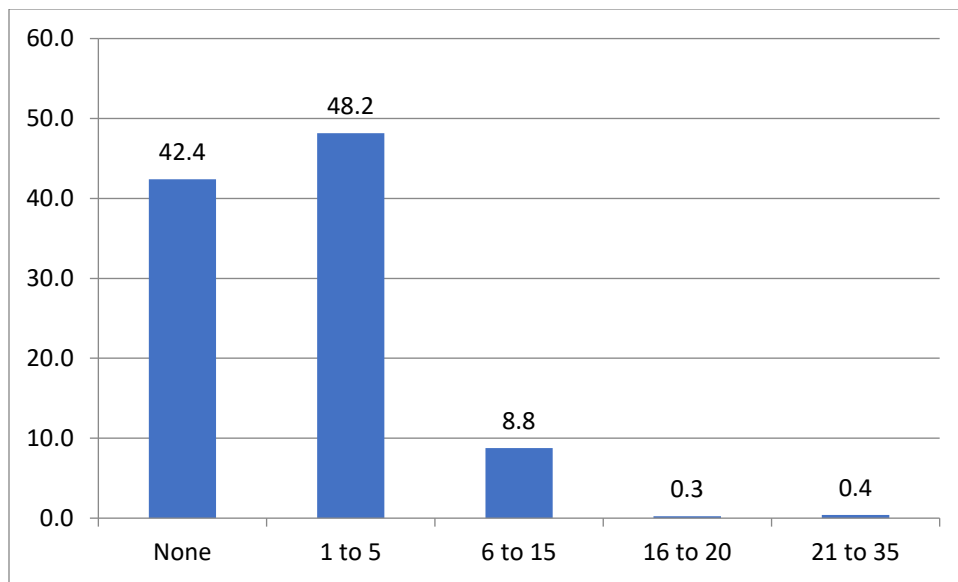
**Figure 10: Distribution of adjournments by cases monitored (percentage).**



Of the 1,137 monitored cases (representing 57.6 %) that had been adjourned at least once, the following shows the distribution of cases with previous adjournments and those without any adjournments.

- ✓ 951 cases monitored had been adjourned between 1 and 5 times, representing 48.2 %.
- ✓ 173 cases monitored had been adjourned between 6 and 15 times, representing 8.8 %.
- ✓ 5 cases monitored had been adjourned between 16 and 20 times, representing 0.3 %.
- ✓ 8 cases monitored had been adjourned between 21 and 35 times, representing 0.4%.

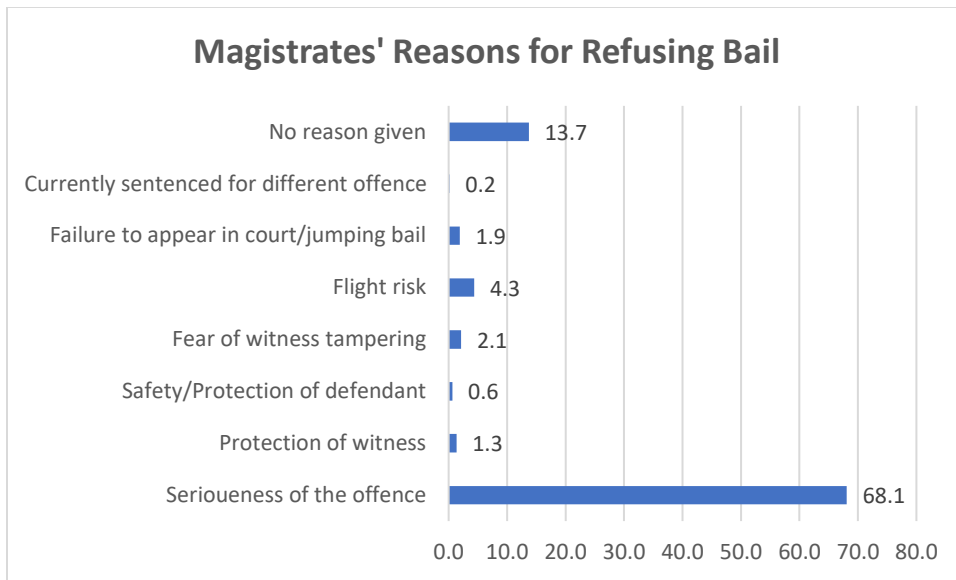
**Figure 11: Distribution of monitored cases previously adjourned (percentage).**



