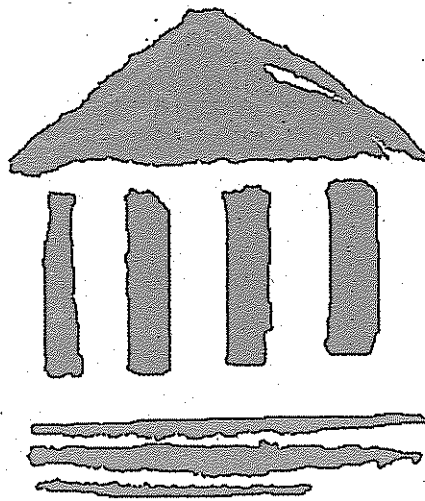


**Pollsmoor awaiting trial population profile
and a study of first appearance decisions
in Mitchells Plain Magistrates Court:
Preliminary results and the role of the
Pre-trial Services demonstration**



BUREAU OF JUSTICE ASSISTANCE

A joint project of the Ministry of Justice and the Vera Institute of Justice

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November 1997**

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Introduction

Extensive, recent, local and international media coverage on crime in South Africa has focused attention on the country's criminal justice system. For example, a number of well-publicised and controversial bail decisions by the courts have caused public outrage. In one such case, the alleged rapist of a seven-year-old girl, Mamokgethi Malebane, was released on bail. He later confessed to abducting and murdering the girl, while out on bail, to prevent her from testifying against him.

The public perception of an inadequate bail law¹ led to equally controversial proposals to amend the law². However, the debate around this legislation was largely either academic in nature or based on emotive arguments. Few statistics on actual bail decisions were used in the debate.

This is a reflection on the lack of reliable statistics relating to the criminal justice system in South Africa. Court records are still kept on paper-based systems that cannot be analysed using computers. The systems were designed to be functional and are often adequate for the operational requirements of the courts. However, they were not designed to provide the

¹ Schönreich, M., SA Institute of Race Relations, disputes that the current bail law is inadequate and blames problems such as the Mamokgethi case on improper implementation of the law. His views were published in an article entitled "The story of a good law, its bad application, and the ugly results. A policy briefing and analysis of the South African bail law (Act 75 of 1995), and its inadequate application due to an inefficient criminal justice system."

² The Criminal Procedure Second Amendment Bill [B84-97] was passed by the National Assembly but not yet promulgated at the time of writing. The Bill proposed that the court, in serious cases, must deny bail unless "exceptional circumstances" apply. The Bill was supported by among others, the police but criticised by human rights bodies and academics

court management, the Department of Justice nor criminal justice policy makers with detailed information on what is happening in the courts over a period of time.

A new way of measuring justice

The Pre-trial Services (PTS) demonstration of the Bureau of Justice Assistance (BJA)³ aims, in part, to address this deficiency. The PTS demonstration involves the establishment of a number of PTS offices in criminal Magistrates Courts⁴. If successful, the PTS demonstration will have the following results:

- 1) fewer petty, less-dangerous, first-time offenders will be held in custody awaiting trial;
- 2) more serious, dangerous, repeat offenders will be held in custody awaiting trial; and
- 3) fewer witnesses will be intimidated.

The following factors are used as indicators to test the success of the PTS demonstration:

- 1) bail decisions by courts;
- 2) failure to appear rates for accused persons released on bail or warning; and
- 3) the awaiting trial prison population profile

during public submissions before the Parliamentary Portfolio Committee on Justice on 10 October 1997.

³ The BJA is a joint project between the South African Ministry of Justice and the New York based, Vera Institute of Justice.

⁴ Pilot offices have already started in Mitchells Plain and Johannesburg and offices in Durban and Port Elizabeth are due to open in early 1998. Seconded police and justice officials staff the PTS offices. To assist the court in making bail decisions, details of accused persons are captured on a database and verified information is supplied to the court at first appearance. The demonstration supervises compliance with bail conditions by accused persons who are released on bail or warning. The constitutional rights of accused persons are accommodated and participation by them in the programme is voluntary. Witnesses are also assisted by the PTS demonstration. Witness intimidation in court is minimised with the provision of secure witness waiting rooms. Witnesses who require specialised assistance such as counselling are referred to appropriate organisations. Further information on the PTS demonstration can be obtained from the BJA.

Prior to implementation of each demonstration, the indicators are measured and serve as the baseline data. Comparing the baseline data with the indicators after the demonstrations have been running for some time will measure the success of the PTS demonstration.

The data reported in this paper are the baseline data from the Mitchells Plain court, the first PTS demonstration site.

The study site

The Mitchells Plain court consists of two regional and nine district criminal Magistrates courts. The court serves a population of approximately one million people in an area of 45 km² in an area known as the Cape Flats. As a consequence of apartheid Group Areas laws, this area is divided into the mainly Coloured residential area of Mitchells Plain and the African townships of Gugulethu, Nyanga, Cross Roads, Khayalitsha and Phillipi. This is largely a working class community with a high unemployment rate.

According a recent SA Police Services report⁵, there are about "15 gangs which regard the entire area as theirs". The report estimates that there are 200 drug smugglers in the area. Another problem identified in the police report is the taxi industry which is described as being at the forefront of conflict and which "shows no regard for law and order". A vigilante-style neighbourhood watch system is active in the area.

Accused persons awaiting trial before the Mitchells Plain Magistrates Court are detained in Pollsmoor prison. Pollsmoor is the most populous prison complex in South Africa with more than 7 000 prisoners at any one time. It is also one of the most overcrowded and in August 1997 the maximum security section was 270% full. The largest prison⁶ in the complex is the maximum-security section with more than 4000 prisoners of which almost 3 000 were

⁵ Pheiffer, Capt. AJ. *Mitchells Plain SA Polisediens Omgewings Analise. Tydperk 97-07-01 tot 97-09-30.*

⁶ Pollsmoor consists of five separate prisons grouped together in one complex, viz. the maximum, medium A, medium B, minimum and female prisons.

awaiting trial⁷. More than 10% of awaiting trial prisoners in detention at Pollsmoor were due to have their trials at Mitchells Plain Magistrates Court.

