Sentencing Handbook 2016
The use of masculine nouns and pronouns in this book may refer to all genders.
Preface

The task of sentencing is an often-difficult one for the judicial officer and its salience has seen significant growth over the past decade. The Sentencing Handbook 2009, much to our satisfaction, was well-received and it has proven to be a key tool for the courts and attorneys in deciding and arriving at appropriate and fair sentences. In many ways, the Sentencing Handbook 2016, a publication of the Judicial Education Institute of Trinidad and Tobago (JEITT), is a response to the social and cultural changes since 2009 that have direct impact on the route to sentencing and the administration of justice; but further, it is a fortification of a tool that has become an integral part of the criminal justice system.

The Sentencing Handbook 2016 contains an amalgamation of the cases from the previously published version, spanning 1990–2009, and cases from 2010–2016. This move to include previous case research is an important one as it sets a precedent within the Judiciary of the Republic of Trinidad and Tobago for updating and revising the publication every 5–6 years. The 2016 edition brings with it key changes that enhance the publication’s utility and covers areas that were not previously included. These changes make the Sentencing Handbook an important piece of literature for not only judges, magistrates, and attorneys, but researchers and any relevant stakeholders of the criminal justice system in Trinidad and Tobago and across the wider Caribbean.

The 2016 edition of the Sentencing Handbook includes a revised selection of criminal offences to reflect their prevalence and impact on our society. Among these are Murder and Attempted Murder, the sentencing for which requires a thorough examination of precedent and existing legal guidelines. This publication also includes new categories of information for each offence, including Date of Case, Date of Offence, Date of Sentence, Plea, Time Spent in Custody and the Current Maximum Penalty (as of June 2017) for each offence. These are valuable and necessary categories as they play a crucial role in plea bargaining, which is encouraged as it allows court resources to be better shared amongst more cases. Additionally, these new categories provide for a more thorough and holistic first-look at the cases, thereby enhancing the Sentencing Handbook’s value as a research and reference tool.

The Sentencing Handbook 2016 also includes excerpts from judgments in landmark cases, as it is of great importance that the philosophy behind the decision is made clear and is understood. Moreover, the landmark cases included are indigenous, as the legal reasoning engaged by local judges is celebrated as adequate judicial guidance. Unlike its predecessor, the Sentencing Handbook 2016 contains three types of cases – Magisterial Appeals, High Court decisions, and Criminal Appeals. The expansion to include High Court decisions is one which is quite significant as it not only aids in the understanding of sentences at the High
Court level, but also provides context and principles that can inform the appellate process. This revised and updated Sentencing Handbook 2016 thus provides key critical inclusions that enhance the purpose and utility of the publication.

The Sentencing Handbook 2016 will be available in both print and electronic format and will be available via the JEITT’s E-book Platform (www.ttlawcourts.org/jeibooks) at no cost. This free, electronic dissemination facilitates access to justice for all and promotes transparency and accountability in judicial decision making. Moreover, this move allows the publication to be used as a tool beyond the legal fraternity, making research and information easily accessible worldwide.

The crafting of this significant publication required a formidable committee and the work of differently-skilled parties. The sub-committee, formed in December 2015, consisted of Justice Alice Yorke-Soo Hon JA, Justice Mark Mohammed JA, Justice Ronnie Boodoosingh, Justice Carla Brown-Antoine, Justice Gillian Lucky, and Justice Avason Quinlan-Williams. The sub-committee had its first meeting in January 2016, charting the path forward for the Sentencing Handbook 2016. Following the decisions regarding the presentation of the information, the committee divided itself into two groups; one to select cases for inclusion from the Court of Appeal, and the other to select cases from the High Court and Magistrates’ Court.

We were fortunate to receive the help of an industrious and dedicated group of Judicial Research Counsel (JRCs) who worked on the case research, with the assistance of the Court of Appeal Registry, the Records Department, the Computer Aided Transcription (CAT) Reporters Section of the Judiciary, and the Supreme Court Library. The JRCs included those assigned to the sub-committee: Kendy Jean, Russell Campbell, Nadia Bachan, Safiya Berkley, Khadija Mac Farlane, Shacaré Gordon, and Pravesh Ramlochan. We are also extremely grateful to Joezel Williams, Priya Ramsamooj, and Johanna Daniel, JRCs who volunteered their time to assist with the demanding workload. The manuscript was prepared, proofread, and finalised by the JEITT’s Research and Publications team. Justice Lisa Ramsumair-Hinds and Magistrate Kerianne Byer also provided invaluable assistance in this process.

We wish to thank The Honourable the Chief Justice Mr Justice Ivor Archie ORTT as President of the Board of the JEITT, and the Board of the JEITT for their vision in conceptualising this publication and in their unwavering support for this project. Lastly, we would also like to thank Paria Publishing for patiently working with us to ensure an outstanding final publication.

We are confident that this publication will serve to strengthen judicial decision making and play a crucial role in fortifying public trust and confidence in the criminal justice system.

Justice Alice Yorke-Soo Hon JA and Justice Mark Mohammed JA
Chairpersons, Sentencing Handbook 2016 Sub-Committee
July 2017
Introduction

The Sentencing Handbook 2009 fulfilled its purpose by becoming a tool frequently used by practitioners and judicial officers as a hands on guide in the attempt to achieve both consistency and fairness.

The Sentencing Handbook 2016, like the first, is designed to equip all stakeholders in the criminal justice system with an updated, more detailed and user-friendly publication that is tailored to assist in the creation of a systematic approach to sentencing as well as improving the efficiency and effectiveness of criminal justice as a whole.

Sentencing involves the process whereby an order is made which “definitively disposes of the consequences of the conviction” (Griffiths v R [1977] HCA 44 [34] (Barwick CJ)).

Such a process, by its very nature, is required among other things to be legally accurate, that is to say, prescribed by law, commensurate with the offence committed, and fair in all the circumstances. Moreover, the offender must understand and appreciate, without doubt, the reasons behind the punishment so inflicted.

It is therefore the aim of this edition of the Sentencing Handbook, like the one before it, to assist all parties concerned in making the sentencing process not only a more transparent one, but also to achieve some measure of uniformity of approach.

As a result, several general considerations in fixing sentences (both aggravating and mitigating factors), have been identified and included in this publication. It is hoped that this list will serve as a guide.

Also set out for convenience are tables of maximum penalties (for summary convictions and indictable offences) which can be imposed by judicial officers. These items are meant to provide easy access to important information required for the sentencing task.

Over the last 5–8 years there have been significant developments in the sentencing process, based on appellate court decisions, which have specifically addressed the overall structure and relevant issues that should be adopted by judicial officers when imposing sentences. The Sentencing Handbook 2016 seeks to capture these developments.

1. Barry Francis and Roger Hinds v The State C.A.CRIM.5/2010 and C.A.CRIM.6/2010. The Court of Appeal sitting as a five member panel addressed the issue of whether sections 5(5) and 6(1) of the Dangerous Drugs Act of Trinidad and Tobago read together create a mandatory minimum sentence of imprisonment for twenty-five (25) years and a fine of $100,000.00 with a default term of fifteen (15) years imprisonment to be served consecutively.
Section 5(5) of the Act in conjunction with section 61, by removing the judicial discretion, imposes or authorises the imposition of a mandatory minimum penalty which is a breach of sections 4(a) and 4(b) of the Constitution. It breaches section 4(a) because it imposes or authorises the imposition of a penalty which is arbitrary, capricious and oppressive. It is arbitrary because, in this case, there is no rational relation of the penalty to the actual offence committed. It is capricious because the judicial discretion to adapt the penalty to the nature of the crime is removed. It is oppressive because, in this case, the mandatory minimum, of itself, is excessive and wholly disproportionate to the crime committed. It is also a direct breach of the prohibition in Section 5(2)(a) and 5(2)(e) of the Constitution.

It breaches the right to the protection of the law in section 4(b) of the Constitution, in this case, by authorising the imposition of cruel and unusual treatment or punishment by permitting the imposition of a mandatory minimum penalty which is grossly disproportionate and inordinately excessive and which bears little or no relation to the crime committed. It is therefore also a direct breach of section 5(2)(b) of the Constitution.

The removal of the judicial discretion, by the conjoint effect of sections 5(5) and 61 of the Act, results in serious hardship to offenders because of the Court's inability to apply a sentence appropriate to the nature of the offence, to the part played by the offender and to circumstances in mitigation. Such considerations are fundamental to the proper exercise of justice in a democracy, whatever the system of law. They are founded in fairness and respect for the dignity of the human person which is one of the bases upon which our nationhood was proclaimed.

The removal of such considerations from the sentencing process erodes the fundamental right to liberty and cannot be justified in any society which has a proper respect for the dignity of the human person and the inalienable rights with which we all, as human beings, are endowed. Thus, a provision which indiscriminately applies a mandatory minimum penalty to all offenders, irrespective of the nature of the offence, the degree of culpability of the offender and the mitigating circumstances affecting him, resulting in the offender serving a total of forty years imprisonment for one point one six kilograms (1.16Kg) of marijuana, is so grossly unfair and offensive of the fundamental principles of justice and the rule of law, that it cannot be reasonably justifiable in a society which has a proper respect to the rights and freedoms of the individual.

Another development in sentencing is the application of full credit for time spent in pre-trial custody.

In Walter Borneo v The State C.A.CRM.7/2011 the court followed the decision of the Privy Council in Mohamed Iqbal Callachand and Another v The State [2008] UKPC 49 and was highly persuaded by the Caribbean Court of Justice’s decision in Romeo da Costa Hall v The Queen [2011] CCJ 6 (AJ).
In this case, the Court of Appeal considered whether the conditions on remand in Trinidad and Tobago were so materially better than conditions for convicted prisoners that a full discount ought not to be given for pre-sentence time spent in custody. The court was of the view that in spite of the difference in privileges afforded to remand prisoners as opposed to convicted prisoners in this jurisdiction, the prevailing conditions on remand were such that the entire period spent in pre-sentence custody ought to be discounted from the sentence that the trial judge arrives at having taken into account the gravity of the offence, and mitigating and aggravating factors. The trial judge ought to state the appropriate sentence arrived at, and then deduct the time spent on remand awaiting trial for the offence, thereby achieving transparency in showing how the sentence to be served is calculated. It must be a precise mathematical calculation.

In *Nadia Pooran v The State* C.A.CRM.32/2015 the court reiterated that a full discount ought to be given for time spent on remand. The court also indicated that in the ordinary course of events a one-third discount ought to be applied to a sentence where the accused had entered a guilty plea. There may be situations where, because of the egregious or exceptionally depraved nature of the offence, a discount will not be appropriate. The one-third discount may be reduced in instances where the plea was made for solely tactical reasons. There may also be exceptional situations where more than a one-third discount may be applied. One such example would be where an accused person, from the time of first being confronted by the police with the allegation against him, gives an indication of guilt, and continues to do so through committal proceedings thereby evincing an unequivocal desire to take responsibility for the offence charged, from very early on and consistently so after that.

In *Sterlin Vincent v The State* C.A.CRM.17/2016 the court held that the appellant was entitled a full one third discount for his guilty plea, although it came in a re-trial since this, according to the special circumstances of the case, was the first available opportunity for him to enter such a plea.

The power of the Court of Appeal to increase sentence is sometimes forgotten. In *Marlon John v The State* C.A.CRM.39/2007. The appellant was convicted of (a) three counts of rape and sentenced on two counts to 25 years hard labour and 10 strokes with the birch and on the third count to 25 years hard labour; (b) kidnapping and sentenced to 20 years hard labour; (c) false imprisonment and sentenced to 20 years hard labour; (d) grievous sexual assault and sentenced to 12 years hard labour; (e) two counts of robbery with aggravation and sentenced on each count to 12 years hard labour; (f) possession of a firearm and sentenced to 10 years hard labour; (g) possession of ammunition and sentenced to 10 years hard labour; and (h) two counts of possession of a firearm with intent to endanger life and sentenced on each count to 10 years hard labour. The court found that the sentences imposed did not adequately reflect the brutal acts of the appellant.

The court also found this was a case in which the sentence imposed was too lenient and noted that the Court of Appeal had the power to refuse leave to withdraw an appeal against sentence as an adjunct of its power to increase or reduce a sentence. The court considered the aggravating and mitigating factors concerning the offence and the offender, and increased the appellant’s sentence.
2. The case of Aguillera and Others v The State C.A.CRIM.5–8/2015, decided by our Court of Appeal, gave judicial officers clear and direct instruction on the sentencing methodology. At paragraph 24 of its decision, the Court of Appeal stated –

The overall sentencing structure should, in general terms, (apart obviously from containing the judge’s explicit reasoning on all relevant issues) reflect the following matters:

(i) The calculation of the starting point which takes into account the aggravating and mitigating factors of the offence only; these are the objective circumstances which relate to the gravity of the offence itself and which assist in gauging its seriousness, that is, the degree of harmfulness of the offence;

(ii) An appropriate upward or downward adjustment of the starting point (or dependent on the circumstances, and if there is in effect, a cancelling out, no adjustment at all), which takes into account the aggravating and mitigating factors relative to the offender; these are the subjective circumstances of the offender which in turn inform the degree of the culpability of the particular offender;

(iii) (Where appropriate), a discount for a guilty plea; any deviation from the usual discount requires particularly careful justification and an explanation which is clearly expressed; and

(iv) Credit for the period of time spent in pre-trial custody.

The above stated methodology for sentencing ensures full transparency and reduces the risk of inconsistency amongst judicial officers in the sentencing process. The cases cited in this edition of the Sentencing Handbook have been reported in a format that best reflects the current sentencing methodology.

There are several cases which address sentencing in murder matters that fell within the felony/murder construct. These matters provide helpful precedents for sentencing persons, who either wish to plead guilty (with or without a Maximum Sentence Indication (MSI) hearing), or who are found guilty after a trial.

In Alexander Don Juan Nicholas and Others v The State C.A.CRIM.1–6/2013, the court considered the range of sentences available for an accused who has pleaded guilty to the offence of felony murder. The court noted that, in such an instance, the death penalty is available to the sentencing judge but that it should only be applied in the “worst of the worst” cases. The court noted that where a life sentence is a consideration, the first factor to be determined is the rehabilitative possibilities of the convict. The court considered that a life sentence is inappropriate where on a consideration of:

(a) the seriousness of the conduct of the appellant;
(b) the expression of genuine remorse;
(c) probation reports to gauge whether the appellant is fit for social re-adaptation;
(d) the antecedents of the appellant; and
(e) the presence of pre-mediation.
The balance was tipped in favour of the appellant. The court indicated that, apart from the circumstances of the offence, the court must consider the possibility or likelihood of the appellant being rehabilitated to the extent that he could be safely returned to society. Where there is evidence or information to suggest that this goal is achievable, a court must be slow to incarcerate an appellant for the rest of his natural life.

Some of the cases reported in the Sentencing Handbook 2016 resulted from guilty pleas using MSI hearings. The MSI hearing is primarily derived from the ‘Goodyear Hearing’ of the UK and was adapted to better suit our jurisdiction. A sentence indication may relate to a sentence of a particular type or quantum; a sentence that would not be imposed or a combination of sentences.

Since the issuance of the Practice Direction in August 2015 dealing with MSI hearings, there has been a noticeable increase in the number of these applications. The Practice Direction provides a step-by-step approach to be adopted, should the accused decide to plead guilty. MSI hearings enable matters to be heard and dealt with expeditiously and efficiently without the compromise of justice. Several of the matters cited in this edition of the Sentencing Handbook began as MSI hearings.

It is hoped that the success of the MSI hearings in the High Court will help to reduce the backlog of criminal matters and that they will soon become a feature of the sentencing process in the Magistrates’ Court.

It is obvious that not all cases that deal with particular aspects of sentencing in the various categories of offences can be the subject of this publication. It is, therefore, expected that the users of this edition of the Sentencing Handbook will do more in-depth research on the cases reported and seek to find further guidelines and developments from other like jurisdictions which may impact ours.

That having been stated, users of the Sentencing Handbook 2016 are reminded that while the publication is an important research and reference tool for sentencing, resort must be had to the actual case reports or case transcript, in order to ensure a full appreciation of all the factors and specific or peculiar case details that were considered before imposing the sentence.
# Table of Contents

Preface V  
Introduction VII  
Table of Contents XII  

Table of Cases XV  
Table of Maximum Penalties (Summary Convictions) XXX  
Table of Maximum Penalties (Indictable Offences) XXXIX  

General Considerations XLV  
General Aggravating Factors (all offences) XLV  
General Mitigating Factors (all offences) XLVI  
Bibliography XLIX  

## Section A – Magisterial Appeals

<table>
<thead>
<tr>
<th>Section Name</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Offences Against the Person (A1)</td>
<td>1</td>
</tr>
<tr>
<td>Robbery, Larceny and Receiving (A2)</td>
<td>11</td>
</tr>
<tr>
<td>Possession of Dangerous Drugs, Narcotics, Firearms and Ammunition (A3)</td>
<td>74</td>
</tr>
<tr>
<td>Sexual Offences (A4)</td>
<td>197</td>
</tr>
<tr>
<td>Road Traffic Offences (A5)</td>
<td>201</td>
</tr>
<tr>
<td>Forfeiture of Recognizance (A6)</td>
<td>214</td>
</tr>
</tbody>
</table>
Section B – High Court Matters
Offences Against the Person (B1) 219
Robbery, Larceny and Receiving (B2) 238
Possession of Dangerous Drugs, Narcotics, Firearms and Ammunition (B3) 248
Sexual Offences (B4) 260
Murder and Felony Murder (B5) 276
Road Traffic Offences (B6) 286
Arson (B7) 292

Section C – Criminal Appeals
Offences Against the Person (C1) 295
Robbery, Larceny and Receiving (C2) 355
Possession of Dangerous Drugs, Narcotics, Firearms and Ammunition (C3) 369
Sexual Offences (C4) 384
Murder and Felony Murder (C5) 419

Section D – Withdrawn Appeals
Offences Against the Person (D1) 431
Sexual Offences (D2) 439
Murder and Felony Murder (D3) 448

NOTE

For cases pre-2009 wherever ‘(*)’ appears before a case name, it signifies that there is no written judgment available. For such matters, the case notes have been extracted from official transcripts and proceedings, filed skeleton arguments and the case files themselves, the majority of which have been archived.
# Table of Cases