Of the total 1,974 cases monitored nationally, 1,266 cases, representing 64.1, were refused bail by Magistrates for various reasons and some for which “No Reason” was given. Below is an analysis of Magistrates’ reasons for refusal of bail:

- ❖ Bail was refused in 862 cases, representing 68.1 %, for the “seriousness of the offence”.
- ❖ Bail was refused in 17 cases, representing 1.3 %, in order to “protect witnesses”.
- ❖ Bail was refused in 8 cases, representing 0.6 %, for the “safety/protection of the defendant/accused”.
- ❖ Bail was denied in 27 cases, representing 2.1 %, for “fear of witness tampering”.
- ❖ Bail was denied in 55 monitored cases, representing 4.3 %, for “flight risk”
- ❖ Bail was refused in 24 cases, representing 1.9 %, for “failure to appear in court/jumping bail”.
- ❖ Bail was refused in 2 cases, representing 0.2 %, for “currently sentenced for a different offence”.
- ❖ Bail was denied in 271 cases, representing 13.7%, for which no reasons were provided by the Magistrates.

**Figure 12: % Distribution of cases by reasons for refusing bail**

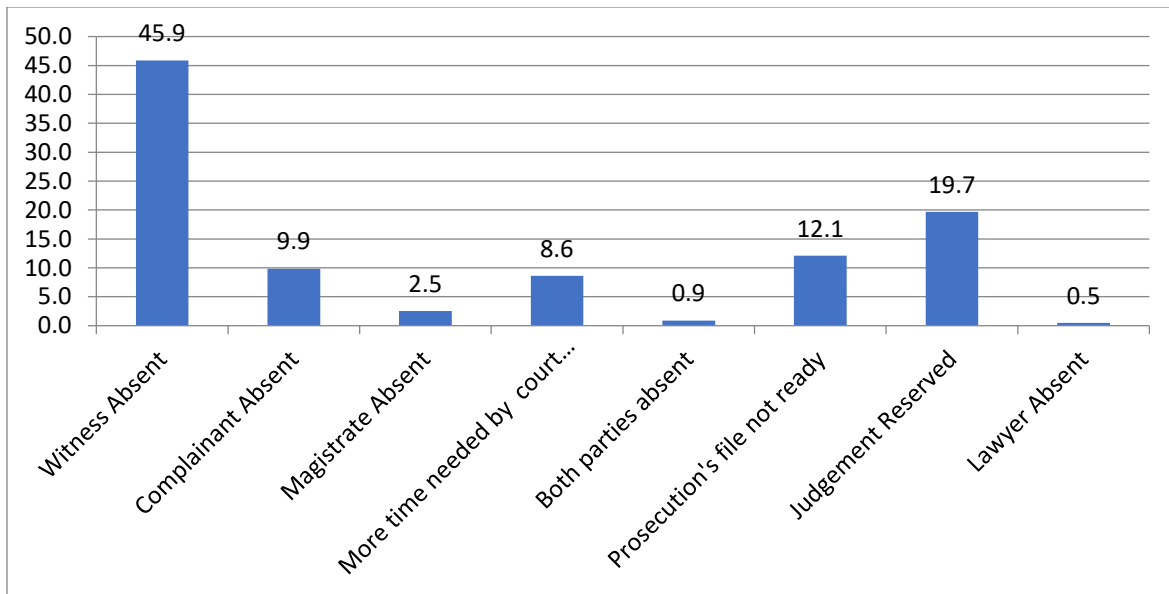


### **REASONS FOR ADJOURNMENTS**

Of the 1,974 cases monitored, 1,266 cases, representing 82.2 %, were adjourned because of various reasons. Below is an analysis of reasons for adjournments:

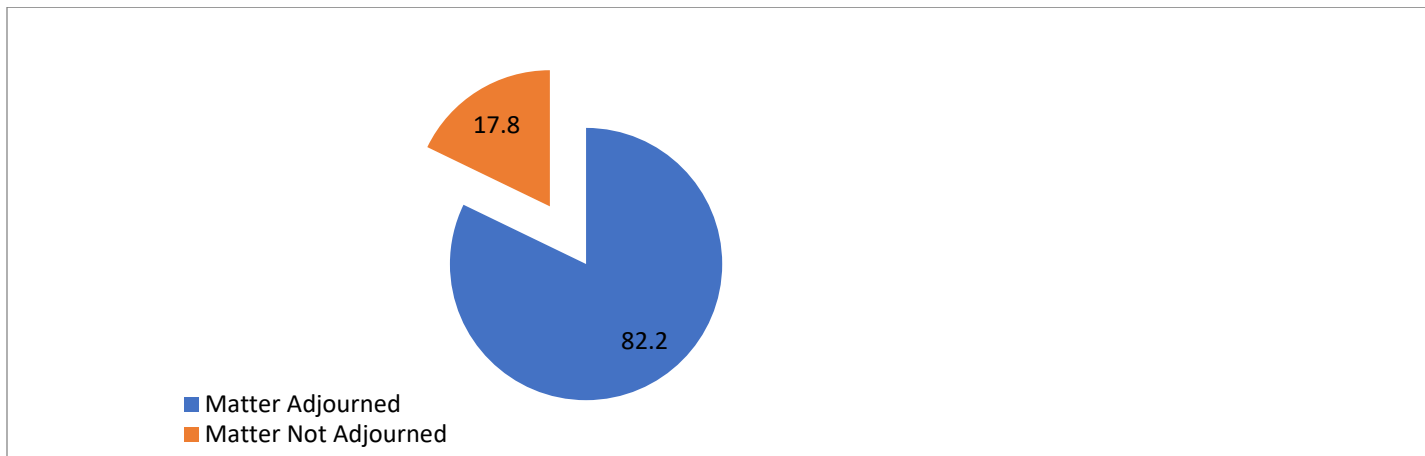
- 744 monitored cases, representing 45.9 %, were adjourned because the witnesses were absent.
- 160 cases monitored, representing 9.9%, were adjourned because of the complainant was absent.
- 41 monitored cases, representing 2.5 %, were adjourned because the Magistrate was absent.
- 140 monitored cases, representing 8.6%, were adjourned because more time was need by court for bail.
- 14 cases monitored, representing 0.9%, were adjourned because both parties were absent.
- 169 cases monitored, representing 21.1%, were adjourned because the prosecution's file was not ready.
- 319 monitored cases, representing 19.7 %, were adjourned because judgement had been reserved.

**Figure 13: Distribution of cases by Reasons for Adjournments (percentage).**



Also, of the 1,974 cases monitored, 352, representing 17.8%, were heard and concluded on the same day. In other words, they were never adjourned. In those cases, the Magistrates did one of the following: caution and discharge the accused; convict and sentence them to imprisonment; ordered them to pay a court fine; or acquit and discharge them.

**Figure 14: Distribution of cases by Adjournments and non-Adjournments (percentage).**



Of the 1,974 cases monitored nationally, 726 bail applications, representing 36.8%, were said to be consistent with the Bail Regulations. However, 1,248 cases monitored, representing 63.2 %, were adjudicated in a manner that was deemed to be inconsistent with the regulations.

**Figure 15: Distribution of monitored cases by Bail Conditions (percentage).**

Bail Condition Status	Male	Female	All Cases
Bail conditions were set	36.9	25.0	36.8
Bail granted for non-bailable offence	0.0	0.0	0.0
Bail denied for very minor offence	18.8	16.7	18.7
Bail denied for a lactating/ pregnant woman	0.0	8.3	0.1
Prosecution did not object to bail through an affidavit	0.0	41.7	0.3
Bail denied for very serious offence	44.4	8.3	44.2
Others	0.0	0.0	0.0
Total	100.0	100.0	100.0