Methodology

This preliminary report on the Mitchells Plain baseline data includes the awaiting trial profile, first appearance pre-release decisions and accused failure to appear rate.

Awaiting trial profile

The Mitchells Plain portion of the Pollsmoor awaiting trial population was analysed using data supplied by the Department of Correctional Services (DCS). On 1 June 1997 there were 290 people in this group. A "snapshot" was taken and the following data were recorded about each prisoner: age, sex, length of time in custody, main charge⁸, whether bail had been granted, and the amount of bail. This information was used to construct a profile of the Mitchells Plain in-custody awaiting trial population.

The data from the DCS computer printouts were entered into a spreadsheet for further analysis⁹. Some data were initially missing from the printouts in approximately 10% of cases. These cases were followed up with the DCS and the gaps were filled in.

First appearance pre-release decisions

Information about accused persons who appeared for the first time in Mitchell's Plain Magistrates court was collected over nine weeks commencing 19 May 1997. In total, 2 323 accused persons appeared for the first time over this period.

⁷ The total number of prisoners at Pollsmoor maximum-security prison on 26 August 1997 was 4372. This comprises both sentenced and unsentenced (awaiting trial) prisoners. A total of 2939 were awaiting trial and 387 were awaiting trial at Mitchells Plain Magistrates Court. All awaiting trial prisoners, regardless of their charge, are held in the maximum-security prison. The capacity of the maximum-security prison is 1 619.

⁸ Some accused persons had more than one charge against them. In such cases, the most serious charge was considered the main charge.

⁹ Each entry was checked for accuracy and all data-entry errors were corrected.

The age and sex of accused people, the main charge and number of counts against them, the court before which they appeared and the decision of that court in respect of bail were recorded.

Most adults appeared for the first time in the chanalisation court, K (kanalasiase) court. On busy days cases were sometimes diverted to other courts. Such diversions were recorded in the K court statistics as "transferred to another court" and are included below in the "other" category of court decisions. Juveniles¹⁰ first appeared in the juvenile court (Court 18), while bail applications after normal court hours were heard in the night court (Court N). Night court heard cases involving people of all ages. Cases from Night Court, K Court and Court 18 were included in this study.

The data reported here are from the "first appearance" of the accused person in each new case. It is of course likely that some of these people will have appeared previously in other matters. Despite this, the appearance is still regarded as a first appearance.

The decision by the magistrate in each first appearance was recorded. These decisions were then categorised as follows: bail granted, bail denied, released on warning and released into parents custody. The later two categories have been combined in these results as both decisions effectively mean that the accused person is released from custody without any condition of paying money.

A project planner from the BJA personally collected this information from the charge sheet of each accused and entered it onto data sheets. Several individuals assisted with entering the information into a computer spreadsheet. An audit of all the computer entries was done and data-entry errors found were corrected.

¹⁰ Under 18 years old.

Information about accused persons' failure to appear (FTA) rate was collected by checking the number of warrants of arrest issued for FTA in each court. These data are still being audited and were not considered sufficiently reliable to release at this stage.

Results and discussion

Pollsmoor Prison profile

The most striking aspect of the profile was that 75% of those who were being detained pending their trial at Mitchells Plain had been granted bail by the court (Table 1).

These prisoners were probably in jail because they were too poor to afford to pay despite the bail amounts set by the courts being relatively low. Of the population granted bail, 45.9% had been granted bail of R500 or less and a further 45.9% had bail set at more than R500 but equal to or less than R1000 (Table 1).

Four months¹¹ after the first profile was done, the Mitchells Plain awaiting trial population had increased to 392 prisoners, up from 290 in June 1997. Although the numbers of granted-bail persons in custody had remained relatively constant, the proportion of this group had decreased to 55.9% of the total Mitchells Plain awaiting trial population. In October 1997, 38.8% of the entire awaiting trial population at Pollsmoor had been granted bail.¹²

A number of possible explanations, or a combination, may account for the decrease in the granted-bail proportion of the Mitchells Plain awaiting trial population over these four months. Firstly, the PTS demonstration may have started impacting on judicial decisions. The demonstration had been in

¹¹ Figures were again obtained between 20 and 22 October 1997.

¹² Johnny Jansen, Head of Pollsmoor Maximum security prison, personal communication. On 20 October 1997, 3 162 people were awaiting trial of which 1 227 had been granted bail and 1 935 had been denied bail.

operation for more than two months¹³ by the time of the second Pollsmoor profile. Secondly, the change may be attributed to natural variation in the prison population as the awaiting trial section has a high turnover¹⁴. Thirdly, the profile of accused persons may have been affected by factors such as changes in crime and / or arrest patterns.

The difference in the granted-bail proportions between the Mitchells Plain awaiting trialists (55.9%) and the whole awaiting trial population (38.8%) could be a result of the high levels of poverty in Mitchells Plain.

Table 1: Bail status of prisoners awaiting trial at Pollsmoor prison, where their trial was due to take place at Mitchells Plain Magistrates Court, for the top 7 most-frequent, main charges (See Table 2). The number of persons denied bail, granted bail and the percentage granted bail are indicated. Of those granted bail, the percentage of people granted bail of R500 or less and those granted R1 000 or less are respectively indicated.