<table>
<thead>
<tr>
<th>CASE</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abdullah, David v PC Avalon Frank C.A.MAG.25/2013</td>
<td>81</td>
</tr>
<tr>
<td>Aguillera, John v PC Lawrence Mitchell C.A.MAG.64/2000</td>
<td>167</td>
</tr>
<tr>
<td>Aguillera, Lauren Shawn Ballai, Evans Ballai and Richie Ayow v The State C.A.CRIM.5–8/2015</td>
<td>420, 424</td>
</tr>
<tr>
<td>Alexander, Edwin v SRP George C.A.MAG.258/1999</td>
<td>169</td>
</tr>
<tr>
<td>Alexander, Junior v The State C.A.CRIM.80/1992</td>
<td>415</td>
</tr>
<tr>
<td>Alfonso, Charles v PC Samuel Bullen C.A.MAG.198/2002</td>
<td>141</td>
</tr>
<tr>
<td>Alfonso, John v The State C.A.CRIM.13/2004</td>
<td>394</td>
</tr>
<tr>
<td>Ali, Fyzool v The State C.A.CRIM.54/1995</td>
<td>346</td>
</tr>
<tr>
<td>Ali, Kazim v PC Wayne Mohammed C.A.MAG.259/1999</td>
<td>170</td>
</tr>
<tr>
<td>Ali, Multiza v The State C.A.CRIM.36/1995</td>
<td>337</td>
</tr>
<tr>
<td>Ali, Suresh Tom v PC Beverly Carrington C.A.MAG.56/1999</td>
<td>58</td>
</tr>
<tr>
<td>Alleyne, Marlon v The State C.A.CRIM.137/1998</td>
<td>360</td>
</tr>
<tr>
<td>Allum, Cassidy v PC Salick Jagroop C.A.MAG.127/2006</td>
<td>118</td>
</tr>
<tr>
<td>Amogan, Anthony v PC Dexter Archie C.A.MAG.78/2002</td>
<td>147</td>
</tr>
<tr>
<td>Andrews, Dexter v PC Wayne Mohammed C.A.MAG.261/1999</td>
<td>170</td>
</tr>
<tr>
<td>Andrews, Kevin v PC Rohan Seemungal C.A.MAG.126/2008</td>
<td>29</td>
</tr>
<tr>
<td>Anganoo, Shelly Ann v The State C.A.CRIM.39/2009</td>
<td>426</td>
</tr>
<tr>
<td>Apparico, Francis v PC Deodath Seepersad C.A.MAG.25/2015</td>
<td>14</td>
</tr>
<tr>
<td>Atkins, Rickbert David v PC Edward Coa C.A.MAG.47/1994</td>
<td>68</td>
</tr>
<tr>
<td>Awong, Willard v PC Wilson C.A.MAG.79/1999</td>
<td>176</td>
</tr>
<tr>
<td>Bailey, Errol v PC Kenneth Martin C.A.MAG.34/2004</td>
<td>133</td>
</tr>
<tr>
<td>Baines, Richard v PC Mervin Kitson C.A.MAG.131/1997</td>
<td>62</td>
</tr>
<tr>
<td>Balfour, Benton v PC Ameer Mohammed C.A.MAG.61/2007</td>
<td>113</td>
</tr>
<tr>
<td>Balkaran, Jewan v PC Eon Bishop C.A.MAG.29/2004</td>
<td>206</td>
</tr>
<tr>
<td>Baptiste, Larry v The State C.A.CRIM.42/1997</td>
<td>412</td>
</tr>
<tr>
<td>Barclay, John v PC Neptune C.A.MAG.33/2003</td>
<td>142</td>
</tr>
<tr>
<td>CASE</td>
<td>PAGE</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Barrington, Ian v PC Rommel Persad C.A.MAG.81/2002</td>
<td>43</td>
</tr>
<tr>
<td>Bebassie, Chunilal v PC Winston Burton C.A.MAG.120/2000</td>
<td>209</td>
</tr>
<tr>
<td>Benjamin, Daniel aka Dallion Benjamin v Cpl Ronald Ifill C.A.MAG.41/1998</td>
<td>177</td>
</tr>
<tr>
<td>Benjamin, Eric v PC Carlon Denoon and Cpl Oliver Claire C.A.MAG.21/2009</td>
<td>22</td>
</tr>
<tr>
<td>Benjamin, Kester v The State C.A.CRIM.54/2008</td>
<td>386</td>
</tr>
<tr>
<td>Bennet, Randolph v PC Bhola Ramjit C.A.MAG.40/2004</td>
<td>130</td>
</tr>
<tr>
<td>Bennett, Noel v PC Terrance Williams C.A.MAG.80/2002</td>
<td>149</td>
</tr>
<tr>
<td>Bhagaloo, Chunilal v SRP George C.A.MAG.91/1997</td>
<td>179</td>
</tr>
<tr>
<td>Bhagaloo, Oudho v PC Nicolas Vialva C.A.MAG.125/2001</td>
<td>153</td>
</tr>
<tr>
<td>Bharat, Narine v The State C.A.CRIM.53/1998</td>
<td>331</td>
</tr>
<tr>
<td>Bharat, Ryan v The State C.A.CRIM.84/1996</td>
<td>346</td>
</tr>
<tr>
<td>Bhim Singh, Mahadeo v The State C.A.CRIM.73/1998</td>
<td>335</td>
</tr>
<tr>
<td>Bhola, Vinova v The State C.A.CRIM.18/1995</td>
<td>347</td>
</tr>
<tr>
<td>Bholo, Clint v PC Alva Gordon C.A.MAG.204/2000</td>
<td>158</td>
</tr>
<tr>
<td>Billy, Brian v The State C.A.CRIM.1/1997</td>
<td>409</td>
</tr>
<tr>
<td>Birju, Bal v PC Keron Chinapoo C.A.MAG.102/2009</td>
<td>102</td>
</tr>
<tr>
<td>Bishop, Marlon v PC Junior Bernard C.A.MAG.29/2015</td>
<td>77</td>
</tr>
<tr>
<td>Blackman, Frankie v PC Carl Hosten C.A.MAG.109/2004</td>
<td>128</td>
</tr>
<tr>
<td>Blackman, Ricardo and Khanhai Bissoon v PC Anthony Charles C.A.MAG.106/2001</td>
<td>154</td>
</tr>
<tr>
<td>Boatswain, Elton v PC Stephen Forbes C.A.MAG.33/2015</td>
<td>13</td>
</tr>
<tr>
<td>Boodhan, Krishendath v PC Russell Bahadoor C.A.MAG.68/2003</td>
<td>140</td>
</tr>
<tr>
<td>Boodram, Roopnarine v The State C.A.CRIM.56/1997</td>
<td>380</td>
</tr>
<tr>
<td>Borneo, Walter v The State C.A.CRIM.7/2011</td>
<td>423</td>
</tr>
<tr>
<td>Boswell, Arthur v PC Anderson Pariman C.A.MAG.53/2003</td>
<td>142</td>
</tr>
<tr>
<td>Boswell, Arthur v PC Bhagoutee Persad C.A.MAG.27/2009</td>
<td>104</td>
</tr>
<tr>
<td>Bourne, Kern and Kindo Findley v PC Keron Superville C.A.MAG.144/2007</td>
<td>32</td>
</tr>
<tr>
<td>Bowen, Jomaine v The State C.A.CRIM.26/2004</td>
<td>393</td>
</tr>
<tr>
<td>Boyce, Kevin v The State C.A.CRIM.60/2004</td>
<td>391</td>
</tr>
<tr>
<td>Briggs, Hugh v The State C.A.CRIM.117/1990</td>
<td>362</td>
</tr>
<tr>
<td>Buckreedan, Abdullah and Stephan Figaro v PC Keith Sylvester C.A.MAG.39/1992</td>
<td>69</td>
</tr>
<tr>
<td>Buntin, Nigel v PC Archie C.A.MAG.45/2004</td>
<td>129</td>
</tr>
<tr>
<td>Cadette, Peter v The State C.A.CRIM.27/2005</td>
<td>306</td>
</tr>
<tr>
<td>Callachand, Mohamed Iqbal and Another v The State [2008] UKPC 49</td>
<td>viii</td>
</tr>
<tr>
<td>Calliste, Dennis v PC Neil Warner-Paul C.A.MAG.81/2000</td>
<td>163</td>
</tr>
<tr>
<td>Cambridge, Brendon v PC Simeon James C.A.MAG.34/2001</td>
<td>156</td>
</tr>
<tr>
<td>Carter, David v PC Darryl Ramdass C.A.MAG.9/2007</td>
<td>117</td>
</tr>
<tr>
<td>Caton, Abbey v PC Deokaran Palloo C.A.MAG.8/2007</td>
<td>118</td>
</tr>
<tr>
<td>Cedeno, Curtis v WPC Joanne Archie C.A.MAG.098/2002</td>
<td>144</td>
</tr>
<tr>
<td>Celestine, Lennox v PC Ethelbert Aguinal C.A.MAG.270/1998</td>
<td>61</td>
</tr>
<tr>
<td>Chadee, Dennis v The State C.A.CRIM.72/2000</td>
<td>318</td>
</tr>
<tr>
<td>Charleau, Quintin v The State C.A.CRIM.64/1995</td>
<td>407</td>
</tr>
<tr>
<td>Charles, Earle v The State C.A.CRIM.26/2001</td>
<td>399</td>
</tr>
<tr>
<td>CASE</td>
<td>PAGE</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Charles, Michael v PC Frankie Richardson C.A.MAG.019/1992</td>
<td>186</td>
</tr>
<tr>
<td>Charles, Nigel v PC Marvin Francis C.A.MAG.15/2015</td>
<td>15</td>
</tr>
<tr>
<td>Charles, Sherwin v PC Raymond Emmanuel C.A.MAG.186/1999</td>
<td>173</td>
</tr>
<tr>
<td>Clement, Boswell v WPC Valarie Leon C.A.MAG.66/2010</td>
<td>26</td>
</tr>
<tr>
<td>Codrington, Hollister v The State C.A.CRIM.80/1999</td>
<td>324</td>
</tr>
<tr>
<td>Codrington, Hollister v The State C.A.CRIM.81/1999</td>
<td>324</td>
</tr>
<tr>
<td>Collier, Renald v PC Shala Julien C.A.MAG.50/2012</td>
<td>21</td>
</tr>
<tr>
<td>Collins, Emily v PC Wayne Charles C.A.MAG.38/2014</td>
<td>79</td>
</tr>
<tr>
<td>Constance, Brian and Lyntron Baptiste v PC Curtis Thomas C.A.MAG.47/1997</td>
<td>180</td>
</tr>
<tr>
<td>Cooper, Trevor v PC Satnarine Sankar C.A.MAG.63/2007</td>
<td>119</td>
</tr>
<tr>
<td>Cornwall, Hayden v PC Bokan Dodal C.A.MAG.49/2007</td>
<td>31</td>
</tr>
<tr>
<td>Cotou, Dave v PC Ryan Paul C.A.MAG.68/2013</td>
<td>19</td>
</tr>
<tr>
<td>Cox, Hillary v Cpl Baldeo Nanan C.A.MAG.268/1999</td>
<td>171</td>
</tr>
<tr>
<td>Cox, Kent v PC Liston Taylor C.A.MAG.354/2003</td>
<td>137</td>
</tr>
<tr>
<td>Cox, Paul v The State C.A.CRIM.24/2006</td>
<td>303</td>
</tr>
<tr>
<td>Craig, Alvin v PC Leroy Jones C.A.MAG.237/1991</td>
<td>194</td>
</tr>
<tr>
<td>Cumberbatch, Max v PC Murrell C.A.MAG.33/2001</td>
<td>156</td>
</tr>
<tr>
<td>Cunningham, Gordon v The State C.A.CRIM.18/2005</td>
<td>389</td>
</tr>
<tr>
<td>Cyprus, Joseph v PC Manwarring C.A.MAG.244/2003</td>
<td>136</td>
</tr>
<tr>
<td>da Costa Hall, Romeo v The Queen [2011] CCJ 6 (AJ)</td>
<td>viii</td>
</tr>
<tr>
<td>Daniel, Wendell v PC Michael Ashby C.A.MAG.10/1999</td>
<td>176</td>
</tr>
<tr>
<td>Dass, Anil v PC Stephen Bronte-Tinkew C.A.MAG.45/1999</td>
<td>59</td>
</tr>
<tr>
<td>De Craney, Albert v The State C.A.CRIM.52/1996</td>
<td>340</td>
</tr>
<tr>
<td>De Gannes, Drissa v PC Jonathan Beepath C.A.MAG.110/2009</td>
<td>100</td>
</tr>
<tr>
<td>De Silva, Charles v MVO Hylton Francis C.A.MAG.8/1998</td>
<td>211</td>
</tr>
<tr>
<td>Delancey, Marcus v PC Ricky Henry C.A.MAG.72/2006</td>
<td>126</td>
</tr>
<tr>
<td>Deonarine, Nigel v The State C.A.CRIM.50/1994</td>
<td>341</td>
</tr>
<tr>
<td>Domingo, Elvis v PC David Alexander C.A.MAG.240/1998</td>
<td>61</td>
</tr>
<tr>
<td>Donaldson, Prince v PC Lenson Legerton C.A.MAG.20/1998</td>
<td>174</td>
</tr>
<tr>
<td>Donnor, Gregory v The State C.A.CRIM.25/2005</td>
<td>390</td>
</tr>
<tr>
<td>Dookie, Alfred v PC Keivon Lewis C.A.MAG.23/2014</td>
<td>80</td>
</tr>
<tr>
<td>Dookie, Narace Aaron v PC Terrence Rahim C.A.MAG.52/2011</td>
<td>6</td>
</tr>
<tr>
<td>Dougdeen, Charles Dexter Braithwaite, Anthony Clovis and Terrance Phillip v The State C.A.CRIM.78–81/1997</td>
<td>344</td>
</tr>
<tr>
<td>Douglas, Drena v PC Adesh Bachoo C.A.MAG.73/2011</td>
<td>24</td>
</tr>
<tr>
<td>Douglas, Keith v PC Glen Teesdale C.A.MAG.252/1999</td>
<td>54</td>
</tr>
<tr>
<td>Dover, Emmanuel v The State C.A.CRIM.69/2000</td>
<td>400</td>
</tr>
<tr>
<td>Dowridge, Odell v PC Allister Covie C.A.MAG.267/2003</td>
<td>134</td>
</tr>
<tr>
<td>Duff, Nicholas v PC Eldon Calliste C.A.MAG.120/2007</td>
<td>113</td>
</tr>
<tr>
<td>Dufffriend, Wilfred J v The State C.A.CRIM.46/2002</td>
<td>314</td>
</tr>
<tr>
<td>Duncan, Keron v PC Adesh Bachoo C.A.MAG.047/2012</td>
<td>88</td>
</tr>
<tr>
<td>Duncan, Orlando v PC Sheldon Nelson C.A.MAG.58/2010</td>
<td>95</td>
</tr>
<tr>
<td>Duncan, Roger v PC Ronnie Ayers C.A.MAG.27/2012</td>
<td>89</td>
</tr>
<tr>
<td>Duprey, Valentino v PC John Ramdeen C.A.MAG.83/2001</td>
<td>47</td>
</tr>
<tr>
<td>CASE</td>
<td>PAGE</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Durity, Stephen and Alvin Jahgoo v PC Victor Eastman C.A.MAG.223/2001</td>
<td>48</td>
</tr>
<tr>
<td>Edmund, Kevin and Dike Williams v The State C.A.CRIM.1/2003 and C.A.CRIM.2/2003</td>
<td>312</td>
</tr>
<tr>
<td>Edwin, Gerard v The State C.A.CRIM.35/2008</td>
<td>387</td>
</tr>
<tr>
<td>Elcock, Carlyle v PC Colin Noel C.A.MAG.144/2003</td>
<td>140</td>
</tr>
<tr>
<td>Elliot, Richard v The State C.A.CRIM.56/1999</td>
<td>404</td>
</tr>
<tr>
<td>Enill, Martin v SRP Matthew Haywood C.A.MAG.79/2001</td>
<td>151</td>
</tr>
<tr>
<td>Evans, Robert v PC Alleyne C.A.MAG.107/2002</td>
<td>146</td>
</tr>
<tr>
<td>Felix, Anslem v PC Gregory Renwick C.A.MAG.72/2000</td>
<td>33</td>
</tr>
<tr>
<td>Felix, Henry v PC Sarreal Bachoo C.A.MAG.95/2010</td>
<td>26</td>
</tr>
<tr>
<td>Fernandez, Michael v The State C.A.CRIM.29/1997</td>
<td>343</td>
</tr>
<tr>
<td>Figaro, Derek v PC Clarke C.A.MAG.82/1993</td>
<td>187</td>
</tr>
<tr>
<td>Flores, Victor v The State C.A.CRIM.54/2001</td>
<td>315</td>
</tr>
<tr>
<td>Floyd, Andrew v WPC McDowell C.A.MAG.267/2001</td>
<td>46</td>
</tr>
<tr>
<td>Forbes, Clinton v Sgt Chandrabhan Maharaj C.A.MAG.37/1988</td>
<td>182</td>
</tr>
<tr>
<td>Forbes, Donaldson v The State C.A.CRIM.33/2002</td>
<td>397</td>
</tr>
<tr>
<td>Forde, Shawn v PC Balram Roopnarine C.A.MAG.35/2002</td>
<td>43</td>
</tr>
<tr>
<td>Fortune, Kurt v PC Singh C.A.MAG.38/2009</td>
<td>103</td>
</tr>
<tr>
<td>Foster, Feedil v PC Don Gajadhar C.A.MAG.238/2003</td>
<td>135</td>
</tr>
<tr>
<td>Franklyn, Cedric v PC Urick Prescott C.A.MAG.143/2001</td>
<td>49</td>
</tr>
<tr>
<td>Fraser, Anthony v PC Nicholas Thomas C.A.MAG.129/2002</td>
<td>153</td>
</tr>
<tr>
<td>Frederick, Willis v PC Hugh Elbourne C.A.MAG.108/2003</td>
<td>38</td>
</tr>
<tr>
<td>Gabriel, Godfrey v The State C.A.CRIM.30/2005</td>
<td>389</td>
</tr>
<tr>
<td>Garcia, Marcus v Cpl Godfrey Bebee C.A.MAG.19/2010</td>
<td>97</td>
</tr>
<tr>
<td>Gaskin, Renrick v The State C.A.CRIM.44/2003</td>
<td>359</td>
</tr>
<tr>
<td>Geeta, Ishwar v WPC Anne-Marie Edwards C.A.MAG.65/2007</td>
<td>111</td>
</tr>
<tr>
<td>Gentle, Arnold v PC Peter Trancoso C.A.MAG.107/2000</td>
<td>161</td>
</tr>
<tr>
<td>George, Ian v PC Eden Reyes C.A.MAG.146/1993</td>
<td>189</td>
</tr>
<tr>
<td>George, Rosalind and Mohammed Ali v PC Zainool Khan C.A.MAG.262/1999</td>
<td>172</td>
</tr>
<tr>
<td>Gittens, Renard v PC Wayne Baptiste C.A.MAG.96/2007</td>
<td>114</td>
</tr>
<tr>
<td>Glasgow, Christopher v The State C.A.CRIM.8/1997</td>
<td>412</td>
</tr>
<tr>
<td>Glasgow, Lester v PC Frank C.A.MAG.77/2008</td>
<td>30</td>
</tr>
<tr>
<td>Gonzales, Steve v The State C.A.CRIM.35/1996</td>
<td>361</td>
</tr>
<tr>
<td>Gonzales, Steve v The State C.A.CRIM.72/1996</td>
<td>361</td>
</tr>
<tr>
<td>Gopie, Lawrence v The State C.A.CRIM.17/2005</td>
<td>308</td>
</tr>
<tr>
<td>Gordon, Steve v PC Abbott C.A.MAG.177/2003</td>
<td>139</td>
</tr>
<tr>
<td>Gosine, Premchun v PC Renzey Ramdeen C.A.MAG.32/2000</td>
<td>168</td>
</tr>
<tr>
<td>Gow, Rajan, Zanobia Gow, and Rachel Gow v PC Jameer Hosein C.A.MAG.26/2011</td>
<td>94</td>
</tr>
<tr>
<td>Granados, Jimmy Lotus v The State C.A.CRIM.34/2004</td>
<td>374</td>
</tr>
<tr>
<td>Greene, Lawrence v PC Anthony Charles C.A.MAG.16/1997</td>
<td>181</td>
</tr>
<tr>
<td>Griffiths v R [1977] HCA 44</td>
<td>vii</td>
</tr>
<tr>
<td>Case</td>
<td>Page</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Grimes, Sylvester v The State C.A.CRIM.12/2014</td>
<td>434</td>
</tr>
<tr>
<td>Groome, Victallis v Sgt Earl Arthur C.A.MAG.14/2014</td>
<td>18</td>
</tr>
<tr>
<td>Gunness, Calvin and Rishi Gunness v The State</td>
<td></td>
</tr>
<tr>
<td>Guyton, Curtis v PC Dean Ross C.A.MAG.144/2001</td>
<td>152</td>
</tr>
<tr>
<td>Hackshaw, Kerry v PC Richard Levia C.A.MAG.155/2001</td>
<td>48</td>
</tr>
<tr>
<td>Halls, Ernest v PC Kirk Griffith C.A.MAG.73/2000</td>
<td>167</td>
</tr>
<tr>
<td>Hamlet, Brian v PC Garth Bacchus C.A.MAG.264/2003</td>
<td>135</td>
</tr>
<tr>
<td>Hanoman, John v The State C.A.CRIM.35/2000</td>
<td>377</td>
</tr>
<tr>
<td>Harricharan, Bernard v The State C.A.CRIM.83/2001</td>
<td>398</td>
</tr>
<tr>
<td>Harrilal, Ramnath v The State C.A.CRIM.46/1996</td>
<td>333</td>
</tr>
<tr>
<td>Harripaul, Sheldon v PC Emrol Bruce C.A.MAG.108/2001</td>
<td>49</td>
</tr>
<tr>
<td>Harris, Anthony v The State C.A.CRIM.28/2005</td>
<td>388</td>
</tr>
<tr>
<td>Harry, Alvin v The State C.A.CRIM.S17/2013</td>
<td>371</td>
</tr>
<tr>
<td>Hasranah, Bholal v PC Trevor Clarke C.A.MAG.37/1990</td>
<td>193</td>
</tr>
<tr>
<td>Haynes, Curtis v PC Vaughn Waldropt C.A.MAG.108/2006</td>
<td>123</td>
</tr>
<tr>
<td>Haynes, Peter v PC Mukesh Gocool C.A.MAG.8/2015</td>
<td>78</td>
</tr>
<tr>
<td>Henderson, Victor v PC Derick Walker C.A.MAG.157/1999</td>
<td>173</td>
</tr>
<tr>
<td>Henry, Elias Robin v The State C.A.CRIM.86/2001</td>
<td>315</td>
</tr>
<tr>
<td>Henry, Kentis v PC Paul De Leon C.A.MAG.89/2007</td>
<td>114</td>
</tr>
<tr>
<td>Henry, Miles v PC Johnson C.A.MAG.43/2008</td>
<td>109</td>
</tr>
<tr>
<td>Henry, Smythe v PC Vernon Williams C.A.MAG.78/1999</td>
<td>175</td>
</tr>
<tr>
<td>Hepburn, Ranie-D v WPC Tricia Gopicharan C.A.MAG.54/2012</td>
<td>20</td>
</tr>
<tr>
<td>Hernandez, Earl v PC Balram Roopnarine C.A.MAG.94/2000</td>
<td>51</td>
</tr>
<tr>
<td>Hernandez, Jerry v PC Annette Piper C.A.MAG.147/2001</td>
<td>152</td>
</tr>
<tr>
<td>Holder, Patrick v PC David Williams C.A.MAG.195/2003</td>
<td>40</td>
</tr>
<tr>
<td>Horne, Errol v The State C.A.CRIM.20/1998</td>
<td>333</td>
</tr>
<tr>
<td>Hosein, Mohammed v PC Terrence Augustin C.A.MAG.295/1998</td>
<td>59</td>
</tr>
<tr>
<td>Hospedales, Curtis v PC Keeve Thompson C.A.MAG.13/2009</td>
<td>105</td>
</tr>
<tr>
<td>Hossein, Faroud v PC Peters C.A.MAG.242/2000</td>
<td>154</td>
</tr>
<tr>
<td>Howard, Keith v PC Phillip Wilson C.A.MAG.257/2000</td>
<td>158</td>
</tr>
<tr>
<td>Howell, Jonathan v The State C.A.CRIM.91/1999</td>
<td>323</td>
</tr>
<tr>
<td>Huggins, Lennox v PC Kevin Ransome C.A.MAG.25/1992</td>
<td>187</td>
</tr>
<tr>
<td>Huggins, Perry v The State C.A.CRIM.35/2002</td>
<td>314</td>
</tr>
<tr>
<td>Hutchins, Samuel v The State C.A.CRIM.19/2005</td>
<td>357</td>
</tr>
<tr>
<td>Hypolite, Mark and Natasha Williams v PC Ryan Khan C.A.MAG.126/2006</td>
<td>120</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Case</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Isaac, Jason v PC Smith C.A.MAG.183/2002</td>
<td>42</td>
</tr>
<tr>
<td>Jack, Garvin v PC Manichand Pooran C.A.MAG.36/2006</td>
<td>127</td>
</tr>
<tr>
<td>Jackman, Paul v PC Victor Munroe C.A.MAG.152/1997</td>
<td>178</td>
</tr>
<tr>
<td>Jackson, Ricky v The State C.A.CRIM.119/1989</td>
<td>365</td>
</tr>
<tr>
<td>CASE</td>
<td>PAGE</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Jaggernauth, Jawan, Andrew Kanhai v The State</td>
<td>300</td>
</tr>
<tr>
<td>Jairam, Ramsingh and Krishna Persad v The State</td>
<td>320</td>
</tr>
<tr>
<td>Jaisiree, Desmond v PC Richard Ramtoole C.A.MAG.22/2001</td>
<td>159</td>
</tr>
<tr>
<td>James, Devon v The State C.A.CRIM.60/1995</td>
<td>363</td>
</tr>
<tr>
<td>James, Kello v PC Nemest Joseph C.A.MAG.126/1999</td>
<td>175</td>
</tr>
<tr>
<td>James, Lyndon v PC Christopher Cromarty C.A.MAG.7/2011</td>
<td>92</td>
</tr>
<tr>
<td>James, Raphael v SRP Bryan Durant C.A.MAG.25/2001</td>
<td>162</td>
</tr>
<tr>
<td>James, Torrel v The State C.A.CRIM.71/1992</td>
<td>348</td>
</tr>
<tr>
<td>Jeffrey, Ian v PC Raynado Sookdeo C.A.MAG.41/2004</td>
<td>131</td>
</tr>
<tr>
<td>Jhagro, Solomon v PC Cooper C.A.MAG.53/1997</td>
<td>64</td>
</tr>
<tr>
<td>Joaquim, Ulric v PC Andrew Charles C.A.MAG.46/1992</td>
<td>68</td>
</tr>
<tr>
<td>John, Jamoi v The State C.A.CRIM.16/2013</td>
<td>442</td>
</tr>
<tr>
<td>John, Kellon v The State C.A.CRIM.18/2004</td>
<td>311</td>
</tr>
<tr>
<td>John, Marlon v The State C.A.CRIM.39/2007</td>
<td>ix</td>
</tr>
<tr>
<td>Johnswan, Richard v PC Earl Arthur C.A.MAG.36/2000</td>
<td>166</td>
</tr>
<tr>
<td>Jones, Allan v The State C.A.CRIM.32/2004</td>
<td>358</td>
</tr>
<tr>
<td>Jones, Anton v PC Gary Santlal C.A.MAG.43/2015</td>
<td>77</td>
</tr>
<tr>
<td>Jones, Carl v The State C.A.CRIM.3/2003</td>
<td>397</td>
</tr>
<tr>
<td>Jordon, Akeisha v PC Joseph Charles C.A.MAG.287/1999</td>
<td>54</td>
</tr>
<tr>
<td>Joseph, Brian v PC Rickie Jennings C.A.MAG.253/2001</td>
<td>150</td>
</tr>
<tr>
<td>Joseph, Danny v PC Morris C.A.MAG.41/2009</td>
<td>103</td>
</tr>
<tr>
<td>Joseph, Darren v The State C.A.CRIM.25/1997</td>
<td>334</td>
</tr>
<tr>
<td>Joseph, Francis v The State C.A.CRIM.97/1990</td>
<td>406</td>
</tr>
<tr>
<td>Joseph, Fred v The State C.A.CRIM.41/2002</td>
<td>360</td>
</tr>
<tr>
<td>Joseph, Rickie v PC Sheldon Ablacksingh C.A.MAG.11/2012</td>
<td>4</td>
</tr>
<tr>
<td>Julien, Anthony v PC Valentine Millette C.A.MAG.88/1996</td>
<td>183</td>
</tr>
<tr>
<td>Julien, Dion v The State C.A.CRIM.56/1996</td>
<td>414</td>
</tr>
<tr>
<td>Kalipersad, Pooran v PC Neil Brandon John C.A.MAG.138/1996</td>
<td>182</td>
</tr>
<tr>
<td>Kalloo, Richard v PC Lincoln Morris C.A.MAG.49/2011</td>
<td>93</td>
</tr>
<tr>
<td>Kamachie, Harry, Rama Kamachie, Munesh Kamachie, Krishna Kamachie and Fefe Kamachie v The State C.A.CRIM.93–97/1991</td>
<td>349</td>
</tr>
<tr>
<td>Kamau, Nkomo v PC Samai C.A.MAG.53/1993</td>
<td>188</td>
</tr>
<tr>
<td>Kathwaroo, Gewan v PC Wayne Mohess C.A.MAG.84/2009</td>
<td>204</td>
</tr>
<tr>
<td>Kelly, David v Cpl Bahaw C.A.MAG.57/2000</td>
<td>52</td>
</tr>
<tr>
<td>Khan, Farouk v The State C.A.CRIM.73/1994</td>
<td>345</td>
</tr>
<tr>
<td>Khan, Rayshard v Cpl Irving Glynn C.A.MAG.30/1992</td>
<td>190</td>
</tr>
<tr>
<td>King, Eugene v The State C.A.CRIM.16/1998</td>
<td>335</td>
</tr>
<tr>
<td>King, Kevon aka “Strongy” v The State C.A.CRIM.155/1997</td>
<td>407</td>
</tr>
<tr>
<td>Kissoon, Gopaul and Jairam Sankar v The State</td>
<td></td>
</tr>
<tr>
<td>CASE</td>
<td>PAGE</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Knight, Glen v PC Kerwin Francis C.A.MAG.63/2002</td>
<td>147</td>
</tr>
<tr>
<td>Koon Koon, Maurice v PC Marlon Linton C.A.MAG.133/2007</td>
<td>110</td>
</tr>
<tr>
<td>La Borde, Ricardo v PC Linley Paul C.A.MAG.32/1998</td>
<td>178</td>
</tr>
<tr>
<td>La Caille, Neil v The State C.A.CRIM.80/2000</td>
<td>400</td>
</tr>
<tr>
<td>La Pierre, Latifah v WPC Alana Lopez C.A.MAG.48/2007</td>
<td>32</td>
</tr>
<tr>
<td>Lalman, Vishal v The State C.A.CRIM.36/2008</td>
<td>372</td>
</tr>
<tr>
<td>Lambert, Ancil v The State C.A.CRIM.106/1998</td>
<td>328</td>
</tr>
<tr>
<td>Lambkin, Shurland v PC Dwayne Martinez C.A.MAG.122/2003</td>
<td>143</td>
</tr>
<tr>
<td>Lashley, Dave v The State C.A.CRIM.43/2004</td>
<td>393</td>
</tr>
<tr>
<td>Latchman, Harold v Sgt Neil Quash C.A.MAG.432/2003</td>
<td>206</td>
</tr>
<tr>
<td>Leacock, Leonard v PC Anthony Spence C.A.MAG.29/2001</td>
<td>157</td>
</tr>
<tr>
<td>Lee, Ashton v The State C.A.CRIM.73/2001</td>
<td>319</td>
</tr>
<tr>
<td>Lee Singh, Patrick v PC Lloyd Mc Alpin C.A.MAG.283/1991</td>
<td>186</td>
</tr>
<tr>
<td>Legene, Michael v PC Glenn Steele C.A.MAG.58/2002</td>
<td>148</td>
</tr>
<tr>
<td>Leith, Ian v The State C.A.CRIM.105/1998</td>
<td>395</td>
</tr>
<tr>
<td>Lessey, Fitzroy v The State C.A.CRIM.14/2002</td>
<td>398</td>
</tr>
<tr>
<td>Lewis, Marvin v PC Julien C.A.MAG.116/2000</td>
<td>165</td>
</tr>
<tr>
<td>Lewis, Trevor and Monica Lawrence v PC Lindon Greenidge C.A.MAG.219/2003</td>
<td>138</td>
</tr>
<tr>
<td>Lewis, Wayne v The State C.A.CRIM.37/2001</td>
<td>321</td>
</tr>
<tr>
<td>London, Dominique v The State C.A.CRIM.10/2003</td>
<td>395</td>
</tr>
<tr>
<td>London, Junior v The State C.A.CRIM.120/1996</td>
<td>363</td>
</tr>
<tr>
<td>Longden, Dominique v PC Stanislaus Hernandez C.A.MAG.18/1998</td>
<td>57</td>
</tr>
<tr>
<td>Lopez, Sherwin v PC Raffic Mohammed C.A.MAG.230/2002</td>
<td>209</td>
</tr>
<tr>
<td>Lovelace, Andrew v PC Sookram C.A.MAG.50/1997</td>
<td>64</td>
</tr>
<tr>
<td>Lucas, Nigel v PC Neville White C.A.MAG.82/2006</td>
<td>124</td>
</tr>
<tr>
<td>Mahabir, Nandram v The State C.A.CRIM.143/1997</td>
<td>379</td>
</tr>
<tr>
<td>Mahadeo, Vernon v The State C.A.CRIM.21/2008</td>
<td>387</td>
</tr>
<tr>
<td>Maharaj, Harrynarine v The State C.A.CRIM.135/1988</td>
<td>366</td>
</tr>
<tr>
<td>Maharaj, Teeratrajh v The State C.A.CRIM.50/2004</td>
<td>392</td>
</tr>
<tr>
<td>Maitland, Marlon v PC Irvin Primus C.A.MAG.17/2012</td>
<td>13</td>
</tr>
<tr>
<td>Malchan, Andrew v The State C.A.CRIM.27/2000</td>
<td>327</td>
</tr>
<tr>
<td>Maloo, Kimraj v PC Andre Forgenie C.A.MAG.17/2010</td>
<td>98</td>
</tr>
<tr>
<td>Manan, Selwyn v PC Nicholas Vialva C.A.MAG.117/2006</td>
<td>117</td>
</tr>
<tr>
<td>Manickchand, Ronald v The State C.A.CRIM.5/1999</td>
<td>322</td>
</tr>
<tr>
<td>Mann, Michael v The State C.A.CRIM.3/2007</td>
<td>301</td>
</tr>
<tr>
<td>Mapp, Everton v The State C.A.CRIM.51/1992</td>
<td>348</td>
</tr>
<tr>
<td>Marcella, Kerwyn v Sgt Moore C.A.MAG.21/2005</td>
<td>34</td>
</tr>
<tr>
<td>Marcella, Trevor v PC Rito Manbodh C.A.MAG.221/2003</td>
<td>208</td>
</tr>
<tr>
<td>Marcer, Marvin v PC Terrill Figaro C.A.MAG.124/2002</td>
<td>43</td>
</tr>
<tr>
<td>Marin, Larry and Steve Ademola v PC Suroogenath Jagdeo C.A.MAG.35/2004</td>
<td>37</td>
</tr>
<tr>
<td>Matas, Aaron v PC Mark Marshall C.A.MAG.144/2006</td>
<td>123</td>
</tr>
<tr>
<td>Mathura, Claudius v PC Charmin Williams C.A.MAG.15/2011</td>
<td>24</td>
</tr>
<tr>
<td>Mathura, Nicholas v SRP Raymond Mendoza C.A.MAG.31/2012</td>
<td>88</td>
</tr>
<tr>
<td>CASE</td>
<td>PAGE</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>Mayers, Nigel v PC Liston Taylor C.A.MAG.85/2007</td>
<td>116</td>
</tr>
<tr>
<td>Mc Carter, O’Brian v The State C.A.CRIM.45/1996</td>
<td>413</td>
</tr>
<tr>
<td>Mc Clean, Lennox v PC Andy Williams C.A.MAG.20/1996</td>
<td>63</td>
</tr>
<tr>
<td>Mc Intosh, Hollis v PC Emmanuel Brown C.A.MAG.71/2002</td>
<td>147</td>
</tr>
<tr>
<td>Mc Intyre, Clinton v WPC Sherma Titus-Martin C.A.MAG.98/2007</td>
<td>115</td>
</tr>
<tr>
<td>Mc Kenna, Claude v Sgt Errol Denoon C.A.MAG.5/1999</td>
<td>60</td>
</tr>
<tr>
<td>Mc Sween, Anthony v The State C.A.CRIM.15/1991</td>
<td>336</td>
</tr>
<tr>
<td>Mendoza, Dexter v PC David George C.A.MAG.22/2014</td>
<td>79</td>
</tr>
<tr>
<td>Miguel, Nimrod v The State C.A.CRIM.5/2008</td>
<td>427</td>
</tr>
<tr>
<td>Millette, Lennox v The State C.A.CRIM.22/2001</td>
<td>400</td>
</tr>
<tr>
<td>Millington, Marcus v PC Damian Richardson C.A.MAG.153/2007</td>
<td>110</td>
</tr>
<tr>
<td>Mitchell, Brian v PC Joseph Ferreira C.A.MAG.21/1992</td>
<td>192</td>
</tr>
<tr>
<td>Mitchell, Hilary v The State C.A.CRIM.34/1990</td>
<td>407</td>
</tr>
<tr>
<td>Mitchell, Myrtle v Antonia Ribeiro and Sheena Ribeiro C.A.MAG.75/2011</td>
<td>5</td>
</tr>
<tr>
<td>Mohammed, Bobby Riza v The State C.A.CRIM.76/1995</td>
<td>342</td>
</tr>
<tr>
<td>Mohammed, Faheed v Sgt Frankie James C.A.MAG.23/2013</td>
<td>82</td>
</tr>
<tr>
<td>Mohammed, Intab v SRP Gerald Assing C.A.MAG.203/2000</td>
<td>163</td>
</tr>
<tr>
<td>Mohammed, Judy aka Julie Mohammed v WPC Patricia Edward C.A.MAG.95/2001</td>
<td>155</td>
</tr>
<tr>
<td>Mohammed, Leroy v The State C.A.CRIM.23/2008</td>
<td>357</td>
</tr>
<tr>
<td>Mohammed, Lyndon v PC Marlon Linton C.A.MAG.48/2007</td>
<td>34</td>
</tr>
<tr>
<td>Mohammed, Makesi v PC Gajadhar C.A.MAG.83/2008</td>
<td>106</td>
</tr>
<tr>
<td>Mohammed, Michael v PC Sheldon Sylvester C.A.MAG.71/2007</td>
<td>33</td>
</tr>
<tr>
<td>Mohammed, Nicholas Wilson Lyndon v PC Roger Reyes C.A.MAG.6/2011</td>
<td>23</td>
</tr>
<tr>
<td>Mohammed, Nigel v PC Harold Ishmael C.A.MAG.65/2007</td>
<td>116</td>
</tr>
<tr>
<td>Mohammed, Nizam v The State C.A.CRIM.48/1994</td>
<td>381</td>
</tr>
<tr>
<td>Mohansingh, Deodath v Cpl Creighton Hudson C.A.MAG.22/2002</td>
<td>46</td>
</tr>
<tr>
<td>Moonesar, Jagessar v PC Anil Manick C.A.MAG.83/1993</td>
<td>67</td>
</tr>
<tr>
<td>Moore, George v The State C.A.CRIM.61/1993</td>
<td>325</td>
</tr>
<tr>
<td>Mootilal, Sheldon v PC Christopher Paponette C.A.MAG.180/2000</td>
<td>56</td>
</tr>
<tr>
<td>Morris, Carl v The State C.A.CRIM.36/1991</td>
<td>351</td>
</tr>
<tr>
<td>Morris, Marvin v PC Terry Tambie C.A.MAG.180/2000</td>
<td>164</td>
</tr>
<tr>
<td>Munngroo, Soonar v The State C.A.CRIM.17/1995</td>
<td>414</td>
</tr>
<tr>
<td>Nicholas, Alexander Don Juan, Gregory Tan and Oren Lewis v The State C.A.CRIM.1–6/2013</td>
<td>422</td>
</tr>
<tr>
<td>Nicholas, Kambon v PC Eusebio Cooper C.A.MAG.225/1999</td>
<td>169</td>
</tr>
<tr>
<td>Nicholas, Robert v EC J Borneo C.A.MAG.74/1992</td>
<td>185</td>
</tr>
<tr>
<td>Nicholls, Nneka v WPC Pascall C.A.MAG.79/2008</td>
<td>108</td>
</tr>
<tr>
<td>Nicome, Junior Colin v The State C.A.CRIM.81/1999</td>
<td>309</td>
</tr>
<tr>
<td>Nku, Mwamba A v PC Ralph Satnarine C.A.MAG.12/2001</td>
<td>157</td>
</tr>
<tr>
<td>Noel, Bernard v PC Neil James C.A.MAG.91/2004</td>
<td>132</td>
</tr>
<tr>
<td>Noel, Cletus v The State C.A.CRIM.84/1991</td>
<td>365</td>
</tr>
<tr>
<td>Noreiga, Robert v The State C.A.CRIM.44/1994</td>
<td>340</td>
</tr>
<tr>
<td>Nurse Rudder, Errol v The State C.A.CRIM.15/1997</td>
<td>410</td>
</tr>
<tr>
<td>CASE</td>
<td>PAGE</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>O’Garro, Lance v The State C.A.CRIM.51/1996</td>
<td>413</td>
</tr>
<tr>
<td>Odikagube, Christopher v PC Riad Hosein C.A.MAG.61/2014</td>
<td>76</td>
</tr>
<tr>
<td>Osbourne, Nigel v The State C.A.CRIM.101/1997</td>
<td>410</td>
</tr>
<tr>
<td>Osbourne, Ryan v PC David Powder C.A.MAG.23/2001</td>
<td>50</td>
</tr>
<tr>
<td>Otway, Lennox v The State C.A.CRIM.73/1997</td>
<td>411</td>
</tr>
<tr>
<td>Oujar, Davendra v Danrai Roopan C.A.MAG.13/2011</td>
<td>7</td>
</tr>
<tr>
<td>Owen, Anderson v PC Steve Persad C.A.MAG.292/2001</td>
<td>143</td>
</tr>
<tr>
<td>Padmore, Anthony v The State C.A.CRIM.54/1998</td>
<td>329</td>
</tr>
<tr>
<td>Panan, Ramnarine aka “Sona” v The State C.A.CRIM.148/1997</td>
<td>339</td>
</tr>
<tr>
<td>Parris, Steve v PC Deopersad Jankienan C.A.MAG.75/2000</td>
<td>53</td>
</tr>
<tr>
<td>Patrick, Lybert v PC Earl Arthur C.A.MAG.13/2009</td>
<td>100</td>
</tr>
<tr>
<td>Paul, Hubran v The State C.A.CRIM.1/2002</td>
<td>377</td>
</tr>
<tr>
<td>Paul, Richard v PC Lester Samuel C.A.MAG.015/2012</td>
<td>21</td>
</tr>
<tr>
<td>Paul, William aka Ricky Paul v PC Bebee C.A.MAG.187/1997</td>
<td>177</td>
</tr>
<tr>
<td>Payne, Dexter v PC Martin C.A.MAG.8/1993</td>
<td>190</td>
</tr>
<tr>
<td>Pelage, Heston v PC Kenrick Paul C.A.MAG.127/2000</td>
<td>162</td>
</tr>
<tr>
<td>Perreira, Emilio v PC Allan Khan C.A.MAG.125/2006</td>
<td>124</td>
</tr>
<tr>
<td>Persad, Benny and Dial Persad v The State C.A.CRIM.5/1994</td>
<td>343</td>
</tr>
<tr>
<td>Persad, Ganesh v PC Flores C.A.MAG.20/2009</td>
<td>102</td>
</tr>
<tr>
<td>Persad, Ramsarran and Zamilla Persad v The State C.A.CRIM.157/1997</td>
<td>331</td>
</tr>
<tr>
<td>Persad, Sudesh v SRP Eric George C.A.MAG.74/2000</td>
<td>168</td>
</tr>
<tr>
<td>Persaud, Narish v Sgt Boyd C.A.MAG.23/1995</td>
<td>66</td>
</tr>
<tr>
<td>Peters, Anderson v Cpl Sirbrian Doorgadeen C.A.MAG.28/2012</td>
<td>5</td>
</tr>
<tr>
<td>Phillip, Jason v Cpl Collis Hazel C.A.MAG.7/2004</td>
<td>36</td>
</tr>
<tr>
<td>Phillip, Unill v PC Anil Persad C.A.MAG.23/2012</td>
<td>90</td>
</tr>
<tr>
<td>Phillips, Clinton aka “Jap” v The State C.A.CRIM.40/1995</td>
<td>350</td>
</tr>
<tr>
<td>Phillips, Kevon and Junior Joseph v PC Tom Bernard C.A.MAG.176/1999</td>
<td>56</td>
</tr>
<tr>
<td>Pierre, Anthony v PC Liston Taylor C.A.MAG.180/2004</td>
<td>36</td>
</tr>
<tr>
<td>Pierre, Eric v PC Valentine Millette C.A.MAG.1/1997</td>
<td>63</td>
</tr>
<tr>
<td>Pierre, William v PC Reginald George C.A.MAG.133/1999</td>
<td>211</td>
</tr>
<tr>
<td>Pollidore, Franklyn v PC Phillip C.A.MAG.123/2000</td>
<td>164</td>
</tr>
<tr>
<td>Porter, Alton v The State C.A.CRIM.165/1997</td>
<td>408</td>
</tr>
<tr>
<td>Prabhoo, Jaimungal and Mihan Prabhoo v The State C.A.CRIM.51/1991</td>
<td>342</td>
</tr>
<tr>
<td>Prime, Neville v PC Curt Simon C.A.MAG.133/2002</td>
<td>144</td>
</tr>
<tr>
<td>Prince, Jason v PC Terrence Burris C.A.MAG.5/2006</td>
<td>126</td>
</tr>
<tr>
<td>Prosper, Alec v PC Anthony Layne C.A.MAG.367/2003</td>
<td>39</td>
</tr>
<tr>
<td>Pulchan, Errol v PC Jairam Soman C.A.MAG.113/2004</td>
<td>205</td>
</tr>
<tr>
<td>Quamina, John v The State C.A.CRIM.53/2008</td>
<td>372</td>
</tr>
<tr>
<td>Quinton, Noel v The State C.A.CRIM.101/2007</td>
<td>441</td>
</tr>
<tr>
<td>R v A (Informer: Reduction of Sentence) [1999] 1 Cr App R (S) 52</td>
<td>xxxii</td>
</tr>
<tr>
<td>R v Bird [1987] 9 Cr App R (S) 77</td>
<td>xxxiii</td>
</tr>
<tr>
<td>R v Bernard [1997] 1 Cr App R (S) 135</td>
<td>xxxiv</td>
</tr>
<tr>
<td>CASE</td>
<td>PAGE</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>R v Norfolk [2001] NZCA 245</td>
<td>421</td>
</tr>
<tr>
<td>R v Perks [2001] 1 Cr App R (S) 19</td>
<td>xxxi</td>
</tr>
<tr>
<td>R v Taeueki, Ridley and Roberts [2005] NZLR 372</td>
<td>424</td>
</tr>
<tr>
<td>R v Tiso [1990] 12 Cr App R (S) 122</td>
<td>xxxiii</td>
</tr>
<tr>
<td>R v Walsh (unreported), 8th March 1973</td>
<td>xxxii</td>
</tr>
<tr>
<td>Raas, Edison v Cpl Lindsay Phillip C.A.MAG.95/2008</td>
<td>106</td>
</tr>
<tr>
<td>Ragbir, Brian v PC Latchmansingh Roopchand and Cpl Chanardath Jhilmit</td>
<td>27</td>
</tr>
<tr>
<td>C.A.MAG.98/2008</td>
<td></td>
</tr>
<tr>
<td>Ragbir, Vishnu v Gary John C.A.MAG.086/2013</td>
<td>85</td>
</tr>
<tr>
<td>Ragoobar, Juianlal v PC Glynn C.A.MAG.45/1997</td>
<td>180</td>
</tr>
<tr>
<td>Ragoonanan, Dinesh v PC Jaggernauth C.A.MAG.17/2006</td>
<td>121</td>
</tr>
<tr>
<td>Rahim, Frank v PC Steve Ragoo C.A.MAG.288/2001</td>
<td>209</td>
</tr>
<tr>
<td>Ramah, Lyndon and Ray Oliverrie v The State</td>
<td></td>
</tr>
<tr>
<td>C.A.CRIM.34/2015 and C.A.CRIM.35/2015</td>
<td>424</td>
</tr>
<tr>
<td>Ramcharran, Rajindra v PC Nicholas Ramdeen C.A.MAG.35/2001</td>
<td>30</td>
</tr>
<tr>
<td>Ramdass, Allan v The State C.A.CRIM.3/2004</td>
<td>310</td>
</tr>
<tr>
<td>Ramdass, Surughlal v The State C.A.CRIM.26/2000</td>
<td>406</td>
</tr>
<tr>
<td>Ramdeo, Ricardo v PC Clifford Caesar C.A.MAG.276/1998</td>
<td>60</td>
</tr>
<tr>
<td>Ramesar, Larry v WPC Gail Brewster C.A.MAG.54/2010</td>
<td>198</td>
</tr>
<tr>
<td>Ramjattan, Indravani v The State C.A.CRIM.59/1995</td>
<td>332</td>
</tr>
<tr>
<td>Ramkisson, Joseph v PC Andy Cunningham C.A.MAG.8/2000</td>
<td>166</td>
</tr>
<tr>
<td>Ramlakhan, Deodath v The State C.A.CRIM.46/1999</td>
<td>326</td>
</tr>
<tr>
<td>Ramlogan, Chandrashakar v The State C.A.CRIM.116/1990</td>
<td>334</td>
</tr>
<tr>
<td>Rammarine, Govindra v PC Christopher Emrite C.A.MAG.19/2009</td>
<td>28</td>
</tr>
<tr>
<td>Ramoutar, Rishi and Lenny Abeola v PC Gregory Renwick C.A.MAG.96/2009</td>
<td>27</td>
</tr>
<tr>
<td>Ramoutar, Ryan, Pream Badree and Hassan Hosein v The State</td>
<td></td>
</tr>
<tr>
<td>C.A.CRIM.28–30/2015</td>
<td>425</td>
</tr>
<tr>
<td>Ramoutar, Terrance v PC Navin Maharaj C.A.MAG.43/2011</td>
<td>92</td>
</tr>
<tr>
<td>Rampersad, Ramchand v The State C.A.CRIM.97/1999</td>
<td>404</td>
</tr>
<tr>
<td>Rampersad, Ramnarace v The State C.A.CRIM.26/2014</td>
<td>215</td>
</tr>
<tr>
<td>Rampersad, Ricardo v PC Russel Mason C.A.MAG.328/1999</td>
<td>172</td>
</tr>
<tr>
<td>Rampersad, Sunil v PC Colin Noel C.A.MAG.13/2004</td>
<td>35</td>
</tr>
<tr>
<td>Rampersad, Suresh v PC Doodhai C.A.MAG.39/1997</td>
<td>65</td>
</tr>
<tr>
<td>Ramphal, Sadhu v The State C.A.CRIM.46/1995</td>
<td>347</td>
</tr>
<tr>
<td>Ramsarran, Geeta v PC Netram Kowlessar C.A.MAG.38/2004</td>
<td>134</td>
</tr>
<tr>
<td>Ramsey, Ruth v The State C.A.CRIM.26/1990</td>
<td>352</td>
</tr>
<tr>
<td>Ravello, Andre Anthony v PC Dane James C.A.MAG.53/2007</td>
<td>112</td>
</tr>
<tr>
<td>Redhead, Inniss v The State C.A.MAG.23/2014</td>
<td>216</td>
</tr>
<tr>
<td>Redhead, Junior Inniss v The State C.A.MAG.21/2014</td>
<td>215</td>
</tr>
<tr>
<td>Renaud, Don v The State C.A.CRIM.74/1998</td>
<td>329</td>
</tr>
<tr>
<td>Rennie, Desmond v The State C.A.CRIM.14/2003</td>
<td>313</td>
</tr>
<tr>
<td>Richards, Curtis v PC Leon Dennis C.A.MAG.21/2000</td>
<td>52</td>
</tr>
<tr>
<td>Richards, Dale v The State C.A.CRIM.15/2007</td>
<td>302</td>
</tr>
<tr>
<td>Riley, Karen Leslie v The State C.A.CRIM.55/1992</td>
<td>381</td>
</tr>
<tr>
<td>Roberts, Alston v The State C.A.CRIM.39/1999</td>
<td>310</td>
</tr>
<tr>
<td>CASE</td>
<td>PAGE</td>
</tr>
<tr>
<td>------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Roberts, Keshan v PC Anthony Bucchan C.A.MAG.262/2003</td>
<td>37</td>
</tr>
<tr>
<td>Rodney, Paul v PC Baldath Harinarine C.A.MAG.61/2004</td>
<td>133</td>
</tr>
<tr>
<td>Rogers, Prince v PC Naim Gyan C.A.MAG.26/2007</td>
<td>120</td>
</tr>
<tr>
<td>Rolle, Jeremy v PC Sylvan Stewart C.A.MAG.47/2010</td>
<td>98</td>
</tr>
<tr>
<td>Romany, Ryan v PC Castelland C.A.MAG.44/2008</td>
<td>31</td>
</tr>
<tr>
<td>Romeo, Kerwin v PC Kerwin Horsford C.A.MAG.21/2005</td>
<td>35</td>
</tr>
<tr>
<td>Romeo, Kerwyn v Cpl John Adams C.A.MAG.8/2008</td>
<td>28</td>
</tr>
<tr>
<td>Romerick, Matthew v PC Tardath Singh C.A.MAG.169/2006</td>
<td>33</td>
</tr>
<tr>
<td>Rosarie, Francis v PC Hayden Mc Kenzie C.A.MAG.67/1996</td>
<td>183</td>
</tr>
<tr>
<td>Ruiz, Colin v Dale Griffith C.A.MAG.54/2003</td>
<td>41</td>
</tr>
<tr>
<td>Ruiz, Roosevelt v PC Phillip Llewellyn C.A.MAG.252/2001</td>
<td>150</td>
</tr>
<tr>
<td>Ryan, Marlon v PC Clayton Solomon C.A.MAG.61/2002</td>
<td>44</td>
</tr>
<tr>
<td>Sahadeo, Guyapersad and Ramdaye Pattiram v PC Totaram Dookie C.A.MAG.108/2000</td>
<td>165</td>
</tr>
<tr>
<td>Samaroo, Davindra v PC Adesk Gookool C.A.MAG.53/2004</td>
<td>128</td>
</tr>
<tr>
<td>Samaroo, Lincoln v Sgt Reid C.A.MAG.5/2003</td>
<td>40</td>
</tr>
<tr>
<td>Samaroosingh, Rishi v PC Honore C.A.MAG.44/1995</td>
<td>185</td>
</tr>
<tr>
<td>Samsoodeen, Emerald and Earle Samsoodeen v PC Randy Ramdabar C.A.MAG.57/2010</td>
<td>127</td>
</tr>
<tr>
<td>Sammy, Junior v PC Noel C.A.MAG.259/2000</td>
<td>161</td>
</tr>
<tr>
<td>Samarinesingh, Darryl v The State C.A.CRIM.52/2006</td>
<td>305</td>
</tr>
<tr>
<td>Sampson, Mc Lawrence v PC Richard Joseph C.A.MAG.327/1999</td>
<td>55</td>
</tr>
<tr>
<td>Sandiford, David v Cpl Hogarth Edward Lumy C.A.MAG.272/2003</td>
<td>129</td>
</tr>
<tr>
<td>Sandy, Edsel v PC Oliver Alleyne C.A.MAG.28/2000</td>
<td>210</td>
</tr>
<tr>
<td>Saney, Michael v The State C.A.CRIM.62/2003</td>
<td>359</td>
</tr>
<tr>
<td>Savisente, Abraham Jose and Others v Kirk Peters C&amp;E Officer 1 C.A.MAG.30/2012</td>
<td>90</td>
</tr>
<tr>
<td>Scantlebury, Clinton and Ako Beckles v The State C.A.CRIM.39/1997</td>
<td>364</td>
</tr>
<tr>
<td>Scotland, Junior v Sgt Maurice Piggott C.A.MAG.199/1990</td>
<td>70</td>
</tr>
<tr>
<td>Sealy, Felix v The State C.A.CRIM.70/1999</td>
<td>402</td>
</tr>
<tr>
<td>Sebro, Brent v PC Nigel Johnson C.A.MAG.10/2008</td>
<td>29</td>
</tr>
<tr>
<td>Selby, Deverad v The State C.A.CRIM.53/1999</td>
<td>361</td>
</tr>
<tr>
<td>Simmons, Curtis v PC Sookraj C.A.MAG.45/1995</td>
<td>66</td>
</tr>
<tr>
<td>Simon, Dave v PC Breedy C.A.MAG.34/2009</td>
<td>104</td>
</tr>
<tr>
<td>Singh, Anil v PC Flanders C.A.MAG.170/2003</td>
<td>139</td>
</tr>
<tr>
<td>Singh, Dennis v Marilyn Scott-Girod C.A.MAG.87/2010</td>
<td>25</td>
</tr>
<tr>
<td>Singh, Kelvin v PC Dexter Lewis C.A.MAG.46/2002</td>
<td>148</td>
</tr>
<tr>
<td>Singh, Michael v PC Ainsley Garrick C.A.MAG.243/1991</td>
<td>191</td>
</tr>
<tr>
<td>Singh, Nigel v PC Heeralal Singh C.A.MAG.53/2002</td>
<td>44</td>
</tr>
<tr>
<td>Singh, Randy v The State C.A.CRIM.16/2001</td>
<td>321</td>
</tr>
<tr>
<td>Singh, Reynold v The State C.A.CRIM.11/2003</td>
<td>375</td>
</tr>
<tr>
<td>Singh, Rishi v PC Stephen Bernard and Rishi Singh v PC Ricky Henry C.A.MAG.262/2001</td>
<td>46</td>
</tr>
<tr>
<td>Singh, Samaroo v PC Ranjit Mootoo C.A.MAG.299/1990</td>
<td>69</td>
</tr>
<tr>
<td>Skeete, Clint v PC Rishi Ramroop C.A.MAG.34/2006</td>
<td>125</td>
</tr>
<tr>
<td>CASE</td>
<td>PAGE</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Skeete, Marcelle v The State C.A.CRIM.57/1995</td>
<td>336</td>
</tr>
<tr>
<td>Smart, Sean v The State C.A.CRIM.4/2008</td>
<td>300</td>
</tr>
<tr>
<td>Smith, Damian v PC John Adams C.A.MAG.2/1997</td>
<td>178</td>
</tr>
<tr>
<td>Smith, Roland v The State C.A.CRIM.22/2011</td>
<td>435</td>
</tr>
<tr>
<td>Smith, Uric v The State C.A.CRIM.46/2003</td>
<td>396</td>
</tr>
<tr>
<td>Snaggs, Kelvin v WPC Tricia Smith C.A.MAG.131/2006</td>
<td>34</td>
</tr>
<tr>
<td>Snaggs, Michelle v Osmond Kerr C.A.MAG.349/2003</td>
<td>208</td>
</tr>
<tr>
<td>Soodwah, Shivmarine v PC Terence Rahim C.A.MAG.170/2002</td>
<td>42</td>
</tr>
<tr>
<td>Sooklal, Boodlal v The State C.A.CRIM.54/1997</td>
<td>411</td>
</tr>
<tr>
<td>Sooknanan, Nanlal v The State C.A.CRIM.20/2003</td>
<td>375</td>
</tr>
<tr>
<td>Squires, Patrick v The State C.A.CRIM.43/2003</td>
<td>397</td>
</tr>
<tr>
<td>St Clair, Dwayne v PC Nigel De Suze C.A.MAG.49/2014</td>
<td>16</td>
</tr>
<tr>
<td>St John, Marlon v PC Rampersad C.A.MAG.118/2000</td>
<td>51</td>
</tr>
<tr>
<td>Stanford, Anslem v PC Wazir Ali C.A.MAG.105/2001</td>
<td>155</td>
</tr>
<tr>
<td>Stephen, Horace v The State C.A.CRIM.15/1999</td>
<td>323</td>
</tr>
<tr>
<td>Steven, Victor v PC Vincent Awong-Cole C.A.MAG.67/2008</td>
<td>107</td>
</tr>
<tr>
<td>Straker, Brenton v PC Darryl Ramdass C.A.MAG.199/2003</td>
<td>136</td>
</tr>
<tr>
<td>Straker, Boyie v The State C.A.CRIM.59/2003</td>
<td>312</td>
</tr>
<tr>
<td>Straker, Ryan v CPL Rudranath Ramdhan and PC Safrass Dookie C.A.MAG.5/2013</td>
<td>82</td>
</tr>
<tr>
<td>Subero, Stephan v SRP Eric George C.A.MAG.234/2003</td>
<td>38</td>
</tr>
<tr>
<td>Subransingh, Sean v The State C.A.CRIM.47/2002 and C.A.CRIM.51/2002</td>
<td>313</td>
</tr>
<tr>
<td>Suchit, Timothy v PC Ronnie Deonarine C.A.MAG.131/2006</td>
<td>204</td>
</tr>
<tr>
<td>Superintendent Jack and Customs Excise Officer Anthony Springer v Horace Lionel Hosein C.A.MAG.60/1992</td>
<td>184</td>
</tr>
<tr>
<td>Supersad, Andre v PC Sheldon Sylvester C.A.MAG.32/2002</td>
<td>45</td>
</tr>
<tr>
<td>Sutherland, Kevin v PC Marlon Alexander C.A.MAG.9/2002</td>
<td>149</td>
</tr>
<tr>
<td>Swan, Garner v PC Roger Traboulay C.A.MAG.118/2008</td>
<td>105</td>
</tr>
<tr>
<td>Sylvester, Lawson v The State C.A.CRIM.21/1997</td>
<td>380</td>
</tr>
<tr>
<td>Tambie, Siew v PC Jankienanan C.A.MAG.26/2001</td>
<td>50</td>
</tr>
<tr>
<td>Taylor, Trevor v PC Metivier C.A.MAG.92/2004</td>
<td>205</td>
</tr>
<tr>
<td>Taylor, Tyrell v PC Kelvin Brigmohansingh C.A.MAG.59/2010</td>
<td>95</td>
</tr>
<tr>
<td>Taylor, Wade v PC Bertrand Alleyne C.A.MAG.35/2001</td>
<td>156</td>
</tr>
<tr>
<td>Teeluck, Rodney v Adesh Gookool C.A.MAG.16/2012</td>
<td>19</td>
</tr>
<tr>
<td>Telesford, Nigel aka Jason Telesford and “Hawkie” v PC Junior Bernard C.A.MAG.235/2001</td>
<td>119</td>
</tr>
<tr>
<td>The State v Adrian Hunte H.C.S.033/2013</td>
<td>224</td>
</tr>
<tr>
<td>The State v Andrew Khanhai C.A.CRIM.14/2015</td>
<td>420</td>
</tr>
<tr>
<td>The State v Anthony Amoroso Centeno C.A.CRIM.152/1997</td>
<td>338</td>
</tr>
<tr>
<td>The State v Anthony Farrow H.C.S.109/2011</td>
<td>228</td>
</tr>
<tr>
<td>The State v Anthony Leroy Jhaman C.A.MAG.49/2012</td>
<td>22</td>
</tr>
<tr>
<td>The State v Anthony McLean H.C.45/2009</td>
<td>273</td>
</tr>
<tr>
<td>The State v Arthur Boswell C.A.MAG.24/2013</td>
<td>84</td>
</tr>
<tr>
<td>CASE</td>
<td>PAGE</td>
</tr>
<tr>
<td>---------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>The State v Attiene Pope H.C.S.911/2012</td>
<td>242</td>
</tr>
<tr>
<td>The State v Avinash Pooran H.C.S.47/2011</td>
<td>281</td>
</tr>
<tr>
<td>The State v Basdeo Maharaj H.C.72/2002</td>
<td>223</td>
</tr>
<tr>
<td>The State v Brian Browne C.A.CRIM.9/2005</td>
<td>308</td>
</tr>
<tr>
<td>The State v Cecil Governor H.C.S.11/2012</td>
<td>271</td>
</tr>
<tr>
<td>The State v Claude Toby H.C.S.049/2010</td>
<td>227</td>
</tr>
<tr>
<td>The State v Clint Wilson H.C.155/2002</td>
<td>279</td>
</tr>
<tr>
<td>The State v Clyde Groden H.C.S.1/2011</td>
<td>272</td>
</tr>
<tr>
<td>The State v Conroy Daniel H.C.S.110/2011</td>
<td>253</td>
</tr>
<tr>
<td>The State v Curtis Augustine H.C.24/2011</td>
<td>244</td>
</tr>
<tr>
<td>The State v Curtis Taylor H.C.97/1995</td>
<td>245</td>
</tr>
<tr>
<td>The State v Dale Hernandez H.C.S.129/2012</td>
<td>288</td>
</tr>
<tr>
<td>The State v Dale King H.C.S.9/2011</td>
<td>270</td>
</tr>
<tr>
<td>The State v Damindra Latchman C.A.CRIM.62/2000</td>
<td>402</td>
</tr>
<tr>
<td>The State v Daniel Edwards H.C.81/2012</td>
<td>266</td>
</tr>
<tr>
<td>The State v Daniel James H.C.S.18/2013</td>
<td>231</td>
</tr>
<tr>
<td>The State v Daniel Muhammed H.C.7/2012</td>
<td>278</td>
</tr>
<tr>
<td>The State v Danielle Brooks H.C.108/2013</td>
<td>251</td>
</tr>
<tr>
<td>The State v Dinelle Smith H.C.128/2010</td>
<td>233</td>
</tr>
<tr>
<td>The State v Donny Ramkissoon H.C.S.133/2012</td>
<td>242</td>
</tr>
<tr>
<td>The State v Emmanuel Toney C.A.CRIM.140/1998</td>
<td>403</td>
</tr>
<tr>
<td>The State v Faraz Mohammed C.A.MAG.10/2013</td>
<td>203</td>
</tr>
<tr>
<td>The State v Garvin Samuel H.C.S.27/2014</td>
<td>265</td>
</tr>
<tr>
<td>The State v Gideon Jones C.A.MAG.21/2013</td>
<td>83</td>
</tr>
<tr>
<td>The State v Grace Pierre Holder and Daenah Johnfinn H.C.32/2007</td>
<td>255</td>
</tr>
<tr>
<td>The State v Haniff Baksh C.A.CRIM.25/1999</td>
<td>319</td>
</tr>
<tr>
<td>The State v Ikel Blackman H.C.S.1/2012</td>
<td>262</td>
</tr>
<tr>
<td>The State v Jade Bovell H.C.S.16/2011</td>
<td>269</td>
</tr>
<tr>
<td>The State v Jameel Douglas H.C.84/2010</td>
<td>243</td>
</tr>
<tr>
<td>The State v Joel Osbourne, David Walker, Burt Pierre and Joanne Walker H.C.S.105/2011</td>
<td>221</td>
</tr>
<tr>
<td>The State v Jose Ordaz Longart and Ismael Rodriguez H.C.3/2015</td>
<td>250</td>
</tr>
<tr>
<td>The State v Joseph Layne H.C.S.15/2011</td>
<td>230</td>
</tr>
<tr>
<td>The State v Junior Phillips H.C.S.1/2013</td>
<td>254</td>
</tr>
<tr>
<td>The State v Kamal Pooran and Ramzan Asgarali H.C.S.87/2000</td>
<td>278</td>
</tr>
<tr>
<td>The State v Kareem Francis H.C.3/2011</td>
<td>233</td>
</tr>
<tr>
<td>The State v Katryna Browne C.A.MAG.40/2013</td>
<td>87</td>
</tr>
<tr>
<td>The State v Kenneth Thomas H.C.55/2015</td>
<td>241</td>
</tr>
<tr>
<td>The State v Kerwin Jerome C.A.CRIM.36/2007</td>
<td>304</td>
</tr>
<tr>
<td>The State v Kevin Singh H.C.68/2012</td>
<td>280</td>
</tr>
<tr>
<td>The State v Kyril Cordoner H.C.S.2/2012</td>
<td>229</td>
</tr>
<tr>
<td>The State v Lester Constantine H.C.39/2010</td>
<td>287</td>
</tr>
<tr>
<td>The State v Leston Paul Henry H.C.34/2008</td>
<td>281</td>
</tr>
<tr>
<td>The State v Lincoln Blanc H.C.29/2011</td>
<td>271</td>
</tr>
<tr>
<td>The State v Madho Rooldal and David Francis H.C.3/2013</td>
<td>225</td>
</tr>
<tr>
<td>The State v Mervyn Connell H.C.S.100/2012</td>
<td>264</td>
</tr>
<tr>
<td>CASE</td>
<td>PAGE</td>
</tr>
<tr>
<td>----------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>The State v Michael Guppy H.C.76/2013</td>
<td>262</td>
</tr>
<tr>
<td>The State v Michael Thomas C.A.MAG.67/2013</td>
<td>3</td>
</tr>
<tr>
<td>The State v Milton Trumpet H.C.S.6/2013</td>
<td>267</td>
</tr>
<tr>
<td>The State v Moonais Rudal C.A.CRIM.98/1998</td>
<td>328</td>
</tr>
<tr>
<td>The State v Narine Ramkissoon H.C.115/2010</td>
<td>234</td>
</tr>
<tr>
<td>The State v Neil Narine C.A.MAG.13/2013</td>
<td>86</td>
</tr>
<tr>
<td>The State v Nigel Walcott H.C.S.9/2012</td>
<td>267</td>
</tr>
<tr>
<td>The State v Nigel Xavier H.C.S.137/2012</td>
<td>264</td>
</tr>
<tr>
<td>The State v Nimrod Miguel H.C.S.04/2006</td>
<td>283</td>
</tr>
<tr>
<td>The State v Otis Henry C.A.MAG.48/2013</td>
<td>84</td>
</tr>
<tr>
<td>The State v Paul Pallackdharry C.A.CRIM.47/2006</td>
<td>306</td>
</tr>
<tr>
<td>The State v Peter Rodriguez H.C.90/2012</td>
<td>263</td>
</tr>
<tr>
<td>The State v Ramcharan Baychoo C.A.MAG.81/2011</td>
<td>8</td>
</tr>
<tr>
<td>The State v Ramsaran Padrath H.C.S.72/2010</td>
<td>288</td>
</tr>
<tr>
<td>The State v Randy Mohammed H.C.113/2010</td>
<td>277</td>
</tr>
<tr>
<td>The State v Richardson Flemming H.C.145/2006</td>
<td>268</td>
</tr>
<tr>
<td>The State v Rickel Alexander H.C.53/2013</td>
<td>293</td>
</tr>
<tr>
<td>The State v Rishi Powder H.C.S.86/2012</td>
<td>226</td>
</tr>
<tr>
<td>The State v Robert Brown H.C.53/2010</td>
<td>256</td>
</tr>
<tr>
<td>The State v Roxanne Headley aka “Anna” C.A.CRIM.56/2003</td>
<td>309</td>
</tr>
<tr>
<td>The State v Rydell Charles H.C.S.32/2011</td>
<td>230</td>
</tr>
<tr>
<td>The State v Sanjay Rampersad and Ricky Mohammed H.C.32/2007</td>
<td>252</td>
</tr>
<tr>
<td>The State v Shem Hope H.C.92/2010</td>
<td>240</td>
</tr>
<tr>
<td>The State v Stephen Baptiste H.C.S.21/2012</td>
<td>232</td>
</tr>
<tr>
<td>The State v Stephen Emery H.C.10/2006</td>
<td>282</td>
</tr>
<tr>
<td>The State v Terrence Lee H.C.S.140/2012</td>
<td>251</td>
</tr>
<tr>
<td>The State v Thomas Mason H.C.91/2012</td>
<td>221</td>
</tr>
<tr>
<td>The State v Trevor Creft H.C.S.54/2015</td>
<td>223</td>
</tr>
<tr>
<td>The State v Tristan Jack H.C.3/2010</td>
<td>255</td>
</tr>
<tr>
<td>Thomas, Ann Marie v PC Dwayne Martinez C.A.MAG.40/2006</td>
<td>127</td>
</tr>
<tr>
<td>Thomas, Anthony James v The State C.A.CRIM.115/1998</td>
<td>326</td>
</tr>
<tr>
<td>Thomas, Brian v The State C.A.CRIM.16/2006</td>
<td>443</td>
</tr>
<tr>
<td>Thomas, Bryan v PC Shurland George C.A.MAG.58/2007</td>
<td>115</td>
</tr>
<tr>
<td>Thomas, Errol aka “Duckling” v PC Marlon Maslier C.A.MAG.66/2004</td>
<td>132</td>
</tr>
<tr>
<td>Thomas, Fergus v PC Irvin Phillip C.A.MAG.60/2010</td>
<td>97</td>
</tr>
<tr>
<td>Thomas, Keith v SRP Kawai Hanooman C.A.MAG.07/2004</td>
<td>131</td>
</tr>
<tr>
<td>Thomas, Wendell v PC Troy Bruno C.A.MAG.154/2001</td>
<td>151</td>
</tr>
<tr>
<td>Thompson, Barbara v PC Joseph Solomon C.A.MAG.87/2007</td>
<td>111</td>
</tr>
<tr>
<td>Thompson, Estephani v The State C.A.CRIM.77/1996</td>
<td>344</td>
</tr>
<tr>
<td>Thorne, Kenneth v PC Richard Fraser C.A.MAG.142/2007</td>
<td>111</td>
</tr>
<tr>
<td>Toney, Stanley v PC Arnold Lutchman C.A.MAG.86/2002</td>
<td>146</td>
</tr>
<tr>
<td>Toolsie, Rohan v Sgt Stephen Ramsubhag C.A.MAG.126/2004</td>
<td>205</td>
</tr>
<tr>
<td>Toussant, Mc Donald v The State C.A.CRIM.06/2003</td>
<td>391</td>
</tr>
<tr>
<td>Trotman, Edwin v PC Athelstan Clinton C.A.MAG.145/1992</td>
<td>190</td>
</tr>
<tr>
<td>Turpin, Damian v The State C.A.CRIM.52/2004</td>
<td>358</td>
</tr>
<tr>
<td>Turton, Francis v The State C.A.CRIM.112/1988</td>
<td>352</td>
</tr>
</tbody>
</table>
CASE                       PAGE