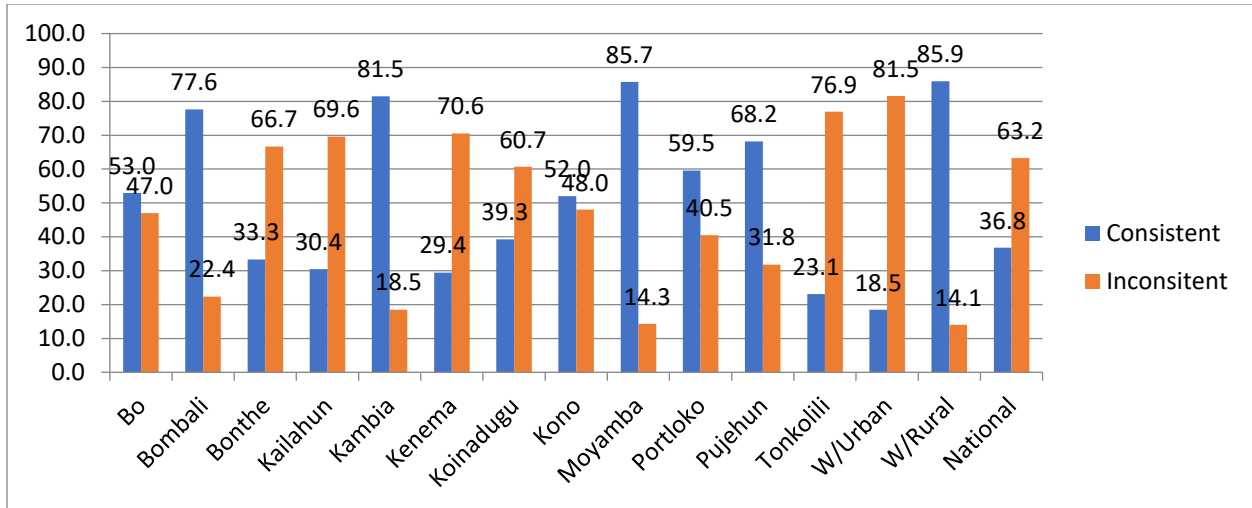
#### SUMMARY OF COMPLIANCE WITH THE BAIL REGULATIONS WHEN ADJUDICATING BAIL.

Below is an analysis compliance levels with the Bail Regulations on a district by district basis:

- We monitored 964 cases of bail adjudication in Western Area Urban but only 178, representing 18.5 %, were deemed to be consistent with the Bail Regulations.
- We monitored 231 cases of bail adjudication in Kenema but only 68, representing 29.4 %, were deemed to be consistent the Bail Regulations.
- We monitored 202 cases of bail adjudication in Bo but only 107, representing 53.0%, were deemed to be consistent with the Bail Regulations.
- We monitored 131 cases of bail adjudication in Port Loko but only 78, representing 59.5%, were deemed to be consistent with the Bail Regulations.
- We monitored 76 cases of bail adjudication in Bombali but only 59, representing 77.6%, were deemed to be consistent with the Bail Regulations.
- We monitored 66 cases of bail adjudication in Pujehun but only 45, representing 68.2%, were deemed to be consistent with the regulations.
- We monitored 64 cases of bail adjudication in Western Area Rural but only 55, representing 85.9 %, were deemed to be consistent with the Bail Regulations.
- We monitored 54 cases of bail adjudication in Kambia District but 44, representing 81.5 %, were deemed to be consistent with the Bail Regulations.