Rank	Charge	Denied	Granted	% granted	R500 bail & below (%)	R1000 bail & below (%)
1	Housebreaking with intent to Steal & Theft	4	45	91.8	48.9	93.3
2	Rape	21	26	55.3	30.8	100.0
3	Robbery	13	33	71.7	30.3	75.8
4	Murder	14	28	66.7	42.9	92.9
5	Theft	5	34	87.2	55.9	100.0
6	Possession of Unlicensed Firearm	2	14	87.5	50.0	78.6
7	Possession of Dagga	2	8	80.0	87.5	100.0
	All other charges	11	30	73.2	50.0	93.3
	Total	72	218	75.2	45.9	91.8

The main charges¹⁵ of those awaiting trial in custody ranged from serious crimes such as murder, rape and robbery (46.6%) to less serious offences

¹³ The PTS demonstration started operation on 6 August 1997.

¹⁴ On 1 June 1997, 62.1% of the Mitchells Plain awaiting trial population had been in custody for two months or less.

¹⁵ Some accused persons had more than one charge against them. In such cases, the most serious charge was considered the main charge.

such as possession of dagga, possession of an unlicensed firearm and housebreaking with intent to steal (39.2%) (see Table 2).

Table 2: Top 7 most-frequent main charges of prisoners awaiting trial at Pollsmoor prison where their trial was due to take place at Mitchells Plain Magistrates Court. The rank of each charge and the percentage of the total number of prisoners is given for each main charge (n=290). The complete list of charges is given in Appendix A (Table A1).

Rank	Charge	Percent of total (%)
1	Housebreaking with intent to Steal & Theft	16.9
2	Rape	16.2
3	Robbery	15.9
4	Murder	14.5
5	Theft	13.4
6	Possession of Unlicensed Firearm	5.5
7	Possession of Dagga ¹⁶	3.4
	All other charges	14.1
	Total	100

Mitchells Plain Magistrates Court first appearance decisions

Numbers of first appearances

Over the nine-week study period, an average of 258¹⁷ persons per week appeared in the Mitchells Plain criminal Magistrates court in new cases.

Mondays were particularly busy with up to 133 people appearing in court on the first day after the weekend.

Top 10 main charges

The most frequent main charge at Mitchells Plain was theft, accounting for 18% of the total (Table 3). The more serious crimes of murder, rape and robbery together accounted for only 14% of all charges.

¹⁶ This is the South African term for *Cannabis sativum* or marijuana.

¹⁷ This is a conservative figure a number of cases were also omitted due to unavailability of court books at the time. It is estimated that there could be between 3 and 5% additional accused persons.

The 10 charges listed in Table 3 account for 72.3% of all first appearances in Mitchells Plain Magistrates court. They also include a range of very serious and less serious; violent and non-violent; economic, aggressive and sexual crimes. Due to their relative diversity and statistical significance, these charges were selected as the basis for further analysis.

Table 3: Ten most frequent charges on first appearance in Mitchells Plain Magistrates Court (n=2325). The full list of charges appears in Appendix A (Table A2).

Rank	Charge	Percent of total (%)
1	Theft	17.9
2	Assault GBH ¹⁸	11.1
3	Possession of dagga ¹⁹	10.2
4	Rape	5.7
5	Drunk driving	5.3
6	Possession of unlicensed firearm	5.2
7	Housebreaking with intent to steal & theft	5.0
8	Robbery	4.3
9	Murder	4.1
10	Attempted Murder ²⁰	3.5
	All other charges	27.7
	Total	100

Pre-trial release decisions made at first appearance

The most frequent, although not the majority decision made at first appearance was to release the accused person on warning ("free bail") or into parent's custody (Figure 1). This number is consistent with the relatively high number of less serious crimes and the high proportion of poor people within the jurisdiction of the court. This figure is also skewed by the decisions made

¹⁸ Assault with intent to commit grievous bodily harm.

¹⁹ See note 16.

²⁰ The 10th highest charge was in fact "contravention of section 4(b) of Act 140 of 1992" (possession of a prohibited substance). This section prohibits the possession of all scheduled substances including dagga, mandrax, cocaine, and heroin. Sometimes the court named the particular drug in the court book but other times only the statutory reference was given. Based on the breakdown of charges for individual drugs, it is likely that close to 90% of charges for the possession of a prohibited substance are charges for the possession of dagga. Separate analysis of "possession of a prohibited substance" would have resulted in unhelpful duplication and it was therefore omitted from the list of top 10 main charges.

in cases involving juveniles. The pattern for juveniles differs from adults in that they are more likely to be released on warning or into their parent's custody²¹.