Vincent, Derrick v PC Winston Noel C.A.MAG.238/2000  50
Vincent, Derryck v PC Kevorne Joseph C.A.MAG.56/2015  16
Vincent, Jerome v PC Christopher Fuentes C.A.MAG.163/1990  70
Vincent, Jesse v PC Nicholas Phillips C.A.MAG.61/2012  91
Vincent, Ramong v WPC Jessica Constantine C.A.MAG.319/1998  60
Vincent, Sterlin v The State C.A.CRIM.17/2016  298

Wadalay, Edward v The State C.A.CRIM.1/2006  374
Waldron, Oba Lewis and Roger Ambrose v Sgt Lennard Pollidore C.A.MAG.58/2000  52
Walker, Vince v PC Mc Intosh C.A.MAG.17/1997  181
Wallace, Robert v PC Gajadhar C.A.MAG.120/2002  145
Watche, Gary v Cpl Andrew Forbes C.A.MAG.281/2003  207
Welch, Kendell v PC Caesar Jordan C.A.MAG.192/1999  56
Wellington, Patrick v WPC Charlin James C.A.MAG.59/2000  49
White, Andy v PC Parris C.A.MAG.266/2000  159
Wilkinson, Lincoln v PC Peter Wallace C.A.MAG.35/2002  41
Williams, Brad v PC Sheldon Peterson C.A.MAG.45/2008  32
Williams, Brent v PC Glen Singh C.A.MAG.37/2006  125
Williams, Carlos v PC Amon Andrews C.A.MAG.265/2003  39
Williams, Carlyle v PC Miguel Montrichard C.A.MAG.235/1998  62
Williams, David v PC Mahabir Maharaj C.A.MAG.35/1997  179
Williams, David v PC Nigel De Suze C.A.MAG.50/2014  17
Williams, Edwin v PC Flanders C.A.MAG.93/1996  65
Williams, Floyd v PC Clinton Harripersad C.A.MAG.77/2010  96
Williams, Ian v PC Joseph Honore C.A.MAG.78/1991  194
Williams, Michael v PC Brian Blackman C.A.MAG.303/2003  208
Williams, Nicholas v Kieve Thompson C.A.MAG.11/2011  93
Williams, Steve v The State C.A.CRIM.43/2001  401
Wilson, Emmanuel v The State C.A.CRIM.44/2001  376
Wilson, Gerard Trevor v The State C.A.CRIM.31/2006  428
Wilson, Vernor aka “Rugged Rasta” v PC Philip Hong Ping C.A.MAG.137/2003  138
Wiltshire, Michael and Jennifer Wiltshire v PC Windell Flaviney C.A.MAG.2/2006  121
Wiltshire, Roger v PC Don Lezama C.A.MAG.91/1994  67
Winchester, Frank v PC Garfield Moore C.A.MAG.9/2000  167
Winter, Keith v The State C.A.CRIM.14/2007  304
Wise, Timothy v The State C.A.CRIM.75/2000  317
Wise, Timothy v The State C.A.CRIM.23/1999  405
Woods, Randy v PC Sheldon Maynard C.A.MAG.37/2009  101
Wylie, Aaron v PC Seemungal Rampersad C.A.MAG.76/1990  71

Yarde, Kerry v PC Pustam C.A.MAG.275/2000  160
Yearwood, Phillip v The State C.A.CRIM.22/2002  376
Young, Francis v PC John Adams C.A.MAG.27/1998  58
Young, Francis v The State C.A.CRIM.2/2001  318
### TABLE OF MAXIMUM PENALTIES (SUMMARY CONVICTIONS)

<table>
<thead>
<tr>
<th>OFFENCES AGAINST THE PERSON</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
</table>
| **Inflicting Injury with or without a Weapon** | 5 years imprisonment | **Offences Against the Person Act**  
Chapter 11:08  
§ 14  
Summary Courts Act  
Chapter 4:20  
§ 100(5)  
Second Schedule  
§ 5 |
| **Assault Occasioning Actual Bodily Harm** | 5 years imprisonment | **Offences Against the Person Act**  
Chapter 11:08  
§ 30  
Summary Courts Act  
Chapter 4:20  
§ 100(5)  
Second Schedule  
§ 5 |
| **Common Assault** | $4,000.00 and 2 years imprisonment | **Offences Against the Person Act**  
Chapter 11:08  
§ 30  
Summary Courts Act  
Chapter 4:20  
§ 100(5)  
Second Schedule  
§ 5 |
| **Assault/Battery** | $400.00 or 3 months imprisonment | **Summary Offences Act**  
Chapter 11:02  
§ 5(2) |
| **Kidnapping** | There appears to be an anomaly in the law in that kidnapping is excluded from the prescribed penalty for offences triable either way  
Summary Courts Act  
Chapter 4:20  
§ 100(5A) | **Summary Courts Act**  
Chapter 4:20  
Second Schedule § 2(a) states that this is an offence that is triable either way |
<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robbery with Aggravation</td>
<td>10 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 24(1)</td>
</tr>
<tr>
<td>Robbery</td>
<td>6 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 24(2)</td>
</tr>
<tr>
<td>Assault with Intent to Rob</td>
<td>3 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 24(3)</td>
</tr>
<tr>
<td>Larceny (of chattel, money or valuable security, such larceny not being accompanied by burglary or housebreaking, menace or threat, nor amounting to robbery with violence to the value of not more than $2,000.00)</td>
<td>$3,000.00 or imprisonment for 6 months</td>
<td>Summary Offences Act Chapter 11:02 s 9</td>
</tr>
<tr>
<td>Simple Larceny</td>
<td>$20,000 or 5 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 4, Summary Courts Act Chapter 4:20 s 100(5)</td>
</tr>
<tr>
<td>Larceny of or Interference with Motor Vehicles</td>
<td>10 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 4A(1)</td>
</tr>
<tr>
<td></td>
<td>The penalty on summary conviction provided in this section shall have effect notwithstanding the provisions contained in subsection (5) of Section 100 of the Summary Courts Act.</td>
<td>Larceny Act Chapter 11:12 s 4A(3)</td>
</tr>
<tr>
<td>OFFENCE</td>
<td>CURRENT MAXIMUM PENALTY</td>
<td>SOURCE</td>
</tr>
<tr>
<td>---------</td>
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</tr>
<tr>
<td>Larceny from Dwelling House</td>
<td>$20,000.00 or 5 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 14(a) Summary Courts Act Chapter 4:20 s 100(5) Second Schedule s 6</td>
</tr>
<tr>
<td></td>
<td>$3,000.00 or 6 months imprisonment (where value of property does not exceed $2,000.00)</td>
<td>Summary Offences Act Chapter 11:12 s 11</td>
</tr>
<tr>
<td>Larceny from the Person</td>
<td>$20,000.00 or 5 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 15 Summary Courts Act Chapter 4:20 s 100(5) Second Schedule s 6</td>
</tr>
<tr>
<td>Embezzlement</td>
<td>$20,000.00 or 5 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 18 Summary Courts Act Chapter 4:20 s 100(5) Second Schedule s 6</td>
</tr>
<tr>
<td>Housebreaking and Committing an Arrestable Offence</td>
<td>$20,000.00 or 5 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 28 Summary Courts Act Chapter 4:20 s 100(5) Second Schedule s 6</td>
</tr>
<tr>
<td>Obtaining by False Pretences</td>
<td>$20,000.00 or 5 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 34(1) Summary Courts Act Chapter 4:20 s 100(5) Second Schedule s 6</td>
</tr>
</tbody>
</table>
### ROBBERY, LARCENY AND RECEIVING (CONT’D)

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receiving Stolen Property</td>
<td>$20,000.00 or 5 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 35</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Summary Courts Act Chapter 4:20 s 100(5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Second Schedule s 6</td>
</tr>
<tr>
<td>Fraudulent Conversion</td>
<td>$20,000.00 or 5 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 21</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Summary Courts Act Chapter 4:20 s 100(5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Second Schedule s 6</td>
</tr>
<tr>
<td></td>
<td>Compensation not exceeding $2,000.00 or 6 months imprisonment</td>
<td>Summary Offences Act Chapter 11:12 s 24</td>
</tr>
<tr>
<td></td>
<td>(where value of property does not exceed $2,000.00)</td>
<td></td>
</tr>
<tr>
<td>Burglary</td>
<td>$20,000.00 or 5 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 27</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Summary Courts Act Chapter 4:20 s 100(5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Second Schedule s 6</td>
</tr>
</tbody>
</table>

### POSSESSION OF DANGEROUS DRUGS, NARCOTICS, FIREARMS AND AMMUNITION

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Possession of any Dangerous Drug</td>
<td>$25,000.00 and 5 years imprisonment</td>
<td>Dangerous Drugs Act Chapter 11:25 s 5(1)</td>
</tr>
<tr>
<td>Cultivation of Marijuana</td>
<td>$50,000.00 and 10 years imprisonment</td>
<td>Dangerous Drugs Act Chapter 11:25 s 5(3)(a)</td>
</tr>
</tbody>
</table>

Note that before 29th September 2000, the prescribed penalty under s 5(3) (a) of the Dangerous Drugs Act, No 38 of 1991 was a fine of $25,000.00 and imprisonment for a term of 5 years.
### POSSESSION OF DANGEROUS DRUGS, NARCOTICS, FIREARMS AND AMMUNITION (CONT'D)

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trafficking a Dangerous Drug or in Possession for the Purpose of Trafficking</td>
<td>$50,000.00 or, where there is evidence of the street value of the dangerous drug, 3 times the street value of the dangerous drug, whichever is greater and 10 years imprisonment</td>
<td>Dangerous Drugs Act Chapter 11:25 s 5(7A) and s 5(7B)</td>
</tr>
<tr>
<td></td>
<td>Notwithstanding any sentence of imprisonment prescribed under this Act, the Court may, on the application of the Director of Public Prosecutions, impose a lesser sentence upon a defendant who at any time prior to conviction, co-operates in the investigation or prosecution of a drug trafficking offence</td>
<td>Dangerous Drugs Act Chapter 11:25 s 53E</td>
</tr>
<tr>
<td></td>
<td>Any person summarily convicted of an indictable offence under the Act, notwithstanding s 100(5) of the Summary Courts Act, is liable to the penalty provided for summary conviction under this Act</td>
<td>Dangerous Drugs Act Chapter 11:25 s 25</td>
</tr>
<tr>
<td></td>
<td>Note that before 29th September 2000, the prescribed penalty upon summary conviction under s 5(5)(a) of the Dangerous Drugs Act, No 38 of 1991 was (i) a fine of $50,000.00 or, where there was evidence of the street value of the dangerous drug, 3 times the value of the dangerous drug whichever was greater; and (ii) to imprisonment for a term which shall not exceed 10 years but which shall not be less than 5 years</td>
<td></td>
</tr>
<tr>
<td>Possession of a Firearm/Ammunition without Firearm User’s Licence</td>
<td>$15,000.00 and 8 years imprisonment</td>
<td>Firearms Act Chapter 16:01 s 6(3)(a)(i)</td>
</tr>
<tr>
<td></td>
<td>Note that before 25th February 2011, the prescribed penalty upon summary conviction under s 6(3)(a)(i) of the Firearms Act, No 44 of 1970 was a fine of $10,000.00 and imprisonment for 5 years</td>
<td></td>
</tr>
<tr>
<td>Carrying a Firearm or Ammunition in a Public Place</td>
<td>$40,000.00 and imprisonment for 8 years</td>
<td>Firearms Act Chapter 16:01 s 8</td>
</tr>
<tr>
<td></td>
<td>Note that</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Before 25th February 2011, the prescribed penalty upon summary conviction under s 8 of the Firearms Act, No 44 of 1970 was a fine of $25,000.00 and imprisonment for 5 years</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Before 31st May 2004, the prescribed penalty upon summary conviction under s 8 of the Firearms Act, No 44 of 1970 was a fine of $4,000.00 and imprisonment for 2 years</td>
<td></td>
</tr>
</tbody>
</table>
POSSESSION OF DANGEROUS DRUGS, NARCOTICS, FIREARMS AND AMMUNITION (CONT’D)

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Selling/Transferring Firearms or Ammunition to a Person not being Holder of Firearm User’s Licence</td>
<td>$75,000.00 or imprisonment for 8 years</td>
<td>Firearms Act Chapter 16:01 s 9(1)(a)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Note that</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Before 25th February 2011, the prescribed penalty upon summary conviction under s 9 of the Firearms Act, No 44 of 1970 was $50,000.00 or imprisonment for 5 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Before 31st May 2004, the prescribed penalty upon summary conviction under s 9 of the Firearms Act, No 44 of 1970 was $4,000.00 or imprisonment for 2 years</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SEXUAL OFFENCES

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sexual Intercourse with a Female between 14 and 16 years</td>
<td>$20,000.00 or 5 years imprisonment</td>
<td>Sexual Offences Act Chapter 11:28 s 7(1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Summary Courts Act Chapter 4:20 s 100(5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Second Schedule s 33</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Note that before 25th September 2000, the prescribed penalty under s 7(1) of the Sexual Offences Act, No 27 of 1986 was imprisonment for 5 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section 7 of the Sexual Offences Act was repealed by the Children Act Chapter 46:01 which came into force on 18th May 2015</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indecent Assault</td>
<td>$20,000.00 or 5 years imprisonment</td>
<td>Sexual Offences Act Chapter 11:28 s 15(1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Summary Courts Act Chapter 4:20 s 100(5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Second Schedule s 33</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Note that before 25th September 2000, the prescribed penalty under s 15(1) of the Sexual Offences Act, No 27 of 1986 was 5 years</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OFFENCE</td>
<td>CURRENT MAXIMUM PENALTY</td>
<td>SOURCE</td>
</tr>
<tr>
<td>------------------------------</td>
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<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Serious Indecency</td>
<td>$20,000.00 or imprisonment for 5 years</td>
<td>Sexual Offences Act Chapter 11:28 s 16(1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Summary Courts Act Chapter 4:20 s 100(5)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Second Schedule s 33</td>
</tr>
<tr>
<td>Note that before 15th May 2015, the prescribed penalty under s 16(1) of the Sexual Offences Act Chapter 11:28 was as follows:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) if committed on a minor under 16 years of age 10 years imprisonment for the first offence and 15 years imprisonment for a subsequent offence;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) if committed on a person 16 years or more 5 years imprisonment</td>
<td></td>
</tr>
<tr>
<td>Note also that before 25th September 2000, the prescribed penalty under s 16(1)(a) of the Sexual Offences Act, No 27 of 1986 was as follows:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) if committed on a minor under 16 years of age 10 years imprisonment</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ROAD TRAFFIC OFFENCES</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>OFFENCE</td>
<td>CURRENT MAXIMUM PENALTY</td>
<td>SOURCE</td>
</tr>
<tr>
<td>------------------------------</td>
<td>---------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------</td>
</tr>
<tr>
<td>Driving when Under Influence of Liquor</td>
<td>$12,000.00 and imprisonment for 3 years on the first conviction and a fine of $22,500.00 and imprisonment for 5 years on any subsequent conviction</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 70(1)</td>
</tr>
<tr>
<td>Note that before 27th January 2015, the prescribed penalty under s 70(1) of the Motor Vehicles and Road Traffic Act Chapter 48:50 was a fine of $8,000.00 and imprisonment for 3 years on the first conviction and a fine of $15,000.00 and imprisonment for 5 years on any subsequent conviction</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Note that before 30th June 2000, the prescribed penalty under s 70(1) of the Motor Vehicles and Road Traffic Act Chapter 48:50 was a fine of $2,000.00 and imprisonment for 6 months and on any subsequent conviction to a fine of $4,000.00 and imprisonment for 12 months</td>
<td></td>
<td></td>
</tr>
<tr>
<td>A person convicted of two consecutive offences under this section shall be disqualified for a period of 3 years from conviction from holding or obtaining a driving permit, unless the Court for special reasons thinks fit to order otherwise</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 70(2)(a)</td>
<td></td>
</tr>
<tr>
<td>A person convicted of a third conviction for a like offence, shall be permanently disqualified from holding or obtaining a driving permit</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 70(2)(b)</td>
<td></td>
</tr>
</tbody>
</table>
### ROAD TRAFFIC OFFENCES (CONT’D)

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dangerous Driving</td>
<td>$10,000.00 and imprisonment for 5 years</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 71A(1)</td>
</tr>
<tr>
<td></td>
<td>A person convicted of an offence under this section shall, without prejudice to the</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 71A(2)</td>
</tr>
<tr>
<td></td>
<td>power of the Court to order a longer period of disqualification, be disqualified for</td>
<td></td>
</tr>
<tr>
<td></td>
<td>a period of 12 months from the date of conviction from holding or obtaining a</td>
<td></td>
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<tr>
<td></td>
<td>driving permit, and on a third conviction for a like offence he shall be</td>
<td></td>
</tr>
<tr>
<td></td>
<td>permanently disqualified from holding or obtaining a driving permit</td>
<td></td>
</tr>
<tr>
<td>Driving Without Due Care and Attention</td>
<td>A fine of $1,000.00 and disqualification from holding or obtaining a driving permit</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 72</td>
</tr>
<tr>
<td></td>
<td>for such period as the Court thinks fit. On a second or subsequent conviction for a</td>
<td></td>
</tr>
<tr>
<td></td>
<td>like offence, disqualification shall not be less than 1 month</td>
<td></td>
</tr>
<tr>
<td>Driving or Being in Charge of a Vehicle while Blood/Breath Alcohol</td>
<td>First conviction: $12,000.00 or 3 years imprisonment</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 70A(2)(a)</td>
</tr>
<tr>
<td>Level Exceeds the Prescribed Limit</td>
<td>Second conviction: $22,500.00 or 5 years imprisonment</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 70A(2)(b)</td>
</tr>
<tr>
<td></td>
<td>Two consecutive convictions: disqualification for 3 years or a longer period, unless</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 70A(3)(a)</td>
</tr>
<tr>
<td></td>
<td>there are special reasons</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Third conviction: permanent disqualification</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 70A(3)(b)</td>
</tr>
<tr>
<td>Failure to Provide a Breath Specimen</td>
<td>$12,000.00 or 3 years imprisonment</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 70B(5)</td>
</tr>
<tr>
<td>Failure to Provide Breath Specimen or Willfully Alters Concentration</td>
<td>First conviction: $12,000.00 or 3 years imprisonment</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 70C(6)(c)</td>
</tr>
<tr>
<td>of Alcohol in Breath/Blood</td>
<td>Second conviction: $22,500.00 or 5 years imprisonment</td>
<td>Motor Vehicles and Road Traffic Act Chapter 48:50 s 70C(6)(d)</td>
</tr>
<tr>
<td>OFFENCE</td>
<td>CURRENT MAXIMUM PENALTY</td>
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</tr>
<tr>
<td>---------------------------------</td>
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<td>-----------------------------</td>
</tr>
<tr>
<td>Forfeiture of Recognizance</td>
<td>Forfeiture of security or forfeiture of an amount less than the value of the security</td>
<td>Bail Act Chapter 4:60 s 17</td>
</tr>
</tbody>
</table>
### TABLE OF MAXIMUM PENALTIES
(INDICTABLE OFFENCES)

#### OFFENCES AGAINST THE PERSON

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<tr>
<th>OFFENCE</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Shooting/Wounding With Intent To Do Grieveous Bodily Harm</td>
<td>15 years imprisonment</td>
<td>Offences Against the Person Act Chapter 11:08 s 12</td>
</tr>
<tr>
<td>Inflicting Injury with or without a Weapon</td>
<td>5 years imprisonment</td>
<td>Offences Against the Person Act Chapter 11:08 s 14</td>
</tr>
<tr>
<td>Kidnapping</td>
<td>Life imprisonment</td>
<td>Common Law</td>
</tr>
<tr>
<td>Kidnapping (for Ransom)</td>
<td>Imprisonment for not less than remainder of natural life</td>
<td>Kidnapping Act Chapter 11:26 s 3</td>
</tr>
<tr>
<td>Manslaughter</td>
<td>Imprisonment for life or for any term of years, or to pay such fine as the Court shall award</td>
<td>Offences Against the Person Act Chapter 11:08 s 6</td>
</tr>
<tr>
<td>Attempted Murder</td>
<td>Imprisonment for life or for any term of years</td>
<td>Offences Against the Person Act Chapter 11:08 s 9</td>
</tr>
</tbody>
</table>

#### ROBBERY, LARCENY AND RECEIVING

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Simple Larceny</td>
<td>5 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 4</td>
</tr>
<tr>
<td>*Any person who commits simple larceny after having been previously convicted of an arrestable offence is liable to imprisonment for 10 years</td>
<td>Larceny Act Chapter 11:12 s 36(1)</td>
<td></td>
</tr>
<tr>
<td>Larceny of or Interference with Motor Vehicles</td>
<td>15 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 4A</td>
</tr>
<tr>
<td>*Any person who commits the offence of simple larceny, or any offence made punishable like simple larceny, after having been previously convicted— (a) of an offence other than an arrestable offence punishable under this Act; or (b) twice summarily of larceny or damage to property, is liable to imprisonment for 7 years</td>
<td>Larceny Act Chapter 11:12 s 36(2)</td>
<td></td>
</tr>
</tbody>
</table>
# ROBBERY, LARCENY AND RECEIVING (CONT’D)

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burglary</td>
<td>15 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 27</td>
</tr>
<tr>
<td>Robbery with Aggravation</td>
<td>15 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 24(1)</td>
</tr>
<tr>
<td>Robbery</td>
<td>10 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 24(2)</td>
</tr>
<tr>
<td>Assault with Intent to Rob</td>
<td>5 years imprisonment</td>
<td>Larceny Act Chapter 11:12 s 24(3)</td>
</tr>
</tbody>
</table>

## POSSESSION OF DANGEROUS DRUGS, NARCOTICS, FIREARMS AND AMMUNITION

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Possession of any Dangerous Drug</td>
<td>$50,000.00 and imprisonment not exceeding 10 years</td>
<td>Dangerous Drugs Act Chapter 11:25 s 5(1)</td>
</tr>
<tr>
<td>Cultivation of Marijuana</td>
<td>$100,000.00 or where there is evidence of the street value of the marijuana, 10 times the street value of marijuana, whichever is greater, or imprisonment for life</td>
<td>Dangerous Drugs Act Chapter 11:25 s 5(3)(b)</td>
</tr>
<tr>
<td>Cultivation of Opium Poppy or Coca Plant</td>
<td>$200,000.00 or where there is evidence of the street value of the dangerous drug, 15 times the street value of the dangerous drug, whichever is greater and imprisonment for 25 years to life</td>
<td>Dangerous Drugs Act Chapter 11:25 s 5(3A)</td>
</tr>
</tbody>
</table>

Note that before 29th September 2000, the prescribed penalty under s 5(3) of the Dangerous Drugs Act, No 38 of 1991 was a fine of $50,000.00 and to imprisonment for a term of 5–10 years.

| Trafficking a Dangerous Drug or in Possession for the Purpose of Trafficking | $100,000.00 or where there is evidence of the street value of the dangerous drug, 3 times the street value of the dangerous drug, whichever is greater and imprisonment for life | Dangerous Drugs Act Chapter 11:25 s 5(5) |
| Trafficking in a Substance other than a Dangerous Drug which He Represents to be a Dangerous Drug | $100,000.00 or where there is evidence of the street value of the dangerous drug, 3 times the street value of the dangerous drug, whichever is greater, and imprisonment for life | Dangerous Drugs Act Chapter 11:25 s 5(6) |
### POSSESSION OF DANGEROUS DRUGS, NARCOTICS, FIREARMS AND AMMUNITION (CONT’D)

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trafficking or in Possession for the purpose of Trafficking a Dangerous Drug or a substance other than a Dangerous Drug which he represents to be a Dangerous Drug, on any school premises or within 500 metres thereof</td>
<td>$150,000.00 or where there is evidence of the street value of the dangerous drug, 3 times the street value of the dangerous drug, whichever is greater, and imprisonment for life</td>
<td>Dangerous Drugs Act Chapter 11:25 s 5(7)</td>
</tr>
<tr>
<td>Possession of a Firearm/Ammunition without Firearm User’s Licence</td>
<td>15 years imprisonment</td>
<td>Firearms Act Chapter 16:01 s 6(3)(a)(ii)</td>
</tr>
<tr>
<td>Selling/Transferring Firearm/Ammunition to Person not being Holder of Firearm User’s Licence</td>
<td>15 years imprisonment</td>
<td>Firearms Act Chapter 16:01 s 9(1)(b)</td>
</tr>
</tbody>
</table>

Note that before 25th February 2011, the prescribed penalty under s 6(3)(a)(ii) of the Firearms Act Chapter 16:01 was imprisonment for 10 years.

### SEXUAL OFFENCES

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grievous Sexual Assault</td>
<td>Imprisonment for life and any other punishment which may be imposed by law (or remainder of natural life depending on the circumstances)</td>
<td>Sexual Offences Act Chapter 11:28 s 4A and s 4(2)</td>
</tr>
<tr>
<td>Rape</td>
<td>Imprisonment for life and any other punishment which may be imposed by law</td>
<td>Sexual Offences Act Chapter 11:28 s 4(2)</td>
</tr>
<tr>
<td></td>
<td>or remainder of natural life</td>
<td>Sexual Offences Act Chapter 11:28 s 4(2)(a-e)</td>
</tr>
<tr>
<td>Sexual Penetration of a Child</td>
<td>Life imprisonment</td>
<td>Children Act Chapter 46:01 s 18</td>
</tr>
<tr>
<td>PRIOR TO 18th MAY 2015: Sexual Intercourse with a Female under 14 years</td>
<td>Imprisonment for life</td>
<td>Sexual Offences Act Chapter 11:28 s 6</td>
</tr>
</tbody>
</table>

Note that s 6 of the Sexual Offences Act was repealed by Act No 12 of 2012, which came into force on 18th May 2015.
<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
</table>
| Sexual Intercourse with a Female between 14 and 16 years | Imprisonment for 12 years for a first offence and to imprisonment for 15 years for a subsequent offence | Sexual Offences Act Chapter 11:28 s 7(1) | Note that:  
  - Before 25th September 2000, the prescribed penalty under s 7(1) of the Sexual Offences Act, No 27 of 1986 was imprisonment for 5 years  
  - Section 7 of the Sexual Offences Act was repealed by Act No 12 of 2012, which came into force on 18th May 2015 |
| Incest                                           | Imprisonment for life                                                                   | Sexual Offences Act Chapter 11:28 s 9(2) | Note that:  
  - Before 18th May 2015, the prescribed penalty under s 9(2) of the Sexual Offences Act Chapter 11:28 was as follows:  
    (a) if committed by an adult with a person under 14 years of age, imprisonment for life;  
    (b) if committed by an adult with a person 14 years of age or more, imprisonment for life;  
    (c) if committed between minors 14 years of age or more, 2 years imprisonment  
  - Before 25th September 2000, the prescribed penalty under section 9(2)(b) of the Sexual Offences Act, No 27 of 1986 was 10 years imprisonment |
| Buggery                                          | 25 years imprisonment                                                                    | Sexual Offences Act Chapter 11:28 s 13(1) |
| Buggery committed by a child 16 years of age or over | 15 years imprisonment                                                                    | Children Act Chapter 46:01 s 43(i)(a)(ii) |
| Buggery committed by a child under 16 years of age | 5 years imprisonment                                                                     | Children Act Chapter 46:01 s 43(i)(b)(ii) |
| Note that:  
  - Before 18th May 2015, the prescribed penalty under s 13(1) of the Sexual Offences Act Chapter 11:28 was as follows:  
    (a) if committed by an adult on a minor, imprisonment for life;  
    (b) if committed by an adult on another adult, 25 years imprisonment;  
    (c) if committed by a minor, 5 years imprisonment  
  - Before 25th September 2000, the prescribed penalty under s 13(1)(b) of the Sexual Offences Act, No 27 of 1986 was as follows:  
    If committed by an adult on another adult, 10 years imprisonment |
| Indecent Assault                                 | 5 years imprisonment for the first offence and 10 years for a subsequent offence        | Sexual Offences Act Chapter 11:28 s 15(1) | Note that before 25th September 2000, the prescribed penalty under s 15(1) of the Sexual Offences Act, No 27 of 1986 was 5 years |
### SEXUAL OFFENCES (CONT’D)

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serious Indecency</td>
<td>5 years imprisonment</td>
<td>Sexual Offences Act Chapter 11:28 s 16(1)</td>
</tr>
</tbody>
</table>

Note that
- Before 18th May 2015, the prescribed penalty under s 16(1) of the Sexual Offences Act Chapter 11:28 was as follows:
  - (a) if committed on a minor under 16 years of age, 10 years imprisonment for the first offence and 15 years imprisonment for a subsequent offence;
  - (b) if committed on a person 16 years or more, 5 years imprisonment.
- Before 25th September 2000, the prescribed penalty under s 16(1)(a) of the Sexual Offences Act, No 27 of 1986 was as follows:
  - If committed on a minor under 16 years of age, 10 years imprisonment.

### MURDER AND FELONY MURDER

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murder</td>
<td>Death</td>
<td>Offences Against the Person Act Chapter 11:08 s 4</td>
</tr>
<tr>
<td>Felony Murder</td>
<td>Life imprisonment</td>
<td>Criminal Law Act Chapter 10:04/ Case Law</td>
</tr>
</tbody>
</table>

### ROAD TRAFFIC OFFENCES

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
</table>
## Causing Death by Dangerous Driving

A person convicted of an offence under this section shall without prejudice to the power of the Court to order a longer period of disqualification, be disqualified for a period of 15 years from the date of conviction from holding or obtaining a driving permit, and on a second conviction for a like offence he shall be permanently disqualified from holding or obtaining a driving permit.

<table>
<thead>
<tr>
<th>OFFENCE</th>
<th>CURRENT MAXIMUM PENALTY</th>
<th>SOURCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Setting Fire to Place of Worship</td>
<td>Life Imprisonment</td>
<td>Malicious Damage Act Chapter 11:06 s 3</td>
</tr>
<tr>
<td>Setting Fire to a Dwelling House, any Person being therein</td>
<td>Life Imprisonment</td>
<td>Malicious Damage Act Chapter 11:06 s 4</td>
</tr>
<tr>
<td>Setting Fire to a House, Outhouse, Warehouse and Other Building</td>
<td>Life Imprisonment</td>
<td>Malicious Damage Act Chapter 11:06 s 5</td>
</tr>
<tr>
<td>Setting Fire to any Public Building</td>
<td>Life Imprisonment</td>
<td>Malicious Damage Act Chapter 11:06 s 6</td>
</tr>
<tr>
<td>Setting Fire to Buildings Other Than The Above</td>
<td>Imprisonment for 10 years</td>
<td>Malicious Damage Act Chapter 11:06 s 7</td>
</tr>
<tr>
<td>Setting fire to Goods in Buildings, the Setting Fire to which is an Arrestable Offence</td>
<td>Imprisonment for 10 years</td>
<td>Malicious Damage Act Chapter 11:06 s 8</td>
</tr>
<tr>
<td>Placing Inflammable Materials with Intent to Set Fire</td>
<td>Imprisonment for 10 years</td>
<td>Malicious Damage Act Chapter 11:06 s 9</td>
</tr>
<tr>
<td>Conspiracy to Set Fire</td>
<td>Imprisonment for 10 years</td>
<td>Malicious Damage Act Chapter 11:06 s 10</td>
</tr>
</tbody>
</table>
GENERAL AGGRAVATING FACTORS (ALL OFFENCES)

1. MATURITY OF OFFENDER
   Where the offender is an adult person in society, he is expected to appreciate the consequences of his wrongful act.

2. DELIBERATE AND PREMEDITATED ACT
   Where there is evidence that the crime was planned in advance, the resultant injury or damage can be said to be foreseen and intended.

3. ATTEMPTS TO CONCEAL THE EVIDENCE
   Attempts at concealment would indicate that the offender is adamant about not being apprehended and wants to ensure that he has committed the “perfect crime”.

4. LIKELIHOOD OF RECURRENCE OF BEHAVIOUR
   Where there is evidence to show that the defendant is headstrong in committing illegal acts, the sentence must be sufficient to ensure deterrence and protection of the society.

5. SERIOUS OFFENCE COMMITTED
   In determining the seriousness of the offence, the court may consider the offender’s culpability in committing the offence and any harm which the offence caused, was intended to cause, or might foreseeably have caused.

6. OFFENCE COMMITTED WHILE THE OFFENDER WAS ON BAIL
   Re-offending whilst on bail enhances sanctions to reflect the abuse of trust and the manifested proclivity for offending behaviour.

7. SERIOUS INJURY CAUSED TO THE VICTIM
   If an offence has had a particularly damaging or distressing effect upon a victim, this should be known to and taken into account by the court when passing a sentence. R v Perks [2001] I Cr App R (S) 19.

8. PREVALENCE OF THE OFFENCE IN SOCIETY
   Where the offence has become especially rampant in society, the court must ensure that potential offenders of that type of offence are deterred in order to reduce commission of the offence.

9. PREVIOUS CONVICTIONS FOR LIKE OR SIMILAR OFFENCES
   Where the offender has previous convictions, this gives an indication of his bad character, the likelihood of his re-offending, and that the offender is unrepentant and recalcitrant.
10. ADMISSIONS TO PENDING CHARGES

The practice of taking other offences into consideration when imposing a sentence is a conventional practice, not founded on statute or any rule of law. It is essential that those administering justice should ensure that the accused understands what is being done, admits the offences and wishes to have each and every one of them taken into consideration.


11. VICTIM WAS VULNERABLE

Where the victim is of young age, an elderly person, is mentally ill or differently abled, there is some indication that the offender lacks compassion and sought to take advantage of persons who are unable to adequately protect themselves.

12. VIOLENCE/WEAPONS USED

Where the offender uses violence or weapons in furtherance of the offence, these factors exacerbate the seriousness of the offence.

13. RACIALLY AGGRAVATED CRIME

A racial element accompanying an offence of violence is a gravely aggravating feature.


GENERAL MITIGATING FACTORS (ALL OFFENCES)

1. THE CAPACITY OF THE OFFENDER TO APPRECIATE THE CRIMINALITY OF HIS ACT WAS IMPAIRED

Where the offender acted in situations of extreme mental stress or anxiety, where the act was spontaneous or provoked, or where the offender acted under duress, it may be evident that he did not wilfully intend the consequences of his actions. Additionally, due to a physical or mental impairment, the offender may have lacked substantial capacity for judgement at the time the offence was committed.

2. GOOD CHARACTER OF THE OFFENDER

Where there are no previous convictions recorded against the accused, adequate weight must be given to the fact that he previously held a good reputation of adherence to the law.

3. EXPRESSION OF REMORSE SINCE THE COMMISSION OF THE OFFENCE

Where there is evidence of genuine remorse, this may demonstrate that the offender is rehabilitating.

4. CO-OPERATION WITH LAW ENFORCEMENT OFFICIALS

In general, sentences would be discounted to reflect a defendant’s guilty plea and further credit would be given where a defendant cooperated with the authorities. The extent of the latter discount depended upon the value of the assistance given, with intelligence resulting in the prevention of serious criminal activity or the apprehension of serious criminals attracting a more substantial discount. R v A (Informer: Reduction of Sentence) [1999] 1 Cr App R (S) 52.
5. **GUILTY PLEA ENTERED ON BEHALF OF THE OFFENDER**

The basis for a reduction is that it is helpful in many respects when someone guilty of an offence indicates willingness to plead guilty at the earliest opportunity. This avoids the guilty being acquitted. It also benefits those most closely affected by the crime by sparing them the tension of a trial and the requirement to give evidence. It reduces the time spent in bringing the case to a conclusion (with all the consequential savings in public money) and shortens the time that elapses between an offence being committed and sentence being passed. In determining the amount of reduction of sentence, the court may take into account the stage in the proceedings for the offence at which the offender indicated his intention to plead guilty and the circumstances in which this indication was given. The maximum reduction will be given only where the offender indicated willingness to admit guilt at the first reasonable opportunity.

6. **LENGTHY PERIOD ALREADY SPENT INCARCERATED BETWEEN ARREST AND TRIAL**

The principles of sentencing might have been served during the lapse of time in the case being heard, such as rehabilitation and deterrence. There may be exceptional cases where the sentencing court ought not to shut its eyes to subsequent events. It is the duty of the court to sentence the offender. In some cases, with the significant passage of time, the offender may have changed. *R v Bird* [1987] 9 Cr App R (S) 77. In sexual offences cases, however, this is not a substantial mitigating factor. Offences involving sexual abuse within the family are by their very nature likely to remain undetected for substantial periods, partly because of fear, partly because of family solidarity and partly because of embarrassment. The mere passage of time cannot attract a great deal of discount by way of sentence in relation to offences of this kind. *R v Tiso* [1990] 12 Cr App R (S) 122.

7. **YOUTH AND IMMATURITY OF THE OFFENDER**

When sentencing young offenders, it is important to bear in mind that they may change and develop within a shorter time than an adult.

8. **OFFENDER WAS AN ACCOMPLICE AND HIS PARTICIPATION WAS MINIMAL**

This factor is especially relevant where the horrific acts, not intended or committed by the offender, were committed by the other accomplices and the offender pleaded with them to desist.
9. **ILL HEALTH OF THE OFFENDER**

A medical condition, which may at some time in the future affect either the offender’s life expectancy, or the prison’s ability to treat them, is not generally a reason to interfere with an otherwise appropriate sentence. If the offender is HIV positive or otherwise has a reduced life expectancy, this should not generally affect the sentence. Where the offender has a serious medical condition and it is not easily treatable in prison, they are not automatically entitled to a lesser sentence. In exceptional circumstances, the offender’s serious medical condition might enable the court to reduce the sentence as an act of mercy. *R v Bernard* [1997] 1 Cr App R (S) 135.

10. **FAMILY BACKGROUND**

The offender’s family life is especially relevant, for instance, where the offender has several dependants and he is the sole surviving provider for them or the offender has a strong family background and the family is willing to provide support to his rehabilitation.

The user should refer to the specific offence for further guidelines on mitigating and aggravating factors pertaining to that offence. Guideline cases are also cited. It is important to note that these authoritative English cases have been utilised solely for the purpose of extracting aggravating and mitigating factors that relate to the particular offence. The said cases would not provide guidance on the actual sentence to be imposed, given that the prescribed statutory maximum penalties vary between the territories. Be guided accordingly.
## BIBLIOGRAPHY

### TEXTBOOKS


**Exercising Discretion: Decision-making in the Criminal Justice System and Beyond.** Gelsthorpe, Loraine; Padfield, Nicole. Willan Publishing 2003.


### OTHER RESOURCES

Laws of the Republic of Trinidad and Tobago:  

Written Unreported Criminal Appeal Judgments (1990–2016)

Criminal Appeal Case Files: Official Transcripts (1990–2016)
Section A

Magisterial Appeals

Offences Against the Person (A1)

Aggravating Factors:
- The offence was committed with a weapon;
- The victim was struck on the head;
- The seriousness of the offence;
- The appellant acted out of a loss of temper;
- Previous convictions;
- The attack was unprovoked;
- The absence of remorse;
- The prevalence of the offence.

Mitigating Factors:
- The defendant had no companions when committing the offence;
- No injuries sustained during the commission of the offence;
- Guilty plea;
- No previous convictions;
- Genuine remorse.

Current Maximum Penalty prescribed for Wounding with Intent

Inflicting Injury with or without a Weapon

Prescribed penalty:
Imprisonment for 5 years: Section 14 of the Offences Against the Person Act, Chapter 11:08; Summary Courts Act, Chapter 4:20 s 100(5), Second Schedule, s 5.
Assault Occasioning Actual Bodily Harm
Prescribed penalty:
Imprisonment for 5 years: Section 30 of the Offences Against the Person Act, Chapter 11:08; Summary Courts Act, Chapter 4:20 s 100(5). Second Schedule, s 5. Imprisonment for 6 months: Section 5(2) of the Summary Offences Act, Chapter 11:02.

Common Assault
Prescribed penalty:
$4,000.00 and 2 years imprisonment: Section 30 of the Offences Against the Person Act, Chapter 11:08; Summary Courts Act, Chapter 4:20 s 100(5), Second Schedule, s 5.

Assault/Battery
Prescribed penalty:
$400.00 or 3 months imprisonment: Section 4 of the Summary Offences Act, Chapter 11:02.

Current Maximum Penalty for Kidnapping

Kidnapping
Prescribed penalty:
There appears to be an anomaly in the law in that Kidnapping is excluded from the prescribed penalty for offences triable either way. Summary Courts Act, Chapter 4:20 s 100(5A).
JUDGMENTS

William Wallace v Anthony Moore  
C.A.MAG.8/2014  
Archie CJ, Soo Hon JA  
November 19, 2014

The complainant and his wife were outside their property cleaning when the complainant noticed the appellant waking towards him carrying a baby in a baby carriage. The complainant greeted him and continued to clean his property when he felt a blow on his right arm. He raised his head and noticed the appellant holding a steel pipe and attempted to hit the complainant again. The complainant suffered bruising and swelling on his upper right arm and left lower leg. The appellant pleaded not guilty.

The court ordered that both parties enter into a bond in the sum of $5,000.00 to keep the peace and be of good behaviour for two (2) years, in default three (3) months imprisonment with hard labour.

The sentence was appealed.

**Aggravating Factors:**
- No aggravating factors listed in reasons.

**Mitigating Factors:**
- No mitigating factors listed in reasons.

**Current Maximum Penalty:** Five (5) years imprisonment.

**Disposition:**
Appeal dismissed. Order affirmed.

**Sentence:**
Bond in the sum of $5,000.00 to keep the peace and be of good behaviour for two (2) years, in default three (3) months imprisonment with hard labour.

The State v Michael Thomas  
C.A.MAG.67/2013  
Weekes JA, Mohammed JA  
November 19, 2013

The appellant was a school principal charged with Assault by beating a school teacher on October 19, 2009.

Magistrate A Stroude started with considering the maximum penalty for the offence; a fine of $400.00 or three (3) months imprisonment in accordance with s 4 of the Summary Offences Act, Chapter 11:02. The appellant pleaded not guilty.

The court imposed a fine of $400.00, in default ten (10) days simple imprisonment, with time allowed of one (1) day.

The sentence was appealed on all grounds.
Aggravating Factors:
- The seriousness of the offence which occurred on the school premises during school hours.

Mitigating Factors:
- None

Current Maximum Penalty: Fine of $400.00 or three (3) months imprisonment.

Disposition:
Appeal allowed. Order set aside and varied by the imposition of s 71(1)(a) of the Summary Courts Act, Chapter 4:20.

Sentence:
Fine of $400.00 in default ten (10) days simple imprisonment with time allowed of one (1) day.

Rickie Joseph v PC Sheldon Ablacksingh
C.A.MAG.11/2012
Weekes JA, Soo Hon JA
July 24, 2012

The complainant was a patron at Eddie’s Café when the appellant entered the establishment and hit him repeatedly across the face while repeating the words, “I have to kill you and I must kill you”. The complainant fell into a drain as a result of the beating. The appellant fled the scene and the complainant was taken to the San Fernando General Hospital where he stayed for 4 days. He suffered swelling on the left side of his face as a result. The appellant pleaded not guilty.

The court imposed a fine of $200.00, in default one (1) month hard labour, with time allowed of one (1) month. The court also ordered compensation of $2,000.00 to be paid to the appellant on or before June 06, 2010, in default six (6) weeks imprisonment.

Aggravating Factors:
- The appellant had a previous conviction for assault.

Mitigating Factors:
- The age of the appellant at the time of the offence (fifty-four (54) years old);
- The appellant had 3 children.

Current Maximum Penalty: Six (6) months imprisonment.

Disposition:
Appeal dismissed. Conviction affirmed but sentence varied.

Sentence:
Fine of $200.00, in default seven (7) days imprisonment, with time allowed of one (1) month.
Compensation of $500.00 to be paid to the complainant, in default seven (7) days imprisonment, with time allowed of one (1) month.
Anderson Peters v Cpl Sirbrian Doorgadeen  
C.A.MAG.28/2012  
Weekes JA, Soo Hon JA  
July 23, 2012

The appellant was in the process of being placed into the holding bay cells of the cell block of the San Fernando Magistrates’ Court when he dealt the complainant several blows about his face and body with his fist. The appellant admitted the facts except that he only served one blow to the complainant. The magistrate conducted a Newton Hearing and accepted the facts presented by the defendant that only one blow was received. The appellant pleaded guilty. The court imposed a fine of $2,000.00 forthwith, in default two (2) months hard labour.