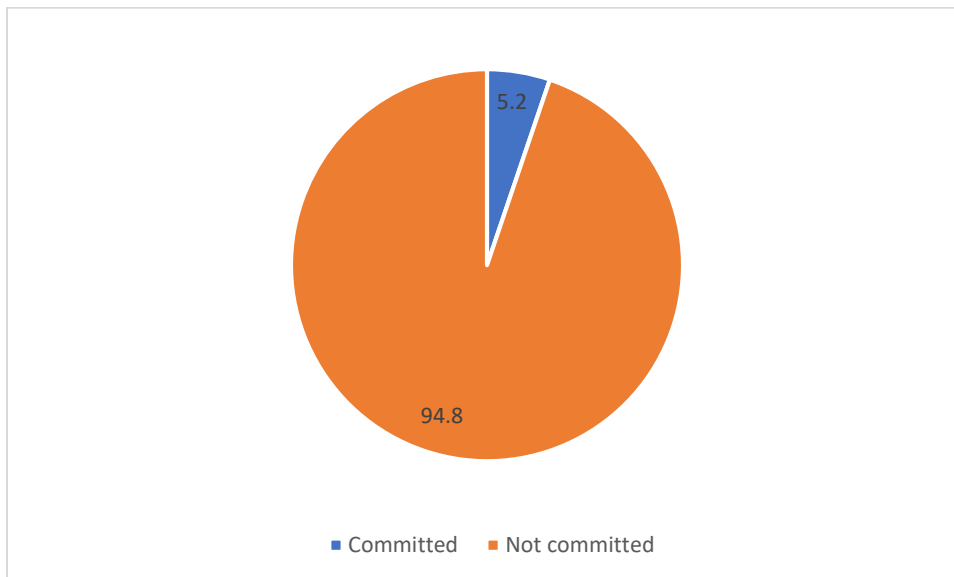
- We monitored 49 cases of bail adjudication in Moyamba District but only 42, representing 85.7%, were deemed to be consistent with the Bail Regulations.

**Figure 16: Distribution of monitored cases with consistency and inconsistency by districts (%).**



Of the 1,974 cases monitored across the country, 102, representing 5.2 %, were committed to High Court for trial. Majority of the cases committed are rape, sexual penetration, robbery with violence, robbery with aggravation, wounding with intent, fraudulent conversion and conspiracy related offences.

**Figure 18: Distribution of cases committed to High Court (percentage).**

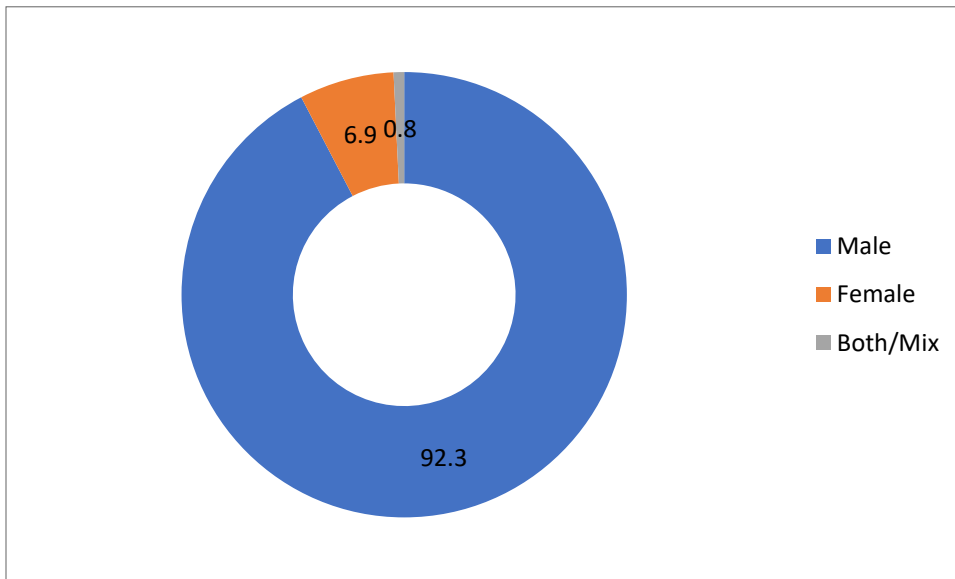


## SUMMARY OF ANNUAL MONITORING DATA

Below is a summary of all the data compiled in the course of the year. It shows the key data across 14 districts in the country:

- A total of 5,096 cases were monitored between January and November.
- Of the 5,096 cases monitored, 4,706 were male accused persons, representing 92.3%
- Of the 5,096 cases monitored, 351 were female accused persons, representing 6.9 %.
- Of the 5,096 cases monitored, 39 were cases that involved both male and female accused persons, representing 0.8 %.