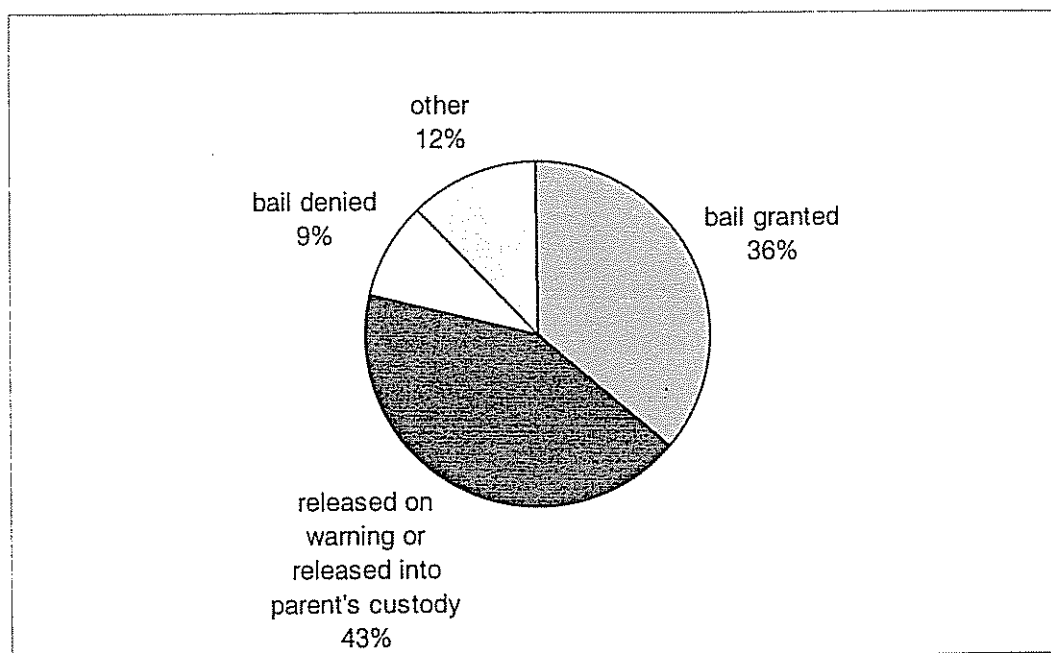


Figure 1: Recorded pre-trial release decisions²² made at first appearance at Mitchells Plain Magistrates Court over nine weeks commencing 19 May 1997. These data in numeric form and a further breakdown are given in Appendix A (Table A3).

First appearance decisions analysed by charge are depicted in Figure 2. This analysis reveals significant differences in the decisions for each charge. A person accused of rape was most likely to have bail denied (47.6% of cases) whereas persons charged with drunk driving or possession of dagga were least likely to have bail denied (0.0% and 0.4% respectively).

²¹ The 59.8% of accused persons released on warning or into their parent's custody by the Juvenile Court (Court 18) was contrasted with 38.6% released on warning by the adult chanelisation court (K Court).

²² No decision was recorded as "postponed". The Magistrate entered such decisions in the court book as "bail denied", whereas in some of those cases the court remanded the matter for a formal bail application or postponed the bail decision on the basis that it had insufficient information to make a decision. Decisions recorded as "other" include cases that were withdrawn, scrapped from the roll, transferred to another court, where the accused was convicted and sentenced in the first appearance or where a warrant was issued for failure to appear.

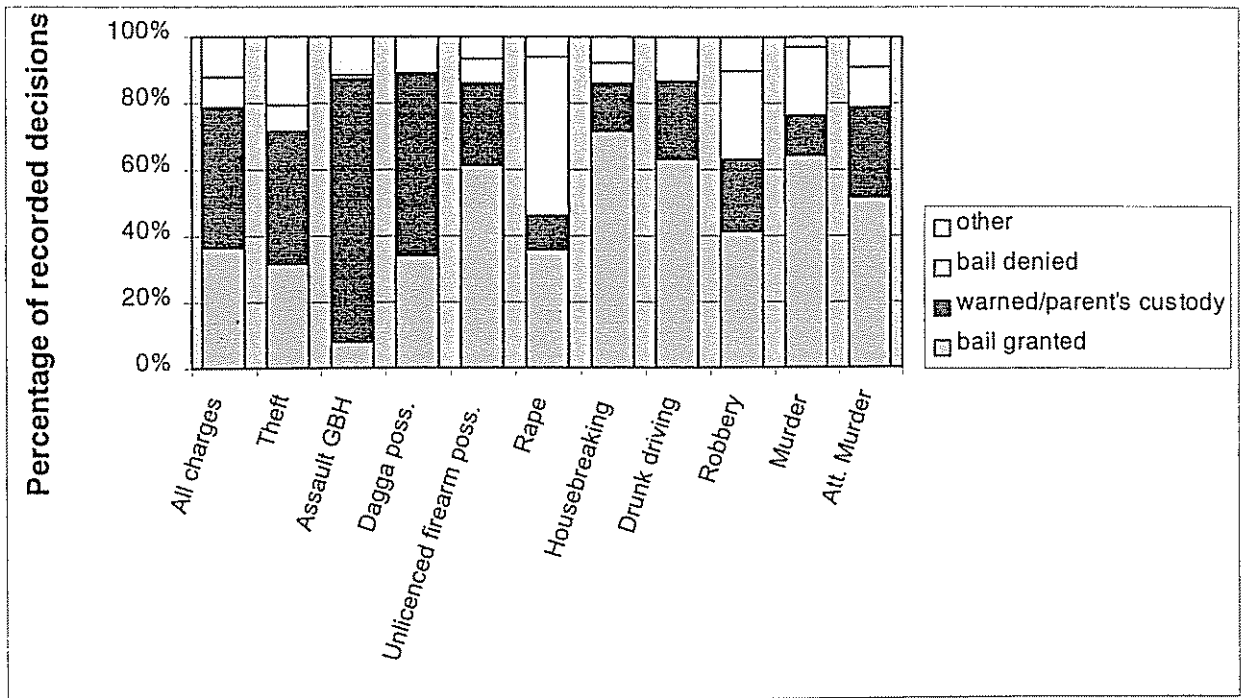


Figure 2: Pre-trial release decisions made at first appearance at Mitchells Plain Magistrates Court over nine weeks commencing 19 May 1997 arranged by the top 10 main charges and expressed as a percentage of recorded decisions for each charge. For further detail see Appendix A (Table A4).

Bail amounts

In general, the bail amounts granted by the Mitchells Plain Magistrates courts appeared, at first, to be relatively low. Of the accused persons granted bail, 97.4% were granted bail of R1000 or less and 75% had bail fixed in the range of R100 to R800 (Figure 3). However, these amounts need to be considered in light of the poor socio-economic conditions and high unemployment in Mitchells Plain. Figure 4, for example, indicates that most accused person could not pay bail at court on the day that bail was granted where the bail amount exceeded R300. The court is required to set a bail amount that is affordable to the accused. The main reason for the generally low bail amounts recorded, therefore, was probably the indigence of most of the accused persons who appeared in the Mitchells Plain Magistrates Courts.