**Aggravating Factors:**
- The public concern about this type of offence;
- The attack was unprovoked;
- The lateness of the guilty plea.

**Mitigating Factors:**
- Guilty plea;
- The attack was a single blow;
- The injuries sustained by the complainant were minor;
- The appellant had no previous convictions;
- The appellant showed genuine remorse.

**Current Maximum Penalty:** Fine of $4,000.00 and two (2) years imprisonment.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fine of $2,000.00 forthwith and two (2) months imprisonment with hard labour.

Myrtle Mitchell v Antonia Ribeiro and Sheena Ribeiro  
C.A.MAG.75/2011  
Archie JA, Weekes JA  
February 02, 2012

The complainant laid two private complaints, the first on behalf of her daughter and the second on behalf of herself. The parties had been neighbours for several years. According to Sheena Ribeiro, whilst going to her grandmother’s house and in the company of her mother, the appellant blocked her path with a piece of wood which she subsequently threw and hit her on her right foot. With regard to the second charge, the complainant claims that on the day in question she was proceeding to the house of her neighbour when the appellant ran out from her yard with a dried piece of bamboo in hand. She then hit her with the bamboo, and the complainant fell to the ground where she was struck again, several times. The appellant pleaded not guilty.

The court imposed, for the first charge, a fine of $400.00, with time allowed of seven (7) days, in default thirty-five (35) days imprisonment with hard labour and compensation in the sum of $5,000.00 to be paid to Sheena Ribeiro, with time allowed of twenty-eight (28) days,
in default thirty (30) days imprisonment. For the second charge, the court imposed a fine of $400.00, with time allowed of seven (7) days, in default thirty-five (35) days imprisonment with hard labour and compensation in the sum of $1,000.00 to be paid to Antonia Ribeiro, with time allowed of twenty-eight (28) days, in default fourteen (14) days imprisonment.

**Aggravating Factors:**
- None

**Mitigating Factors:**
- None

**Current Maximum Penalty:** Six (6) months imprisonment.

**Disposition:**
Appeal against conviction dismissed. Conviction affirmed but sentence for first charge varied.

**Sentence:**
Fine of $250.00, with time allowed of seven (7) days, in default thirty-five (35) days imprisonment with hard labour and compensation in the sum of $1,500.00 to be paid to Sheena Ribeiro, with time allowed of two (2) weeks, in default thirty (30) days imprisonment for the first charge.

Fine of $400.00, with time allowed of seven (7) days, in default thirty-five (35) days imprisonment with hard labour and compensation in the sum of $1,000.00 to be paid to Antonia Ribeiro, with time allowed of twenty-eight (28) days, in default fourteen (14) days imprisonment for the second charge.

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**Narace Aaron Dookie v PC Terrence Rahim**  
C.A.MAG.52/2011  
Soo Hon JA, Narine JA  
October 13, 2011

The appellant was charged with maliciously wounding Beenie Madhoo Samsundar contrary to s 14 of the Offences Against the Person Act, Chapter 11:08. The appellant pleaded not guilty.

The court imposed a sentence of six (6) months imprisonment with hard labour.

**Aggravating Factors:**
- The offence was committed with a weapon;
- The victim was struck on the head;
- The seriousness of the offence;
- The appellant acted out of a loss of temper.

**Mitigating Factors:**
- The age of the appellant at the time of the offence;
- The appellant had no previous convictions;
- The victim’s injury was minor.

**Current Maximum Penalty:** Five (5) years imprisonment.
Disposition:
Appeal dismissed. Sentence to run from date of arrest and time spent in custody awaiting bail to be taken into account.

Sentence:
Six (6) months imprisonment with hard labour.

Davendra Oujar v Danrai Roopan
C.A.MAG.13/2011
Weekes JA, Narine JA
July 21, 2011

The appellant was charged with Assault Occasioning Actual Bodily Harm contrary to s 5(2) of the Summary Offences Act, Chapter 11:02 and with Assault by beating contrary to s 4 of the Summary Offences Act, Chapter 11:02. The appellant pleaded not guilty.

The court imposed a fine of $500.00, in default one (1) month imprisonment with hard labour and compensation of $3,000.00 to the victim, in default six (6) weeks imprisonment, with time allowed of one (1) month for the first offence. For the second offence, the court imposed a fine of $500.00, in default one (1) month imprisonment with hard labour, with time allowed of one (1) month and compensation of $1,500.00 to the victim, in default six (6) weeks imprisonment, with time allowed of one (1) month.

Aggravating Factors:
- N/A

Mitigating Factors:
- The appellant was a first time offender;
- He was gainfully employed;
- The appellant was in a position to pay the fine.

Current Maximum Penalty: Six (6) months imprisonment for Assault Occasioning Actual Bodily Harm. Fine of $400.00 or three (3) months imprisonment for Assault.

Disposition:
Appeal against conviction dismissed. Appeal against sentence partially successful. Sentence with respect to Assault Occasioning Actual Bodily Harm affirmed.

Sentence:
Fine of $500.00, in default one (1) month imprisonment with hard labour and compensation of $3,000.00 to the victim, in default six (6) weeks imprisonment, with time allowed of one (1) month for Assault Occasioning Actual Bodily Harm.

Fine of $300.00, in default one (1) month imprisonment with hard labour, with time allowed of one (1) month and compensation of $1,500.00 to the victim, in default six (6) weeks imprisonment, with time allowed of one (1) month for Assault by Beating.
The appellant beat the complainant about his head and belly with a piece of bamboo that was 2 feet in length which caused the complainant to suffer from bleeding and wounds to the head. The appellant pleaded guilty.

Magistrate M Earle-Caddle started with considering all aggravating and mitigating factors. The court imposed a sentence of eighteen (18) months imprisonment with hard labour. The sentence was appealed on the ground of severity.

**Aggravating Factors:**
- The seriousness of the offence;
- The absence of remorse or contrition;
- The offence was pre-meditated;
- The complainant was lured from his home under false pretence;
- The appellant was unprovoked;
- The severity of the wounds inflicted to the complainant;
- The gravity and prevalence of the offence;
- The court must discourage violence being used to solve disputes.

**Mitigating Factors:**
- Guilty plea;
- No previous convictions;
- The age of the appellant (sixty-one (61) years old);
- The appellant was married and had four (4) children;
- The appellant was a potter by profession.

**Current Maximum Penalty:** Five (5) years imprisonment.

**Disposition:**
Appeal on sentence allowed.

**Sentence:**
Compensation of $3,000.00 to be paid to the complainant, with time allowed of seven (7) days, in default six (6) months imprisonment with hard labour.
NOTES
ROBBERY, LARCENY AND RECEIVING (A2)

AGGRAVATING FACTORS:

- Weapon used was real and not an imitation;
- The weapon was discharged and injury resulted;
- Violence was used upon the victim;
- The offender acted with others;
- There was careful reconnaissance and planning involved;
- Offender motivated by intention to cause harm or take revenge;
- Intimidation or face-to-face confrontation with the victim;
- Use of force, or threat of force, against victim (not amounting to robbery);
- High level of inconvenience caused to victim eg replacing house keys, credit cards, etc.

MITIGATING FACTORS:

- The defendant had no companions when committing the offence;
- No injuries sustained during the commission of the offence;
- Return of stolen property;
- Offender motivated by desperation or need arising from particular hardship and not merely delinquency.

Current Maximum Penalties for Larceny

Larceny of chattel, money or valuable security, such larceny not being accompanied by burglary or housebreaking, menace or threat, nor amounting to robbery with violence to the value of not more than $2,000.00.

Prescribed penalty:
$3,000.00 or imprisonment for six (6) months: Section 9 of the Summary Offences Act, Chapter 11:02.

Simple Larceny

Prescribed penalty:
Five (5) years imprisonment or $20,000.00: Section 4 of the Larceny Act, Chapter 11:12; Section 100(5) of the Summary Courts Act, Chapter 4:20; Second Schedule, Section 6.

Larceny from Dwelling House

Prescribed penalty:
$20,000.00 or five (5) years imprisonment: Section 14(a) of the Larceny Act, Chapter 11:12; Section 100(5) of the Summary Courts Act, Chapter 4:20; Second Schedule, Section 6.
$3,000.00 or six (6) months imprisonment (where value of property does not exceed $2,000.00): Section 11 of the Summary Offences Act, Chapter 11:12.
Current Maximum Penalty for Burglary

Burglary
Prescribed penalty:
$20,000.00 or five (5) years imprisonment: Section 27 of the Larceny Act, Chapter 11:12; Section 100(5) of the Summary Courts Act, Chapter 4:20; Second Schedule, Section 6.

Current Maximum Penalties for Larceny of or interference with a Motor vehicle
Steals a Motor Vehicle
Prescribed penalty:
Ten (10) years imprisonment: Section 4A(1)(a) of the Larceny Act, Chapter 11:12.

With Intent to Steal Motor Vehicle, Removes, Obliterates, Defaces, Tampers with or Renders in any way Illegible, or Alters the Engine Number or Chassis Number of a Motor Vehicle
Prescribed penalty:
Ten (10) years imprisonment: Section 4A(1)(b) of the Larceny Act, Chapter 11:12.

Repaints or Alters Motor Vehicle without Consent of the Owner
Prescribed penalty:
Ten (10) years imprisonment: Section 4A(1)(c) of the Larceny Act, Chapter 11:12.

Receives/in Possession of Stolen Motor Vehicle
Prescribed penalty:
Ten (10) years imprisonment: Section 4A(1)(d) of the Larceny Act, Chapter 11:12.

Current Maximum Penalties for Robbery Offences
Robbery with Aggravation
Prescribed penalty:
Ten (10) years imprisonment: Section 24(1) of the Larceny Act, Chapter 11:12.

Robbery
Prescribed penalty:
Six (6) years imprisonment: Section 24(2) of the Larceny Act, Chapter 11:12.

Assault with Intent to Rob
Prescribed penalty:
Three (3) years imprisonment: Section 24(3) of the Larceny Act, Chapter 11:12.
JUDGMENTS

Marlon Maitland v PC Irvin Primus
C.A.MAG.17/2012
Weekes JA, Soo Hon JA
July 23, 2017

The complainant was plying his private motor vehicle for hire when the appellant and another
entered into the vehicle and asked to be taken to San Fernando. Along the way the appellant
told the complainant to stop the car. The complainant was pulled into the backseat by the
other passenger who dealt him several blows and robbed him of $200.00. The appellant then
took possession of the vehicle and pushed the complainant out of the car and drove off. The
appellant pleaded guilty.

The court imposed a sentence of forty-eight (48) months imprisonment with hard labour.

Aggravating Factors:
- The seriousness of the offence;
- The appellant had previous convictions.

Mitigating Factors:
- Guilty plea.

Current Maximum Penalty: Ten (10) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Forty-eight (48) months imprisonment with hard labour.

Elton Boatswain v PC Stephen Forbes
C.A.MAG.33/2015
Soo Hon JA, Mohammed JA
October 08, 2015

On March 29, 2014 the complainant, owner of a furniture store, secured his business place
and left. On March 30 2014, he received a phone call from Blink Security Alarm personnel
and visited the furniture store where he had a conversation with the appellant and later made
a report to the police. On April 01 2014, the complainant again visited the furniture store and
heard a pounding from within the building. The complainant and other police officers went
to investigate and found the appellant using a hammer to pound a vault which was cemented
in the wall. The appellant complied with the police’s request to place the hammer on the
ground and upon being searched, the police found pinching shears in his pants pocket. There
was a hole in the galvanize sheeting of the roof. The appellant pleaded not guilty.

The court imposed a sentence of three (3) years imprisonment with hard labour for each
charge to run concurrently.

The sentence was appealed.
Aggravating Factors:
- The appellant had seven (7) previous convictions.

Mitigating Factors:
- The appellant operates a registered car wash business.

Current Maximum Penalty: Fine of $20,000.00 or five (5) years imprisonment for Possession of Implement for Unlawful Breaking. Fine of $20,000.00 or five (5) years imprisonment for Housebreaking with Intent to Commit an Arrestable Offence.

Disposition:
Appeal dismissed. Conviction and sentence to run from date of arrest.

Sentence:
Three (3) years imprisonment with hard labour for Possession of Implement for Unlawful Breaking.
Three (3) years imprisonment with hard labour for Housebreaking with Intent to Commit an Arrestable Offence.
To run concurrently.

Francis Apparico v PC Deodath Seepersad
C.A.MAG.25/2015
Weekes JA, Soo Hon JA
September 30, 2015

On 3 different occasions in February, 2007 the appellant, a sole trader, sought to purchase a quantity of goods from W Mohammed Agency including, inter alia, one hundred and twenty-five (125) kegs of oil, one hundred (100) cases of snack trays, twenty-five (25) cases of cheddar cheese, and packages of spoons and forks. The goods on the first occasion totalled $13,225.03, the second $26,499.45, and the third $11,575.00. The appellant effected payment for the goods with three (3) Republic Bank Limited cheques which the complainant company subsequently attempted to deposit into its account. However, the said cheques were returned and dishonoured. Upon being questioned by officers from the Fraud Squad, the appellant admitted that the cheques were his and that he thought he had funds in his account. The appellant pleaded not guilty.

The court imposed a bond in the sum of $10,000.00 to keep the peace and be of good behaviour for three (3) years, in default to return for sentencing. Compensation of $13,225.03, $26,499.45, and $11,575 to be paid to the complainant on or before December 06 2011, in default six (6) weeks imprisonment.

Aggravating Factors:
- The seriousness of the offence;
- The sum of money involved.

Mitigating Factors:
- The appellant was employed as a sole trader.

Current Maximum Penalty: Fine equivalent to ten (10) times the value of the cheque and five (5) years imprisonment.
Disposition:
Appeal dismissed. Conviction, sentence, and order affirmed.

Sentence:
Bond in the sum of $10,000.00 to keep the peace and be of good behaviour for three (3) years, in default to return for sentencing.
Compensation of $13,225.03, $26,499.45, and $11,575 to be paid to the complainant on or before December 06 2011, in default six (6) weeks imprisonment.

Nigel Charles v PC Marvin Francis  
C.A.MAG.15/2015  
Weekes JA, Soo Hon JA  
June 23, 2015

The complainant responded to a newspaper advertisement for an apartment for rent. He went to the address where he met the appellant who represented himself to be duly authorised to rent the said apartment. Upon viewing the apartment, the complainant gave the appellant $2,000.00 representing the first month's rent. He then made several attempts to contact the appellant so that he could move into the apartment but to no avail. The complainant reported the matter to the Fraud Squad and the appellant was eventually charged. When cautioned by the police, the appellant indicated that he needed the money for medical bills and indicated that he had been doing this for the past five (5) months. The appellant pleaded guilty.

The court imposed a sentence of six (6) months imprisonment with hard labour.

Aggravating Factors:
- The seriousness of the offence;
- The offence was well planned as the appellant placed an advertisement in the newspaper;
- The appellant had four (4) previous convictions.

Mitigating Factors:
- Guilty plea.

Current Maximum Penalty: Fine of $3,000.00 or six (6) months imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Six (6) months imprisonment with hard labour.
Derryck Vincent v PC Kevorne Joseph  
A2-5  
C.A.MAG.56/2015  
Soo Hon JA, Mohammed JA  
October 9, 2015  
The complainant, with other police officers, received a wireless transmission and drove to the home of the complainant. On approaching their home, the complainant observed the appellant, who was known to the police, trying to leave the premises. He called out to the appellant who then dropped the bag that he was holding, jumped over the wall and escaped. The bag contained items belonging to the complainant, namely a laptop, camera bag, digital camera, perfumes, toothpaste, and silver pan containing coins. On another part of the premises, the police retrieved a pair of sneakers, a shirt, a jersey, a book bag, a Quran, an extract from the Magistrates’ Court and a receipt in the name of the appellant, a hacksaw cutter, and a multi-purpose knife. The police also observed that a lock to the house was broken. A warrant was subsequently executed on the appellant. The appellant pleaded not guilty.  
The court imposed a sentence of five (5) years imprisonment with hard labour.  
**Aggravating Factors:**  
- The seriousness and prevalence of the offence;  
- The invasion of privacy and peace of mind of the complainant;  
- The offence was planned;  
- The age of the appellant (forty-nine (49) years old);  
- The appellant had eleven (11) previous convictions for larceny.  

**Mitigating Factors:**  
- The time spent in custody awaiting trial (sixteen (16) months).  

**Current Maximum Penalty:** Fine of $20,000.00 or five (5) years imprisonment.  

**Disposition:**  
Leave to withdraw appeal granted. Conviction and sentence affirmed. Sentence to run from date of arrest.  

**Sentence:**  
Five (5) years imprisonment with hard labour.  

Dwayne St Clair v PC Nigel De Suze  
A2-6  
C.A.MAG.49/2014  
Weekes JA, Soo Hon JA  
December 11, 2014  
The complainant was walking along a street when the appellant, a man he never saw before, approached him and pointed a silver gun to the complainant’s head and said, “Don’t move, give me what yuh have.” The appellant then took the complainant’s Blackberry phone from him. The complainant then noticed a Nissan Almera vehicle approaching and looked to the driver for some assistance. The vehicle was being driven by W, who pulled up alongside the complainant and the appellant. The appellant then took the complainant’s bag and threw it into the said vehicle following which the appellant began searching the contents of the bag which contained items such as a cologne, money and CDs. The appellant also took the
complainant’s wallet from him and told him to run and don’t look back. The complainant was able to see part of the number plate on the vehicle. Early the following morning, the complainant spotted the vehicle driven by W in company of the appellant. A search was conducted and the items belonging to the complainant were found. The appellant pleaded not guilty.

The court imposed a sentence of five (5) years and five (5) months imprisonment with hard labour.

**Aggravating Factors:**
- The seriousness and prevalence of the offence;
- The act was deliberate and premeditated;
- The use of a weapon, namely a gun.

**Mitigating Factors:**
- No previous convictions;
- The age of the appellant at the time of the offence (twenty (20) years old);
- The appellant recently started work as a welding apprentice.

**Current Maximum Penalty:** Ten (10) years imprisonment.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed. Sentence to run from the date of conviction.

**Sentence:**
Five (5) years and five (5) months imprisonment with hard labour.

David Williams v PC Nigel De Suze
C.A.MAG.50/2014
Weekes JA, Soo Hon JA
December 11, 2014

The complainant was walking along a street when the appellant, a man he never saw before, approached him and pointed a silver gun to the complainant’s head and said, “Don’t move, give me what yuh have.” The appellant then took the complainant’s Blackberry phone from him. The complainant then noticed a Nissan Almera vehicle approaching and looked to the driver for some assistance. The vehicle was being driven by W, who pulled up alongside the complainant and the appellant. The appellant then took the complainant’s bag and threw it into the said vehicle following which the appellant began searching the contents of the bag which contained items such as a cologne, money and CDs. The appellant also took the complainant’s wallet from him and told him to run and don’t look back. The complainant was able to see part of the number plate on the vehicle. Early the following morning, the complainant spotted the vehicle driven by W in company of the appellant. A search was conducted and the items belonging to the complainant were found. The appellant pleaded not guilty.

The court imposed a sentence of five (5) years and five (5) months imprisonment with hard labour.
Aggravating Factors:
- The seriousness and prevalence of the offence;
- The act was deliberate and premeditated;
- The use of a weapon, namely a gun;
- The age of the appellant (thirty-seven (37) years old).

Mitigating Factors:
- No previous convictions;
- Sole breadwinner and father of three (3) young children.

Current Maximum Penalty: Ten (10) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed. Sentence to run from the date of conviction.

Sentence:
Five (5) years and five (5) months imprisonment with hard labour.

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Victallis Groome v Sgt Earl Arthur
C.A.MAG.14/2014
Archie CJ, Soo Hon JA
November 19, 2014

The complainant was at a bar when the appellant, who she did not know, attempted to speak to her. The appellant was wearing a T-Shirt saying ‘Be afraid be very afraid’, a pants and white sneakers. She eventually left the bar and the appellant gestured and shouted, “Aye, aye” to get her attention. The appellant approached her, grabbed two gold chains from around her neck and ran away. The complainant flagged down police and reported the incident to the complainant. Shortly after, the police apprehended the appellant who handed over the chains and indicated that he was sorry and hungry. The appellant pleaded not guilty.

The court imposed a sentence of five (5) years imprisonment with hard labour.

Aggravating Factors:
- N/A

Mitigating Factors:
- The age of the appellant at the time of the offence (twenty-three (23) years old);
- The appellant showed remorse;
- He had no previous convictions.

Current Maximum Penalty: Six (6) years imprisonment.

Disposition:
Appeal allowed. Conviction affirmed. Sentence varied.

Sentence:
Fine of $5,000.00, in default nine (9) months imprisonment with hard labour, with time allowed of six (6) months.
Dave Cotou v PC Ryan Paul  
C.A.MAG.68/2013  
Soo Hon JA, Mohammed JA  
April 2, 2014

The complainant secured her home and upon her return, noticed that her house was broken into and several items valued at $85,935.00 were missing. On another occasion, the complainant saw the appellant, her neighbour, at a bank wearing one of her pieces of jewellery which he attempted to hide. Reports were made to the police and a search warrant was executed in the appellant's premises where the stolen items were found. During the trial, and after evidence was given by the complainant, the appellant changed his plea from not guilty to guilty.

Magistrate A Darmanie started with a consideration of the aggravating and mitigating factors and found that the aggravating factors outweighed the mitigating factors and that previous time incarcerated was insufficient to rehabilitate the appellant and act as a deterrent.

The court imposed a sentence six (6) years imprisonment with hard labour.

Aggravating Factors:
- The appellant had three (3) previous convictions for house and store breaking and larceny;
- The complainant had been put through added expense of having to repair the safe which had been cut open and her burglar-proofing which had been removed;
- The items stolen were of great value and only some were recovered;
- There was a breach of trust as the appellant was a neighbour and had worked at the complainant's house.

Mitigating Factors:
- Changed plea from not guilty to guilty.

Current Maximum Penalty: Fine of $20,000.00 or five (5) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed. Sentence to run from the date of conviction. Time spent in custody of one (1) year and seven (7) months to be deducted from sentence.

Sentence:
Four (4) years and five (5) months imprisonment.

Rodney Teeluck v Adesh Gookool  
C.A.MAG.16/2012  
Weekes JA, Soo Hon JA  
July 23, 2013

The complainant was awaiting transport when the appellant (whom he knew well) offered him a ride. The appellant passed the stop point of the complainant thereafter pulling out a knife and ordering him to hand over his valuables. The appellant dealt the complainant several cuffs on his face and other parts of his body and made off with a lunch bag, watch and $300.00 in cash. The appellant pleaded guilty.
The court imposed a sentence of eight (8) years imprisonment with hard labour for Robbery with Aggravation and two (2) years imprisonment with hard labour for Kidnapping, to run concurrently.

Aggravating Factors:
- The seriousness and prevalence of the offence;
- The appellant had numerous previous convictions.

Mitigating Factors:
- Guilty plea.

Current Maximum Penalty: Ten (10) years imprisonment for Robbery with Aggravation. There appears to be an anomaly in the law in that Kidnapping is excluded from the prescribed penalty for offences triable either way: Summary Offences Act, Chapter II:02 s 100(5A)

Disposition:
Appeal dismissed. Conviction and sentence affirmed. Sentence to run from date of conviction.

Sentence:
Eight (8) years imprisonment with hard labour for Robbery with Aggravation. Two (2) years imprisonment with hard labour for Kidnapping.

Ranie-D Hepburn v WPC Tricia Gopicharan
C.A.MAG.54/2012
Soo Hon JA, Narine JA
December 06, 2012

The complainant left his job to head home and boarded what he thought was a taxi. There were 2 passengers in the vehicle. When the complainant realised that the car was going a far distance, he asked what was happening and the male passenger next to him pointed an apparent gun at him, and the female passenger demanded that he hand over everything. The female passenger (the appellant) took his wallet along with all his bank cards (she requested the PIN number), a ring, and a bag of groceries. The appellant pleaded not guilty.

The court imposed a sentence of four (4) years imprisonment.

Aggravating Factors:
- The seriousness of the offence.

Mitigating Factors:
- The appellant was believed to be of good character.

Current Maximum Penalty: Ten (10) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Four (4) years imprisonment.
Renald Collier v PC Shala Julien
C.A.MAG.50/2012
Archie JA, Weekes JA
September 20, 2012

The complainant was in possession of a white Nissan B12 motor vehicle whereby he was paying the owner in instalments for the vehicle. On the date in question, the complainant was parked at Macqueripe beach and on his return from the shore he found the car missing. The complainant made a report and officers later saw the car on the roadway, the appellant being the only occupant. The appellant pleaded guilty.

The court imposed a sentence of four (4) years imprisonment with hard labour.

Aggravating Factors:
- The seriousness of the offence.

Mitigating Factors:
- None.

Current Maximum Penalty: Ten (10) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Four (4) years imprisonment with hard labour.

Richard Paul v PC Lester Samuel
C.A.MAG.015/2012
Weekes JA, Soo Hon JA
July 24, 2012

The complainant was alerted by dogs barking and noises coming from his parlour and on looking out, he saw the appellant running from the premises. A sum of $200.00 was missing from the cash register. The appellant pleaded guilty.

The court imposed a sentence of thirty-six (36) months imprisonment with hard labour.

Aggravating Factors:
- The seriousness and prevalence of the offence;
- The appellant had previous convictions.

Mitigating Factors:
- Guilty plea.

Current Maximum Penalty: Six (6) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Thirty-six (36) months imprisonment with hard labour.
The State v Anthony Leroy Jhaman  
C.A.MAG.49/2012  
Weekes JA, Soo Hon JA  
February 15, 2012  

On January 23, 2012 the appellant, a Guyanese national, uttered a certain forged document, namely a Republic of Guyana Inter-Caribbean travel document, at the Immigration Extensions Office in the name of Anthony Leroy Jhaman, knowing same to be false and with intent to deceive.

Magistrate M Murray started with considering the maximum penalty for the offence; two (2) years imprisonment in accordance with s 9(1) of the Forgery Act, Chapter 11:13 and all aggravating and mitigating factors. The appellant pleaded guilty.

The court imposed a fine of $10,000.00 forthwith, in default six (6) months imprisonment with hard labour.

The sentence was appealed on the ground of inadequate legal representation.

**Aggravating Factors:**
- The nature of the offence;
- The prevalence of the offence;
- The impact on national security.

**Mitigating Factors:**
- Guilty plea;
- No previous convictions.

**Current Maximum Penalty:** Two (2) years imprisonment.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fine of $10,000.00 forthwith, in default six (6) months imprisonment with hard labour.

Eric Benjamin v PC Carlon Denoon and Cpl Oliver Claire  
C.A.MAG.21/2009  
Weekes JA, Soo Hon JA  
February 06, 2012  

On the first charge, the complainant claims that she was relaxing near the pool at the Villa at Charles Villa, Bon Accord. She says that the appellant introduced himself as ‘Dave’ and that he was the gardener on the premises. The appellant, under the ruse of going to the bathroom, went into the villa and took a Samsung mobile phone and a Samsung Digital Camera. The second complainant and his wife were staying at Mike’s Holiday Resort whereby they observed after returning one day that one of the windows were broken and items missing. The next night, the police brought some items to them which the complainant and his family identified as theirs. These items were found on the premises of the appellant. The appellant pleaded not guilty.
The court imposed a sentence of three (3) years imprisonment with hard labour for Larceny and five (5) years imprisonment for Housebreaking with Intent to Commit an Arrestable Offence.

**Aggravating Factors:**
- The appellant had a previous conviction of similar nature.

**Mitigating Factors:**
- None

**Current Maximum Penalty:** Fine of $20,000 or five (5) years imprisonment for both offences.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Three (3) years imprisonment with hard labour for Larceny.
Five (5) years imprisonment for Housebreaking with Intent to Commit an Arrestable Offence.

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Nicholas Wilson Lyndon Mohammed v PC Roger Reyes  
C.A.MAG.6/2011  
Weekes JA, Narine JA  
June 29, 2011

The appellant robbed Andre Ali of a cellular phone valued at $55.00 and at the time of the robbery, employed violence. The appellant pleaded not guilty.

The court imposed a sentence of four (4) years imprisonment with hard labour.

**Aggravating Factors:**
- The seriousness and prevalence of the offence.

**Mitigating Factors:**
- N/A

**Current Maximum Penalty:** Ten (10) years imprisonment.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed. Time deemed served.

**Sentence:**
Four (4) years imprisonment with hard labour.
Claudius Mathura v PC Charmin Williams
C.A.MAG.15/2011
Weekes JA, Narine JA
July 21, 2011

The appellant was charged with stealing a quantity of films valued at $25,970.56 from his employer. The appellant pleaded not guilty.

The court imposed a sentence of compensation of $25,970.56 to the victim or six (6) months imprisonment, with time allowed of sixty (60) days.

**Aggravating Factors:**
- N/A

**Mitigating Factors:**
- The appellant did not deny writing up the orders;
- He did not deny the charge;
- He agreed that he collected bonus film products;
- He did not present the film to Photo World being the customer entitled to receive the films.

**Current Maximum Penalty:** Fine of $20,000.00 or five (5) years imprisonment.

**Disposition:**
Appeal dismissed. Order on the issue of compensation varied.

**Sentence:**
Compensation of $1,000.00, with time allowed of seven (7) days, in default one (1) month imprisonment.

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Drena Douglas v PC Adesh Bachoo
C.A.MAG.73/2011
Weekes JA, Soo Hon JA
March 24, 2011

According to the complainant’s mother, the appellant (her next door neighbour) walked into her home and into her daughter’s bedroom and took a gold charm bracelet and placed it in the pocket of her pants. The complainant, after missing her gold bracelet, informed her mother that she did not give anyone permission to take her bracelet. The band was never recovered. The appellant pleaded not guilty.

The court imposed a fine of $2,000.00, in default four (4) months hard labour, with time allowed of twenty-eight (28) days. The court also ordered compensation of $3,000.00 to be paid to the complainant, in default six (6) weeks imprisonment upon payment of $500.00 forthwith, with time allowed of twenty-eight (28) days.

**Aggravating Factors:**
- The appellant showed no remorse.

**Mitigating Factors:**
- The age of the appellant at the time of the offence;
- The appellant had no previous convictions.
Current Maximum Penalty: Fine of $20,000.00 or five (5) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fine of $2,000.00, in default four (4) months hard labour, with time allowed of twenty-eight (28) days;
Compensation of $3,000.00 to be paid to the complainant, in default six (6) weeks imprisonment upon payment of $500.00 forthwith, with time allowed of twenty-eight (28) days.

Dennis Singh v Marilyn Scott-Girod
C.A.MAG.87/2010
Weekes JA, Archie JA
March 21, 2011

The appellant was charged with Importation of Prohibited Goods Contrary to s 213(a) of the Customs Act, Chapter 78:07 as amended by Act No 17 of 2007. The appellant kept thirty (30) Bull Finch birds in a cage contrary to Regulation 4(2) under s 24 of the Conservation of Wild Life Act, Chapter 67:07. The appellant kept a Bird Finch bird in a cage contrary to Regulation 4(2) under s 24 of the Conservation of Wild Life Act, Chapter 67:07. The appellant ill-treated one (1) Bull Finch bird contrary to s 79(1) of the Summary Offences Act, Chapter 11:02. The appellant imported thirty-one (31) birds into Trinidad and Tobago without a licence contrary to s 14(2) of the Animal Disease and Importation Act, Chapter 67:02. The appellant imported into Trinidad and Tobago prohibited goods to wit thirty-one (31) Bull Finches contrary to s 213(a) of the Customs Act, Chapter 78:07 as amended by Act 17 of 2007. The appellant pleaded guilty.

The court imposed a sentence of eighteen (18) months imprisonment with hard labour.

Aggravating Factors:
- The seriousness of the offence.

Mitigating Factors:
- Guilty plea;
- The appellant had no previous convictions.

Current Maximum Penalty: Fine of $50,000.00 or triple the value of the goods, whichever is greater, and eight (8) years imprisonment.

Disposition:
Appeal dismissed. Sentence varied.

Sentence:
Two weeks imprisonment with hard labour with a fine of $150.00 or fourteen (14) days imprisonment for the first two counts.
Fine of $300.00 or one (1) month imprisonment for the third count.
Fine of $3,500.00 hundred or three (3) months imprisonment for the fourth count. Six (6) months imprisonment for the fifth count.
Boswell Clement v WPC Valarie Leon  
C.A.MAG.66/2010  
Soo Hon JA, Weekes JA  
January 14, 2011

The appellant was charged with Robbery with Aggravation contrary to s 24(1) of the Larceny Act, Chapter 11:12. The appellant pleaded guilty.

The court imposed a sentence of four (4) years imprisonment with hard labour.

Aggravating Factors:
- The prevalence of the offence.

Mitigating Factors:
- None

Current Maximum Penalty: Ten (10) years imprisonment.

Disposition:

Appeal dismissed. Conviction and sentence quashed.

Court substituted original offence with Larceny under s 7 of the Summary Courts Act, Chapter 4:20. The appellant was sentenced to two (2) years imprisonment with hard labour to run from the date of conviction.

Sentence:
Two (2) years imprisonment with hard labour.

Henry Felix v PC Sarreal Bachoo  
C.A.MAG.95/2010  
Soo Hon JA, Narine JA  
October 28, 2010

The appellant was charged with obtaining goods using a dishonoured cheque contrary to s 3(1) of the Negotiable Instruments (Dishonoured Cheques Act) No 9 of 1998. The appellant pleaded not guilty.

The court imposed a sentence of three (3) years imprisonment with hard labour.

Aggravating Factors:
- The appellant had one previous conviction of a similar nature and had served a custodial sentence of three (3) months hard labour;
- The appellant denied every salient fact of the case;
- The appellant’s failure to admit his guilt and the considerable amount of judicial time wasted between July 2004 and February 2008;
- The seriousness of the offence.

Mitigating Factors:
- The repayment of the sum of $1,423.30.

Current Maximum Penalty: Five (5) years imprisonment and ten (10) times the value of the cheque.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Three (3) years imprisonment with hard labour.

Rishi Ramoutar and Lenny Abeola v PC Gregory Renwick  
C.A.MAG.96/2009  
Weekes JA, Archie JA  
February 11, 2010

The appellant was charged with Breaking and Entering One Love Restaurant and Bar and stealing property valued at $3,832.00 contrary to s 28(a) of the Larceny Act, Chapter 11:12. The appellant pleaded not guilty.

The court imposed a sentence of two (2) years imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):
- The prevalence of the offence;
- The seriousness of the offence.

Mitigating Factors:
- The age of the appellants at the time of the offence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.

(*) Brian Ragbir v PC Latchmansingh Roopchand and Cpl Chanardath Jhilmit  
C.A.MAG.98/2008  
Warner JA, Weekes JA  
June 25, 2009

Information number 421/07: The appellant, together with others, being armed with a firearm and with the use of violence, stole $100,000.00 worth of surveying equipment from the first victim.

Information number 4211/07: The appellant also pleaded guilty to Larceny of a Nissan Almera Motor Vehicle valued at $63,000.00 from the second victim.

The appellant was sentenced to seven (7) years imprisonment for both charges. Sentences to run consecutively.

Aggravating Factors:
- The nature, seriousness, and extreme prevalence of such offences in society;
- The need to protect the society from the appellant;
- The need for the sentence imposed to serve as a deterrent to the appellant and the type of message the sentence imposed would send to others who may be inclined to commit such offences.
Mitigating Factors:

- The four (4) month period the appellant spent in custody awaiting the availability of
  and tendering of the relevant interview notes by the respondent.

Disposition:

Appeal against sentence allowed to the extent that the sentences in respect of the two offences
were to run concurrently rather than consecutively.

Sentence:

Seven (7) years imprisonment with hard labour for each charge. Sentences to run concurrently.

(*) Govindra Ramnarine v PC Christopher Emrite
C.A.MAG.19/2009
Archie, CJ, Kangaloo JA
June 22, 2009

The appellant and another removed 10 feet of electrical cable that was attached to the panel
box of the victim’s house. The appellant was charged with Larceny of the electrical cable
valued at $2,500.00. He was convicted and sentenced to twelve (12) months imprisonment
with hard labour.

Aggravating Factors (considered by the magistrate):

- The appellant did not appear to be remorseful.

Disposition:

Appeal allowed. Sentence varied.

Sentence:

Fined $3,000.00, in default nine (9) months imprisonment with hard labour.

(*) Kerwyn Romeo v Cpl John Adams
C.A.MAG.8/2008
Archie CJ, Hamel-Smith JA, Kangaloo JA
November 25, 2008

The appellant stole a ladder valued at $3,000.00 and was charged with Simple Larceny. Upon
conviction, the appellant was initially sentenced to three (3) years imprisonment with hard
labour. However, the magistrate noted that the maximum penalty for the offence was two (2)
years imprisonment.

Aggravating Factors:

- The appellant had fourteen (14) previous convictions of a similar nature within the
  last ten (10) years.

Disposition:

Appeal dismissed. Sentence affirmed.

Sentence:

Two (2) years imprisonment with hard labour.
(*) Brent Sebro v PC Nigel Johnson  
C.A.MAG.10/2008  
Archie CJ, Hamel-Smith, Kangaloo JA  
November 25, 2008  
The appellant was convicted of Larceny of the victim’s CD deck, pro amplifier, a bass amplifier, a pair of yellow jacks, a CD case, and $700.00 cash. He was sentenced to the maximum penalty of two (2) years imprisonment with hard labour.  
**Aggravating Factors:**  
- The appellant had 16 previous convictions, 15 of which were for similar offences. In the circumstances, the court felt that the appellant was a habitual offender and that the society needed protection from him.  

**Disposition:**  
Appeal dismissed. Conviction and sentence affirmed.  

**Sentence:**  
Two (2) years imprisonment with hard labour.

(*) Kevin Andrews v PC Rohan Seemungal  
C.A.MAG.126/2008  
Weekes JA, Soo Hon JA  
November 20, 2008  
The appellant was charged with Larceny of the victim’s bracelet which was grabbed off from her hand while she was ‘playing mas’. He was convicted and sentenced to six (6) years imprisonment with hard labour.  
**Aggravating Factors (considered by the magistrate):**  
- The need to send an unequivocal message;  
- The appellant was a recidivist who admitted a conviction for a similar offence, Larceny.  

**Mitigating Factors (considered by the magistrate):**  
- Guilty plea entered;  
- No previous conviction.  

**Disposition:**  
Appeal dismissed. Conviction affirmed. Sentence varied.  

**Sentence:**  
Three (3) years imprisonment with hard labour.
Three men, including the appellant, approached the victim while she was walking along a street. One of the men held a bottle over her throat and threatened to slice it. Thereafter she was robbed of $28.00, her wallet, and her telephone and address book. The appellant was subsequently charged with Robbery. He was found guilty and sentenced to eighteen (18) months imprisonment with hard labour.

**Aggravating Factors (considered by the magistrate):**
- The seriousness of the threatened use of the bottle to cause grievous bodily harm.

**Mitigating Factors (considered by the magistrate):**
- The age of the appellant;
- The fact that the appellant had no previous convictions.

**Mitigating Factors (considered by the Court of Appeal):**
- A reduction was justified having regard to the appellant’s role in the offence. The principal offender was sentenced to the same term as the appellant so that a reduction was warranted.

**Disposition:**
Appeal against conviction dismissed. Sentence varied.

**Sentence:**
Twelve (12) months imprisonment with hard labour.

The appellant, who was seated in the back of a car, pulled the victim’s head back, placed a knife to his throat and stole his money and cell phone. The appellant was convicted of Robbery and sentenced to thirty (30) months imprisonment with hard labour.

**Mitigating Factors:**
- He had no previous convictions.

**Disposition:**
Sentence affirmed.

**Sentence:**
Thirty (30) months imprisonment with hard labour.
(*) Hayden Cornwall v PC Bokan Dodal  
C.A.MAG.49/2007  
Hamel-Smith JA, John JA  
July 31, 2008

The victim entered the bathroom of a sports bar and was followed by the appellant and held up at knife point. The appellant robbed the victim of his gold chain, which was ripped off his neck, and $35.00 in cash. After the robbery, the appellant attempted to stab the victim with the knife. The appellant was charged with Armed Robbery and upon conviction, sentenced to four (4) years imprisonment with hard labour.

**Aggravating Factors:**
- Three previous convictions, including one for Larceny;
- Serious offence;
- Need to protect society;
- Retribution for the victims who should not be left unsatisfied after bonds and lenient jail terms are imposed for crimes such as these.

**Mitigating Factors:**
- Father of a sixteen (16) year old child;
- Worked as a labourer.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Four (4) years imprisonment with hard labour.

(*) Ryan Romany v PC Castelland  
C.A.MAG.44/2008  
John JA, Weekes JA  
May 26, 2008

The appellant was charged with Larceny of the victim’s gold identification band valued at $3,000.00. He pleaded guilty and was sentenced to five (5) years imprisonment with hard labour.

**Aggravating Factors (considered by the magistrate):**
- The prevalence of the offence;
- The importance of sending a message to likely offenders.

**Mitigating Factors (considered by the magistrate):**
- Guilty plea entered;
- No previous conviction.

**Disposition:**
Appeal against conviction dismissed. Appeal against sentence allowed and varied.

**Sentence:**
Three (3) years imprisonment with hard labour.
(*) Brad Williams v PC Sheldon Peterson
C.A.MAG.45/2008
John JA, Weekes JA
May 13, 2008
The appellant was charged with Larceny of the victim’s gold “bera” valued at $10,000.00. He pleaded guilty and was sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):
- The offence was prevalent in society.

Mitigating Factors (considered by the magistrate):
- Guilty plea entered;
- No previous conviction.

Disposition:
Order for submission to supervision by probation officer.

Sentence:
Probation for three (3) years.

(*) Kern Bourne and Kindo Findley v PC Keron Superville
C.A.MAG.144/2007
John JA, Mendonca JA
January 24, 2008
The appellant was charged with another person for Robbery with Violence. The appellant demanded items from the victim who, at the time, was a passenger in a maxi taxi. The victim refused and was beaten about his body and was relieved of his cellular phone. The appellant pleaded guilty to the charge and was sentenced to two (2) years imprisonment.

Aggravating Factors:
- The seriousness and the prevalence of the offence.

Disposition:
Order of the magistrate affirmed.

Sentence:
Two (2) years imprisonment with hard labour.

(*) Latifah La Pierre v WPC Alana Lopez
C.A.MAG.48/2007
Hamel-Smith CJ (Ag), Warner JA
December 5, 2007
The appellant went to the home of the victim and stole two pairs of shoes valued at $250.00 and two tops valued at $80.00 from a line. The appellant was found guilty of the two offences of Larceny and was sentenced to two (2) years imprisonment to run concurrently.
Aggravating Factors (considered by the magistrate):
- The character of the appellant who had been previously before the court;
- The seriousness of the offences.

Mitigating Factors (considered by the magistrate):
- The age of the appellant at the time of the offence (fourteen (14) years old).

Disposition:
Appeal dismissed against conviction. Sentence varied.

Sentence:
Six (6) months simple imprisonment.

(*)& Michael Mohammed v PC Sheldon Sylvester  
C.A.MAG.71/2007  
Warner JA, Mendonca JA  
November 26, 2007

The appellant and another broke into the victim’s dwelling house and stole cash and a quantity of items cumulatively valued at $51,850.00. He was charged with Larceny in respect of the foregoing and also in respect of a Motor Vehicle. He was convicted and sentenced to three (3) years imprisonment with hard labour on each charge, to run concurrently.

Aggravating Factors (considered by the magistrate):
- The value of the items stolen from the victim was substantial;
- The vehicle was all but totally destroyed.

Mitigating Factors (considered by the magistrate):
- The age of the appellant at the time of the offence (seventeen (17) years old);
- The appellant had no previous convictions.

Disposition:
Appeals dismissed. Conviction and sentences affirmed.

Sentence:
Three (3) years imprisonment with hard labour.

(*)& Matthew Romerick v PC Tardath Singh  
C.A.MAG.169/2006  
John JA, Archie JA  
November 26, 2007

The appellant was convicted for Larceny of the victim’s RBTT bank card valued at $48.25 and was sentenced to two (2) years imprisonment with hard labour.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.
Lyndon Mohammed v PC Marlon Linton
C.A.MAG.48/2007
Kangaloo JA, Mendonca JA
June 28, 2007

The appellant, armed with a knife, confronted the victim and demanded her handbag. The victim gave him the bag valued at $380.00 which contained her Identification Card and $280.00 in cash. The appellant was convicted on a charge of Armed Robbery and sentenced to two (2) years imprisonment with hard labour.

**Aggravating Factors:**
- The appellant threatened the victim with a knife;
- The victim was a young lady who became terrified;
- This was a premeditated act as opposed to a ‘spur of the moment’ encounter;
- Prevalence of the offence;
- The sentence should act as a deterrent to the appellant.

**Mitigating Factors:**
- No previous convictions;
- Pleaded guilty;
- The appellant was twenty-one (21) years old.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Two (2) years imprisonment with hard labour.

Kelvin Snaggs v WPC Tricia Smith
C.A.MAG.131/2006
Hamel-Smith CJ (Ag), John JA
November 7, 2006

The appellant was convicted on a charge of Larceny of a bank card valued at $25.00 and was sentenced to nine (9) months imprisonment with hard labour.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Nine (9) months imprisonment with hard labour.

Kerwyn Marcelle v Sgt Moore
C.A.MAG.21/2005
Hamel-Smith JA, John JA
July 24, 2006

The appellant and another, both armed and disguised, entered the victim’s restaurant and robbed and beat him and his watchman. The appellant was charged with and subsequently
convicted for Robbery with Aggravation and was sentenced to five (5) years imprisonment with hard labour.

**Aggravating Factors:**
- The gravity of the offence;
- The prevalence of this type of offence;
- The appellant’s record of similar previous offences.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Five (5) years imprisonment with hard labour.