**Figure 1: Distribution of monitored cases by Gender (percentage).**



## MOST PREVALENT OFFENCES

Below is an analysis of the most prevalent offences amongst the 6,051 counts of offences monitored nationally.

- ▶ Of the 6,051 counts monitored, larceny recorded 1,095 of all counts, representing 18.2 %.

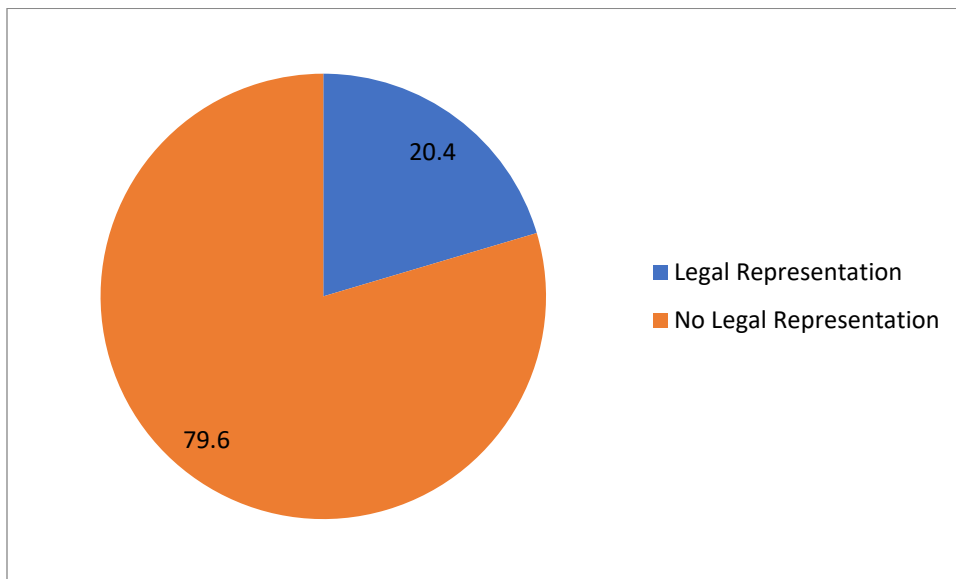


- ▶ Of the 6,051 cases monitored, Sexual Penetration recorded 763 counts, representing 13.7 %.
- ▶ Of the 6,051 cases monitored, conspiracy related offences recorded 504 counts, representing 9.2 %.
- ▶ Of the 6,051 cases monitored, Traffic related offences recorded 431 counts, representing 8.2 %.

### LEGAL REPRESENTATION

- ✓ 1,040 of the 5,096 cases monitored had legal representation in court, representing 20.4 %.
- ✓ 4,056 of the 5,096 cases monitored were cases that had no legal representation in court, representing 79.6 %.

**Figure 2: Distribution of monitored cases with and without Legal Representation (%).**



### PREVIOUS ADJOURNMENTS

Of the 5,096 of monitored cases nationally, 2,091 cases had no previous adjournments or were mentioned for the first time. This means that 2,091 involved first appearance cases, representing 40.8 % of the total cases monitored.

Of the 3,005 of cases monitored (representing 59.2 %) that had been adjourned at least once, this was how they were distributed:

- ▶ 2,701 of cases monitored had been adjourned between 1 and 5 times, representing 51.8 % of the 3,005 cases that had been previously adjourned.
- ▶ 437 of the cases monitored had been adjourned between 6 and 15 times, representing 9.1 % of total number of cases monitored.
- ▶ 132 cases were adjourned between 16 and 20 times, representing 0.5 %.

### **REASONS FOR ADJOURNMENTS**

- ▶ 1,771 cases, representing 39.7 %, were adjourned because the witnesses were absent.
- ▶ 510 cases, representing 11.8 %, were adjourned because the complainant was absent.
- ▶ 747 cases, representing 16.1 %, were adjourned because judgement had been reserved.

### **PERCENTAGE OF BAIL APPLICATIONS GRANTED AND DENIED**

- ▶ Of the 5,096 cases monitored, 2,294 were granted bail, representing 47.1 %.
- ▶ Of the 5,096 cases monitored, 2,769 were granted bail, representing 52.5 %.