The courts tended to set higher bail amounts for more serious charges. As a result, there was much variation in bail amounts between the top 10 main

charges. The highest average bail amounts were for housebreaking with intent to steal, robbery, murder, attempted murder and rape (Figure 3 and Table A5 in Appendix A). The lowest average bail amounts were for drunk driving, assault with intent to commit grievous bodily harm (assault GBH) and possession of dagga (Figure 3 and Table A5).

The economic crimes of robbery, theft and housebreaking with intent to steal had the largest variation in bail amounts within each charge. Figure 3 indicates that 75% of bail amounts fell within a range of R500 or more for these three charges. This wide variation could again be explained by the tendency of the courts to set higher bail amounts for more serious charges. These three charges all involve property with a monetary value and the seriousness of each of these crimes is usually dependent on the value of the goods allegedly involved. The value of property stolen or robbed can vary greatly from a few cents to millions of Rands and therefore the seriousness with which these crimes are regarded will also vary widely.

Bail amounts for the less serious offences of drunk driving, assault GBH and the possession of dagga, by contrast, had little variation within each charge. For example, 86% of the persons charged with drunk driving were granted bail of R100.

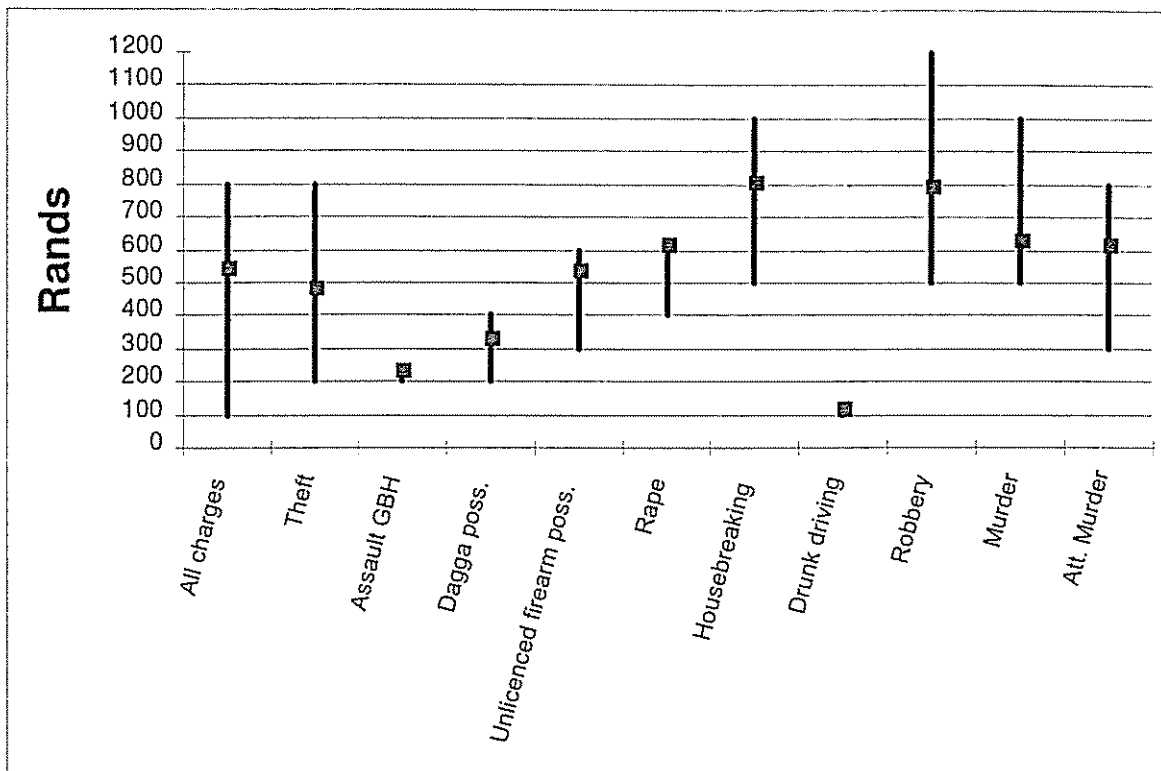


Figure 3: Bail amounts granted at first appearance at Mitchells Plain Magistrates Court over nine weeks commencing 19 May 1997 arranged by the top 10 main charges. The average amount for each charge is indicated by the square (■). The high-low bar (I) indicates the value range within which at least 75% of bail-granted decisions fell. These data in numeric form and the absolute ranges are given in Appendix A (Table A5).

Information about the accused persons' criminal record, community ties circumstances of the alleged offence may have been available to the Magistrates and influenced their decisions. However no reliable data about these factors were available to the researcher and this information is not reported in this paper. The above conclusions about magistrates' decision making are, therefore, necessarily tentative.

Payment of bail

A substantial portion of total number of persons who were granted bail could not afford to pay right away. Where bail amounts were set in excess of R300 the number of accused persons who could afford to pay bail at court declined significantly (Figure 4). Only 40.4% of accused persons who were granted bail

higher than R300 paid bail at court. This is contrasted with 79.4% of persons who paid bail at court where they had been granted bail of R300 or less.

Out of the total 792 accused persons granted bail, only 56.1% paid bail at court on the day bail was granted. Those unable to pay were sent to Pollsmoor prison. Later some may have had bail paid for them by family members or friends at Pollsmoor.