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**Kerwin Romeo v PC Kerwin Horsford**  
C.A.MAG.21/2005  
Weekes JA, Soo Hon JA  
November 03, 2005

The appellant broke into and entered the kitchen of the restaurant of the complainant by breaking a window and jumping through. He exited the building by jumping through another window where he was accosted by police officers and caught red handed. He was carrying some kitchen towels owned by the complainant. The appellant pleaded not guilty.

The court imposed a sentence of eight (8) years imprisonment with hard labour.

**Aggravating Factors:**
- The prevalence of the offence;
- The appellant had previous convictions.

**Mitigating Factors:**
- None.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Eight (8) years imprisonment with hard labour.

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**(*) Sunil Rampersad v PC Colin Noel**  
C.A.MAG.13/2004  
Hamel-Smith JA, Kangaloo JA  
December 14, 2004

The appellant was convicted of Larceny of the victim’s white Mitsubishi pick-up motor vehicle valued at $80,000.00 which was initially rented to the appellant for 2 days pursuant to an agreement between the parties. The appellant was sentenced to six (6) years imprisonment with hard labour.
Aggravating Factors:
- The prevalence and seriousness of the offence;
- The appellant showed no remorse;
- The appellant pleaded guilty to 3 similar matters, which demonstrated that he was on a mission to steal and defraud other people of their properties.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Six (6) years imprisonment with hard labour.

(*) Anthony Pierre v PC Liston Taylor
C.A.MAG.180/2004
Nelson JA, John JA
November 25, 2004

The appellant, armed with a gun, robbed the victim of $100.00 in cash. The appellant was a passenger in the victim’s taxi. The appellant exited the vehicle and went towards the driver’s side, placed the gun at the driver’s neck and demanded that he hand over his money. The appellant was convicted of Robbery with Aggravation and sentenced to forty (40) months imprisonment with hard labour.

Aggravating Factors:
- Previous convictions;
- Prevalence of Armed Robbery;
- Need to punish the appellant;
- Need to deter others from committing such offences.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Forty (40) months imprisonment with hard labour.

(*) Jason Phillip v Cpl Collis Hazel
C.A.MAG.7/2004
Hamel-Smith JA, Jones JA
August 5, 2004

The appellant grabbed the victim’s gold chain valued at 300 pounds sterling. The appellant was charged with Robbery with Violence and was sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
- The victim was a visitor to the island of Tobago and when such acts occur, they send the wrong message to potential visitors and may well have a negative effect on the tourism industry;
• The nature of the offence;
• The appellant’s antecedents;
• The court felt that a message should be sent.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour.

(*) Larry Marin and Steve Ademola v PC Suroogenath Jagdeo
C.A.MAG.35/2004
Sharma JA, Warner JA
July 5, 2004
The appellants, who were armed with a cutlass and a piece of wood, robbed the victim in his home. The victim sustained two chop wounds on his hand during the robbery. The appellants robbed the victim of a wallet valued at $10.00 and $486.00 in cash. The appellants were convicted of Armed Robbery and each sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
• The first appellant had 5 previous convictions;
• Prevalence of the offence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
5 years imprisonment with hard labour.

(*) Keshan Roberts v PC Anthony Bucchan
C.A.MAG.262/2003
Sharma CJ, Mendonca JA
April 5, 2004
The appellant and others, armed with guns and cutlasses, robbed the victim of $500.00 and used personal violence on him. The victim knew the appellant for a period of 5 years prior to the incident. The appellant was sentenced to two (2) years imprisonment with hard labour.

Aggravating Factors:
• Seriousness of the offence;
• Prevalence of the offence;
• The victim was chopped during the robbery.

Mitigating Factors:
• No previous convictions.
Disposition:
Appeal dismissed. Sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.

(*) Stephan Subero v SRP Eric George A2-46
C.A.MAG.234/2003
Warner JA, Kangaloo JA
March 4, 2004

The victim had cause to stop his car which he was driving. As he opened the bonnet, the appellant approached, armed with a cutlass, and told him to pass all he had. The victim was robbed of one gold ID band valued at $2,000.00, one gold ring valued at $1,000.00, one gold ring valued at $500.00, $60.00 in TT currency and $10.00 in US currency. The appellant was convicted on a charge of Armed Robbery for which the court ordered compensation and a fine of $4,000.00, in default two (2) years imprisonment with hard labour.

Aggravating Factors:
- The nature and prevalence of the offence.

Mitigating Factors:
- The age of the appellant;
- This was the appellant’s first offence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.

(*) Willis Frederick v PC Hugh Elbourne A2-47
C.A.MAG.108/2003
Nelson JA, Kangaloo JA
March 3, 2004

The victim left the hotel where he was staying and got into the taxi driven by the appellant. When he arrived at his destination, the appellant indicated that he would have to help him out of the seatbelt. After tugging at the belt for a considerable time, he told the victim that it was no longer stuck and he could get out. The victim exited the vehicle, took a few steps and then noticed that the money he had in his front trouser pocket was missing. The appellant was charged with Larceny of $500.00 US currency. Upon conviction, the appellant was sentenced to one (1) year imprisonment with hard labour.

Aggravating Factors:
- The previous conviction of the appellant; the appellant was a repeat offender having been convicted of a similar offence about 4 months before the date of sentence;
- The right of persons living in and visiting our country to their property and protection of the law;
• The necessity to send a clear message to others that deviant behaviour would not be tolerated;
• The fact that the appellant was of sufficient maturity and understanding to comprehend the consequences of his actions.

Mitigating Factors:
• The monies were recovered. Further hardship and loss were averted by the cooperation of the appellant.

Disposition:
Appeal dismissed. Conviction and sentence affirmed. Exhibit US$500.00 to be returned to the victim.

Sentence:
One (1) year imprisonment.

(*) Alec Prosper v PC Anthony Layne
C.A.MAG.367/2003
Hamel-Smith JA, Kangaloo JA
December 9, 2003

The appellant was charged with Breaking and Entering the dwelling house of the victim where a stereo system valued at $1,800.00 was stolen. He was sentenced to two (2) years imprisonment with hard labour and ordered to pay compensation in the amount of $1,800.00 or six (6) weeks simple imprisonment in default (to run concurrently).

Aggravating Factors:
• Previous conviction for similar offence;
• Serious offence and prevalent in society.

Mitigating Factors:
• Pleaded guilty;
• Spent 10 months on remand.

Disposition:
Appeal dismissed. Sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour and ordered to pay compensation in the amount of $1,800.00 or six (6) weeks simple imprisonment.

(*) Carlos Williams v PC Amon Andrews
C.A.MAG.265/2003
Warner JA, Nelson JA
December 2, 2003

The twenty-one (21) year old appellant robbed the victim of her cellular phone valued at $3,500.00 and, at the time of the robbery, used personal violence on her by pushing her to the ground. He was sentenced to two (2) years imprisonment with hard labour.
Sentencing Handbook 2016

Aggravating Factors:
- The nature and prevalence of the offence;
- The seriousness of the offence.

Disposition:
Appeal dismissed. Sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.

(*) Patrick Holder v PC David Williams
C.A.MAG.195/2003
Hamel-Smith JA, Jones JA
November 7, 2003
The victim met the appellant whom he knew for 20 years prior. The appellant asked, “What you have in your pocket?” whereupon the victim replied, “nothing”. The appellant then pushed his hand into the victim’s pocket and punched him. The victim ran but was chased, held and beaten, and his money ($485.00) and a wrist watch valued at $145.00 were taken by the appellant. The appellant was charged with Robbery with Aggravation. Upon conviction, the appellant was sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):
- The antecedent of the appellant;
- The nature of the offence.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Fined $500.00.

(*) Lincoln Samaroo v Sgt Reid
C.A.MAG.5/2003
Jones JA, Warner JA
August 5, 2003
The appellant was charged with Breaking and Entering the dwelling house of the victim where he stole a leather pouch valued at 10 pounds sterling, 2 British passports valued at 40 pounds sterling, 2 airline tickets valued at 50 pounds sterling, 2 bunches of keys valued at 10 pounds sterling, $600.00 in US currency and $3,600.00 in TT currency. He pleaded guilty and was sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
- The number of crimes that had been perpetrated against persons who were visitors to the island of Tobago;
- The negative impact of the said crimes on the island’s tourism, coupled with the need to send a very strong message to persons who felt that crime was a lucrative trade to embark upon;
• The appellant seemed to show no remorse (detected upon analysis of the appellant’s statement and the fact that the appellant went on a shopping spree with the money).

Disposition:
Appeal against conviction dismissed. Conviction affirmed. Sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.

(*) Lincoln Wilkinson v PC Peter Wallace  A2-52
C.A.MAG.35/2002
Jones JA, Warner JA
August 4, 2003

The respondent executed a search warrant at the home of the appellant, a security guard, and recovered items reported stolen by the victim with the exception of $652.00 cash. The appellant was charged with Housebreaking and Larceny for which he was subsequently convicted and sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
• The prevalence of the offence;
• The appellant showed no remorse;
• The occupation of the appellant (a security guard at a luxurious resort).

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour.

(*) Colin Ruiz v Dale Griffith  A2-53
C.A.MAG.54/2003
Lucky JA, Kangaloo JA
June 27, 2003

The appellant pleaded guilty to a charge of Larceny of the victim’s Ford Laser Motor Car valued at $15,000.00. He was sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
• The nature and prevalence of the type of offence;
• The fact that the appellant knew what he was doing was wrong;
• The deterrent effect.

Mitigating Factors:
• The fact that the appellant pleaded guilty at the earliest opportunity.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Five (5) years imprisonment with hard labour.

(ª) Jason Isaac v PC Smith
C.A.MAG.183/2002
Nelson JA, Lucky JA
March 27, 2003

The appellant, armed with a cutlass, robbed the victim (someone he knew for over 18 years) of $40.00 in cash and, at the time, used personal violence. The appellant was charged with Armed Robbery and was sentenced to two (2) years imprisonment with hard labour upon conviction.

Aggravating Factors:
- The seriousness of the crime;
- The fact that the robbery was inflicted upon a person whom the appellant knew for over 18 years;
- The appellant showed no remorse.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.

(ª) Shivnarine Soodwah v PC Terence Rahim
C.A.MAG.170/2002
Sharma CJ, Hamel-Smith JA
March 26, 2003

The appellant received a Sony PlayStation valued at $4,435.86 to conduct modifications but he admittedly pawned it. He was charged with Larceny. Upon conviction, the appellant was sentenced to six (6) months imprisonment with hard labour.

Aggravating Factors:
- The seriousness and prevalence of the offence;
- The appellant showed no remorse whatsoever;
- The appellant had one previous conviction for a similar offence for which he was fined;
- The sentence must act as a deterrent to other technicians who might be tempted to do what the appellant did.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Six (6) months imprisonment with hard labour.
(8) Marvin Marcer v PC Terrill Figaro
C.A.MAG.124/2002
Nelson JA, Lucky JA
February 24, 2003
The appellant, armed with a gun and in the company of another person who was armed with a knife, entered a drug store owned by the victim and used personal violence against her. The accomplice stuck a knife into the victim’s left side and threw her to the floor while the appellant pointed a gun at her and threatened to shoot. They stole $737.00 and 2 bottles of Tisane valued at $79.95. The appellant was convicted of Robbery with Violence and sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:

• 2 previous convictions, including one for the offence of Robbery.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Five (5) years imprisonment with hard labour.

(8) Shawn Forde v PC Balram Roopnarine
C.A.MAG.35/2002
Nelson JA, John JA
November 28, 2002
The appellant was charged with Robbery with Aggravation of $185.00 and of a gold chain valued at $1,200.00. He was sentenced to six (6) years imprisonment with hard labour. He appealed against conviction and sentence.

Aggravating Factors:

• The nature, gravity, and prevalence of the offence.

Disposition:

Sentence affirmed.

Sentence:

Six (6) years imprisonment with hard labour.

(8) Ian Barrington v PC Rommel Persad
C.A.MAG.81/2002
de la Bastide CJ, Jones JA
May 29, 2002
The victim and another were seated in a vehicle when the appellant and another person, being armed with a firearm and a knife, robbed the victim of $400.00 and his keys. The appellant was convicted on a charge of Armed Robbery and was sentenced to four (4) years imprisonment with hard labour.
Aggravating Factors:

- The prevalence and seriousness of the crime.

Mitigating Factors:

- The age of the appellant.

Disposition:

Appeal dismissed. Conviction affirmed.

Sentence:

Four (4) years imprisonment with hard labour.

(*) Marlon Ryan v PC Clayton Solomon
C.A.MAG.61/2002
Hamel-Smith JA, Kangaloo JA
May 28, 2002

The appellant was charged with Breaking and Entering a dwelling house where items valued at $3,198.00 were stolen. He was sentenced to four (4) years imprisonment with hard labour.

Aggravating Factors:

- The appellant had 8 previous convictions, 3 of which were for dishonesty.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Four (4) years imprisonment with hard labour.

(*) Nigel Singh v PC Heeralal Singh
C.A.MAG.53/2002
Hamel-Smith JA, Kangaloo JA
May 28, 2002

The appellant and another boarded a taxi driven by the victim and robbed him. A struggle ensued and the appellant stabbed the victim, robbed him of $500.00, and threw him out of the vehicle and then drove off with the victim’s car. The appellant was convicted on a charge of Armed Robbery and sentenced to seven (7) years imprisonment with hard labour.

Aggravating Factors:

- Within recent times, there had been an upsurge of these types of crimes;
- Duty of the courts to reassure members of the public that they can enjoy their private property without their rights being infringed by the lawless minority;
- The appellant had a previous conviction for Possession of Cocaine. He was twenty-one (21) years old at the time of the offence.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Seven (7) years imprisonment with hard labour.

(*) Andre Supersad v PC Sheldon Sylvester
C.A.MAG.32/2002
Permanand JA, Warner JA
May 27, 2002
The victim parked his vehicle near the airport and upon returning, discovered that it was missing. Police officers later apprehended the appellant who was found in possession of the stolen vehicle. The appellant was charged with Larceny of a Motor Vehicle valued at $10,000.00 and sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
• Serious and prevalent offence.

Mitigating Factors:
• Registration plates were unchanged;
• The vehicle was discovered a short while later.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour.

(*) Wayne Charles, Ansley Anthony Fournillier, Lyndon Waldron v PC Michael Ashby
C.A.MAG.15/2002
Jones JA, Lucky JA
May 25, 2002
The defendants, armed with firearms, together robbed the victim of $300.00 at her grocery store. They were convicted of Armed Robbery and were sentenced to five (5) years imprisonment.

Aggravating Factors:
• The prevalence of this type of offence;
• The distress and trauma it usually causes;
• The previous conviction of the 1st named defendant;
• The previous convictions of the 2nd named defendant.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour.
The appellant operated a used car and car parts business at his home. The respondent executed a search warrant on the appellant’s premises upon which he seized parts of a beige Datsun 280c. The appellant was convicted on a charge of Larceny of a Datsun 280c Motor Car valued at $40,000.00, the property of the victim. He was sentenced to four (4) years imprisonment with hard labour.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Three (3) years imprisonment with hard labour.

The appellant was charged with Armed Robbery of the victim’s gold chain valued at $1,000.00. Upon conviction, the appellant was sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors:
- The seriousness and prevalence of this type of offence;
- The prevailing climate in the country where the use of firearms in robberies may result in the demise of a number of victims;
- The appellant admitted having 3 previous convictions for serious offences, two of which were for robberies;
- His previous incarceration for similar offences did not serve its purpose as a deterrent.

Disposition:
Appeal dismissed. Conviction affirmed.

Sentence:
Three (3) years imprisonment with hard labour.

The appellant committed 6 Larceny offences in his neighbourhood. He was convicted of Breaking and Entering 5 dwelling houses and was sentenced to 3 “two-year” terms of imprisonment to run consecutively and 2 “two-year” terms to run concurrently. He was
also convicted of Stealing from a Dwelling House and sentenced to a six (6) month term of imprisonment to run concurrently.

**Aggravating Factors (considered by the magistrate):**
- The appellant broke into the houses of two of the neighbours on two occasions. Such repeated acts on these two victims were found to be more heinous;
- The fact that the appellant would steal from his neighbours;
- The appellant was employed at an estate and therefore was not financially deprived and he had caring parents, making his behaviour difficult to rationalise.

**Mitigating Factors (considered by the magistrate):**
- No previous convictions;
- Plead guilty;
- The appellant was illiterate;
- The appellant was seventeen (17) years old at the time of the offence and twenty-two (22) years old at the time of the trial.

**Disposition:**
Appeal dismissed. Conviction affirmed. Sentences varied. Sentence affirmed on the charge of Stealing from a Dwelling House (to run concurrently).

**Sentence:**
Five (5) years imprisonment with hard labour on each case of Breaking and Entering.

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(*) Valentino Duprey v PC John Ramdeen

C.A.MAG.83/2001

Jones JA, Nelson JA

May 22, 2002

The appellant, together with another, being armed with a cutlass, jumped out of some bushes and attempted to rob the victims (2 brothers). The appellant was convicted of Assault with Intent to Rob and Armed Robbery. He was sentenced to three (3) years imprisonment with hard labour on the former charge and seven (7) years imprisonment with hard labour on the latter charge.

**Aggravating Factors:**
- The appellant had 4 previous convictions.

**Disposition:**
Appeal dismissed. Conviction and sentences affirmed.

**Sentence:**
Three (3) years imprisonment with hard labour on the charge of Assault with Intent to Rob.
Seven (7) years imprisonment with hard labour on the charge of Robbery.
(*) Stephen Durity and Alvin Jahgoo v PC Victor Eastman  
C.A.MAG.223/2001  
Jones JA, Nelson JA  
May 22, 2002

The victim was asleep and heard the front door open. The appellants came into his room and asked “where the money” and started to shove their hands into his pockets. The appellants were charged with Robbery. Upon conviction, Durity was sentenced to five (5) years imprisonment with hard labour while Jahgoo received three (3) years imprisonment with hard labour.

Mitigating Factors:  
• None identified by the court despite the fact that Jahgoo had no previous convictions.

Disposition:  
Conviction and sentence affirmed.

Sentence:  
Five (5) years imprisonment with hard labour regarding Durity.  
Three (3) years imprisonment with hard labour regarding Jahgoo.

(*) Kerry Hackshaw v PC Richard Levia  
C.A.MAG.155/2001  
Sharma JA, Permanand JA  
May 17, 2002

The appellant approached the victim and told him that he was a police officer and required a drop to Diego Martin. It was on this basis that the victim complied. Thereafter, the appellant robbed the victim of a wallet which contained $1,560.00 in cash and immediately before the Robbery used personal violence on the victim. He was sentenced to two (2) years imprisonment with hard labour.

Aggravating Factors:  
• The appellant falsely represented that he was a police officer;  
• The use of violence;  
• The prevalence of the offence and the need for the court to show its abhorrence of this sort of crime.

Mitigating Factors:  
• Guilty plea entered;  
• The appellant’s previously clean record.

Disposition:  
Appeal dismissed. Conviction and sentence affirmed.

Sentence:  
Two (2) years imprisonment with hard labour.
(§) Cedric Franklyn v PC Urick Prescott  
C.A.MAG.143/2001  
de la Bastide CJ, Kangaloo JA  
May 16, 2002  

The appellant, armed with a gun and in the company of two other armed persons, entered a business place and demanded that everyone lie on the floor. They robbed customers and employees of items cumulatively valued at $58,787.14. The appellant was convicted of Armed Robbery and sentenced to five (5) years imprisonment with hard labour.

**Aggravating Factors:**
- Previous conviction for possession of arms and ammunition;
- Serious and prevalent offence.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Five (5) years imprisonment with hard labour.

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(§) Sheldon Harripaul v PC Emrol Bruce  
C.A.MAG.108/2001  
Hamel-Smith JA, Permanand JA  
November 23, 2001  

The appellant was convicted of the offence of Larceny of a Motor Vehicle and was sentenced to four (4) years imprisonment with hard labour.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Four (4) years imprisonment with hard labour.

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Patrick Wellington v WPC Charlina James  
C.A.MAG.59/2000  
Hamel-Smith JA, Nelson JA  
July 3, 2001  

The victim was plying his taxi when his two remaining passengers announced a hold up. The accomplice was armed with a firearm that was placed at the victim’s neck. He stopped the car and managed to run off. The victim was robbed of his vehicle, jewellery, and cash, together valued at $10,425.00. The appellant was convicted of Robbery with Aggravation and sentenced to four (4) years imprisonment with hard labour.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Four (4) years imprisonment with hard labour.
Ryan Osbourne v PC David Powder
C.A.MAG.23/2001
de la Bastide CJ, Jones JA
May 24, 2001

The appellant and two others were charged with Breaking and Entering the home of the victim where a quantity of items valued at $5,860.00 were stolen. The appellant was sentenced to three (3) years imprisonment with hard labour.

**Aggravating Factors:**
- Three previous convictions;
- Seriousness and prevalence of the offence;
- Need to protect the property of persons in society.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Three (3) years imprisonment with hard labour.

Siew Tambie v PC Jankienanan
C.A.MAG.26/2001
Hamel-Smith JA, Jones JA
April 5, 2001

The appellant was charged with stealing the victim’s car battery valued at $2,500.00. The appellant pleaded guilty and upon conviction, he was sentenced to eighteen (18) months imprisonment with hard labour.

**Aggravating Factors (considered by the magistrate):**
- The prevalence of the offence.

**Mitigating Factors (considered by the magistrate):**
- The age of the appellant;
- His clean record.

**Disposition:**
Appeal against sentence allowed. Conviction affirmed. Sentence varied.

**Sentence:**
Fined $3,000.00 or nine (9) months imprisonment with hard labour and compensation of $2,500.00 or three (3) months hard labour.

Derrick Vincent v PC Winston Noel
C.A.MAG.238/2000
de la Bastide CJ, Jones JA
January 23, 2001

Police officers observed the appellant passing stolen items to two accomplices through a broken glass pane of a furniture store. The appellant was charged with Breaking and Entering
and stealing items collectively valued at $10,494.75. He was sentenced to five (5) years imprisonment with hard labour.

**Aggravating Factors (considered by the magistrate):**
- Previous convictions;
- The prevalence and seriousness of the offence;
- The appellant showed no remorse.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Five (5) years imprisonment with hard labour.

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(*) Marlon St John v PC Rampersad  
C.A.MAG.118/2000  
de la Bastide CJ, Warner JA  
November 21, 2000

The appellant and others, being armed with revolvers and cutlasses, robbed the victim at his home. The appellant and the other perpetrators gained entry by kicking open the door. They initially demanded gold and money but left with a record player valued at $2,000.00, gold earrings, a new pair of boots and about $300.00 in silver. The appellant was sentenced to six (6) years imprisonment with hard labour after being convicted for Armed Robbery.

**Aggravating Factors:**
- Although the appellant did not have a gun, he was part of the common design and plan to use arms to commit the offence;
- The appellant had 2 previous convictions.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Six (6) years imprisonment with hard labour.

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(*) Earl Hernandez v PC Balram Roopnarine  
C.A.MAG.94/2000  
Sharma JA, Nelson JA  
November 20, 2000

The appellant stole one Diascon monitoring meter valued at $350.00, the property of the Ministry of Health. Upon conviction for Larceny, he was fined $500.00, in default two (2) months imprisonment with hard labour.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fine of $500.00, in default two (2) months imprisonment with hard labour.
The appellant was charged with and convicted of stealing the victim’s growing oranges valued at $50.00 for which he was fined $500.00 or two (2) months imprisonment with hard labour. Additionally, he was ordered to pay $50.00 compensation to the victim or ten (10) days simple imprisonment.

**Aggravating Factors (considered by the magistrate):**

- The previous convictions of the appellant for Loitering, Larceny, Possession of Marijuana and Being Found on Cultivated Lands.

**Other Factors:**

- The occupation of the appellant (handyman).

**Disposition:**

Appeal dismissed. Conviction affirmed. Sentence varied.

**Sentence:**

Fined $300.00, in default two (2) months imprisonment with hard labour.

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The appellant approached the victim’s van and placed a knife to his neck. The victim then handed over $551.00. The appellant was convicted on a charge of Armed Robbery and was sentenced to three (3) years imprisonment with hard labour.

**Aggravating Factors:**

- The appellant had previous convictions and the court treated him as a habitual offender who had no intention of being rehabilitated.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

Three (3) years imprisonment with hard labour.

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Both appellants entered a sports store, armed with a gun and knife, and robbed the victims of $6,000.00 in cash and various items together valued at $31,252.00. The appellants were
jointly charged with Armed Robbery and sentenced to seven (7) years imprisonment with hard labour.

**Aggravating Factors:**
- The Court found the crime to be a “cold and well-orchestrated plan of Armed Robbery”.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Seven (7) years imprisonment with hard labour.

(*) Steve Parris v PC Deopersad Jankienan  
C.A.MAG.75/2000  
de la Bastide CJ, Warner JA  
June 30, 2000

The victim was a salesman whose truck was parked outside a shop for the purpose of conducting a sale. The appellant, armed with a knife, approached the victim while he was at the back of the truck and robbed him of $1,955.00 in cash. The appellant was charged with Armed Robbery and was sentenced to seven (7) years imprisonment with hard labour upon conviction.

**Aggravating Factors (considered by the magistrate):**
- The type, nature and prevalence of the offence;
- The fact that the appellant admitted to “a string of convictions”.

**Disposition:**
Appeal dismissed. Conviction affirmed. Sentence varied.

**Sentence:**
Five (5) years imprisonment with hard labour.

(*) Anslem Felix v PC Gregory Renwick  
C.A.MAG.72/2000  
Sharma JA, Nelson JA  
June 29, 2000

The victim’s parlour was the scene of a robbery involving the appellant and three other men, one of whom had a gun, while the appellant and the others were armed with cutlasses. The men stole several items, namely a gold ring, three chains and $600.00. The appellant was charged with Armed Robbery for which he was convicted and sentenced to four (4) years imprisonment with hard labour.

**Aggravating Factors (considered by the magistrate):**
- The nature and seriousness of the offence which involved violence and out of which the victim lost valuable jewellery and cash;
- The appellant had 3 previous convictions, all for serious offences.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Four (4) years imprisonment with hard labour.

(*) Keith Douglas v PC Glen Teesdale  
C.A.MAG.252/1999  
Ibrahim JA, Permanand JA  
March 27, 2000

The appellant and another drove the victim's car right out of her gate without her consent. The appellant was charged with Larceny of the victim's motor vehicle valued at $45,000.00. He was convicted and sentenced to four (4) years imprisonment with hard labour.

Aggravating Factors:
- The nature and seriousness of the offence;
- The frequency with which this sort of offence was occurring;
- The condition in which the victim got back her car.

Mitigating Factors:
- The appellant had a clean record.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Four (4) years imprisonment with hard labour.

(*) Akeisha Jordon v PC Joseph Charles  
C.A.MAG.287/1999  
Hamel-Smith JA, Jones JA  
February 25, 2000

The appellant was convicted of Larceny of Toiletries valued at $76.49 from a convenience store and was committed to the St. Jude's Home until she attained the age of eighteen (18). She was fourteen (14) years old at the time of the incident.

Aggravating Factors (considered by the magistrate):
- The appellant’s lack of remorse;
- The appellant’s attitude to the offence when cautioned by a police officer. She allegedly responded that the officers could not “do her anything because her mother knows someone”;
- The contents of a Probation Officer’s report which evidenced the lack of parental control in the appellant’s life; her two siblings were committed to a children’s home; the need for the appellant to be placed in a stable environment where she would be cared for, disciplined, supervised and guided.
Additional Factors:

- The age of the appellant;
- The welfare of the appellant.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Committed to St. Jude’s Home until the age of eighteen (18) years.

(*) Mc Lawrence Sampson v PC Richard Joseph  
C.A.MAG.327/1999  
Ibrahim JA, Permanand JA  
February 23, 2000

The appellant, in the company of another who was armed with a gun, robbed the victims of cash and items valued at $6,210.00 and their motor vehicle valued at $18,000.00. The appellant was convicted of Armed Robbery and sentenced to six (6) years imprisonment with hard labour to run consecutively to a current term that he was serving.

Aggravating Factors (considered by the magistrate):

- Seriousness of the offence;
- Prevalence of the offence;
- Firearm being used;
- No remorse shown on the part of the appellant.

Mitigating Factors (considered by the magistrate):

- Plead guilty, however, the magistrate did not give much discount to the guilty plea since the plea was made some eight and a half years after the charge, while the appellant was already serving a prison term.

Mitigating Factors (considered by the Court of Appeal):

- The appellant had served a twenty year prison term for other offences;
- The appellant pleaded guilty to the offences.

Disposition:

Appeal dismissed. Conviction affirmed and sentence varied.

Sentence:

Six (6) years imprisonment with hard labour to run concurrently with a prison term already being served.
(*) Kevon Phillips and Junior Joseph v PC Tom Bernard  
C.A.MAG. 176/1999  
Sharma JA, Warner JA  
February 22, 2000  
The appellants, together with another, robbed the victim of $1,500.00 in cash and a motor car valued at $40,000.00 and at the time used personal violence to the victim and threatened to kill him, and may have succeeded had it not been for a defective firearm. Each of the appellants was sentenced to five (5) years imprisonment with hard labour.

**Aggravating Factors (considered by the magistrate):**

- The threat to kill the victim;
- The presence of a gun which was pointed at the victim’s head;
- The pulling of the trigger of the gun which was defective;
- The callous nature of the appellants and their total disregard for the life of another.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

Five (5) years imprisonment with hard labour.

(*) Sheldon Mootilal v PC Christopher Paponette  
C.A.MAG. 180/2000  
de la Bastide CJ, Jones JA  
January 23, 2000  
The victim was plying his car for hire when the appellant and two other men entered. The appellant, armed with a firearm, robbed the victim of one Datsun Sunny motor car valued at $12,000.00, 2 Seiko gold plated wristwatches valued at $1,000.00 and $50.00 in cash. He was sentenced to five (5) years imprisonment with hard labour.

**Disposition:**

Appeal dismissed. Conviction affirmed. Sentence varied.

**Sentence:**

Three (3) years imprisonment with hard labour.

(*) Kendell Welch v PC Caesar Jordan  
C.A.MAG. 192/1999  
de la Bastide CJ, Permanand JA  
October 28, 1999  
The appellant, together with another, being armed with firearms, robbed the victim of 1 gold chain valued at $80.00, $6.00 US cash and $20.00 TT cash. He was sentenced to five (5) years imprisonment with hard labour.

**Aggravating Factors (considered by the magistrate):**

- The appellant had 1 previous conviction.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour

(*) Wayne Jobe v PC Ethelbert Jack
C.A.MAG.28/1998
de la Bastide JA, Jones JA
August 26, 1999
The appellant, a soldier, stole a ‘6 pack’ of beer valued at $39.90 from the victim and was charged accordingly. Upon conviction, he was fined $1,000.00 or three (3) months imprisonment with hard labour in default. He was also ordered to pay $39.90 compensation to the victim or two (2) weeks simple imprisonment in default.

Aggravating Factors (considered by the magistrate):
• The occupation of the appellant (soldier);
• The nature and prevalence of the offence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $1,000.00, in default three (3) months imprisonment with hard labour.
Compensation $39.90, in default two (2) weeks simple imprisonment.

(*) Dominique Longden v PC Stanislaus Hernandez
C.A.MAG.18/1998
de la Bastide CJ, Jones JA
August 25, 1999
The appellant was charged with Violently Robbing the victim of $25.00 after he grabbed her by her neck, threw her on the floor and pushed his hands into her underwear. He was found guilty and received a sentence of five (5) years imprisonment with hard labour.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour.
(*) Francis Young v PC John Adams  
C.A.MAG.27/1998  
de la Bastide JA, Jones JA  
August 25, 1999  
The appellant pleaded guilty to a charge of Breaking and Entering the store room of the victim and stealing therein items collectively valued at $4,943.17. He was fined $1,000.00 or three (3) months imprisonment in default. He was also ordered to pay $4,943.17 compensation to the victim, in default one (1) month simple imprisonment.

Aggravating Factors:
- The nature and prevalence of the offence;
- The appellant’s antecedent (previous conviction for malicious wounding).

Mitigating Factors:
- The age of the appellant (nineteen (19) years old);
- His socio-economic circumstances (expecting a child; employed at a garage);
- The appellant pleaded guilty to the offence.

Other Factors (not specified as either aggravating or mitigating):
- The explanation offered by the appellant.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $1,000.00, in default three (3) months imprisonment. Compensation $4,943.17, in default one (1) month simple imprisonment.

(*) Suresh Tom Ali v PC Beverly Carrington  
C.A.MAG.56/1999  
Hamel-Smith JA, Permanand JA  
May 28, 1999  
The 24 year old appellant was convicted of Breaking and Entering the dwelling house of the victim where various items cumulatively valued at $10,940.00 were stolen. He was sentenced to seven (7) years imprisonment with hard labour.

Aggravating Factors:
- The prevailing circumstances in the island concerning these types of offences and the need for the Court to act as a deterrent to any future similar offences.

Mitigating Factors:
- The appellant was a first time offender.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Seven (7) years imprisonment with hard labour.
(*) Anil Dass v PC Stephen Bronte-Tinkew  
C.A.MAG.45/1999  
Ibrahim JA, Jones JA  
May 27, 1999

The appellant was convicted of Larceny of a Lancer Motor Vehicle valued at $175,000.00. He was sentenced to four (4) years imprisonment with hard labour.

**Aggravating Factors (considered by the magistrate):**
- The high incidence of car stealing in the society.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Four (4) years imprisonment with hard labour.

(*) Mohammed Hosein v PC Terrence Augustin  
C.A.MAG.295/1998  
Sharma JA, Warner JA  
May 25, 1999

The appellant and another stole the victim's wallet from his pocket. The appellant bounced the victim while the other person placed his hand into the victim’s pocket and retrieved his wallet, valued at $40.00, and cash contained in the wallet amounting to $41.00. The appellant was convicted of Larceny and sentenced to ten (10) years imprisonment with hard labour.

**Aggravating Factors (considered by the magistrate):**
- The appellant was the senior partner in the crime; the other person was a child and the appellant was able to influence the other party in carrying out the crime.

**Mitigating Factors (considered by the magistrate):**
- The appellant pleaded guilty.

**Mitigating Factors (considered by the Court of Appeal):**
- No previous convictions;
- He was unrepresented at the Magistrates’ Court;
- He accepted the facts presented by the Prosecution;
- The appellant expressed remorse;
- He spent 15 months in prison before he was granted bail;
- The crime was not of the more serious types of Larceny cases. It was a case of “pick pocketing”;
- Plead guilty;
- The maximum sentence was imposed in this case.

**Disposition:**
Appeal allowed. Conviction affirmed. Sentence varied.

**Sentence:**
Eighteen (18) months imprisonment with hard labour.
(*) Claude Mc Kenna v Sgt Errol Denoon A2-94
C.A.MAG.5/1999
Sharma JA, Warner JA
May 25, 1999

The appellant, a police officer at the time of the offence, was convicted of stealing a pair of regulation boots valued at $129.25, the property of the Trinidad and Tobago Police Service. He was fined $1,500.00, in default three (3) months imprisonment with hard labour.

Mitigating Factors:
- The appellant was of ill health and had been hospitalised at certain periods during the history of the matter.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $1,500.00 or in default three (3) months imprisonment with hard labour.

(*) Ramong Vincent v WPC Jessica Constantine A2-95
C.A.MAG.319/1998
Hamel-Smith JA, Jones JA
February 26, 1999

The victim took her battery valued at $483.00 to the appellant to repair. When she returned to pick it up, he informed her that he had sold it for $100.00. The appellant was sentenced to two (2) months imprisonment with hard labour upon conviction on a charge of Larceny of the battery.

Aggravating Factors (considered by the magistrate):
- This was a clear case of dishonesty by someone who had been entrusted to do a job.

Disposition:
Order of the learned magistrate varied.

Sentence:
Fined $200.00 or in default four (4) weeks imprisonment with hard labour.

(*) Ricardo Ramdeo v PC Clifford Caesar A2-96
C.A.MAG.276/1998
Sharma JA, Jones JA
February 26, 1999

The appellant fled after he had snatched the victim’s gold bracelet valued at $1,500.00 from her hand, while she was in a maxi taxi. He was found guilty of Larceny of the said item and was sentenced to twelve (12) months imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):
- The frequency with which this type of offence occurred;
• The calculating manner in which the offence was executed;
• The appellant showed no contrition.

Disposition:
Appeal allowed. Sentence varied.

Sentence:
Fined $1,000.00 or in default four (4) months imprisonment with hard labour.

(*) Lennox Celestine v PC Ethelbert Aguilal
C.A.MAG.270/1998
Sharma JA, Jones JA
February 24, 1999

The appellant was convicted of Breaking and Entering his neighbour’s home and stealing items valued at $380.00. The appellant was sentenced to four (4) years imprisonment with hard labour. Appeal withdrawn.

Aggravating Factors:
• 15 previous convictions, most of which included Larceny convictions;
• Prevalence of the crime.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Four (4) years imprisonment with hard labour.

(*) Elvis Domingo v PC David Alexander
C.A.MAG.240/1998
Sharma JA, Jones JA
February 24, 1999

The victim was accosted and robbed by the appellant and another person of Clarks boots valued at $550.00. The appellant was convicted for the offence of Robbery with Violence and sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):
• The age of the appellant (nineteen (19) years old);
• The appellant had no previous convictions.

Disposition:
Appeal allowed. Sentence varied.

Sentence:
Appellant to sign a bond of good behaviour for three (3) years. In default, the appellant to come up for sentencing.
(ª) Carlyle Williams v PC Miguel Montrichard
C.A.MAG.235/1998
Sharma JA, Permanand JA
February 23, 1999
The appellant was charged with committing the following offences on a husband and wife: Larceny of a gold chain belonging to MW; Robbing GW of a gold pendant and at such time using personal violence to GW. The appellant was convicted and sentenced to three (3) years imprisonment with hard labour.

Disposition:
Appeal dismissed and sentence affirmed.

Sentence:
Three (3) years imprisonment with hard labour.

(ª) Richard Baines v PC Mervin Kitson
C.A.MAG.131/1997
Ibrahim JA, Hamel-Smith JA
December 18, 1997
The appellant, armed with a gun and in the company of another, entered the victim's store and stole several items of clothing and a radio cassette recorder together valued at approximately $3,750.00. The appellant was convicted of Robbery with Aggravation and sentenced to four (4) years imprisonment with hard labour.

Aggravating Factors:
- Prevalence of the offence;
- Seriousness of the offence;
- The appellant threatened to shoot the victim, thereby putting him in fear;
- The victim was an enterprising young man attempting to earn an honest living;
- The robbery was committed in a calculated manner;
- The appellant showed no remorse for his actions.

Mitigating Factors:
- No previous convictions.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Four (4) years imprisonment with hard labour.
(*) Lennox Mc Clean v PC Andy Williams  
C.A.MAG.20/1996  
Ibrahim JA, Hosein JA  
August 18, 1997  
The victim caught the appellant with 8 of his avocado pears valued at $24.00. He was charged with stealing same and with being on the lands of the victim. The appellant pleaded guilty to both charges and was fined $1,000.00 or three (3) months imprisonment with hard labour for stealing the produce and was reprimanded and discharged for being found on the land.

Aggravating Factors (considered by the magistrate):
- The prevalence of the offence which continued to plague farmers and cause them economic loss.

Mitigating Factors (considered by the magistrate):
- The appellant had no previous convictions.

Disposition:
Appeal dismissed with respect to case No. 4598/95. Conviction and sentence affirmed. Appeal dismissed with respect to case No. 4599/95. Conviction affirmed. Sentence varied from $1,000.00 to $200.00, in default thirty (30) days imprisonment with hard labour. Compensation ordered in the sum of $24.00.

Sentence:
Fined $200.00, in default thirty (30) days imprisonment with had labour for stealing the produce. Compensation ordered in the sum of $24.00.
Reprimanded and discharged for being found on the land.

(*) Eric Pierre v PC Valentine Millette  
C.A.MAG.1/1997  
Sharma JA, Permanand JA  
July 30, 1997  
The appellant, armed with a gun, approached the victim in the driveway of his home as he got out of his car and walked towards the gate. The appellant pointed the gun at the victim and demanded that he hand over all his money and jewellery. The appellant robbed the victim of jewellery, together valued at $3,910.00 and $2.00 in cash. The appellant was convicted and sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors:
- Seriousness and gravity of the offence;
- Prevalence of the offence.

Mitigating Factors:
- No previous convictions;
- The appellant was twenty-one (21) years old;
- The appellant’s background, his pre-adolescent and early teenage years were dominated by inner turmoil.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Three (3) years imprisonment with hard labour.

(*) Solomon Jhagro v PC Cooper A2-103
C.A.MAG.53/1997
Hamel-Smith JA, Hosein JA
July 29, 1997
The respondent was found guilty on a charge of Larceny of the victim’s Motor Vehicle valued at $30,000.00 and was sentenced to four (4) years imprisonment with hard labour.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Four (4) years imprisonment with hard labour.

(*) Andrew Lovelace v PC Sookram A2-104
C.A.MAG.50/1997
Hamel-Smith JA, Hosein JA
July 29, 1997
The appellant entered the victim’s motor vehicle (valued at $14,000.00) with another man and rigged the ignition and started driving away. When the respondent saw them, they abandoned the car and fled. 10 minutes after the chase the appellant, in attempting to scale a wall, was arrested. The appellant was later charged with Larceny of a Motor Vehicle. Upon conviction, he was sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
- The apparent age of the appellant;
- The very serious nature of the offence;
- The high prevalence of the offence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour.
The appellant was a driver authorised to collect money for a supermarket. He went to the police station to report that he had been robbed of cash and his driver’s permit. Subsequently, the police executed a search warrant at his home and found the driver’s licence, which the appellant had reported stolen. He was found guilty of Stealing Cash and Articles valued at $4,124.24 and Knowingly Making a False Police Report and was sentenced to three (3) years imprisonment with hard labour and six (6) months imprisonment with hard labour respectively.

Aggravating Factors:

- No mitigating circumstances, despite the fact that the appellant pleaded guilty due to: the nature of the appellant’s relationship with the institution that he robbed; the manner in which the robbery was committed was deplorable, if not abominable.

Disposition:


Sentence:

Six (6) months imprisonment with hard labour for Wasteful Employment of Police Time.

Two (2) years imprisonment with hard labour for Larceny.

The appellant was witnessed in the process of stealing a water pump valued at $2,060, which was the property of a hotel. He was charged with Larceny of same and upon conviction, he was sentenced to two (2) years imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):

- The appellant’s criminal record.

Disposition:

Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:

Compensation in the sum of $2,060.00, in default six (6) weeks simple imprisonment; fined $1,000.00, in default six (6) weeks hard labour; and placed on a bond to be of good behaviour for the period of two (2) years, in default to come up for sentencing.
(*) Narish Persaud v Sgt Boyd
C.A.MAG.23/1995
Ibrahim JA, Gopeesingh JA
March 24, 1997

The victim was about to enter his vehicle when the appellant and another man approached and demanded the keys thereto. The victim was relieved of his motor car valued at $70,000.00, a walkie-talkie and $1,000.00 cash TT currency. The appellant was convicted on a charge of Robbery and was sentenced to ten (10) years imprisonment with hard labour.

Aggravating Factors:
- The offence involved some measure of violence against the victim, carried out principally by an accomplice of the appellant;
- The court was of the view that the sentence would be an effective deterrent in respect of an offence that was very prevalent.

Mitigating Factors:
- The age of the appellant (twenty (20) years old);
- The fact that he was induced by someone else to commit the offence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Ten (10) years imprisonment with hard labour.

(*) Curtis Simmons v PC Sookraj
C.A.MAG.45/1995
de la Bastide CJ, Gopeesingh JA
June 27, 1996

The appellant was found guilty on a charge of stealing one brown and black purse valued at $30.00 and one Citizen watch valued at $300.00. He was sentenced to two (2) years imprisonment with hard labour.

Aggravating Factors:
- Previous criminal record of the appellant (4 previous convictions);
- The gravity and prevalence of the offence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.
(* ) Jagessar Moonesar v PC Anil Manick  
C.A.MAG.83/1993  
Ibrahim JA, Permanand JA  
May 29, 1996  
The appellant stole his neighbour’s Gould water pump valued at $600.00 for which he was charged with Larceny of said item. Upon conviction, he was fined $4,000.00, in default nine (9) months imprisonment with hard labour; costs $40.00, in default fourteen (14) days simple imprisonment. He was also ordered to pay compensation to the victim in the amount of $600.00, in default six (6) weeks simple imprisonment.

Aggravating Factors:
- The nature, gravity and prevalence of the offence;
- The relationship between the appellant and the victim.

Mitigating Factors:
- The appellant’s unblemished criminal record.

Disposition:
Appeal dismissed. Order of the magistrate affirmed.

Sentence:
Fined $4,000.00, in default nine (9) months imprisonment with hard labour. Compensation of $600.00, in default six (6) weeks simple imprisonment. Costs $40.00, in default fourteen (14) days simple imprisonment.

(* ) Roger Wiltshire v PC Don Lezama  
C.A.MAG.91/1994  
Hamel-Smith JA, Permanand JA  
December 19, 1995  
The appellant, with two other persons, armed with a gun, robbed the victim of money and articles valued at $12,800.00. The appellant pleaded guilty on a charge of Armed Robbery and was sentenced to ten (10) years imprisonment with hard labour.

Aggravating Factors:
- The gravity of the offence;
- The prevalence of such offences;
- The appellant showed absolutely no sense of remorse;
- The appellant had, three (3) months prior to commission of this offence, been released from the Youth Training Centre (YTC) after serving three (3) years for Possession of a Firearm.

Disposition:
Conviction and sentence affirmed. Sentence varied.

Sentence:
Five (5) years imprisonment with hard labour.
(*) Rickbert David Atkins v PC Edward Coa  
C.A.MAG.47/1994  
de la Bastide CJ, Permanand JA  
November 30, 1995

The appellant was convicted of Larceny of $21,060.00 which was taken under the pretext of being able to exchange it for United States currency. He was sentenced to two (2) years imprisonment with hard labour.

**Aggravating Factors:**

- The seriousness of the offence of Larceny;
- This was a crime of greed;
- The substantial sum of money involved;
- The punishment must fit the crime;
- The attitude of the appellant did not indicate to the Court with sincerity that he was indeed sorry for his conduct.

**Mitigating Factors:**

- The appellant was a first time offender.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

Two (2) years imprisonment with hard labour.

(*) Ulric Joaquim v PC Andrew Charles  
C.A.MAG.46/1992  
Gopeesingh JA, Hosein JA  
June 8, 1993

The appellant stole $800.00 in cash from the victim. The appellant offered to rent certain premises to the victim and the said cash was paid to him in pursuance of the agreement. Despite repeated requests, the appellant did not allow the victim to enter the property and neither was the money paid refunded to her. The appellant was convicted of Larceny and sentenced to six (6) months imprisonment with hard labour. He was also ordered to pay compensation in the sum of $800.00 or six (6) weeks simple imprisonment.

**Aggravating Factors:**

- Nature and gravity of the offence;
- Previous convictions.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

Sentenced to six (6) months imprisonment with hard labour. Compensation $800.00, in default six (6) weeks imprisonment.
(*) Abdullah Buckreedan and Stephan Figaro v PC Keith Sylvester

C.A.MAG.39/1992

Ibrahim JA, Gopeesingh JA, Hosein JA

April 22, 1993

The appellants were convicted of Larceny of the victim's new Charmant Motor Vehicle valued at $25,000.00. They were each sentenced to five (5) years imprisonment with hard labour. The first appellant was convicted as an accessory after the fact. He was an autobody repairer by trade and was instrumental in repainting the vehicle in question.

Aggravating Factors:

• The prevalence of the offence;
• The manner in which it was stolen.

Disposition:

Appeal dismissed. Sentence varied.

Sentence:

Two (2) years imprisonment with hard labour in respect of both appellants.

(*) Samaroo Singh v PC Ranjit Mootoo

C.A.MAG.299/1990

Bernard CJ, Hamel-Smith JA, Gopeesingh JA

June 16, 1992

The appellant was convicted for stealing two (2) cattle together valued at $3,000.00, the property of the victim. Upon conviction, he was sentenced to twelve (12) months imprisonment with hard labour.

Aggravating Factors:

• The appellant had two (2) previous convictions for similar offences;
• The prevalence of this type of offence;
• The difficulty in bringing offenders of this type to justice;
• The penalty which the law has provided;
• The need to deter the appellant and others from continuing to commit similar offences.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Twelve (12) months imprisonment with hard labour.
(*) Junior Scotland v Sgt Maurice Piggott  
C.A.MAG.199/1990  
Davis JA, Hamel-Smith JA, Gopeesingh JA  
July 29, 1991

The respondent was at his home when he was attracted by the sound of a motor car alarm. Upon looking out of the window, he saw the appellant standing alongside a Galant motor car. The trunk of the appellant’s car was open and a motor car wheel was placed therein. The appellant was charged with Larceny of a Motor Car wheel and was sentenced, upon conviction, to six (6) months imprisonment with hard labour.

Aggravating Factors:

- The appellant had 1 previous conviction;
- The prevalence of the offence.

Disposition:

Appeal allowed. Sentence varied.

Sentence:

Fined $2,000.00, in default four (4) months imprisonment with hard labour.

(*) Jerome Vincent v PC Christopher Fuentes  
C.A.MAG.163/1990  
James Davis JA, Hamel-Smith JA  
March 14, 1991

The appellant entered the victim’s place of business and stole three boxes of files valued at $300.00, hid them in the waist of his pants and walked out of the store. The appellant was convicted of Larceny and sentenced to two (2) years imprisonment with hard labour.

Aggravating Factors:

- 18 previous convictions.

Disposition:

Appeal dismissed. Conviction affirmed. Sentence varied; order of the magistrate varied from two (2) years imprisonment with hard labour to four (4) months imprisonment with hard labour.

Sentence:

Four (4) months imprisonment with hard labour.
The appellant, armed with a cutlass and a knife, together with another, robbed two victims of $750.00 cash and items valued at $335.00. The appellant was convicted of Robbery with Aggravation and sentenced to five (5) years imprisonment with hard labour.

**Aggravating Factors:**

- The appellant appeared before the court on 12 charges: 8 for Robbery, 2 for Housebreaking and Larceny and 1 for Possession of a Firearm and Ammunition;
- In 2 of the robberies, the victims were tied up and thrown into a cane field;
- All of the robberies occurred in the same community and the residents were put in fear for their lives;
- The appellant admitted to indulging in smoking cocaine and marijuana and drinking alcohol excessively;
- The need to protect society.

**Mitigating Factors:**

- Pleaded guilty;
- The age of the appellant: eighteen (18) years old.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

Five (5) years imprisonment with hard labour.
NOTES
AGGRAVATING FACTORS:

- Large quantity involved as opposed to a small amount for personal use;
- Well-orchestrated operation;
- High degree of involvement;
- Possession of the drug in a public place or school;
- The offender was acting in a position of special responsibility, for example a teacher or bus driver;
- Supply made to vulnerable persons including children;
- Involvement of vulnerable persons in the drug trade, including children;
- Persistent use or cultivation of the drug;
- Use of sophisticated systems of cultivation/trafficking/concealment;
- Carrying/Brandishing the firearm in a public place;
- Planned illegal use of the firearm;
- Persons in society were put in fear by the presence of the firearm;
- The offender participated in a violent incident while carrying the firearm.

MITIGATING FACTORS:

- Co-operates with law enforcement officials;
- Supplies valuable information on drug trafficking to law enforcement officials;
- Evidence submitted that the drug was used to assist with a medical condition;
- No intention to use the firearm.

**Current Maximum Penalties described for Drug Offences**

**Possession of any Dangerous Drug**

Prescribed penalty:

$25,000.00 and imprisonment for five (5) years: Section 5(1) of the Dangerous Drugs Act, Chapter 11:25.

**Cultivation of Marijuana**

Prescribed penalty:

$50,000.00 and imprisonment for ten (10) years: Section 5(3)(a) of the Dangerous Drugs Act, Chapter 11:25.
Trafficking a Dangerous Drug*
Prescribed penalty:
$50,000.00 or where there is evidence of the street value of the dangerous drug, three (3) times the street value of the dangerous drug, whichever is greater and imprisonment for a term of ten (10) years: Section 5(7)(A); Section 5(7)(B) of the Dangerous Drugs Act, Chapter 11:25.

Possession of a Dangerous Drug for the Purpose of Trafficking*
Prescribed penalty:
$50,000.00 or where there is evidence of the street value of the dangerous drug, three (3) times the street value of the dangerous drug, whichever is greater and imprisonment for a term of ten (10) years: Section 5(7)(A); Section 5(7)(B) of the Dangerous Drugs Act, Chapter 11:25.

Current Maximum Penalties for Possession of Firearms and/or Ammunition

Possession of a Firearm or Ammunition without Firearm User’s Licence*
Prescribed penalty:
$15,000.00 and imprisonment for eight (8) years; Section 6(3)(a)(i) of the Firearms Act, Chapter 16:01.

Carrying a Firearm or Ammunition in a Public Place*
Prescribed penalty:
$40,000.00 and imprisonment for eight (8) years: Section 8 of the Firearms Act, Chapter 16:01.

Selling/Transferring Firearms or Ammunition to a Person not being Holder of Firearm User’s Licence*
Prescribed penalty:
$75,000.00 or imprisonment for eight (8) years: Section 9(1)(a) of the Firearms Act, Chapter 16:01.

*Note: See Table of Maximum Penalties (Summary Convictions) at page XXX for History of and Changes to Offence and Penalty.
Christopher Odikagube v PC Riad Hosein
C.A.MAG.61/2014
Weekes JA, Soo Hon JA
January 25, 2017

The complainant met the appellant at FedEx International. The appellant had a brown envelope in his hand which was addressed to a person in the United Kingdom. The brown envelope contained cocaine weighing 40.5 grams with an estimated street value of $16,000.00. A search conducted at the appellant’s address revealed a white envelope found under a mattress containing a postcard and 40 grams of cocaine. The appellant was later charged with 2 counts of Possession of a Dangerous Drug for the Purpose of Trafficking. The appellant pleaded guilty.

Magistrate N Singh found that the appellant could be rehabilitated and become a productive member of society.

The court imposed a sentence of two (2) years imprisonment with hard labour for each count to run concurrently.

Aggravating Factors:

- The seriousness and prevalence of the offence;
- The appellant was highly organised and well prepared to engage in the trafficking of cocaine;
- The drug is one of the most addictive and spawns a multitude of derivative crimes and impacts the healthcare system;
- The package was intended to be exported thus would have tarnished the country’s reputation internationally.

Mitigating Factors:

- Guilty plea;
- No previous convictions;
- The appellant had a degree in economics;
- The age of the appellant (thirty-one (31) years old).

Current Maximum Penalty: Fine of $50,000.00 or three (3) times the street value if there is evidence, whichever is greater, and ten (10) years imprisonment.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Two (2) years imprisonment with hard labour for each count to run concurrently.
Marlon Bishop v PC Junior Bernard  
C.A.MAG.29/2015
Weekes JA, Narine JA
October 5, 2015

The police conducted surveillance at the appellant's premises and a search warrant was eventually executed at that address. In the appellant's room, the police found a white plate containing marijuana, a white paint bucket containing a plastic bag with marijuana and a brown bag containing a plastic bag with marijuana. The marijuana all weighed a total of 1,225.8 grams. The appellant was at work as a fire officer at the material time and was sent for and later arrested and charged. The appellant pleaded not guilty.

The court imposed a fine of $12,000.00, in default three (3) years imprisonment with hard labour, with time allowed of thirty (30) days on payment of $10,000.00 forthwith.

Aggravating Factors:

- The seriousness and prevalence of the offence;
- The quantum of the drug;
- The appellant was a fire officer who ought to be held responsible for an offence prevalent in the country.

Mitigating Factors:

- The appellant had no previous convictions.

Current Maximum Penalty: Fine of $50,000.00 or three (3) times the street value if there is evidence, whichever is greater, and ten (10) years imprisonment.

Disposition:

Leave to withdraw appeal granted. Conviction and sentence affirmed.

Sentence:

Fine of $12,000.00, in default three (3) years imprisonment with hard labour, with time allowed of two (2) weeks on payment of $10,000.00 forthwith, in default nine (9) months imprisonment with hard labour.

Anton Jones v PC Gary Santlal  
C.A.MAG.43/2015
Weekes JA, Soo Hon JA
September 30, 2015

The complainant observed the appellant walking along the old Train Line in Marabella while holding a black object in his hand. He placed the object under a heap of grass and walked away. The appellant then returned to the grass, took out a black bag and removed something from the bag before walking away once more. The complainant and another officer approached the appellant who began to run. He was pursued, arrested by the officers, and taken back to the heap of grass where the bag was kept. The black plastic bag contained one hundred and four (104) foil packets and a black packet with marijuana. The marijuana all weighed 143.03 grams. The appellant pleaded not guilty.
The court imposed a fine of $3,000.00, in default six (6) months imprisonment with hard labour, with time allowed of twenty-eight (28) days.

The sentence was appealed.

Aggravating Factors:

- The seriousness and prevalence of the offence;
- The appellant had four (4) previous convictions for possession of marijuana and cocaine.

Mitigating Factors:

- The age of the appellant at the time of the offence (twenty-six (26) years old);
- The appellant was employed as a farmer.

Current Maximum Penalty: Fine of $25,000.00 and five (5) years imprisonment.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fine of $3,000.00, in default six (6) months imprisonment with hard labour, with time allowed of twenty-eight (28) days.
Sentence:
Fine of $4,000.00 in default six (6) months imprisonment with time allowed of thirty (30) days.

Emily Collins v PC Wayne Charles  
C.A.MAG.38/2014  
Weekes JA, Soo Hon JA  
July 22, 2014  
The complainant along with other police officers executed a search warrant on the appellant’s premises. The appellant led the officers to a small bathroom-like area used as a storage room. There, the appellant pulled out a shirt wrapped around a pump action shotgun and said, “I find this.” When asked if he contacted the police to report that he found the gun the appellant remained silent. The appellant pleaded not guilty.  
The court imposed a sentence of three (3) years imprisonment with hard labour.  
Aggravating Factors:  
• Seriousness and prevalence of the offence;  
• The age of the offender (thirty-seven (37) years old).  
Mitigating Factors:  
• No previous convictions;  
• Gainfully employed;  
• Father of five (5) children and sole breadwinner;  
• Lengthy period spent incarcerated between arrest and trial.  
Current Maximum Penalty: Fine of $15,000.00 and eight (8) years imprisonment.  
Disposition:  
Appeal dismissed. Conviction and sentence affirmed.  
Sentence:  
Three (3) years imprisonment with hard labour. Sentence to run from date of conviction.

Dexter Mendoza v PC David George  
C.A.MAG.22/2014  
Weekes JA, Soo Hon JA  
June 26, 2014  
The complainant was on duty in Tarodale Garden when he found 720 grams of marijuana on the appellant.  
The court imposed a sentence of two (2) years imprisonment with hard labour.  
Aggravating Factors:  
• No aggravating factors listed in reasons.  
Mitigating Factors:  
• No mitigating factors listed in reasons.
Current Maximum Penalty: Fine of $25,000.00 and five (5) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.

Alfred Dookie v PC Keivon Lewis
C.A.MAG.23/2014
Weekes JA, Soo Hon JA
June 26, 2014

The complainant was on patrol duty when he observed a vehicle parked under a streetlight. The appellant, who was inside the vehicle, quickly handed over something to his co-appellant, who reclined his seat in the vehicle. The complainant approached the vehicle and found a cylindrical device adapted for the use of cocaine and also cocaine within the cylindrical device. The cylindrical object and the cocaine together weighed 0.6 grams. The appellant pleaded guilty.

Magistrate L Ramsumair-Hinds found it was important to send a clear signal to others who hold positions of trust and sensitivity and upon whom the State relies to provide domestic security that such hypocrisy would not be tolerated.

The court imposed, for possession of the device, a fine of a $400.00, in default three (3) months imprisonment with hard labour. For possession of cocaine, a fine of $600.00, in default three (3) months imprisonment with hard labour.

Aggravating Factors:
- Seriousness and prevalence of the offence;
- The appellant was a Customs and Excise Officer who worked at the airport who was entrusted with upholding the laws with regard to the import and export of contraband;
- The age of the appellant (thirty-eight (38) years old).

Mitigating Factors:
- No previous or pending convictions;
- Guilty plea and expression of remorse;
- Gainfully employed.

Current Maximum Penalty: Fine of $10,000.00 and up to six (6) months imprisonment for Possession of Device. Fine of $25,000.00 and up to five (5) years imprisonment for Possession of any Dangerous Drug.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fine of $400.00, in default three (3) months imprisonment with hard labour for Possession of Device.
Fine of $600.00, in default three (3) months imprisonment with hard labour for Possession of any Dangerous Drug (Cocaine).

David Abdullah v PC Avalon Frank  
C.A.MAG.25/2013  
Soo Hon JA, Mohammed JA  
March 25, 2014

The appellant was at Independence Square having a conversation with another male when he raised his left pants leg revealing a leg holster containing a Taurus pistol. The firearm contained 10 rounds of 0.380 ammunition. While attempting to arrest the appellant, the appellant started pulling away and had to be subdued with the assistance of other police officers before he was taken to the police station. The appellant pleaded guilty to each charge.

The court imposed a sentence of eighteen (18) months imprisonment with hard labour for the ammunition offence, eighteen (18) months imprisonment with hard labour for the firearm offence, and one (1) month imprisonment with hard labour for the resisting arrest offence.

**Aggravating Factors:**
- Seriousness and prevalence of the offence.

**Mitigating Factors:**
- No previous convictions;
- Gainfully employed for 7 years;
- Father of 3 children and sole breadwinner;
- Guilty plea indicating remorse and accepting responsibility for his actions.

**Current Maximum Penalty:** Fine of $15,000.00 and eight (8) years imprisonment for Possession of Ammunition. Fine of $15,000 and eight (8) years imprisonment for Possession of a Firearm. Fine of $10,000 and two (2) years imprisonment for Resisting Arrest.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed. The appellant subsequently succumbed to gunshot wounds.

**Sentence:**
- Eighteen (18) months imprisonment with hard labour for Possession of Ammunition without Firearm User's Licence.
- Eighteen (18) months imprisonment with hard labour for Possession of a Firearm without Firearm User's Licence.
- One (1) month imprisonment with hard labour for Resisting Arrest.
Faheed Mohammed v Sgt Frankie James
C.A.MAG.23/2013
Soo Hon JA, Mohammed JA
January 29, 2014

The appellant was a police officer with the San Fernando Municipal Office. The sentry on duty issued the appellant with a firearm and 14 live rounds of 9mm silver hollow point ammunition. When the appellant returned off duty he handed 13 of those rounds to another officer who enquired about the missing round. The appellant responded that he “cannot account for it”. The appellant left and returned to the station shortly after. He placed a round of ammunition on the desk indicating that he was replacing the bullet. This bullet was different from the others as it carried a brass tip with a full metal jacket round nose. The appellant was found to be unlawfully in possession of that 1 round of ammunition namely a full brass metal jacket round nose bullet. The appellant pleaded not guilty.

The court imposed a sentence of a $4,000.00 fine, in default two (2) years imprisonment with hard labour. $1,000.00 to be paid forthwith, with time allowed of twenty-eight (28) days.

Aggravating Factors:
- Employed as a police officer with the Municipal Office.

Mitigating Factors:
- No previous convictions;
- Gainfully employed;
- Father of 1 child.

Current Maximum Penalty: Fine of $15,000.00 and eight (8) years imprisonment.

Disposition:
Appeal allowed. The court ordered that the appellant be discharged conditionally under s 71(b) of the Summary Courts Act, Chapter 4:20.

Sentence:
Bond in the sum of $5,000.00 to keep the peace and be of good behaviour for a period of three (3) years, in default to appear for sentencing. NB – s 68(2) Summary Courts Act, Chapter 4:20 states that where a fine does not exceed $5,000.00 the default term of imprisonment shall not exceed nine (9) months.

Ryan Straker v CPL Rudranath Ramdhan and PC Safraaz Dookie
C.A.MAG.5/2013
Soo Hon JA, Mohammed JA
January 16, 2014

PC Dookie was on road check duty in Rio Claro when he signalled J, the driver of a motor vehicle, to stop. J accelerated and the police gave chase. The vehicle was subsequently intercepted and a bag containing 1.88 kilograms of marijuana was found at the feet of the appellant who was seated in the front passenger seat. The appellant was taken to the Rio Claro Police Station and a bag containing 21.84 grams of marijuana was found in his left front pants pocket. J testified that he was hired by the appellant and when the police approached,
the appellant threatened J and ordered him to drive fast. J was charged but found not guilty. The appellant pleaded not guilty.

The court imposed, for trafficking, four (4) years hard labour. For possession, a fine of $8,000.00.

**Aggravating Factors:**
- Seriousness and prevalence of the offence;
- The effects of drugs on society;
- The quantum of marijuana seized;
- Two previous convictions for similar offences.

**Mitigating Factors:**
- The age of the appellant.

**Current Maximum Penalty:** Fine of $50,000.00 or three (3) times the street value if there is evidence, whichever is greater, and ten (10) years imprisonment for Possession of a Dangerous Drug for the Purpose of Trafficking. Fine of $25,000.00 and five (5) years imprisonment for Possession of any Dangerous Drug.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Four (4) years imprisonment with hard labour for Possession of a Dangerous Drug for the Purpose of Trafficking.
Fine of $8,000.00 for Possession of any Dangerous Drug.

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**The State v Gideon Jones**
**C.A.MAG.21/2013**
Soo Hon JA, Moosai JA
November 21, 2013

The appellant was in possession of 3 grams of marijuana found on his person.

Magistrate L Ramsumair-Hinds started with a consideration of the aggravating factors, especially past criminal record, and mitigating factors. The appellant pleaded guilty.

The court imposed a fine of $3,000.00, in default two (2) months imprisonment with hard labour, with time allowed of two (2) weeks.

**Aggravating Factors:**
- The seriousness of the offence;
- The prevalence of the offence;
- The past criminal record of the appellant.

**Mitigating Factors:**
- Guilty plea;
- The appellant expressed remorse.
Current Maximum Penalty: Fine of $25,000.00 and five (5) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fine of $3,000.00, in default two (2) months imprisonment with hard labour, with time allowed of two (2) weeks.

The State v Arthur Boswell  
C.A.MAG.24/2013  
Soo Hon JA, Moosai JA  
November 21, 2013  
The appellant was the owner and driver of a motor vehicle in which 224 grams of marijuana was found along with $764.00 in a bag.
The appellant pleaded not guilty.
The court imposed a sentence of a $4,000.00 fine, in default nine (9) months imprisonment with hard labour; $2,000.00 to be paid within seven (7) days and the balance to be paid within twenty-eight (28) days. Money in the sum of $764.00 to be forfeited to the State.

Aggravating Factors:
- The seriousness of the offence;
- The prevalence of the offence;
- The appellant had 2 previous convictions in the Summary Court and 1 previous conviction in the High Court prior to the year 2000.

Mitigating Factors:
- The length of time passed since the offence and the time of sentencing;
- The appellant had 4 children and 3 grandchildren.

Current Maximum Penalty: Fine of $50,000.00 or three (3) times the street value if there is evidence, whichever is greater, and ten (10) years imprisonment.

Disposition:
Leave to withdraw appeal granted. Conviction and sentence affirmed.

Sentence:
Fine of $4,000.00, in default nine (9) months imprisonment with hard labour; $2,000.00 to be paid within 7 days and the balance to be paid within twenty-eight (28) days.

The State v Otis Henry  
C.A.MAG.48/2013  
Weekes JA, Mohammed JA  
November 19, 2013  
The appellant was in possession of a shotgun and twenty (20) rounds of ammunition.

Magistrate G Gonzales started with considering the maximum penalty for the offence in
accordance with s 6(3)(a)(i) of the Firearms Act, Chapter 16:01. The court treated the appellant as a first time offender in the absence of any information to his antecedents. The appellant pleaded not guilty.

The court imposed a sentence of three (3) years imprisonment with hard labour for the firearm and (3) years imprisonment with hard labour for the ammunition offence. To run concurrently.

The sentence was appealed on the ground that the conviction was not supported by evidence.

**Aggravating Factors:**
- The seriousness of the offence;
- The prevalence of the offence;
- The appellant absconded.

**Mitigating Factors:**
- No mitigating factors as the appellant absconded.

**Current Maximum Penalty:** Fine of $15,000.00 and eight (8) years imprisonment for each offence.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Three (3) years hard labour for Possession of a Firearm without Firearm User’s Licence.
Three (3) years hard labour for Possession of Ammunition without Firearm User’s Licence.
To run concurrently.

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Vishnu Ragbir v Gary John
C.A.MAG.086/2013
Soo Hon JA, Mohammed JA
October 11, 2013

Police officers were on mobile patrol in plain clothes in a marked police vehicle. The officers saw the appellant driving a motor vehicle and noticed that he quickly looked away from them and drove off. The officers became suspicious, intercepted the vehicle and informed the appellant of their observations. The police conducted a search in the vehicle driven by the appellant and found a black garbage bag behind the driver’s seat containing marijuana weighing 1.2 kilograms. The appellant pleaded guilty.

The appellant admitted that he was, “Just doing the transport to make a lil extra cash,” and the court found that he must have calculated that he was in danger of being caught and a sanction would be imposed. The appellant had two legitimate means of earning an income as a self-employed electrician and mason and should be held accountable for his actions. There was also a need to deter others.

The court imposed a sentence of two (2) years imprisonment with hard labour.
Aggravating Factors:
  • The seriousness and prevalence of the offences;
  • The quantum of drugs.

Mitigating Factors:
  • Guilty plea;
  • The appellant was a self-employed electrician and mason.

Current Maximum Penalty: Fine of $50,000.00 or three (3) times the street value if there is evidence, whichever is greater, and ten (10) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.

The State v Neil Narine  
C.A.MAG.13/2013  
Weekes JA, Soo Hon JA  
July 8, 2013

The appellant was in possession of 0.25 grams of marijuana.

Magistrate L Ramsumair-Hinds started with considering all aggravating and mitigating factors contrary to the Dangerous Drugs Act, Chapter 11:25. The appellant pleaded guilty.

The court imposed a sentence of a $2,000.00 fine, in default three (3) months imprisonment with hard labour, with time allowed of two (2) weeks.

Aggravating Factors:
  • The nature of the offence;
  • The prevalence of the offence;
  • The impact on national security.

Mitigating Factors:
  • Guilty plea;
  • No previous convictions.

Current Maximum Penalty: Fine of $25,000.00 and five (5) years imprisonment.

Disposition:
Leave to withdraw appeal granted. Conviction and sentence affirmed.

Sentence:
Fine of $2,000.00, in default three (3) months imprisonment with hard labour, with time allowed of twenty-four (24) hours.
The State v Katryna Browne
C.A.MAG.40/2013
Weeks JA, Narine JA
June 27, 2013

On October 21 2010, the appellant attempted to export certain prohibited goods to wit: approximately 833.3 grams of cocaine. The appellant had in her possession a dangerous drug, namely cocaine, for the purpose of trafficking. The appellant issued a guilty plea.

Magistrate E Gill started with considering the current maximum penalty for the offence; ten (10) years imprisonment and a fine of $50,000.00 or three times the street value where there is evidence, whichever is greater, in accordance with s 5(4) of the Dangerous Drugs Act, Chapter 11:25.

The court imposed a sentence of three (3) years imprisonment with hard labour for the trafficking offence and two (2) years imprisonment with hard labour for the attempt to export a prohibited good offence; sentences to run concurrently. Passport forfeited to the State.

The sentence was appealed on the ground of its severity.

**Aggravating Factors:**

- The seriousness and prevalence of the offence and its deleterious effects on the society;
- The quantity of the drug (833.3 grams);
- The clear legislative intent of Parliament as reflected by s 5(5) of the Dangerous Drugs Act, Chapter 11:25.

**Mitigating Factors:**

- Guilty plea;
- No previous convictions.

**Current Maximum Penalty:** Fine of $50,000.00 or three (3) times the street value if there is evidence, whichever is greater, and ten (10) years imprisonment.

**Disposition:**

In relation to the customs charge, the appeal was allowed and the conviction and sentence of the magistrate was quashed. In relation to the possession charge, the appeal was dismissed. The conviction and sentence of the magistrate were affirmed. Sentence to run from the date of conviction. The order in relation to the forfeiture of the passport was quashed.

**Sentence:**

Three (3) years imprisonment with hard labour for Possession of Cocaine for the Purpose of Trafficking.

Conviction and sentence quashed for the Attempted Export of Prohibited Goods (Cocaine).
Nicholas Mathura v SRP Raymond Mendoza
C.A.MAG.31/2012
Weekes JA, Soo Hon JA
December 11, 2012

The complainant conducted a search of the vehicle of the appellant where he found a black plastic bag containing 2 parcels containing plant like material resembling marijuana which weighed 895 grams. The appellant pleaded guilty.

The court imposed a sentence of three (3) years imprisonment with hard labour.

**Aggravating Factors:**
- The prevalence of the offence;
- The quantum of the drug;
- The seriousness of the offence;
- The appellant had a previous conviction for the same offence.

**Mitigating Factors:**
- The age of the appellant at the time of the offence (twenty (20) years old);
- The appellant’s family ties and background.

**Current Maximum Penalty:** Fine of $25,000.00 and five (5) years imprisonment.

**Disposition:**
Appeal allowed. Sentence varied.

**Sentence:**
Supervision by a Probation Officer for three (3) years;
Attend a Drug Prevention Rehabilitative Programme at least once a week and submit to random drug testing;
Reside at the home of his parents for probation period; Probation Officer to visit home and environs periodically;
Probation Officer may apply to the court for a variation of the order.

Keron Duncan v PC Adesh Bachoo
C.A.MAG.047/2012
Weekes JA, Soo Hon JA
December 3, 2012

The complainant was on patrol with other officers in a marked vehicle when he noticed the appellant walking in the opposite direction. The appellant looked in the direction of the police vehicle and began running in a drain at the side of the road. The complainant caught up with the appellant and performed a search where he found 2 cylindrical shaped objects, 1 red in colour and the other green, resembling shotgun cartridges. The appellant pleaded not guilty.

The court imposed a sentence of twenty-four (24) months imprisonment with hard labour.

**Aggravating Factors:**
- The seriousness and prevalence of the offence.
Mitigating Factors:

- None.

Current Maximum Penalty: Fine of $15,000.00 and eight (8) years imprisonment.

Disposition:

Appeal dismissed. Sentence varied.

Sentence:

Eighteen (18) months imprisonment with hard labour.

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Roger Duncan v PC Ronnie Ayers

C.A.MAG.27/2012

Weekes JA, Soo Hon JA

December 3, 2012

The complainant and other officers were on enquiries in an unmarked car and received information. They thereafter saw the appellant walking on the side of the road, he was searched and they recovered a silver metal object with a black handle resembling a firearm and an object resembling a magazine. The magazine contained four brass metal objects resembling ammunition. The appellant pleaded not guilty.

The court imposed a sentence of three (3) years imprisonment with hard labour for Possession of a Firearm without Firearm User’s Licence and three (3) years imprisonment with hard labour for Possession of Ammunition without Firearm User’s Licence to run concurrently.

Aggravating Factors:

- The seriousness and prevalence of the offence;
- The age of the appellant and the time of the offence (twenty-nine (29) years old);
- The appellant showed no remorse.

Mitigating Factors:

- The appellant had 2 small children;
- The appellant had no previous convictions.

Current Maximum Penalty: Fine of $15,000.00 and eight (8) years imprisonment for both offences.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Three (3) years imprisonment with hard labour for Possession of a Firearm without Firearm User’s Licence.

Three (3) years imprisonment with hard labour for Possession of Ammunition without Firearm User’s Licence.

To run concurrently.
Unill Phillip v PC Anil Persad
C.A.MAG.23/2012
Weekes JA, Soo Hon JA
July 23, 2012

On August 13, 2009 the complainant, while on patrol, conducted a search of the vehicle of the appellant and found in his possession a firearm to wit a pistol and also six cartridges and a magazine. The appellant pleaded not guilty.

The court imposed a sentence of three (3) years imprisonment with hard labour for Possession of a Firearm without Firearm User’s Licence and three (3) years imprisonment with hard labour for Possession of Ammunition without Firearm User’s Licence, to run concurrently.

Aggravating Factors:
- The seriousness of the offence;
- The prevalence of the offence;
- The appellant had previous convictions.

Mitigating Factors:
- The age of the appellant at the time of the offence;
- The appellant’s medical history.

Current Maximum Penalty: Fine of $15,000.00 and eight (8) years imprisonment for both offences.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Three (3) years imprisonment with hard labour for Possession of a Firearm without Firearm User’s Licence.

Three (3) years imprisonment with hard labour for Possession of Ammunition without Firearm User’s Licence.

To run concurrently.

Abraham Jose Savisente and Others v Kirk Peters C&E Officer 1
C.A.MAG.30/2012
Weekes JA, Soo Hon JA
July 16, 2012

Members of the Trinidad and Tobago Coast Guard were on patrol along the Gulf of Paria when they observed a pirogue coming from the direction of Venezuela. The boat was intercepted and a search conducted where a black plastic packet with green coloured tape containing plant like material resembling marijuana was found. The package weighed 1.14 kilograms. The appellants pleaded guilty.

The court imposed a fine of $50,000.00 forthwith, in default eight (8) years imprisonment with hard labour for each of the appellants.

Aggravating Factors:
- The seriousness and prevalence of the offence.
Mitigating Factors:
- Guilty plea;
- The appellants were first time offenders.

Current Maximum Penalty: Fine of $50,000.00 or three (3) times the value of the drug, whichever is greater, and ten (10) years imprisonment.

Disposition:
Appeal withdrawn by the first appellant. Appeal allowed for the other appellants and sentence varied.

Sentence:
Four (4) years imprisonment with hard labour and a fine of $50,000.00 and conviction to stand, with time allowed of six (6) weeks.

Jesse Vincent v PC Nicholas Phillips
C.A.MAG.61/2012
Weekes JA, Soo Hon JA
April 4, 2012

The complainant, who was on patrol in plain clothes, spotted a suspicious vehicle. The appellant was pulled over and searched. The complainant found in the front right pants pocket of the defendant, dried plant material resembling marijuana weighing 1 gram. The appellant pleaded guilty.

The court imposed a sentence of twenty (20) days imprisonment with hard labour.

Aggravating Factors:
- The appellant showed no remorse.

Mitigating Factors:
- None.

Current Maximum Penalty: Fine of $25,000.00 and five (5) years imprisonment.

Disposition:
Appeal allowed. Sentence varied.

Sentence:
Supervision by a Probation Officer for three (3) years and visit the officer once per fortnight; Attend a Drug Rehabilitative Programme and submit to random drug testing; Probation Officer to visit home and environs periodically to assess progress and will report to court every six (6) months; Inform the Probation Officer of any change of address; Probation Officer may apply for variation of the order; If failed any of the above, to return to the court and convicted for original offence.
Lyndon James v PC Christopher Cromarty
C.A.MAG.7/2011
Weekes JA, Soo Hon JA
February 06, 2012

The appellant was 1 of 4 passengers of a vehicle. When searched by police officers, the appellant was found to be in possession of marijuana and cocaine and thereafter arrested. The appellant pleaded not guilty.

The court imposed a fine of $3,000.00 forthwith, in default nine (9) months imprisonment with hard labour.

Aggravating Factors:
• The appellant had a previous conviction of a similar nature.

Mitigating Factors:
• None.

Current Maximum Penalty: Fine of $25,000.00 and five (5) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fine of $3,000.00 forthwith, in default nine (9) months imprisonment with hard labour.

Terrance Ramoutar v PC Navin Maharaj
C.A.MAG.43/2011
Archie JA, Weekes JA
February 2, 2012

The complainant had in his possession a warrant to search the appellant’s home for narcotics. The respondent knew the appellant prior to this year for a number of years. The complainant found plant like material which was found to be marijuana, weighed at 0.95 kilograms. The appellant pleaded not guilty.

The court imposed a sentence of two (2) years imprisonment with hard labour.

Aggravating Factors:
• None.

Mitigating Factors:
• None.

Current Maximum Penalty: Fine of $25,000.00 and five (5) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.
Richard Kaloo v PC Lincoln Morris  
C.A.MAG.49/2011  
Weekes JA, Soo Hon JA  
October 14, 2011

The appellant was charged with Possession of Marijuana contrary to s 5(1) of the Dangerous Drugs Act 38/91. The appellant pleaded not guilty.

The court imposed a bond in the sum of $3,000.00 to keep the peace and be of good behaviour for one (1) year, in default to return to the court for sentencing.

**Aggravating Factors:**
- The nature of the offence;
- The appellant cast serious aspersions on the conduct of the police.

**Mitigating Factors:**
- The appellant was believed to be of good character;
- The weight of the narcotic was small.

**Current Maximum Penalty:** Fine of $25,000.00 and five (5) years imprisonment.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Bond in the sum of $3,000.00 to keep the peace and be of good behaviour for one (1) year, in default to return to the court for sentencing.

Nicholas Williams v Kieve Thompson  
C.A.MAG.11/2011  
Narine JA, Soo Hon JA  
October 13, 2011

The appellant was charged with Possession of Marijuana contrary to s 5(1) of the Dangerous Drugs Act 38/91, Possession of Ammunition without Firearm User’s Licence (3 rounds of 12 gauge cartridges) contrary to s 6(1) of the Firearms Act, Chapter 16:01 and Possession of a Firearm without Firearm User’s Licence contrary to s 6(1) of the Firearms Act, Chapter 16:01. The appellant pleaded not guilty.

The court imposed a sentence of nine (9) months imprisonment with hard labour for the first offence, six (6) months imprisonment with hard labour for the second offence, and three (3) years imprisonment with hard labour for the third offence, to run concurrently.

**Aggravating Factors:**
- The prevalence of the offence;
- The nature of the offence.

**Mitigating Factors:**
- The age of the appellant at the time of the offence.
Current Maximum Penalty: Fine of $25,000.00 and five (5) years imprisonment for Possession of any Dangerous Drug. Fine of $15,000.00 and eight (8) years imprisonment for Possession of Ammunition without Firearm User’s Licence and Possession of a Firearm without Firearm User’s Licence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Nine (9) months imprisonment with hard labour for Possession of Marijuana.
Six (6) months imprisonment with hard labour for Possession of Ammunition without Firearm User’s Licence.
Three (3) years imprisonment with hard labour for Possession of a Firearm without Firearm User’s Licence.
To run concurrently.

Rajan Gow, Zanobia Gow, and Rachel Gow v PC Jameer Hosein
C.A.MAG.26/2011
Soo Hon JA, Narine JA
October 13, 2011

The appellant was charged with Possession of any Dangerous Drug for the purpose of trafficking contrary to s 5(4) of the Dangerous Drugs Act. The appellant pleaded not guilty.

The court imposed a sentence of twenty-four (24) months imprisonment with hard labour for the first appellant. The court imposed a fine of $60,000.00; $1,000.00 forthwith, in default one (1) year imprisonment with hard labour, with time allowed on balance of two (2) months for the second and third appellants.

Aggravating Factors:
• N/A

Mitigating Factors:
• The second and third appellants had no previous convictions;
• The seriousness of the offence.

Current Maximum Penalty: Fine of $50,000.00 or three (3) times the street value of the dangerous drug, whichever is greater, and ten (10) years imprisonment.

Disposition:
Appeal dismissed. Sentence and conviction affirmed. To be computed from October 13, 2011.

Sentence:
Twenty-four (24) months imprisonment with hard labour for the first appellant.
Fine of $60,000.00; $1,000.00 forthwith, in default one (1) year imprisonment with hard labour, with time allowed on balance of two (2) months for the second and third appellants.
Orlando Duncan v PC Sheldon Nelson  
C.A.MAG.58/2010  
Weekes JA, Narine JA  
June 29, 2011

The appellant was charged with possession of 5 rounds of 0.9 mm ammunition not being a person exempted under s 7 and contrary to s 6(1) of the Firearms Act, Chapter 16:01 without being a holder of a Firearm User’s Licence in respect of the ammunition. The appellant pleaded not guilty.

The court imposed a sentence of two (2) years and six (6) months imprisonment with hard labour.

Aggravating Factors:
- N/A

Mitigating Factors:
- The appellant was believed to be of good character.

Current Maximum Penalty: Fine of $15,000.00 and eight (8) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed. Time spent in custody to be taken into account.

Sentence:
Two (2) years and six (6) months imprisonment with hard labour.

Tyrell Taylor v PC Kelvin Brigmohansingh  
C.A.MAG.59/2010  
Weekes JA, Soo Hon JA  
January 14, 2011

The appellant was charged with Possession of Marijuana for the Purpose of Trafficking contrary to s 5(1) of the Dangerous Drugs Act 38/91, possession of an object resembling that of a 9mm round of ammunition contrary to s 6(1) of the Firearms Act, Chapter 16:01, and Possession of a Firearm without Firearm User’s Licence to wit a homemade pistol contrary to s 6(1) of the Firearms Act, Chapter 16:01. The appellant pleaded not guilty.

The court imposed a sentence of three (3) months imprisonment with hard labour for the first offence, thirty (30) months imprisonment with hard labour for the second offence, and thirty (30) months imprisonment with hard labour for the third offence, to run concurrently.

Aggravating Factors:
- The prevalence of the offence;
- The nature of the offence.

Mitigating Factors:
- The age of the appellant at the time of the offence.
Current Maximum Penalty: Fine of $25,000.00 and five (5) years imprisonment for Possession of any Dangerous Drug. Fine of $15,000.00 and eight (8) years imprisonment for Possession of Ammunition without Firearm User’s Licence and Possession of a Firearm without Firearm User’s Licence.

Disposition:
Appeal dismissed. Convictions and sentences affirmed; to run from January 14, 2011. Time spent in custody in this matter post conviction to be taken into account.

Sentence:
Three (3) months imprisonment with hard labour for Possession of Marijuana for the Purpose of Trafficking.
Thirty (30) months imprisonment with hard labour for Possession of a Firearm without Firearm User’s Licence.
Thirty (30) months imprisonment for Possession of Ammunition without Firearm User’s Licence.
To run concurrently.

Floyd Williams v PC Clinton Harripersad  
C.A.MAG.77/2010  
Archie JA, Weekes JA  
January 13, 2011

The appellant was charged with Possession of any Dangerous Drug Contrary to s 5(1) Dangerous Drug Act, Chapter 11:25. The appellant pleaded guilty.

The court imposed a fine of $1,500.00, in default thirty (30) days imprisonment with hard labour, with time allowed of one (1) week.

Aggravating Factors:
- The prevalence of the offence.

Mitigating Factors:
- Guilty plea;
- The age of the appellant;
- The employment record of the appellant.

Current Maximum Penalty: Fine of $25,000.00 and five (5) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fine of $1,500.00, in default thirty (30) days imprisonment with hard labour, with time allowed of one (1) week.
Fergus Thomas v PC Irvin Phillip  
C.A.MAG.60/2010  
Weekes JA, Soo Hon JA  
January 12, 2011  
The appellant was charged with Possession of any Dangerous Drug contrary to s 5(1) Dangerous Drugs Act, Chapter 11:25. The appellant pleaded not guilty.  
The court imposed a fine of $8,500.00, in default twelve (12) months imprisonment with hard labour.  
**Aggravating Factors:**  
- The seriousness of the offence;  
- The prevalence of the offence;  
- The quantum of the narcotics (199.5 grams);  
- The appellant had previous convictions.  
**Mitigating Factors:**  
- None.  
**Current Maximum Penalty:** Fine of $25,000.00 and five (5) years imprisonment.  
**Disposition:**  
Appeal allowed. Conviction and sentence quashed. No retrial ordered.  
**Sentence:**  
Quashed.

Marcus Garcia v Cpl Godfrey Bebee  
C.A.MAG.19/2010  
Soo Hon JA, Archie JA  
November 17, 2010  
The appellant was charged with Possession of a Firearm without Firearm User’s Licence contrary to s 6(1) of the Firearms Act, Chapter 16:01 as amended and with Possession of two rounds of Ammunition, not being the holder of a Firearm User’s Licence and not being a person exempted under s 7 of the Firearms Act, Chapter 16:01. The appellant pleaded not guilty.  
The court imposed a sentence of twenty-four (24) months imprisonment with hard labour for the first offence and six (6) months imprisonment with hard labour for the second offence to run concurrently.  
**Aggravating Factors:**  
- The nature and prevalence of the offence;  
- No guilty plea;  
- No remorse shown;  
- Deterrent on the appellant and other like-minded people.  
**Mitigating Factors:**  
- No previous convictions.
Current Maximum Penalty: Fine of $15,000.00 and eight (8) years imprisonment for both offences.

Disposition:
Appeal dismissed. Conviction, sentence, and compensation affirmed.

Sentence:
Twenty-Four (24) months imprisonment with hard labour for Possession of a Firearm without Firearm User’s Licence.
Six (6) months imprisonment with hard labour for Possession of Ammunition without Firearm User’s Licence.
To run concurrently.

Jeremy Rolle v PC Sylvan Stewart  
C.A.MAG.47/2010  
Soo Hon JA, Narine JA  
October 28, 2010

The appellant was charged with Possession of Marijuana contrary to s 5(1) of the Dangerous Drugs Act, Chapter 11:25. The appellant pleaded guilty.
The court imposed a sentence of twelve (12) months imprisonment with hard labour.

Aggravating Factors:
• The seriousness of the offence;
• The prevalence of the offence;
• The quantum of drugs involved (39.1 grams);
• The appellant had previous convictions.

Mitigating Factors:
• None.

Current Maximum Penalty: Fine of $25,000.00 and five (5) years imprisonment.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Twelve (12) months imprisonment with hard labour.

Kimraj Maloo v PC Andre Forgenie  
C.A.MAG.17/2010  
Weekes JA, Soo Hon JA  
September 30, 2010

The appellant was charged with Possession of Ammunition without Firearm User’s Licence and Possession of a Firearm without Firearm User’s Licence contrary to s 6(1) of the Firearms Act, Chapter 16:01. The appellant pleaded guilty.
The court imposed a sentence of nine (9) months imprisonment with hard labour for the first offence and nine (9) months imprisonment with hard labour for the second offence, to run concurrently.

**Aggravating Factors:**
- The prevalence of the offence;
- The seriousness of the offence.

**Mitigating Factors:**
- The appellant was described as a family man;
- The appellant took part in the community;
- He had no previous offences.

**Current Maximum Penalty:** Fine of $15,000.00 and eight (8) years imprisonment for both offences.

**Disposition:**
Appeal dismissed. Sentence varied.

**Sentence:**
Fine of $7,500.00 with time allowed of one (1) month, in default three (3) months imprisonment with hard labour for Possession of Ammunition without Firearm User’s Licence.
Fine of $7,500.00 with time allowed of one (1) month, in default three (3) months imprisonment with hard labour for Possession of a Firearm without Firearm User’s Licence.

Franklyn Mahabir v PC Jamal Ali C.A.MAG.07/2010
Weekes JA, Soo Hon JA
June 18, 2010

The appellant was charged with Possession of any Dangerous Drug contrary to s 5(1) Dangerous Drugs Act. The appellant pleaded guilty.

The court imposed a fine of $2,000.00, in default four (4) months imprisonment with hard labour on payment of $800.00 forthwith, with time allowed on balance of twenty-eight (28) days.

**Aggravating Factors:**
- The seriousness of the offence;
- The appellant had 8 previous convictions;
- The quantum of drugs.

**Mitigating Factors:**
- Guilty plea.

**Current Maximum Penalty:** Fine of $25,000.00 and five (5) years imprisonment.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Fine of $2,000.00, in default four (4) months imprisonment with hard labour on payment of $800.00 forthwith, with time allowed on balance of twenty-eight (28) days.