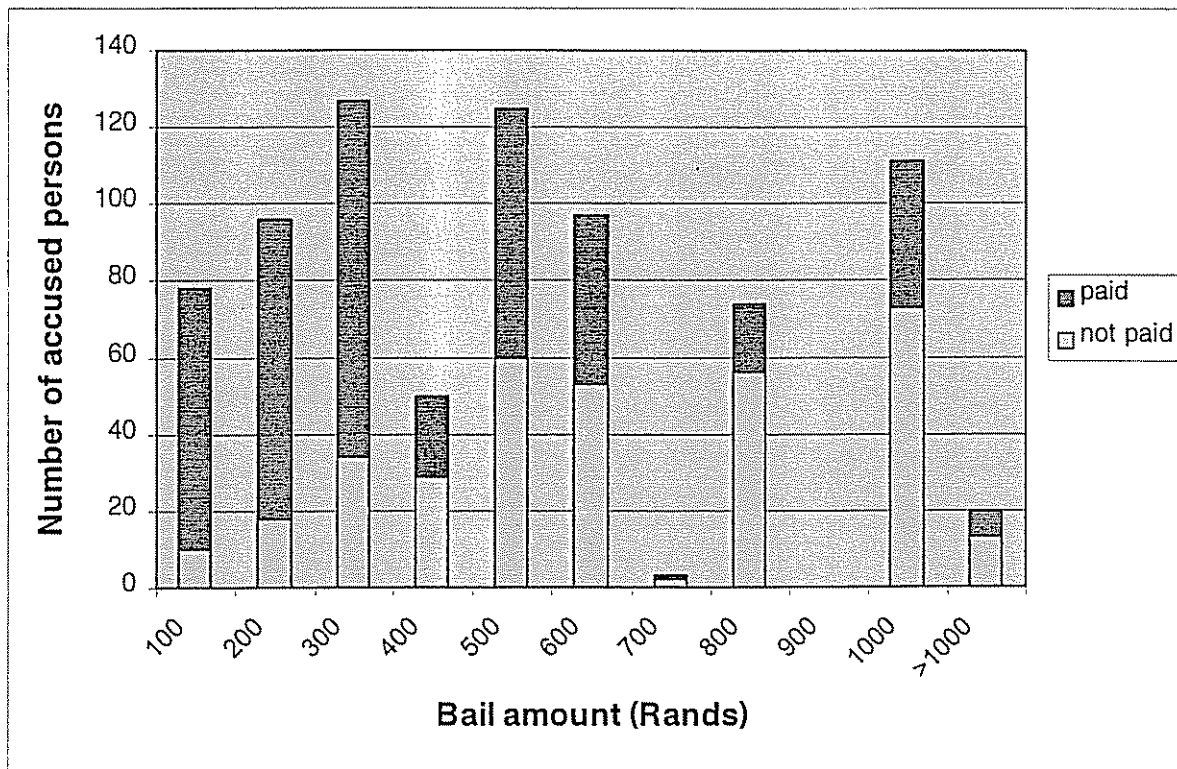


Figure 4: Numbers of accused persons granted bail of the various amounts indicated. "Paid" refers to those accused persons who paid bail at court on the same day that bail was granted. Some of the accused in the "not paid" category may have paid later at Pollsmoor prison. These data are depicted in numerical form in Appendix A (Table A6).

Conditions

Before the start of the Pre-trial Services demonstration, Magistrates in Mitchells Plain seldom ordered conditions. Out of the 1 746 cases where accused persons were granted bail, released on warning or released into their

parent's custody, special conditions²³ were recorded²⁴ in a mere five cases (0.3%).

It appears that since the introduction of the PTS demonstration, conditions are used far more often. This information will be included in the analysis of the indicators that will be collected after the PTS demonstration has been in operation for some time.

Bail decisions by court

Night court²⁵ was more likely to deny²⁶ bail than the courts sitting during normal court hours. Night court denied bail to 13.2% of applicants compared with a bail-denial rate of 8.3% for the courts sitting during normal court hours. Bail was granted marginally more often by night court (37.0% compared with 35.6%), although this difference is unlikely to be statistically significant. See Figure 5.

²³ Certain "automatic" conditions, such as that the accused must appear on their next court date, apply when any accused is released from custody pending their trial. "Special" conditions are sometimes given in addition to these automatic conditions. These include reporting to a police station, restriction to a certain area or prohibition on communicating with certain witnesses.

²⁴ Only conditions recorded in the charge sheet were taken into account. It may be that in other cases conditions were given orally by the court but not recorded in writing. Such "informal" conditions are however not legally enforceable.

²⁵ Every arrested person has the constitutional right to be brought before court as soon as reasonably possible (section 35(1)(d) of the Constitution, Act 108 of 1996). Consequently, an arrested person may make application to court for release on bail any time after arrest. Court sittings after normal court hours (at night, on weekends or public holidays), to hear such applications are commonly referred to as "night court".

²⁶ "Bail denied" includes postponement of the decision to a future court date. See note 22.