Drissa De Gannes v PC Jonathan Beepath  
C.A.MAG.110/2009  
Weekes JA, Soo Hon JA  
February 18, 2010

The appellant was charged with Possession of any Dangerous Drug contrary to s 5(1) of the Dangerous Drug Act, Chapter 11:25 and Resisting Arrest contrary to s 43 of the Police Service Act, Chapter 15:01. The appellant pleaded guilty.

The court imposed a sentence of twelve (12) months imprisonment with hard labour for the first offence and the appellant was reprimanded and discharged for the second offence.

Aggravating Factors:
- The seriousness of the offence;
- The prevalence of the offence;
- The appellant showed no evidence of remorse.

Mitigating Factors:
- Guilty plea;
- The age of the appellant at the time of the offence;
- The appellant had no previous convictions.

Disposition:
Appeal dismissed. Conviction and sentence affirmed. Warrant to be issued.

Sentence:
Twelve (12) months hard labour for Possession of any Dangerous Drug.
Reprimanded and discharged for Resisting Arrest.

(*) Lybert Patrick v PC Earl Arthur  
C.A.MAG.13/2009  
Archie CJ, Kangaloo JA, Smith JA  
December 8, 2009

Police officers executed a search warrant at the home of the appellant. Two bags containing 826.26 grams of marijuana was discovered under a bed. The appellant was convicted of Possession of Marijuana for the Purpose of Trafficking and sentenced to twelve (12) months imprisonment with hard labour.

Aggravating Factors:
- 4 previous convictions including 2 for the Possession of Marijuana;
- Quantity of drugs involved.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Twelve (12) months imprisonment with hard labour.

(*) Edwin Jones v PC Kurt Samuel  
C.A.MAG.99/2009  
Weekes JA, Yorke-Soo Hon JA  
November 26, 2009

The respondent conducted surveillance on the appellant’s property for 2 weeks. Thereafter, he executed a warrant to search for drugs. On the kitchen floor, he found a white plastic bag which contained a brown paper bag with 3 packages wrapped in brown plastic tape; each contained marijuana (2.73 kilograms). The appellant was charged with Possession of Marijuana for the Purpose of Trafficking. He was convicted and sentenced to a fine of $25,000.00, in default two (2) years imprisonment with hard labour.

Aggravating Factors:
• The seriousness of the offence;
• The quantum of drugs.

Mitigating Factors:
• The age of the appellant;
• No previous convictions.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $25,000.00 or in default two (2) years imprisonment with hard labour.

(*) Randy Woods v PC Sheldon Maynard  
C.A.MAG.37/2009  
Weekes JA, Yorke-Soo Hon JA  
November 26, 2009

The respondent and another officer noticed an unusual bulge in the waist of the appellant. The respondent searched the appellant, whereupon he found a firearm and ammunition. He was convicted on charges of (a) Possession of a Firearm without Firearm User’s Licence, and (b) Possession of Ammunition without Firearm User’s Licence. He was sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors:
• The seriousness of the offence;
• The importance of sentencing to deter others.

Mitigating Factors:
• The previous good character of the appellant.

Disposition:
Appeal dismissed. Convictions and sentences affirmed.
Sentence:
Three (3) years imprisonment with hard labour.

Bal Birju v PC Keron Chinapoo  
C.A.MAG.102/2009  
Weekes JA, Soo Hon JA  
August 04, 2009  
The appellant was charged with Possession of any Dangerous Drug contrary to s 5(1) of the Dangerous Drugs Act. The appellant pleaded guilty.  
The court imposed a fine of $2,500.00, in default six (6) months imprisonment with hard labour.  
Aggravating Factors:  
  • The seriousness of the offence;  
  • The prevalence of the offence.  
Mitigating Factors:  
  • Guilty plea;  
  • The age of the appellant at the time of the offence;  
  • The appellant had no previous convictions.  
Disposition:  
Appeal dismissed. Conviction and sentence affirmed with six (6) weeks to pay fine in default two (2) months imprisonment with hard labour.  
Sentence:  
Fine of $2,500.00 with time allowed of six (6) weeks, in default two (2) months imprisonment with hard labour.

(*) Ganesh Persad v PC Flores  
C.A.MAG.20/2009  
Kangaloo JA, Yorke-Soo Hon JA  
June 30, 2009  
The appellant, sixteen (16) years old at the time of the offence, went into a marijuana field in his village, stole a portion of marijuana, and indicated that he was going “to sell the marijuana to get some money.”  
Mitigating Factors:  
  • Family support: his grandmother was willing to supervise him and have him live with her and his relatives were willing to assist in ensuring good behaviour;  
  • He was attending school and church;  
  • He was remorseful;  
  • He had already spent some time at YTC awaiting his trial.
Disposition:
Supervised Probation Officer’s order over a period not exceeding three (3) years with such conditions attached as necessary, pursuant to Section 4 of the Probation of Offenders Act, Chapter 13:51.

Sentence:
Probation for three (3) years.

(*) Kurt Fortune v PC Singh A3-42 C.A.MAG.38/2009 Kangaloo JA, Yorke-Soo Hon JA June 24, 2009
The appellant was a forty-three (43) year old married man with children and had physical injuries. He was convicted for Possession of Marijuana and sentenced to forty (40) months hard labour. He appealed against the severity of the sentence.

Aggravating Factors:
• The appellant had 3 previous convictions for Possession of Marijuana and was fined in each instance. The court, therefore, felt that a custodial sentence was necessary.
  Pending matters are not to be considered by the Court;
• The prevalence of the offence.

Mitigating Factors:
• The appellant had already spent 10 months in prison awaiting trial.

Disposition:
Sentence varied to two (2) years imprisonment with hard labour.

Sentence:
Two (2) years imprisonment with hard labour.

The appellant went to purchase marijuana and was directed by the distributor to the roots of a fig tree where the drugs were hidden. The police had the property under surveillance and the appellant was caught. The appellant was charged with Possession of Marijuana and pleaded guilty. He was sentenced to twenty-four (24) months imprisonment with hard labour and appealed against severity of sentence.

Mitigating Factors:
• He pleaded guilty;
• The age of the appellant (twenty-six (26) years old);
• No previous convictions;
• He had a wife and child;
• Testimonials on his behalf;
• He already spent 3-4 months in custody awaiting trial;
• He was remorseful;
• He was employed.

Disposition:
Sentence varied to a fine of $3,500.00 or in default nine (9) months imprisonment with hard labour.

Sentence:
Fined $3,500.00 or in default nine (9) months imprisonment with hard labour.

(*) Dave Simon v PC Breedy  
C.A.MAG.34/2009  
Kangaloo JA, Yorke-Soo Hon JA  
June 24, 2009

The appellant was charged with Possession of Firearms and Ammunition. He was sentenced to thirty-six (36) months imprisonment with hard labour.

Aggravating Factors:
• 7 previous convictions.

Mitigating Factors:
• He had already spent fourteen (14) months in custody prior to conviction.

Disposition:
Conviction affirmed. Sentence varied.

Sentence:
Twenty-four (24) months imprisonment with hard labour for Possession of Firearm.
Nine (9) months imprisonment for Possession of Ammunition.
Sentences to run concurrently.

(*) Arthur Boswell v PC Bhagoutee Persad  
C.A.MAG.27/2009  
Weekes JA, Yorke-Soo Hon JA  
June 23, 2009

The respondent searched the appellant and found a transparent plastic bag which contained 10 foil packets of cocaine (3.5 grams). The appellant pleaded guilty to a charge of Possession of Cocaine for the Purpose of Trafficking and was fined $1,200.00, in default four (4) months imprisonment with hard labour.

Mitigating Factors:
• The appellant was forty-nine (49) years of age;
• His family circumstances – he had been in a common law union and was the father of a young child;
He had no previous convictions;
The small quantum of narcotics and the fact that he was charged with Possession for the Purpose of Trafficking due to the weight of the same;
The age of the matter and the number of years taken for it to be finally heard and determined.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $1,200.00, in default four (4) months imprisonment with hard labour.

(*) Curtis Hospedales v PC Keeve Thompson  
C.A.MAG.13/2009  
John JA, Jamadar JA  
March 26, 2009  
The appellant was charged with Possession of Marijuana for the Purpose of Trafficking. He was sentenced to three (3) years imprisonment.

Aggravating Factors:
- Twelve (12) previous convictions, ranging from Drugs, Obscene Language, Assaulting a Police Officer and Possession of Marijuana.

Mitigating Factors:
- The offence was committed in 2004. Another offence was committed in 2005 for which the appellant served a jail sentence. The court took into account that it took 4 years to dispense with a simple matter;
- The appellant seemed to have turned his life around;
- Already spent time in prison awaiting trial.

Disposition:
Sentence was varied to one (1) year to commence from the date of conviction with the effect that the appellant would have served his sentence.

Sentence:
One (1) year imprisonment.

(*) Garner Swan v PC Roger Traboulay  
C.A.MAG.118/2008  
Weekes JA, Yorke-Soo Hon JA  
March 12, 2009  
The appellant was convicted of Possession of a Dangerous Drug namely marijuana, in the amount of 80 grams contained in 8 foil packets. He was sentenced to eighteen (18) months hard labour after pleading guilty.

Aggravating Factors:
- 2 previous convictions for the same offence.
Mitigating Factors:

- The magistrate failed to take into account a guilty plea. The Court of Appeal said that it is trite law that except in special circumstances, a guilty plea, especially one entered at first opportunity, entitles the convict to a discounted sentence. A discount of one third ought to be granted.

Disposition:
Sentence varied to twelve (12) months imprisonment.

Sentence:
Twelve (12) months imprisonment.

(*) Edison Raas v Cpl Lindsay Phillip  
C.A.MAG.95/2008  
Kangaloo JA, John JA  
December 8, 2008

The appellant, a foreigner, was convicted on a charge of Trafficking in 1 kilogram of Cocaine which he had ingested. He was sentenced to the maximum of five (5) years imprisonment and to pay a fine of $25,000.00.

Aggravating Factors:

- The large quantity of drugs;
- The seriousness of the offence.

Mitigating Factors:

- He entered a guilty plea (which the magistrate did not consider);
- No previous convictions;
- He had been in custody since the beginning of the year (February).

Disposition:
Sentence varied.

Sentence:
Eighteen (18) months imprisonment with hard labour and a fine of $10,000.00 and in default of paying the fine, the appellant to serve three (3) years imprisonment with hard labour. Sentences to run concurrently.

(*) Makesi Mohammed v PC Gajadhar  
C.A.MAG.83/2008  
John JA, Mendonca JA  
December 4, 2008

Police officers executed a search warrant at the appellant’s home. His common-law wife was present during the search. The police found a container which contained a cream substance resembling cocaine on top of a dressing table in the bedroom. The appellant pleaded guilty to Possession of Cocaine for the Purpose of Trafficking. He was fined $25,000.00 to be paid forthwith, in default to serve five (5) years imprisonment. His wife was fined $5,000.00.
Aggravating Factors:
- He had 2 previous convictions for Possession and Trafficking of a narcotic.

Mitigating Factors:
- Court found that the magistrate fell into error by taking into consideration the 2 pending matters of the appellant;
- Although the magistrate stated that the “Defendant showed no remorse”, the Court found that a guilty plea is an expression of remorse;
- The appellant was already in custody for 12 months awaiting trial.

Disposition:
Sentence varied.

Sentence:
Fined $10,000.00, in default three (3) years imprisonment.
(Since one (1) year was already served in default, he would serve two (2) years instead of three (3)).

(*) Victor Steven v PC Vincent Awong-Cole  
C.A.MAG.67/2008  
Weekes JA, Mendonca JA  
December 3, 2008

The respondent found a white piece of paper which contained 0.37 grams of marijuana in a cigarette pack belonging to the appellant. The appellant was convicted on a charge of Possession of Marijuana for which he was fined $1,500.00, in default of paying the fine to serve four (4) months imprisonment with hard labour.

Mitigating Factors:
- First-time offender.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $1,500.00, in default of paying the fine to serve four (4) months imprisonment with hard labour.

(*) Richard Singh aka Vishani Ramnath v PC Peter Ramdeen  
C.A.MAG.39/2008  
Hamel-Smith JA, John JA  
December 1, 2008

The respondent searched the vehicle in which the appellant was travelling and found a coloured knapsack with 1 kilogram of marijuana. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking for which he was convicted and fined $20,000.00, in default of paying the fine, to serve a term of imprisonment of four (4) years with hard labour.
Aggravating Factors:
- The prevalence of the offence;
- The appellant showed no remorse.

Mitigating Factors:
- No previous convictions.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Fined $20,000.00, in default of payment to serve a term of imprisonment of four (4) years with hard labour.

(*) Atiba Carr aka Kerron Joseph v PC Anthony Spence
C.A.MAG.128/2006
Hamel-Smith JA, Jamadar JA
November 17, 2008
The appellant was arrested for murder and ammunition was found on his person. He was charged with Possession of Ammunition. Upon conviction, he was sentenced to the maximum of five (5) years imprisonment.
Aggravating Factors:
- Previous convictions: Attempted house breaking with Larceny, Possession of House Breaking Implements.

Mitigating Factors:
- The appellant was sixteen (16) years old at the time of his arrest.

Disposition:
Sentence affirmed. Sentence not considered severe.
Sentence:
Five (5) years imprisonment with hard labour.

(*) Nneka Nicholls v WPC Pascall
C.A.MAG.79/2008
Hamel-Smith JA, Jamadar JA
November 17, 2008
The appellant pleaded guilty to Possession of Marijuana for the Purpose of Trafficking near a School. She was sentenced to twelve (12) months imprisonment.

Disposition:
Sentence affirmed.
Sentence:
Twelve (12) months imprisonment.
Roland Pompey v PC Rodney Kadaroo
C.A.MAG.12/2007
Warner JA, Weekes JA
June 18, 2008

The appellant was charged with Possession of 2 grams of cocaine. He pleaded guilty and was sentenced to three (3) years imprisonment with hard labour.

Mitigating Factors:

• His guilty plea;
• At the appeal, a Probation Officer’s report was presented which was favourable to the appellant. He was attending drug rehabilitation sessions on a regular basis. Witnesses attended court to attest to his positive change in behaviour;
• His age – he was fifty-one (51) years old and had a young daughter.

Disposition:
Sentence varied, probation substituted and the appellant was ordered to submit to the supervision of the Probation Officer for three (3) years.

Sentence:
Probation for three (3) years.

Miles Henry v PC Johnson
C.A.MAG.43/2008
John JA, Weekes JA
May 13, 2008

The appellant was convicted of Possession of a Firearm and 35 rounds of Ammunition without a licence and was sentenced to the maximum sentence of five (5) years imprisonment with hard labour.

Aggravating Factors:

• The appellant was a member of the Trinidad and Tobago Defence Force and the Court took the view that although this went toward his good character, “to whom much is given, much is expected” and better was expected from members of the Protective Services.

Mitigating Factors:

• Good character;
• No previous convictions.

Disposition:
Conviction affirmed. Sentence varied.

Sentence:
Four (4) years imprisonment with hard labour for Possession of Firearm.
Four (4) years imprisonment with hard labour for Possession of Ammunition.
Sentences to run concurrently.
(*) Marcus Millington v PC Damian Richardson
C.A.MAG.153/2007
John JA, Weekes JA
April 17, 2008

The respondent searched the appellant’s person and in his right pants pocket found a black plastic bag which contained 12 foil packets of marijuana (29.6 grams), a clear bag which contained 23 foil packets of cocaine (10.6 grams) and $239.00 in cash. When questioned, the appellant admitted that he was trying to make a “turnover” to get money for his mother. The appellant pleaded guilty to a charge of Possession of Cocaine for the Purpose of Trafficking and was sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors:
  • The appellant seemed unrepentant in respect of this serious offence and his admission to the police upon arrest was instructive.

Mitigating Factors:
  • The age of the appellant;
  • The fact that the appellant did not waste the Court’s time.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Three (3) years imprisonment with hard labour.

Maurice Koon Koon v PC Marlon Linton
C.A.MAG.133/2007
Warner JA, Kangaloo JA
March 10, 2008

The appellant was charged with being in Possession of Ammunition after the respondent searched the handbrake lever compartment of his vehicle. He was convicted and fined $2,500.00.

Aggravating Factors:
  • The seriousness of the offence.

Mitigating Factors:
  • The appellant’s good character.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $2,500.00.
(*) Ishwar Geeta v WPC Anne-Marie Edwards  
C.A.MAG.65/2007  
Hamel-Smith JA, John JA  
January 17, 2008  

A party of police officers arrived at a “wake” and conducted a search. Initially they did not find anything but eventually an officer found an object, which resembled a gun, in the grass near the appellant. The appellant was charged with being in Possession of a Firearm and Ammunition. Upon conviction, the appellant was sentenced to two (2) years imprisonment with hard labour on each charge (to run concurrently).

Disposition:  
Conviction and sentence affirmed.

Sentence:  
Two (2) years imprisonment with hard labour.

(*) Kenneth Thorne v PC Richard Fraser  
C.A.MAG.142/2007  
Hamel-Smith JA, Weekes JA  
January 17, 2008  

The respondent, in company with other officers, executed a warrant to search for arms and ammunition at the premises where the appellant resided. There they found 392 grams of marijuana in the bottom drawer of a wardrobe in the appellant’s room. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking. Upon conviction, the appellant was sentenced to eighteen (18) months imprisonment with hard labour.

Aggravating Factors:  
• The prevalence of the offence;
• The appellant had previous convictions.

Disposition:  
Appeal dismissed. Conviction and sentence affirmed.

Sentence:  
Eighteen (18) months imprisonment with hard labour.

(*) Barbara Thompson v PC Joseph Solomon  
C.A.MAG.87/2007  
Hamel-Smith JA, John JA  
December 7, 2008  

The appellant was convicted of Possession of 12 grams of cocaine worth approximately $12,000.00 for the Purpose of Trafficking. She was sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors:  
• Showed no remorse.
Mitigating Factors:

- Guilty plea;
- Mother of 8 children;
- No previous convictions;
- Testimonial advanced.

Disposition:

Sentence varied.

Sentence:

Fined $15,000.00, in default, three (3) years imprisonment.

(*) Andre Anthony Ravello v PC Dane James A3-61
C.A.MAG.53/2007
Weekes JA, Archie JA
December 6, 2007

The respondent observed that the appellant quickly crossed the road and jumped into a vehicle when he noticed the police. The respondent pulled alongside the said vehicle, at which time the appellant jumped out of the vehicle and ran with a black ‘Air Express’ bag over his shoulder. The appellant was apprehended, the bag was searched, and therein 954.46 grams of marijuana was retrieved. The appellant was charged with and subsequently convicted of Possession of Marijuana for the Purpose of Trafficking for which he was sentenced to thirty-six (36) months imprisonment with hard labour.

Aggravating Factors:

- The 6 previous convictions of the appellant, 3 of which were for Robbery and the others, Possession of Cocaine for the Purpose of Trafficking.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Thirty-six (36) months imprisonment with hard labour.

(*) Shaheed Ali v PC Jason de Jean A3-62
C.A.MAG.123/2007
Hamel-Smith CJ (Ag), Archie JA
November 28, 2007

The respondent and other officers executed a search warrant to search the premises of the appellant and therein found a silver packet containing 0.8 grams of cocaine on a chair in the living room. He pleaded guilty to a charge of Possession and was sentenced to eleven (11) months imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):

- The seriousness and prevalence of drugs within society.
Mitigating Factors (considered by the magistrate):

- The appellant pleaded guilty.

Disposition:

Appeal allowed against sentence. Sentence varied.

Sentence:

Fined $7,500.00. Appellant to sign a bond of good behaviour in the sum of $50,000.00 for a term of five (5) years, in default to come up for sentencing.

(*) Benton Balfour v PC Ameer Mohammed  
C.A.MAG.61/2007  
Kangaloo JA, Mendonca JA  
November 28, 2007

The respondent took possession of a black bag the appellant had and therein found 92 grams of marijuana. He was charged with Possession of Marijuana for the Purpose of Trafficking. He entered a guilty plea and was sentenced to two (2) years imprisonment with hard labour.

Aggravating Factors:

- The seriousness and prevalence of the offence;
- The appellant had 2 previous convictions, 1 for Possession of a Firearm and 1 for Possession of Ammunition.

Mitigating Factors:

- The appellant entered a guilty plea.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Two (2) years imprisonment with hard labour.

(*) Nicholas Duff v PC Eldon Calliste  
C.A.MAG.120/2007  
Hamel-Smith CJ (Ag), Archie JA  
November 28, 2007

The appellant pleaded guilty to Possession of 714 grams of marijuana. On the weekend of his planned marriage, the appellant borrowed money from someone who in turn asked him to store the marijuana since he had not repaid the loan. He was sentenced to eighteen (18) months imprisonment.

Aggravating Factors:

- The quantity of drugs involved;
- The appellant did not assist the police in contacting the person who allegedly gave him the marijuana.
Mitigating Factors:

- No previous convictions;
- Testimonials attesting to his good character;
- He pleaded guilty immediately.

Disposition:
Conviction affirmed. Sentence varied.

Sentence:
Placed on a bond in the sum of $25,000.00 to be of good behaviour for a period of five (5) years. In breach of the bond, to pay a fine of $5,000.00, in default three (3) months imprisonment.

(*) Renard Gittens v PC Wayne Baptiste
C.A.MAG.96/2007
Kangaloo JA, Mendonca JA
November 28, 2007

Police officers executed a search warrant at the home of the appellant. The appellant, a Bobo Shanti priest, handed them a small paint bucket which contained a plastic bag of marijuana (220.49 g). The appellant was convicted of Possession of Marijuana and fined $3,000.00 or sentenced to twelve (12) months imprisonment with hard labour.

Aggravating Factors:

- Prevalence of the offence;
- The appellant transported school children and there was a need to protect children from persons who engage in drug possession.

Mitigating Factors:

- The appellant had 4 young children in his care;
- The trial was held almost 5 years after the appellant had been charged.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Twelve (12) months imprisonment with hard labour.

(*) Kentis Henry v PC Paul De Leon
C.A.MAG.89/2007
Warner JA, Archie JA
November 27, 2007

The respondent had the appellant under observation and noticed that he dropped the ammunition, which he had in his front jacket pocket, on the roadway. He was subsequently charged with Possession of Ammunition for which he was convicted and sentenced to twelve (12) months imprisonment with hard labour.
Aggravating Factors:
- 1 previous conviction of a similar nature;
- The fact that he was found in a public place, at night, with the ammunition.

Mitigating Factors:
- The appellant’s age.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Twelve (12) months imprisonment with hard labour.

(°) Clinton Mc Intyre v WPC Sherma Titus-Martin  
C.A.MAG.98/2007  
Weekes JA, Mendonca JA  
November 27, 2007

Police officers caused the vehicle in which the appellant was driving to stop. The appellant was searched and officers discovered a firearm in his front pants pocket. The appellant was convicted of Possession of a Firearm and sentenced to two (2) years imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):
- The seriousness of the offence;
- The prevalence of the offence.

Mitigating Factors (considered by the magistrate):
- No previous convictions;
- Plead guilty.

Disposition:
Conviction affirmed. Sentence varied.

Sentence:
Nine (9) months imprisonment with hard labour.

(°) Bryan Thomas v PC Shurland George  
C.A.MAG.58/2007  
Weekes JA, Mendonca JA  
November 27, 2007

The appellant was charged with Possession of a Firearm and Ammunition. He was stopped by officers and was found with a Glock firearm in his waistband. He was sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors:
- Court reiterated the need to send a message to society that this type of offence would not be lightly dealt with;
• Prevalence of the offence in society and the need to deter others;

**Mitigating Factors:**
- Good character;
- Testimonials advanced that were not presented at the Magistrates’ Court.

**Disposition:**
Sentence affirmed.

**Sentence:**
Three (3) years imprisonment with hard labour.

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(*) Nigel Mayers v PC Liston Taylor  
C.A.MAG.85/2007  
John JA, Archie JA  
November 26, 2007

Police officers discovered the appellant lying on the side of the road. He informed the officers that he had been shot by two persons while on his way to collect rent from tenants. The officers discovered two guns on the appellant’s person. The appellant was charged with Possession of a Firearm and Possession of Ammunition and upon conviction, sentenced to two (2) years imprisonment with hard labour on each charge, to run consecutively.

**Disposition:**
Sentence varied to run concurrently on each charge.

**Sentence:**
Two (2) years imprisonment with hard labour for Possession of a Firearm.

Two (2) years imprisonment with hard labour for Possession of Ammunition.

**Sentences to run concurrently.**

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(*) Nigel Mohammed v PC Harold Ishmael  
C.A.MAG.65/2007  
Archie JA, Weekes JA  
July 29, 2007

The appellant was convicted of Possession of 1.5 ounces of marijuana. He was sentenced to eighteen (18) months imprisonment with hard labour.

**Aggravating Factors:**
- 3 previous convictions which occurred when he was seventeen (17) in respect of which he pleaded guilty.

**Mitigating Factors:**
- Did not have any trouble for the past 7 years since the conviction;
- Father of a young child and planned to wed and migrate to Canada. The Court admitted to being lenient due to the possibility of the appellant starting a new life;
Testimonials advanced on his behalf;
Small quantity involved;
Already spent 2 months in prison which the Court believed had some impact on him.

Disposition:
Sentence varied.

Sentence:
Two (2) months imprisonment with hard labour.

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(⁎) Selwyn Manan v PC Nicholas Vialva  A3-71
C.A.MAG.117/2006
Hamel-Smith CJ (Ag), John JA
July 27, 2007

The respondent observed the appellant engaged in transactions with several persons where the appellant handed greaseproof packets from a plastic bag in exchange for money. The respondent then searched the appellant and found marijuana, cocaine and $369.00 TT currency on his person. The appellant was charged with Possession of Marijuana and Cocaine, both for the Purpose of Trafficking. He was convicted and received a sentence of five (5) years imprisonment with hard labour for each offence, both sentences to run concurrently.

Aggravating Factors:
• The possession of 2 drugs at the same time;
• The prevalence of the offence;
• The appellant’s 2 previous convictions.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour on each offence.

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(⁎) David Carter v PC Darryl Ramdass  A3-72
C.A.MAG.9/2007
Kangaloo JA, Mendonca JA
July 4, 2007

The appellant was sentenced to thirty-six (36) months imprisonment for Possession of 0.25 kilograms of marijuana with a street value of $12,000.00.

Mitigating Factors:
• No previous convictions;
• Held in custody at time of hearing of the appeal and since conviction on account of inability to raise bail;
• The appellant’s age – thirty-two (32) years old and married with children.
Disposition:
Sentence varied.

Sentence:
Twelve (12) months imprisonment with hard labour.

(*) Abbey Caton v PC Deokaran Palloo
C.A.MAG.8/2007
Kangaloo JA, Mendonca JA
July 4, 2007
The respondent found 24 foil packets of marijuana (50 grams) under the appellant's jersey. Upon conviction he was fined $10,000.00, in default two (2) years imprisonment with hard labour.

Aggravating Factors:
- The nature and prevalence of the offence;
- The appellant's previous convictions (10).

Disposition:
Appeal dismissed.

Sentence:
Fined $10,000.00 or in default two (2) years imprisonment with hard labour.

(*) Cassidy Allum v PC Salick Jagroop
C.A.MAG.127/2006
Hamel-Smith CJ (Ag), Kangaloo JA
July 2, 2007
The respondent executed a warrant to search the premises of the appellant. The respondent searched the appellant and retrieved 4 foil packets of cocaine (4.5 grams) and a black purse which contained 12 100-dollar bills, 50 20-dollar bills, 5 10-dollar bills, 5 5-dollar bills and 15 1-dollar bills, all TT currency. The appellant and his common law wife were charged for Trafficking in Cocaine. The appellant was convicted and sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors:
- The gravity and prevalence of the offence.

Mitigating Factors:
- The appellant's hitherto clean record.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Three (3) years imprisonment with hard labour.
(*) Trevor Cooper v PC Satnarine Sankar  
C.A.MAG.63/2007  
Archie JA, Weekes JA  
June 29, 2007

The appellant pleaded guilty to a charge of Possession of Marijuana within 500m of a school for the Purpose of Trafficking. He was fined $2,000.00.

Mitigating Factors (considered by the magistrate):
- The weight and packaging (1 foil packet weighing 2 grams) suggested that it was for personal use. Additionally, the appellant was found near the school at 7:30 pm, well after school hours.

Disposition:
Appeal allowed by a reduction in the fine.

Sentence:
Fined $1,000.00.

(*) Nigel Telesford aka Jason Telesford and “Hawkie” v PC Junior Bernard  
C.A.MAG.235/2001  
Weekes JA, Archie JA  
June 28, 2007

Police officers executed a search warrant at the appellant’s home where they discovered, hidden amongst some articles of clothing, a foil packet containing 2 grams of marijuana. They also discovered, hidden inside of a wardrobe, 4 rounds of 9mm ammunition. The appellant was convicted of Possession of Marijuana and Possession of Ammunition and sentenced to nine (9) months and eighteen (18) months imprisonment with hard labour respectively, to run concurrently.

Aggravating Factors:
- 3 previous convictions;
- Serious offences;
- Prevalence of the use of firearms;
- The Court stated that it was aware of the scheme of individuals to secure ammunition for the bearers of firearms so that, should any one of them be charged, the Court would view the situation more leniently. In this instance, the Court viewed the possession of ammunition integral to the commission of nefarious crimes.

Mitigating Factors:
- Plead guilty;
- Expressed remorse.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:

Nine (9) months imprisonment with hard labour for Possession of Marijuana;
Eighteen (18) months imprisonment with hard labour for Possession of Ammunition.
Sentences to run concurrently.

(*) Prince Rogers v PC Naim Gyan  
C.A.MAG.26/2007  
Kangaloo JA, Mendonca JA  
June 27, 2007

The appellant was searched by a police officer and 1 gram of marijuana was found wrapped in a foil packet in his right hand. He was fined $2,500.00, in default three (3) months imprisonment with hard labour.

Mitigating Factors:
  • No previous convictions;
  • Pleaded guilty for the first hearing;
  • He was a young person.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $2,500.00 or in default three (3) months imprisonment.

(*) Mark Hypolite and Natasha Williams v PC Ryan Khan  
C.A.MAG.126/2006  
Hamel-Smith CJ (Ag), John JA  
June 26, 2007

The appellants were charged with Possession of 13 grams of cocaine for the Purpose of Trafficking. The police officers executed a search warrant at the appellants’ home and discovered the drugs in the living room. The first named appellant pleaded guilty and was sentenced to five (5) years imprisonment, at the Magistrates’ Court. The second appellant withdrew her appeal.

Aggravating Factors (in relation to Hypolite):
  • Previous conviction for Possession of 500 grams of marijuana for the Purpose of Trafficking for which he was fined $10,000.00;
  • The large quantity of cocaine involved.

Mitigating Factors (in relation to Hypolite):
  • Since conviction 3 years before, he had stayed ‘clean’ and abided by the law;
  • Had a young family (2 children, aged six (6) and twelve (12));
  • The appeal took 4 years to come before the Court.
Disposition:
Sentence varied in respect of Hypolite.

Sentence:
Fined $25,000.00 or in default five (5) years imprisonment with hard labour.

(*) Dinesh Ragoonanan v PC Jaggernauth
C.A.MAG.17/2006
John JA, Mendonca JA
April 27, 2007

Police officers searched the appellant’s vehicle, driven by the appellant, and found marijuana (2 grams) on the floor of the driver’s side. The appellant was charged with Possession of Marijuana and was sentenced to a fine of $1,000.00 or three (3) months imprisonment with hard labour in default, on the basis that he should have known better because of his educational standing.

Mitigating Factors:
• Relatively young offender, being twenty-three (23) years old at the time of the offence;
• Plead guilty;
• No previous convictions;
• Good academic results;
• Showed remorse;
• Made meaningful contribution to employer;
• The conviction against his name would prove a significant hurdle to the appellant.

Disposition:
An appropriate case to set aside the sentence of a fine and to make an order under section 71(1)(a) of the Summary Courts Act, Chapter 4:20.

Discharged under section 71(1)(a) of the Summary Courts Act, Chapter 4:20.

(*) Michael Wiltshire and Jennifer Wiltshire v PC Windell Flaviney
C.A.MAG.2/2006
Mendonca JA, Weekes JA
December 19, 2006

The respondent and a party of police officers executed a warrant to search the premises of the 1st appellant. 18.8 grams of marijuana was found behind a ceramic vase in the living room. The appellants were convicted of Possession of Marijuana for the Purpose of Trafficking. Each was fined $4,000.00, in default to serve eighteen (18) months imprisonment with hard labour.

Aggravating Factors:
• The nature and the seriousness of the offence;
• The prevalence of the offence;
• The quantity of the narcotic.
Mitigating Factors:

- The age of the appellants and their familial obligations;
- The good character of both appellants.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $4,000.00, in default to serve eighteen (18) months imprisonment with hard labour.

(*) Marlon Jordan aka Marlon Le Guerre v Cpl Carlton Alleyne

C.A.MAG.28/2006
Weekees JA, Archie JA
December 5, 2006

The respondent searched the appellant and found 13 silver foil packets of cocaine in a black cloth tied around his head. The appellant was charged with Possession of Cocaine for the Purpose of Trafficking, and upon conviction was sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors:

- The prevalence of the narcotic;
- The seriousness of the offence. The appellant was found guilty of Trafficking and the Court noted the manner in which the narcotic was wrapped separately;
- The protection of the public from the activities of the appellant and the harmful effect of cocaine;
- The previous conviction, for an offence which was committed in another jurisdiction and had resulted in deportation;
- The other conviction for possession of marijuana.

Mitigating Factors:

- The time spent in custody awaiting trial;
- The length of time that elapsed between the date of arrest and trial was considered, but the Court did not see it as a mitigating factor in sentencing as the delay was as a result of the appellant’s failure to attend Court.

Disposition:

Appeal dismissed against conviction. Sentence varied.

Sentence:

Two (2) years imprisonment with hard labour.
(*) Aaron Matas v PC Mark Marshall
C.A.MAG.144/2006
Hamel-Smith CJ (Ag), Kangaloo JA
November 9, 2006

The respondent intercepted a vehicle driven by the appellant. The appellant and his passenger were searched and a black plastic bag which contained 47 grams of marijuana was found on the passenger’s side. The appellant was charged with, and subsequently convicted of Possession of Marijuana, for which he was fined $1,500.00.

Aggravating Factors:

• The quantum of marijuana involved;
• The serious nature of this offence, as well as the prevalence of drugs within the society.

Mitigating Factors:

• The appellant’s previously clean record.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $1,500.00.

(*) Curtis Haynes v PC Vaughn Waldropt
C.A.MAG.108/2006
John JA, Weekes JA
November 9, 2006

The respondent found a bag of marijuana in the trunk of the appellant’s car. The appellant was charged with Possession of 4.8 kilograms of marijuana for Trafficking. He was convicted and sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:

• The seriousness of the offence;
• The quantum of the narcotic.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Five (5) years imprisonment with hard labour.
The respondent smelt marijuana when he was at the home of the appellant. The respondent observed the appellant for some time and thereafter confronted him, together with 3 other persons who were in possession of marijuana. He took possession of the marijuana that weighed 8.5 pounds. The appellant was charged with and convicted for Possession of Marijuana for the Purpose of Trafficking, for which he was fined $15,000.00 or two (2) years imprisonment with hard labour in default of paying the fine.

Mitigating Factors:
- 7 years had passed before the case was called;
- This was the appellant’s first conviction.

Disposition:
Appeal against conviction dismissed.
Sentence:
Fined $15,000.00, in default two (2) years imprisonment with hard labour.

The respondent and another officer pursued and stopped the motor vehicle in which the appellant was travelling. The respondent observed and searched a plastic bag situated between the two occupants of the vehicle and found marijuana (over 0.5 kilograms). The appellant was charged with Possession of Marijuana. Upon conviction, he was fined $18,000.00.

Aggravating Factors:
- The seriousness of the allegations;
- The prevalence of the offence;
- Although the appellant had no previous convictions, this was not listed as one of the sentencing considerations.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Fined $18,000.00.
(*) Clint Skeete v PC Rishi Ramroop
C.A.MAG.34/2006
Hamel-Smith, John JA
July 20, 2006

The respondent found 4.1 kilograms of marijuana in the vehicle that the appellant was driving. The appellant was jointly charged with another for Possession of Marijuana for the Purpose of Trafficking. The appellant was found guilty and sentenced to forty-two (42) months imprisonment with hard labour.

Mitigating Factors (considered by the magistrate):

- The appellant had no previous convictions.

Disposition:
Conviction affirmed. Sentence varied.

Sentence:
Placement on a bond with a surety in the sum of $10,000.00 to be of good behaviour for five (5) years and to report to the nearest police station in his area on the first Saturday of every month for one (1) year.

(*) Brent Williams v PC Glen Singh
C.A.MAG.37/2006
Hamel-Smith JA, John JA
July 20, 2006

The appellant was searched by police officers who discovered 0.9 grams of cocaine in his pants pocket. The appellant was convicted of Possession of Cocaine and sentenced to thirty (30) months imprisonment with hard labour.

Aggravating Factors:

- The nature and prevalence of the offence;
- The seriousness of the offence;
- Previous conviction for robbery;
- The appellant was only 3 months out of prison before he was arrested for this offence;
- The lack of remorse of the appellant and his decision to continue to participate in illegal acts without regard for the law.

Mitigating Factors:

- The appellant was twenty-five (25) years old.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Thirty (30) months imprisonment with hard labour.
(*) Marcus Delancey v PC Ricky Henry  
C.A.MAG.72/2006  
Warner JA, Archie JA  
June 7, 2006

The respondent was on enquiries at a school where a party was being held. He noticed that the appellant was smoking an unusually long cigarette which emitted a strong pungent smell. The respondent, who opined that it was marijuana, then conducted a search of the appellant whereupon a bag of marijuana was recovered. The appellant was charged with Possession of Marijuana for which he was fined $10,000.00 or eighteen (18) months imprisonment with hard labour in default of paying the fine.

**Aggravating Factors:**
- The serious nature of the conviction;
- The fact that the appellant was found on school premises with an unlawful narcotic.

**Mitigating Factors:**
- The appellant had no previous convictions;
- The age of the appellant (twenty-eight (28) years old).

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fined $10,000.00, in default eighteen (18) months imprisonment with hard labour.

(*)& Jason Prince v PC Terrence Burris  
C.A.MAG.5/2006  
Kangaloo JA, Mendonca JA  
June 6, 2006

The appellant was searched by a police officer and 312 grams of marijuana was discovered hidden in his pants pocket. The appellant was convicted of Possession of Marijuana and sentenced to eighteen (18) months imprisonment with hard labour.

**Aggravating Factors:**
- Substantial amount of marijuana;
- The appellant admitted that the drug was intended for resale;
- The serious nature of the offence as well as the prevalence of drugs within the society.

**Mitigating Factors:**
- Pleaded guilty.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Eighteen (18) months imprisonment with hard labour.
Ann Marie Thomas v PC Dwayne Martinez  
C.A.MAG.40/2006  
Kangaloo JA, Archie JA  
June 6, 2006

The respondent and another officer executed a search warrant on the premises of the appellant. There they found marijuana (28.57 grams) on the table in the bedroom of the appellant and her common law husband. The appellant was charged with Possession of Marijuana and upon conviction, she was fined $7,000.00.

**Aggravating Factors:**
- The appellant had no previous convictions;
- The Court considered the quantity of the drugs.

**Disposition:**
Appeal dismissed.

**Sentence:**
Fined $7,000.00.

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Garvin Jack v PC Manichand Pooran  
C.A.MAG.36/2006  
Hamel-Smith JA, Weekes JA  
June 5, 2006

The respondent was on road check duty when he stopped the vehicle driven by the appellant. He found marijuana (11 kilograms) in the trunk of the vehicle. At trial, the appellant was found guilty and sentenced to five (5) years imprisonment with hard labour.

**Aggravating Factors:**
- The sheer volume of the exhibit.

**Mitigating Factors:**
- The appellant had no previous convictions.

**Disposition:**
Appeal dismissed.

**Sentence:**
Five (5) years imprisonment with hard labour.

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Emrald Samsoodeen and Earle Samsoodeen v PC Randy Ramdabar  
C.A.MAG.57/2010  
Weekes JA, Narine JA  
April 05, 2006

The two appellants were charged with Possession of Marijuana for the Purpose of Trafficking contrary to s 5(4) of the Dangerous Drugs Act 38/91. The appellants pleaded not guilty. For the first appellant, the court imposed a sentence of twenty-four (24) months imprisonment with
hard labour. The second appellant received a fine of $5,000.00, on payment of $2,000.00 forthwith, with time allowed of one (1) month on the balance, in default twenty-four (24) months imprisonment with hard labour.

**Aggravating Factors:**
- The prevalence of the offence;
- The nature of the offence.

**Mitigating Factors:**
- N/A

**Current Maximum Penalty:** Fine of $50,000.00 or three (3) times the street value of the drug, whichever is greater, and ten (10) years imprisonment.

**Disposition:**
Appeals dismissed. Convictions and sentences affirmed. First appellant to begin sentence from January 19, 2011 and sentence served prior to bail being granted to be taken into account. Second appellant received time allowed of twenty-eight (28) days, in default nine (9) months imprisonment.

**Sentence:**
Twenty-four (24) months imprisonment with hard labour for the first appellant.

Fine of $5,000.00 with time allowed of twenty-eight (28) days, in default nine (9) months imprisonment for the second appellant.

(*) Frankie Blackman v PC Carl Hosten  
C.A.MAG.109/2004  
Kangaloo JA, Weekes JA  
November 23, 2005

The appellant threw a bag in the bushes while being chased by police officers. There were 52 foil packets of marijuana (132.6 grams) in the bag. The appellant was convicted of Possession of Marijuana for the Purpose of Trafficking and fined $20,000.00, in default three (3) years imprisonment with hard labour.

**Disposition:**
Appeal against conviction withdrawn. Appeal against sentence allowed and sentence varied.

**Sentence:**
Fined $3,000.00, in default nine (9) months simple imprisonment.

(*) Davindra Samaroo v PC Adesk Gookool  
C.A.MAG.53/2004  
Sharma CJ, Archie JA  
December 15, 2004

The appellant was jointly charged with another for being in Possession of Marijuana for the Purpose of Trafficking. The respondent and other officers observed the two men about 20 feet
from a primary school, seated on a bench with a plastic bag of marijuana between them. The appellant was sentenced to eighteen (18) months imprisonment with hard labour.

**Aggravating Factors (considered by the magistrate):**

- The fact that the appellant and his co-accused chose to conduct their activities in close proximity to a school;
- The prevalence of drug abuse in society.

**Mitigating Factors (considered by the magistrate):**

- The age of the appellant (twenty-one (21) years old);
- The appellant’s previous good character.

**Disposition:**

Appeal against conviction dismissed. Appeal against sentence allowed and varied.

**Sentence:**

Fined $10,000.00, in default three (3) years imprisonment with hard labour.

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(*) David Sandiford v Cpl Hogarth Edward Lumy  
C.A.MAG.272/2003  
Warner JA, Archie JA  
December 8, 2004

The respondent and another officer alighted from their unmarked police vehicle, searched the appellant and found a bag of cocaine (weighing 212 grams prior to forensic analysis). The appellant was convicted on a charge of Possession of Cocaine for the Purpose of Trafficking and received a sentence of forty-eight (48) months imprisonment with hard labour for the offence.

**Aggravating Factors (considered by the magistrate):**

- The appellant had 3 previous convictions for Possession of a Firearm, Breaking and Entering and Possession of Marijuana.

**Disposition:**

The Court of Appeal found no merit in the appeal. Conviction and sentence affirmed.

**Sentence:**

Forty-eight (48) months imprisonment with hard labour.

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(*) Nigel Buntin v PC Archie  
C.A.MAG.45/2004  
Sharma CJ, Archie JA  
December 5, 2004

Police officers went to the home of the appellant to execute a search warrant to search for arms and ammunition. There, cocaine, a pistol and ammunition were found on the bed in a sock in a black plastic bag. The appellant was convicted of the following offences and sentenced as follows: Possession of Cocaine for Trafficking, for which he was sentenced to
seven (7) years imprisonment with hard labour; Possession of a Smith and Wesson Firearm, for which he was sentenced to three (3) years imprisonment with hard labour; and Possession of 12 rounds of Ammunition, for which he was sentenced to three (3) years imprisonment with hard labour.

**Aggravating Factors:**

- The nature and seriousness of the offences. The appellant was tried for 3 very serious offences;
- The prevalence of all of the offences;
- The implications to society of the appellant having been found guilty of Trafficking in Cocaine, Possession of a factory-made Smith and Wesson Firearm with 12 rounds of Ammunition;
- The quantity of cocaine (54.9 grams);
- The need to deter others from participating in these horrific and very serious crimes;
- The need to send a clear message to all would-be perpetrators that the Court will not tolerate or condone their decision to pursue a life of crime;
- The previous conviction of the appellant.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

- Seven (7) years imprisonment with hard labour for Possession of Cocaine for Trafficking;
- Three (3) years imprisonment with hard labour for Possession of a Smith and Wesson Firearm;
- Three (3) years imprisonment with hard labour for Possession of 12 rounds of Ammunition.

(…) Randolph Bennet v PC Bhola Ramjit  
C.A.MAG.40/2004  
Hamel-Smith JA, Nelson JA  
November 23, 2004

Police officers observed that the appellant had emerged from some bushes near a river. The appellant was carrying a box which contained 400 foil packets of cocaine together weighing 184 grams. The appellant was convicted of Possession of Cocaine for the Purpose of Trafficking and sentenced to seven (7) years imprisonment with hard labour.

**Aggravating Factors (considered by the magistrate):**

- The nature, gravity and prevalence of this offence;
- The quantity of cocaine involved.

**Mitigating Factors (considered by the magistrate):**

- The appellant had no previous convictions.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.
Sentence:

Seven (7) years imprisonment with hard labour.