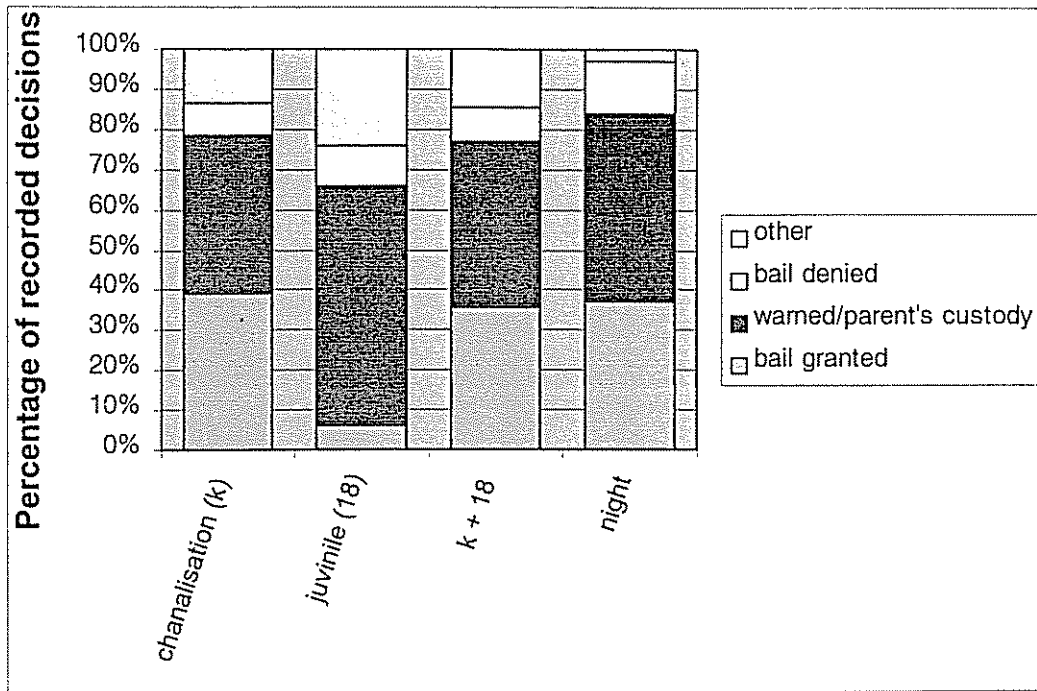


Figure 5: Bail decisions made by the various first appearance courts. Night court dealt with both adults and juveniles. During normal court hours, adults appeared for the first time before K Court and juveniles appeared before Court 18. To allow for comparison between decisions made at night and during normal court hours, the decisions for courts K and 18 were added together. These data are represented in numerical form in Appendix A (Table A7).

Conclusions

As many as 75% of Mitchells Plain awaiting trial prisoners should not have been in prison and were probably there because they were too poor to pay the amount of bail set by the court as a condition of their release. Despite the requirement that the court must set an affordable bail amount, some people are not able to pay even small amounts of money. This results in economic injustice for the individuals involved and the over-crowding of jails with poor, rather than necessarily dangerous, accused persons.

This drawback of a money-based bail system was associated with the infrequent ordering of conditions. In Mitchells Plain special release conditions were seldom used and were recorded in only 0.3% of cases.

A better alternative to a money based bail system would be increased use of conditions and supervision of accused persons who are released.

The role of PTS

The PTS demonstration is introducing into South African courts a system of supervised release with guarantees of compliance with conditions. The demonstration project provides courts with verified information about accused persons that enables the courts to make better bail and pre-trial release decisions.

It is expected that the PTS demonstration will improve the operation of the criminal justice system in South Africa. To test whether it does in fact do so, the indicators set out in this paper will be carefully monitored over one year. Improvement in the indicators will provide the government with objective information to make an informed decision about the extension of the PTS system to other courts.

The initial statistics that are reported in this paper about Mitchells Plain Magistrates court and baseline information that are currently being collected on other courts other courts also serve other functions. Reliable statistical information is indispensable to government departments, the legislatures, other policy and lawmakers, academics, NGO's and the public concerned about the state of the country's criminal justice system. It can inform debate on proposals to reform the criminal justice system, such as the recently proposed amendment to the bail law. In this way the unique PTS demonstration will provide both immediate practical benefit to the courts hosting the pilot projects and assist in all other areas of criminal law reform.

Appendix A

Table A1: Number of accused persons awaiting trial at Pollsmoor Prison due to have their trials held at Mitchells Plain Magistrates Court arranged by main charge. List compiled on 1 June 1997.

Rank	Charge	No.	%
1	Housebreaking with intent to Steal & Theft	49	16.9
2	Rape	47	16.2
3	Robbery	46	15.9
4	Murder	42	14.5
5	Theft	39	13.4
6	Possession of Unlicensed Firearm	16	5.5
7	Possession of Dagga	10	3.4
8	Attempted. murder	6	2.1
8	Theft of a Motor Vehicle	6	2.1
10	Attempted rape	5	1.7
11	Indecent Assault	4	1.4
12	Arson	3	1.0
13	Assault	2	0.7
13	Malicious Damage to Property	2	0.7
13	Theft Out of Motor Vehicle	2	0.7
16	Assault GBH	1	0.3
16	Child Abuse	1	0.3
16	Culpable Homicide	1	0.3
16	Forgery	1	0.3
16	Kidnapping	1	0.3
16	Maintenance - Failure to Pay	1	0.3
16	Pointing a Firearm at Someone	1	0.3
16	Attempted robbery	1	0.3
16	Sodomy	1	0.3
16	Stock theft	1	0.3
16	Attempted Theft	1	0.3
	Total	290	100

Table A2: Number of accused persons who appeared for the first time in Mitchells Plain Magistrates Court over nine weeks from 19 May 1997. Arranged by main charge.

Rank	Charge	No.	%
1	Theft	416	17.9
2	Assault GBH	257	11.1
3	Possession of dagga	237	10.2
4	Rape	132	5.7
5	Drunk driving	123	5.3
6	Possession of unlicensed firearm	120	5.2
7	Housebreaking with intent to steal & theft	116	5.0
8	Robbery	99	4.3
9	Murder	95	4.1

10	Possession of prohibited substance	87	3.8
11	Attempted Murder	82	3.5
12	Assault	60	2.6
13	Malicious damage to property	49	2.1
13	Negligent driving	49	2.1
15	Unrecorded	36	1.6
16	Trespassing	33	1.4
17	Possession of mandrax	30	1.3
18	Dealing in prohibited substance	24	1.0
19	Indecent assault	17	0.7
20	Attempted Rape	16	0.7
20	Theft of a motor vehicle	16	0.7
22	Drawing a firearm	14	0.6
23	Culpable homicide	12	0.5
23	Dealing in dagga	12	0.5
25	Armed robbery	11	0.5
25	Fraud	11	0.5
27	Attempted Robbery	10	0.4
28	Possession of goods suspected to be stolen	9	0.4
28	Theft out of motor vehicle	9	0.4
30	Attempted Theft	8	0.3
30	Dealing in liquor	8	0.3
30	Dealing in mandrax	8	0.3
30	Resisting arrest	8	0.3
34	Pointing a firearm at someone	7	0.3
35	Kidnapping	6	0.3
36	Arson	5	0.2
36	Escaping from lawful custody	5	0.2
36	Intimidation	5	0.2
36	Possession of dangerous weapon	5	0.2
40	Defeating the ends of justice	4	0.2
40	Driving without a valid licence	4	0.2
40	Firing firearm in municipal area	4	0.2
40	Maintenance - failure to pay	4	0.2
44	Attempted Housebreaking with intent to steal & theft	3	0.1
44	Child abuse	3	0.1
44	Neglecting to store firearm in a safe place	3	0.1
44	Negligent loss of firearm	3	0.1
44	Perjury	3	0.1
49	Animal abuse	2	0.1
49	Drunk in a public place	2	0.1
49	Extortion	2	0.1
49	Infringement of copyright	2	0.1
49	Possession of ammunition	2	0.1
49	Possession of heroin	2	0.1
49	Possession of unworked metal	2	0.1
49	Preventing police from carrying out their duties	2	0.1
49	Sexual offences with girls under 16 & boys under 18	2	0.1
58	Attempted Armed robbery	1	0.0
58	Attempted Arson	1	0.0
58	Attempted Theft of a motor vehicle	1	0.0
58	Child neglect	1	0.0
58	Child theft	1	0.0
58	Contempt of court	1	0.0
58	Dealing in cassettes	1	0.0
58	Dealing in crack	1	0.0
58	Driving under the influence of intoxicating substance	1	0.0
58	Escaping before having been locked up	1	0.0

58	Failure to pay wage	1	0.0
58	Gambling	1	0.0
58	Handling a firearm while under the influence	1	0.0
58	Impersonating a police official	1	0.0
58	Lending motor vehicle to unlicensed driver	1	0.0
58	Negligent handling of a firearm	1	0.0
58	Possession of explosive material	1	0.0
58	Public indecency	1	0.0
58	Robbery with aggravating circumstances	1	0.0
58	Shoplifting	1	0.0
58	Sodomy	1	0.0
58	Unauthorised borrowing	1	0.0
		2318	100

Table A3: Recorded first appearance decisions made at Mitchells Plain Magistrates Court over nine weeks commencing 19 May 1997 for all charges arranged by category of decision. Of the 2 325 first appearances during the period of the study no first appearance decision was recorded in the court book for 106 accused persons.

Decision	Number	Percentage (%)
bail granted	801	36.1
released on warning	809	36.5
released into parent's custody	136	6.1
bail denied	201	9.1
other	272	12.3
total	2219	100

Table A4: First appearance decisions made at Mitchells Plain Magistrates Court over nine weeks commencing 19 May 1997 for the top ten main charges arranged by category of decision.

	Charge	bail granted (%)	warned/parent's custody (%)	bail denied (%)	Other (%)
1	Theft	31.8	39.9	7.6	20.8
2	Assault GBH	8.2	79.2	1.2	11.4
3	Dagga poss.	33.8	55.1	0.4	10.7
4	Unlicensed firearm poss.	61.1	25.0	7.4	6.5
5	Rape	35.7	10.3	47.6	6.3
6	Housebreaking	71.7	14.2	6.2	8.0
7	Drunk driving	63.3	23.3	0.0	13.3
8	Robbery	41.1	22.1	26.3	10.5
9	Murder	64.5	11.8	20.4	3.2
10	Attempted Murder	51.3	27.6	11.8	9.2

Table A5: Average bail granted, absolute range of amounts granted and the range of 75% of amounts granted at first appearance at Mitchells Plain Magistrates Court over nine weeks commencing 19 May 1997 for all charges and the top ten main charges.

	Charge	avg. bail	Range		75% occurrence	
			min	max	low	high
	All charges	550	100	8,000	100	800
1	Theft	489	100	1,500	200	800
2	Assault GBH	240	100	500	200	200
3	Dagga poss.	334	100	1,000	200	400
4	Unlicensed firearm poss.	540	200	1,000	300	600
5	Rape	620	300	1,500	400	600
6	Housebreaking	807	100	2,000	500	1000
7	Drunk driving	124	100	500	100	100
8	Robbery	799	300	2,000	500	>1000
9	Murder	636	200	2,000	500	1000
10	Attempted Murder	621	200	1,000	300	800

Table A6: Numbers of accused persons who paid and did not pay bail at court on the day that bail was granted, broken down by bail amount with the percentage of persons that paid indicated.

bail amount (Rands)	not paid	paid	Percent paid (%)
100	10	68	87.2
200	18	47	72.3
300	34	59	63.4
400	29	15	34.1
500	60	36	37.5
600	53	33	38.4
700	2	1	33.3
800	56	12	17.6
900	0	0	0.0
1000	73	30	29.1
>1000	13	6	31.6

Table A7: Bail decisions made by the various first appearance courts. Night court dealt with both adults and juveniles. During normal court hours, adults appeared for the first time before K Court and juveniles appeared before Court 18. To allow for comparison between decisions made at night and during normal court hours, the decisions for courts K and 18 were added together. Average bail amounts are also indicated.

Court	Bail granted	warned/parent's custody	bail denied	other	avg. bail
Chanalisation (k)	38.9	38.6	8.1	13.5	563.3
juvenile (18)	6.1	59.8	10.1	24.0	390.0
k + 18	35.6	40.7	8.3	14.5	
Night	37.0	46.8	13.2	3.1	483.7

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7 November, 1997

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