(*) Ian Jeffrey v PC Raynado Sookdeo
C.A.MAG.41/2004
Hamel-Smith JA, Nelson JA
November 23, 2004

The appellant was searched by a police officer and he was found with 27 foil packets of cocaine (22.7 grams). The appellant was convicted of Possession of Cocaine for the Purpose of Trafficking and sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:

• The nature, gravity and prevalence of the offence;
• The quantity of cocaine involved.

Mitigating Factors:

• The appellant had no previous convictions.

Disposition:

Conviction and sentence affirmed.

Sentence:

Five (5) years imprisonment with hard labour.

(*) Keith Thomas v SRP Kawai Hanooman
C.A.MAG.07/2004
Sharma CJ, Warner JA
November 23, 2004

Police officers observed the appellant and another man under a mango tree engaged in transactions where persons would approach them, hand over money and they, in turn, would give them foil packets from a black bag. As the officers approached, the men ran off with the bag. Both men were subsequently held and the bag containing 34 foil packets of marijuana (83.7 grams) and $1,659.00 in cash and jewellery were recovered. The appellant was charged with Trafficking in Dangerous Drugs and was sentenced to seven (7) years imprisonment with hard labour.

Aggravating Factors:

• Six (6) previous convictions, five (5) of which were for offences of a similar nature.

Mitigating Factors:

• The magistrate exceeded their jurisdiction since the maximum permissible sentence was five (5) years imprisonment.

Disposition:

Sentence varied to the maximum sentence.
Sentence:

Five (5) years imprisonment with hard labour.

(∗) Bernard Noel v PC Neil James
C.A.MAG.91/2004
Sharma CJ, Archie JA
July 7, 2004

The respondent executed a warrant on the appellant’s premises to search for arms and ammunition. On the bedroom floor of the premises was found a plastic bag containing parts of a marijuana plant. Upon conviction, the appellant was sentenced to three (3) months imprisonment with hard labour.

Aggravating Factors:
- The appellant had 6 previous convictions for similar offences, which he admitted.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Three (3) months imprisonment with hard labour.

(∗) Errol Thomas aka “Duckling” v PC Marlon Maslier
C.A.MAG.66/2004
Kangaloo CJ, John JA
July 7, 2004

Police officers executed a search warrant on the appellant’s premises and discovered a bag which contained 270 grams of marijuana. The appellant pleaded guilty to the charge. The appellant was convicted of Possession of Marijuana and sentenced to 24 months imprisonment with hard labour.

Aggravating Factors:
- Seriousness of the offence;
- He was forty-five (45) years of age.

Mitigating Factors:
- No previous convictions;
- Plead guilty;
- Expressed remorse;
- He cared for 6 young children and his wife was deceased;
- Employed in the CEPEP program as a foreman;
- The magistrate took into account an irrelevant consideration, that is, she formed the opinion that the appellant had the drugs for the purpose of selling.

Disposition:
Appeal dismissed. Conviction upheld. Sentence varied.
Sentence:
Fined $\$5,000.00, in default nine (9) months imprisonment with hard labour.

(8) Paul Rodney v PC Baldath Harinarine
C.A.MAG.61/2004
Jones JA, John JA
July 6, 2004

While the respondent was hunting in a forested area, he observed the twenty-three (23) year old appellant with a firearm and 1 live round of 16-gauge ammunition for which he did not have a Firearm User’s Licence. The appellant pleaded guilty on a charge of Possession of a Homemade Shotgun and Possession of Ammunition. He was sentenced to three (3) years imprisonment with hard labour for Possession of the Shotgun and six (6) months imprisonment with hard labour for Possession of Ammunition, to run concurrently.

Aggravating Factors:
• The seriousness and prevalence of the offence;
• The fact that the firearm was homemade.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

The court considered that there were no exceptional circumstances that would prevent the case from being considered one that was fit for punishment by a custodial sentence, despite the fact that the appellant had no previous convictions.

Sentence:
Three (3) years imprisonment with hard labour for Possession of the Shotgun.
Six (6) months imprisonment with hard labour for Possession of the Ammunition.
Sentences to run concurrently.

(8) Errol Bailey v PC Kenneth Martin
C.A.MAG.34/2004
Sharma CJ, Warner JA
July 5, 2004

Police officers searched the appellant and found a bottle which contained 21 foil packets of cocaine together weighing 6.2 grams. The appellant was convicted of Possession of Cocaine for the Purpose of Trafficking and sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
• The nature, prevalence and gravity of this type of offence;
• The quantity of cocaine involved;
• Four previous convictions (although none of which were for drug possession).

Mitigating Factors (considered by the magistrate):
• The previous convictions were for trivial offences which occurred a long time ago;
The appellant was thirty-eight (38) years old, single, and a carpenter/mason by profession.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour.

(*)& Geeta Ramsarran v PC Netram Kowlessar
C.A.MAG.38/2004
Jones JA, Kangaloo JA
July 5, 2004
The appellant was alone at the premises of another where the respondent executed a search warrant and discovered a small bottle containing 26 foil packets containing 4.3 grams cocaine. The appellant was convicted on a charge of Possession of Cocaine for the Purpose of Trafficking and was sentenced upon conviction to five (5) years imprisonment with hard labour.

Aggravating Factors:
• The nature, gravity and prevalence of this type of offence;
• The quantity of cocaine the appellant had in her possession.

Mitigating Factors:
• The appellant’s hitherto unblemished criminal record.

Disposition:
Appeal against conviction dismissed. Appeal against sentence allowed. Sentence varied.

Sentence:
Fined $10,000.00.

(*)& Odell Dowridge v PC Allister Cowie
C.A.MAG.267/2003
Sharma CJ, John JA
March 4, 2004
The respondent, after searching the appellant on account of a suspicion, found a hand-rolled cigarette of unusual length containing marijuana (1.8 grams) in his left hand. The appellant was convicted on a charge of Possession of Marijuana for which he was fined $1,500.00, in default three (3) months imprisonment with hard labour.

Aggravating Factors:
• The prevalence of the offence;
• The fact that the appellant was a repeat offender, having been convicted in 2001 for Possession of Marijuana.
Mitigating Factors (considered by magistrate):

- The age of the appellant (twenty-three (23) years old);
- The quantum of narcotic found in the appellant’s possession, namely 1.8 grams of marijuana.

Disposition:

Appeal dismissed. Order of the magistrate affirmed.

Sentence:

Fined $1,500.00, in default three (3) months imprisonment with hard labour.

(*) Feedil Foster v PC Don Gajadhar
C.A.MAG.238/2003
Sharma CJ, John JA
March 4, 2004

The respondent retrieved a bag which the appellant had dropped and which contained 17 rocks of cocaine (3.5 grams). The appellant was convicted on a charge of Possession of Cocaine for the Purpose of Trafficking for which he was sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):

- The nature and prevalence of the offence.

Disposition:

Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:

Placed on a bond to be of good behaviour for three (3) years; in breach of the bond to come up for sentencing.

(*) Brian Hamlet v PC Garth Bacchus
C.A.MAG.264/2003
Sharma CJ, John JA
March 4, 2004

The respondent searched the appellant and found in his front pants pocket 30 rocks of cocaine weighing 5 grams. The appellant was charged with and convicted of Possession of Cocaine. He was sentenced to one (1) year imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):

- The seriousness and prevalence of the offence.

Mitigating Factors (considered by the magistrate):

- The appellant’s guilty plea;
- The age of the appellant (twenty-three (23) years old);
- The good character of the appellant/no previous convictions.
Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Fined $1,500.00.

(*) Joseph Cyprus v PC Manwarring
C.A.MAG.244/2003
Hamel-Smith JA, Nelson JA
March 2, 2004

The respondent and other police officers went to the home of the appellant to conduct a search. They searched under a bed and discovered a bucket which contained a plastic bag of marijuana. Additionally, $919.00 was found on the defendant after the officers searched his person. The appellant was charged with and convicted for Possession of Marijuana for the Purpose of Trafficking and sentenced to two (2) years imprisonment with hard labour.

Aggravating Factors:
• The appellant’s previous convictions for offences of a similar nature;
• The nature and prevalence of the offence and the need to send a clear message to persons involved in the sale of illegal narcotics that their deviant behaviour would not be tolerated;
• The quantity of the narcotic, namely 142.8 grams, and the penalty prescribed under the law for Trafficking;
• The need to protect members of society from drug traffickers.

Mitigating Factors:
• The defendant’s family commitments.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.

(*) Brenton Straker v PC Darryl Ramdass
C.A.MAG.199/2003
Hamel-Smith JA, Jones JA
March 1, 2004

The respondent approached the appellant, whom he saw wearing what appeared to be fatigue wear. The appellant was questioned and the respondent discovered that he was not a member of the Defence Force and informed him that it was an offence to wear attire resembling the uniform. Thereafter, the respondent searched the appellant and found a black plastic bag which contained twenty 28 transparent plastic bags of marijuana (99.5 grams). The appellant was convicted on a charge of wearing one long pants having the appearance of the Trinidad and Tobago Defence Force and was sentenced to thirty (30) days imprisonment with hard
labour. He was also convicted on the charge of being in Possession of Marijuana for which he was sentenced to three (3) years imprisonment with hard labour.

**Aggravating Factors:**

- The appellant had 1 previous conviction for Trafficking in cocaine in 2001. The court was of the opinion that the appellant continued in his deviant ways and the facts suggested that he had the said marijuana and long pants for other purposes than simply his own use;
- The prevalence of the offence;
- The quantity of the marijuana (99.5 grams);
- He showed no remorse or contrition.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

Three (3) years imprisonment with hard labour.

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(*) Kent Cox v PC Liston Taylor
C.A.MAG.354/2003
Sharma CJ, Warner JA
December 8, 2003

The appellant was charged with possession of a pump action shotgun and 4 rounds of 12-gauge ammunition. Police officers had responded to a report of a shooting incident and upon arrival at the house, the officers saw the appellant holding a firearm. The appellant was cautioned and replied, “Officer, don’t shoot,” and when further cautioned said, “Boss, I have to defend myself.” The appellant was bleeding at the time and he was taken to the hospital. He was sentenced to four (4) years imprisonment with hard labour for Possession of the Firearm and twenty (20) months imprisonment with hard labour for Possession of the Ammunition.

**Aggravating Factors:**

- The seriousness of the offence;
- The prevalence of the offence.

**Mitigating Factors:**

- No previous convictions.

**Disposition:**

Appeal dismissed. Sentence affirmed.

**Sentence:**

Four (4) years imprisonment with hard labour for Possession of a Firearm.
Twenty (20) months imprisonment with hard labour for Possession of Ammunition.
The appellants were charged with being in Possession of a Firearm and Ammunition, 2 rounds of 12-gauge and 1 round of 16-gauge cartridges. Police officers went to the home of Lewis to execute a search warrant. Lewis started to accompany the officers inside the house but then turned around, leaped into a waiting vehicle and left the scene. The officers thereafter met Lawrence inside the premises. The firearm and ammunition were then found on the premises. Both appellants were eventually arrested and charged. Lewis was fined $1,500.00, in default four (4) months imprisonment with hard labour for the ammunition and fined $6,000.00, in default three (3) years imprisonment with hard labour for the firearm. Lawrence was fined $750.00, in default three (3) months imprisonment with hard labour for the ammunition and $3,000.00, in default nine (9) months imprisonment with hard labour for the firearm.

Aggravating Factors:

- Lewis had previous convictions.

Mitigating Factors:

- Lawrence was a first time offender.

Disposition:

Appeal dismissed. Sentence affirmed.

Sentence:

In respect of Lewis:

Fined $1,500.00, in default four (4) months imprisonment with hard labour for the ammunition.

Fined $6,000.00, in default three (3) years imprisonment with hard labour for the firearm.

In respect of Lawrence:

Fined $750.00, in default three (3) months imprisonment with hard labour for the ammunition.

Fined $3,000.00, in default nine (9) months imprisonment with hard labour for the firearm.

The respondent and a party of police officers executed a warrant to search the home of the appellant. Upon searching the kitchen, “bush rum” and marijuana were found. The appellant was charged with the offences of being in Possession of Marijuana for the Purpose of Trafficking and Possession of Unlawful Spirits. Upon conviction, the appellant was ordered to pay a fine of $3,000.00 or eighteen (18) months imprisonment with hard labour in respect of Possession of Marijuana and he was fined $750.00 or three (3) months imprisonment with hard labour for the offence of Unlawful Spirits.
Aggravating Factors:

- Previous conviction of the appellant;
- The gravity of the offence.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $3,000.00, in default eighteen (18) months imprisonment with hard labour for Possession of Marijuana;
Fined $750.00 or three (3) months imprisonment with hard labour for Possession of Unlawful Spirits.

(*) Steve Gordon v PC Abbott
C.A.MAG.177/2003
Nelson JA, Kangaloo JA
November 6, 2003

The respondent was on patrol in company with other police officers. After his suspicions were aroused, he approached the appellant and searched him. He discovered 15.9 grams of marijuana contained in a quantity of foil packets. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking and was ordered upon conviction to pay a fine of $7,500.00, in default of paying the fine, to serve a term of imprisonment of fourteen (14) months with hard labour.

Aggravating Factors:

- The nature and seriousness of the offence.

Mitigating Factors:

- No previous convictions.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $7,500.00, in default fourteen (14) months imprisonment with hard labour.

(*) Anil Singh v PC Flanders
C.A.MAG.170/2003
Warner JA, Nelson JA
November 5, 2003

The appellant was charged with three others for being in Possession of 40 rounds of Ammunition without a firearm user’s licence in respect of same. Additionally, the appellant was charged with being in Possession of 0.8 grams of marijuana. He pleaded not guilty to both offences. He was found guilty of both offences and was sentenced to five (5) years imprisonment with hard labour and three (3) years imprisonment with hard labour respectively, the sentences to run concurrently.
Aggravating Factors (considered by the magistrate):

- The seriousness and prevalence of the offence of Possession of Ammunition.

Disposition:

Appeals dismissed. Convictions affirmed. Sentences varied.

Sentence:

Three (3) years imprisonment with hard labour for Possession of Ammunition.

Eighteen (18) months imprisonment with hard labour for Possession of Marijuana.

Sentences to run concurrently.

(*) Krishendath Boodhan v PC Russell Bahadoor  
C.A.MAG.68/2003  
Jones JA, Warner JA  
November 4, 2003

The appellant was observed by the respondent and other officers with a black plastic bag from which he handed something to persons who approached him and he, in turn, took money from them. The appellant ran when the officers approached but was pursued and apprehended. He was then found to be in possession of 29 clear plastic bags of marijuana (84 grams) and $86.00 in cash and was charged with Possession of Marijuana for the Purpose of Trafficking. Upon conviction, he was sentenced to seven (7) years imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):

- The prevalence of the offence in society today;
- The appellant did not appear to be remorseful;
- The fact that the drug trade was considered as a scourge on the society and that it ultimately affects young people in a disastrous manner. The court felt that the appellant was contributing in a real way to perpetuating the scourge of drugs in the society.

Disposition:

Appeal allowed. Sentence varied.

Sentence:

Three (3) years imprisonment with hard labour.

(*) Carlyle Elcock v PC Colin Noel  
C.A.MAG.144/2003  
Nelson JA, Kangaloo JA  
November 3, 2003

The respondent executed a warrant to search the premises of the appellant. There he found a black plastic bag behind the washing machine in the kitchen. It contained 19 foil packets containing marijuana (52.5 grams). The appellant was charged with being in Possession of
Marijuana for the Purpose of Trafficking and was fined $15,000.00 with an alternative of three (3) years imprisonment with hard labour.

**Aggravating Factors:**
- The appellant had a previous conviction for a similar offence.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fined $15,000.00, in default three (3) years imprisonment with hard labour.

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Charles Alfonso v PC Samuel Bullen  
C.A.MAG.198/2002  
Sharma CJ, Hamel-Smith JA, John JA  
July 1, 2003

The Coast Guard on patrol in the Gulf of Paria chased and stopped a pirogue and told the Captain (the appellant) that they had information that he was in possession of drugs. A travelling bag containing 12.644 kilograms of cocaine was found. The appellant was convicted of being in Possession of Cocaine for the Purpose of Trafficking and sentenced to a term of nine (9) years imprisonment. He was also ordered to pay a fine of $300,000.00, in default of payment of the fine, to serve a further term of five (5) years imprisonment.

**Aggravating Factors:**
- This was a massive operation of an international nature. The quantity of cocaine involved and the circumstances under which it was to be handed over at sea were clear indications that it was transhipment for a foreign destination.

**Mitigating Factors:**
- This was the appellant’s first conviction;  
- The appellant had already spent three and a half (3.5) years in prison.

**Disposition:**
Sentence varied. The Court stated that the variation was not to be considered a reduction of sentence. There was no evidence of the street value of the cocaine as required by Section 5 (5) of the Dangerous Drugs Act, Chapter 11:25 to warrant the imposition of the fine. Further, the magistrate exceeded his jurisdiction by imposing a consecutive sentence of five (5) years imprisonment with hard labour in default of paying the fine, to follow the nine (9) year sentence.

**Sentence:**
Seven (7) years imprisonment with hard labour.
(*) Arthur Boswell v PC Anderson Pariman  
C.A.MAG.53/2003  
Lucky JA, Kangaloo JA  
June 27, 2003  
The respondent searched the appellant, a police officer, and found 2.4 grams of marijuana and charged him with the offence of Possession of Marijuana. The appellant was convicted and fined $1,000.00.

**Aggravating Factors:**
- The appellant was a police officer at the time of his arrest and his duty was to uphold the law; not to break it.

**Mitigating Factors:**
- No previous convictions;
- The quantum was small.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fined $1,000.00.

(*) John Barclay v PC Neptune  
C.A.MAG.33/2003  
Sharma CJ, John JA  
June 25, 2003  
The respondent and other officers stopped the vehicle which was occupied by the appellant and another man. The men began to run and the officers noticed that the appellant was carrying a bag in his right hand. The appellant was caught a short distance after and the bag was searched. 620 grams of marijuana was recovered and the appellant was charged with the Possession of Marijuana for the Purpose of Trafficking. Upon conviction, the appellant was sentenced to sixty (60) months imprisonment with hard labour.

**Aggravating Factors:**
- The quantum involved (620 grams);
- The gravity of the offence;
- The repercussions drugs have on the society, particularly the violence associated with drug trafficking and the serious problem of drug addiction amongst the youth.

**Mitigating Factors:**
- No previous convictions.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Sixty (60) months imprisonment with hard labour.
Shurland Lambkin v PC Dwayne Martinez  
C.A.MAG.122/2003  
Lucky JA, John JA  
May 29, 2003  

The respondent observed the appellant in an incomplete two-storey house with a large plastic bag in his hand. Subsequently, the officers recovered the bag after the appellant dropped it in an attempt to make his escape into swampy terrain. The appellant was convicted of Possession of Marijuana (985.86 grams) for the Purpose of Trafficking and was sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
- The seriousness and prevalence of the offence.

Mitigating Factors:
- The age of the appellant (twenty-nine (29) years old);
- No previous convictions;
- Since on bail, the appellant was not in trouble;
- The appellant was in a common law relationship and had 2 young children.

Disposition:
The Court tempered justice with mercy and varied the custodial sentence to a fine.

Sentence:
Fined $5,000.00 or in default three (3) months imprisonment with hard labour.

(*) Anderson Owen v PC Steve Persad  
C.A.MAG.292/2001  
Jones JA, John JA  
March 24, 2003  

The respondent and other police officers on mobile patrol stopped and searched the vehicle driven by the appellant, whereupon a quantity of cocaine and $68.00 in cash were discovered. The appellant was charged and convicted for the offence of Possession of Cocaine for the Purpose of Trafficking. He was sentenced to six (6) years imprisonment with hard labour.

Aggravating Factors:
- The use of cocaine was prevalent in society and continued to create untold damage to individuals, families and society as a whole;
- The appellant was clearly using the drug for distribution;
- The appellant was thirty (30) years old and a father of two children and ought to be aware of the seriousness of the offence, the damage inflicted on society, and be more responsible in his behaviour and conduct generally;
- There appeared to be a lack of remorse shown by the appellant;
- The amount of cocaine (25 grams).

Mitigating Factors:
- No previous convictions.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Six (6) years imprisonment with hard labour.

(*) Neville Prime v PC Curt Simon  
C.A.MAG.133/2002  
Jones JA, John JA  
March 24, 2003

The respondent and other police officers on mobile patrol observed that the appellant placed something in his crotch. The appellant was subsequently searched and a transparent bag containing a quantity of cocaine-filled foil packets, along with $310.00, were found. The appellant was charged with Possession of Cocaine for the Purpose of Trafficking. Upon conviction, the appellant was fined $10,000.00.

Aggravating Factors:
• The appellant had 1 previous conviction for Possession of Cocaine;
• The seriousness and prevalence of the offence and the damage done by narcotics to the society, especially the youth;
• The quantum involved (3.7 grams).

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Fined $10,000.00.

(*) Curtis Cedeno v WPC Joanne Archie  
C.A.MAG.098/2002  
Jones JA, Kangaloo JA  
November 29, 2002

The appellant was searched after being pursued and captured by the respondent, whereupon 10 foil packets of cocaine (2.1 grams) were found. The appellant was charged with Possession of Cocaine for the Purpose of Trafficking, for which he was convicted and sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
• The appellant had a previous conviction;
• The seriousness and prevalence of the offence;
• The need to discourage the appellant and the like-minded from harming the innocents.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:

Five (5) years imprisonment with hard labour.

(*) Dianne Forbes v WPC Joanne Archie
C.A.MAG.98/2002
Jones JA, Kangaloo JA
November 29, 2002

The respondent found foil packets of cocaine stuck in the appellant’s baby’s diaper. The appellant was charged with Possession of 2.3 grams of Cocaine for the Purpose of Trafficking. Upon conviction, the appellant was fined $12,500.00.

Aggravating Factors:

• The seriousness of the offence;
• The quantum involved.

Mitigating Factors:

• No previous convictions.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $12,500.00.

(*) Robert Wallace v PC Gajadhar
C.A.MAG.120/2002
Sharma CJ, Warner JA
November 29, 2002

The appellant was seated on a bench with a black bag of his wares in one hand and some money in the other. The respondent searched him and found marijuana in the black bag. He was charged with Possession of Marijuana for Trafficking and upon conviction was fined $17,000.00, in default imprisonment of five (5) years.

Mitigating Factors:

• The appellant pleaded guilty;
• He had a clean record;
• Probation Officer’s report stated that the appellant was employable and had invaluable work experience.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $17,000.00, in default five (5) years imprisonment.
(*) Robert Evans v PC Alleyne  
C.A.MAG.107/2002  
Jones JA, Lucky JA  
November 28, 2002

The respondent was on mobile patrol in an unmarked police vehicle and observed that when the vehicle approached, the appellant speedily placed his right hand in his front pants pocket and started to walk. The respondent approached and searched the appellant and found 18 foil packets of marijuana weighing 21.6 grams. The appellant was convicted on a charge of Possession of Marijuana for the Purpose of Trafficking for which he was sentenced to eighteen (18) months imprisonment with hard labour.

**Aggravating Factors:**
- The seriousness of the offence;
- The appellant was a drug trafficker by choice as he had two legitimate forms of employment: a city council labourer and a worker at a car wash.

**Disposition:**
Conviction and sentence affirmed.

**Sentence:**
Eighteen (18) months imprisonment with hard labour.

(*)& Stanley Toney v PC Arnold Lutchman  
C.A.MAG.86/2002  
Hamel-Smith JA, Kangaloo JA  
November 27, 2002

The respondent, along with other police officers, were on road check duty when they observed the actions of the passenger seated behind the driver in motor vehicle PAN 9624. A search of the back seat of the car revealed a 400 gram bag which contained marijuana. The appellant, the back seat passenger, was charged with Possession of Marijuana for the Purpose of Trafficking. Upon conviction, the appellant was ordered to pay a fine of $7,000.00 or serve eighteen (18) months imprisonment with hard labour.

**Aggravating Factors:**
- The seriousness and prevalence of the offence.

**Mitigating Factors:**
- The court considered the plea in mitigation by counsel who spoke of the fact that the thirty-three (33) year old appellant had no previous convictions.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fined $7,000.00, in default eighteen (18) months imprisonment with hard labour.
Anthony Amogan v PC Dexter Archie
C.A.MAG.78/2002
de la Bastide CJ, Jones JA
May 29, 2002

Police officers stopped a vehicle in which the appellant was a passenger and proceeded to search him. They found 19 foil packets containing 135 grams of marijuana stuck in the appellant’s waist. The appellant was convicted of Possession of Marijuana for the Purpose of Trafficking and fined $10,000.00 or two (2) years imprisonment with hard labour.

Aggravating Factors:
- 4 previous convictions, the first of which was for possession of narcotics.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $10,000.00 or in default two (2) years imprisonment with hard labour on payment of $4,000.00.

Hollis McIntosh v PC Emmanuel Brown
C.A.MAG.71/2002
de la Bastide CJ, Jones JA
May 29, 2002

Police officers saw the appellant drop a bag and begin running. After apprehending the appellant, the officers discovered 27 foil packets of cocaine. The appellant was charged with Possession of 5.4 grams of cocaine and sentenced to a term of imprisonment of twenty-four (24) months hard labour.

The magistrate reasoned that although the quantum did not amount to a charge for Trafficking, the Court would treat the wrapped packets as though they were intended for public sale. The Court of Appeal treated the case afresh on the basis of the charge of Possession.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Fined $5,000.00, in default nine (9) months imprisonment with hard labour.

Glen Knight v PC Kerwin Francis
C.A.MAG.63/2002
Hamel-Smith JA, Kangaloo JA
May 28, 2002

Police officers were on mobile patrol when they observed the appellant running. He was caught and searched and officers discovered 43 packets of cocaine (22 grams) in his pants pocket. The appellant was convicted of Possession of Cocaine for the Purpose of Trafficking and sentenced to seven (7) years imprisonment with hard labour.
Aggravating Factors:
- 5 previous convictions.

Mitigating Factors:
- Plead guilty.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Seven (7) years imprisonment with hard labour.

(*) Michael Legene v PC Glenn Steele  A3-131
C.A.MAG.58/2002
Hamel-Smith JA, Kangaloo JA
May 28, 2002

Police officers executed a search warrant on the appellant’s premises and discovered 640 grams of marijuana hidden under a bed. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking and sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors:
- The appellant had 3 previous convictions for similar offences;
- The appellant’s last conviction was only 3 months prior to the incident and the Court felt that this was some indication that the appellant was adamant about his lifestyle;
- Need to deter the appellant from committing this offence;
- Need to protect society from the scourge of drugs.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Three (3) years imprisonment with hard labour.

(*) Kelvin Singh v PC Dexter Lewis  A3-132
C.A.MAG.46/2002
Permanand JA, Warner JA
May 27, 2002

Police officers saw the appellant in the company of other persons on a street. The appellant started walking away when he saw the officers. He was stopped and searched and officers found 0.8 kilograms of marijuana in the appellant’s knapsack. The appellant was convicted of Possession of Marijuana for the Purpose of Trafficking and sentenced to six (6) years imprisonment with hard labour.

Aggravating Factors:
- 3 previous convictions, one for a similar offence;
- Showed no remorse;
The Court was wary of the juxtaposition of the narcotics and a group of men who dispersed upon the arrival of police offices, which gave an indication of drug dealings. The Court needed to show a strong displeasure in these circumstances.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Six (6) years imprisonment with hard labour.

(*) Noel Bennett v PC Terrance Williams  
C.A.MAG.80/2002  
de la Bastide CJ, Jones JA  
May 25, 2002  

Police officers executed a search warrant on the premises of the appellant and found a silver bowl which contained 31.4 grams of cocaine in the kitchen fridge. The appellant was convicted on a charge of Possession of a Dangerous Drug for the Purpose of Trafficking and was sentenced to imprisonment for a term not less than five (5) years.

Aggravating Factors (considered by the magistrate):
- The type of drug (cocaine);
- The prevalence and seriousness of the offence;
- The fact that the drugs are a catalyst for other serious violent crimes such as shootings and murder;
- The appellant had previous convictions for Possession of Drugs, Arms and Ammunition.

Mitigating Factors (considered by the magistrate):
- The age of the appellant. He was only thirty-two (32) and there was the possibility of rehabilitation.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Three (3) years imprisonment with hard labour.

(*) Kevin Sutherland v PC Marlon Alexander  
C.A.MAG.9/2002  
Jones JA, Lucky JA  
May 24, 2002  

The respondent found 34 grams of marijuana contained in 9 foil packets which the appellant had in his black bag. The appellant was convicted on a charge of Possession of Marijuana for the Purpose of Trafficking for which he was fined $12,000.00 with an alternative of three (3) years imprisonment with hard labour. He was ordered to pay the sum of $5,000.00 forthwith.
Aggravating Factors:

- The appellant was nineteen (19) years old. The Court stated that more and more young people were getting involved in narcotics and, in particular, the Trafficking aspect as a means of easy money.

Mitigating Factors:

- No previous convictions.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $12,000.00, in default three (3) years imprisonment with hard labour.

(*) Brian Joseph v PC Rickie Jennings
C.A.MAG.253/2001
Sharma JA, Kangaloo JA
May 23, 2002

The respondent, along with other police officers, carried out a search of a vehicle in which the appellant was the sole occupant of the rear seat. There, a black plastic bag containing 1.56 kilograms of marijuana was found on the right rear seat behind the driver’s seat. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking for which he was sentenced to four (4) years imprisonment with hard labour.

Aggravating Factors:

- The age of the appellant (thirty-seven (37) years old);
- The quantum of marijuana (1.56 kg)

Mitigating Factors (considered by the magistrate):

- The appellant had no previous convictions, which weighed very lightly on the scale of factors to be considered;
- The prevalence of the offence.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Four (4) years imprisonment with hard labour.

(*) Roosevelt Ruiz v PC Phillip Llewellyn
C.A.MAG.252/2001
Sharma JA, Kangaloo JA
May 23, 2002

The appellant was arrested for an unrelated offence and was searched at the police station. In his underpants, in the region of the appellant’s testicles, officers discovered a piece of paper which contained 19 grams of marijuana. He was convicted of Possession of Marijuana for the Purpose of Trafficking and sentenced to three (3) years imprisonment with hard labour.
Aggravating Factors (considered by the magistrate):
   - Previous conviction for a similar type of offence.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Fined $2,000.00, in default six (6) months imprisonment with hard labour.

(*) Martin Enill v SRP Matthew Haywood  
C.A.MAG.79/2001  
Hamel-Smith JA, Jones JA  
May 22, 2002

Police officers executed a search warrant at the appellant’s home and discovered, hidden inside a pillowcase behind a chest of drawers, 4 plastic bags which contained 2,480.8 grams of marijuana. The appellant was convicted of Possession of Marijuana for the Purpose of Trafficking and sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
   - Evidence showed that the appellant was very involved in marijuana and that it was not a “fly by night” operation;
   - The appellant operated a mini mart and there was some indication that the packets were destined to be sold at the mini mart;
   - Large quantity involved.

Mitigating Factors:
   - No previous convictions.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour.

(*) Wendell Thomas v PC Troy Bruno  
C.A.MAG.154/2001  
Sharma JA, Permanand JA  
May 17, 2002

Police officers recovered 3.30 kilograms of marijuana contained in a bag in the vehicle in which the appellant and 3 other male occupants were travelling. The appellant pleaded guilty to a charge of Possession of Marijuana for the Purpose of Trafficking and was sentenced to imprisonment for five (5) years with hard labour.

Disposition:
Sentence varied.

Sentence:
Fined $25,000.00, in default five (5) years imprisonment with hard labour.
(*) Curtis Guyton v PC Dean Ross  
C.A.MAG.144/2001  
de la Bastide CJ, Kangaloo JA  
May 16, 2002  
The appellant was searched by police officers before he entered a cultural show. In his pants pocket, the officers discovered 5 grams of marijuana. The appellant was charged with Possession of Marijuana and sentenced to two (2) years imprisonment with hard labour.  
Aggravating Factors:  
• 5 previous convictions for Possession of a Weapon, Driving without a Certificate of Insurance, Interfering with a Prisoner, and 2 Larceny convictions.  
Mitigating Factors:  
• Small quantity;  
• Showed remorse;  
• 2 testimonials were advanced on behalf of the appellant;  
• Two (2) years imprisonment was found to be too severe;  
• The previous convictions were for offences that were not very serious in nature given that fines were imposed;  
• 5 years elapsed since his last offence.  
Disposition:  
Appeal dismissed. Conviction affirmed. Sentence varied.  
Sentence:  
Fined $2,500.00, in default twelve (12) months imprisonment with hard labour.

(*) Jerry Hernandez v PC Annette Piper  
C.A.MAG.147/2001  
de la Bastide CJ, Kangaloo JA  
May 16, 2002  
The appellant was searched at the entrance of the Port of Spain Magistrates’ Court and was found with 2.5 grams of marijuana hidden in a cigarette pack. He was convicted of Possession of Marijuana and sentenced to twelve (12) months imprisonment with hard labour.  
Aggravating Factors:  
• Seriousness of the offence;  
• Showed little respect for the Court and law.  
Mitigating Factors:  
• Plead guilty;  
• Small amount.  
Disposition:  
Appeal dismissed. Conviction affirmed. Sentence varied.  
Sentence:  
Fined $1,500.00, in default twelve (12) months imprisonment with hard labour.
(*) Anthony Fraser v PC Nicholas Thomas
C.A.MAG.129/2002
Nelson JA, Lucky JA
February 24, 2002

Police officers observed that the appellant placed a loaded firearm in his waist which contained 3 rounds of .38 ammunition. The appellant was convicted of Possession of a Firearm and Ammunition and sentenced to two (2) years imprisonment with hard labour on each charge, to run concurrently.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour for Possession of a Firearm.
Two (2) years imprisonment with hard labour for Possession of Ammunition.

Sentences to run concurrently.

Oudho Bhagaloo v PC Nicolas Vialva
C.A.MAG.125/2001
de la Bastide CJ, Jones JA
October 26, 2001

Police officers found the appellant and 2 other men in a nearby camp where they were working in a marijuana field. The appellant had a spray can on his back and was spraying the field while the other two men were working with cutlasses. All three men were charged with being in Possession of Marijuana for the Purpose of Trafficking for which they were fined $5,000.00 each. Additionally, the appellant was convicted of cultivating marijuana and was sentenced to a fine of $10,000 or two (2) years imprisonment with hard labour.

Aggravating Factors:
- The magistrate viewed the appellant as the mastermind who did not show remorse, but the Court of Appeal did not find anything in the evidence to indicate either.

Disposition:
The Court of Appeal referred to the principle that like cases should be treated alike. Persons who are convicted of the same offence ought not to receive different punishments unless circumstances justify making a decision. However, the court was not prepared to reduce the sentence in the name of equal treatment and expressed concern that if they substituted a sentence of imprisonment, this would have the effect of increasing the disparity. Hence, the sentence was not varied. Appeal dismissed.

Sentence:
Fined $10,000.00, in default two (2) years imprisonment with hard labour.
Faroud Hossein v PC Peters
C.A.MAG.242/2000
De la Bastide CJ, Lucky JA
October 22, 2001

The respondent searched the appellant’s sneakers and found cocaine in the soles. The appellant was convicted of the offences of Trafficking Cocaine and exporting that drug at Piarco Airport and was sentenced to eight (8) years imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):
- The packets were ingeniously concealed in the soles of the sneakers.

Disposition:
Appeal dismissed. Convictions affirmed. Sentence varied.

Sentence:
Seven (7) years imprisonment with hard labour.

Ricardo Blackman and Khanhai Bissoon v PC Anthony Charles
C.A.MAG.106/2001
De la Bastide CJ, Lucky JA
July 26, 2001

The respondent became suspicious after he saw the two appellants bend their heads when they saw him. He noticed a matchbox between the two men who were seated on a bench in a fishing complex. He searched same and found 3.5 grams of cocaine therein. The men were charged with being in Possession of Cocaine. At trial, they pleaded guilty and were each sentenced to eighteen (18) months imprisonment with hard labour.

Aggravating Factors:
- The seriousness of the offence;
- The substantial quantity of cocaine (3.5 grams).

Mitigating Factors:
- The guilty pleas of the appellants;
- The otherwise good records of the appellants with no previous convictions;
- The age of the appellants (forty-five (45) and twenty-four (24) years of age respectively);
- The 1st appellant was married with 6 children.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Eighteen (18) months imprisonment with hard labour.
Judy Mohammed aka Julie Mohammed v WPC Patricia Edward
C.A.MAG.95/2001
de la Bastide CJ, Lucky JA
July 26, 2001

The respondent executed a warrant at the home of the appellant. There she observed a clear piece of plastic protruding from the vagina of the appellant. The respondent conducted further examination and discovered 30 packets of foil which contained cocaine (1.5 grams) and $620.00 TT currency in the shirt pocket of the appellant. The appellant was charged with and convicted of Possession of Cocaine for the Purpose of Trafficking and was sentenced to three (3) years imprisonment with hard labour.

Mitigating Factors:
- The age of the appellant at the time of the offence (twenty-eight (28) years old);
- The fact that she was the mother and supporter of a ten (10) year old child;
- The appellant was terminally ill;
- The appellant showed remorse.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Three (3) years imprisonment with hard labour.

Anslem Stanford v PC Wazir Ali
C.A.MAG.105/2001
de la Bastide CJ, Lucky JA
July 26, 2001

The respondent executed a warrant to search the premises of the appellant. There he found, on top of a wardrobe, a small plastic bottle which contained several pieces of cocaine (1.5 grams). The appellant was charged with Possession of Cocaine for the Purpose of Trafficking. Upon conviction, he was sentenced to a term of imprisonment for the statutory minimum of five (5) years with hard labour.

Aggravating Factors:
- 3 previous convictions;
- The prevalence of the offence.

Mitigating Factors:
- The age of the appellant (though this did not assist him much);
- Guilty plea entered.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour.
(*) Brendon Cambridge v PC Simeon James
C.A.MAG.34/2001
Hamel-Smith JA, Nelson JA
May 25, 2001
The appellant fled as police officers approached him. He was eventually captured and searched. Officers discovered a firearm and 5 rounds of .38 ammunition. He was sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors:
- The seriousness and prevalence of the offence.

Mitigating Factors:
- Pleaded guilty;
- Nineteen (19) years old at the time of the offence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Three (3) years imprisonment with hard labour.

(*) Wade Taylor v PC Bertrand Alleyne
C.A.MAG.35/2001
Hamel-Smith JA, Nelson JA
May 25, 2001
Police officers on patrol observed that the appellant cut something with a pair of scissors and placed it in a plastic bag. As the officers approached the appellant, he ran but was held shortly thereafter. The officers took possession of the bag which contained scissors, a piece of plastic containing marijuana, a transparent bag containing 23 hand rolled cigarettes, and another plastic bag which contained 22 foil packets. Together, with the plant material, the weight amounted to 129 grams. The appellant was found guilty of Possession of Marijuana for the Purpose of Trafficking and sentenced to twelve (12) months hard labour.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Twelve (12) months imprisonment with hard labour.

(*) Max Cumberbatch v PC Murrell
C.A.MAG.33/2001
de la Bastide CJ, Jones JA
May 24, 2001
Police on mobile patrol searched the vehicle in which the appellant and 3 others were travelling. They discovered a grey plastic bag containing 14.5 grams of marijuana in the vehicle, along with foil packets containing marijuana that were retrieved after conducting a physical search
of 2 of the other occupants of said vehicle. The appellant was sentenced to thirty (30) months imprisonment with hard labour.

Aggravating Factors:

- The appellant had 2 previous convictions of a similar nature;
- He was given the opportunity to pay a fine in the past and to redeem himself in society;
- The prevalence of the offence;
- The age of the appellant (thirty-nine (39) years old).

Mitigating Factors:

- Guilty plea entered.

Disposition:
Conviction and sentence affirmed.

Sentence:
Thirty (30) months imprisonment with hard labour.

(*) Leonard Leacock v PC Anthony Spence
C.A.MAG.29/2001
de la Bastide CJ, Jones JA
May 24, 2001

Police officers searched the appellant’s vehicle after it was pursued for approximately 5-10 minutes. They discovered a bag between the driver and passenger’s seat of the vehicle which contained 896.1 grams of marijuana. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking and sentenced to twenty-two (22) months imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):

- Seriousness and prevalence of the offence;
- Large quantity involved.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Fined $3,000.00, in default nine (9) months imprisonment with hard labour.

(*) Mwamba A Nku v PC Ralph Satnarine
C.A.MAG.12/2001
Sharma JA, Lucky JA
May 23, 2001

The appellant was charged with Possession of Marijuana for the Purpose of Trafficking. Police officers executed a search warrant on the appellant’s premises where they discovered 500 grams of marijuana hidden under a crocus bag on the floor. The appellant was fined $20,000.00, in default three (3) years imprisonment with hard labour.
**Aggravating Factors (considered by the magistrate):**

- 1 previous conviction for a similar offence;
- Large quantity.

**Disposition:**

Appeal dismissed. Conviction affirmed. Sentence varied.

**Sentence:**

Fined $7,000.00, in default three (3) years imprisonment with hard labour.

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(*) Clint Bholo v PC Alva Gordon  
C.A.MAG.204/2000  
Jones JA, Warner JA  
May 22, 2001

The appellant was caught at the airport attempting to export cocaine (932 grams) that was concealed in the soles of his shoes. He was convicted of Possession of Cocaine for the Purpose of Trafficking and sentenced to eight (8) years imprisonment with hard labour.

**Disposition:**

Conviction affirmed. Sentence varied.

**Sentence:**

Five (5) years imprisonment with hard labour.

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(*) Keith Howard v PC Phillip Wilson  
C.A.MAG.257/2000  
Jones JA, Warner JA  
May 22, 2001

The respondent was in possession of a warrant to search the premises of the appellant for dangerous drugs. The appellant took the officers to a nearby yard and invited them in. There the respondent found a plastic bag containing 82 grams of marijuana under a bed. The appellant was fined $25,000.00.

**Aggravating Factors:**

- The seriousness of the offence;
- The appellant had 1 previous conviction for a similar offence.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

Fined $25,000.00.
(*) Desmond Jaisiree v PC Richard Ramtoole  
C.A.MAG.22/2001  
Hamel-Smith JA, Jones JA  
April 5, 2001

The respondent visited the home of the appellant to search for stolen articles. There he discovered a paint bucket containing marijuana plants growing therein. The appellant was charged with Cultivation of Marijuana. He was convicted and sentenced to thirty (30) months imprisonment with hard labour, based on his inability to pay a fine due to the fact that he was unemployed.

**Aggravating Factors (considered by the magistrate):**
- The seriousness and prevalence of the offence.

**Disposition:**
Appeal allowed against sentence. Conviction affirmed. Sentence varied.

**Sentence:**
Fined $3,500.00, in default nine (9) months imprisonment with hard labour.

(*) Andy White v PC Parris  
C.A.MAG.266/2000  
Hamel-Smith JA, Permanand JA  
April 4, 2001

A crowd dispersed as the respondent’s vehicle approached. The appellant was observed with a white plastic bag in hand. He was held, whereupon the respondent discovered 20 foil packets of marijuana (weighing over 15 grams). The appellant was charged with and later convicted of Possession of Marijuana for the Purpose of Trafficking, for which he was sentenced to three (3) years imprisonment with hard labour.

**Aggravating Factors:**
- The quantum of marijuana seized.

**Mitigating Factors:**
- The appellant’s lack of antecedents.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Three (3) years imprisonment with hard labour.
Kerry Yarde v PC Pustam
C.A.MAG. 275/2000
Hamel-Smith JA, Permanand JA
April 4, 2001

The respondent executed a search warrant at the home of the appellant. There he searched the appellant and found 3 foil packets which contained 4 grams of marijuana. The appellant was charged with and subsequently convicted of Possession of Marijuana for which he was fined $6,000.00 or twelve (12) months hard labour in default of payment.

Aggravating Factors:
- The gravity and prevalence of the offence;
- The weight of the narcotic;
- The need to discourage the appellant from further illegal activity.

Mitigating Factors:
- The age of the appellant (twenty-two (22) years old);
- No antecedents.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $6,000.00, in default twelve (12) months imprisonment with hard labour.

Tyrone Carter v PC Curt Jackson
C.A.MAG.230/2000
Sharma JA, Lucky JA
April 3, 2001

The respondent, in company with other police officers, stopped the appellant when he was in the process of removing a black bag from the root of a banana tree. The appellant began to run when he saw the officers. The bag fell, but the officers pursued and retrieved same. They then discovered 25 grams of marijuana therein. The appellant was charged with and convicted of Possession of Marijuana for the Purpose of Trafficking for which he was sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
- The appellant had 7 previous convictions, 4 of which were for narcotic offences. The court was therefore of the view that the appellant was a habitual offender;
- The prevalence of narcotic offences and its consequent damage to society;
- The appellant previously served prison terms for the same type of offence, which established with some degree of certainty that his previous incarceration had but little effect on him.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour.
(*) Junior Sammy v PC Noel  
C.A.MAG.259/2000  
de la Bastide CJ, Warner JA  
April 2, 2001  

Officers went into a forested area and there observed 2 men as they placed marijuana into garbage bags. Forensic analysis revealed that it amounted to 7.160 kilograms. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking. Upon conviction, he was sentenced to five (5) years imprisonment with hard labour.

**Aggravating Factors:**
- The nature and seriousness of the offence;
- The quantum involved here was substantial. It could be reasonably inferred that this was for sale and that the appellant was heavily involved in the peddling of narcotics.

**Mitigating Factors:**
- The appellant had no previous convictions.

**Disposition:**
Appeal dismissed. Conviction affirmed. Sentence varied.

**Sentence:**  
Fined $10,000.00, in default three (3) years imprisonment with hard labour.

(*) Arnold Gentle v PC Peter Trancoso  
C.A.MAG.107/2000  
Sharma JA, Lucky JA  
January 25, 2001  

The car in which the appellant was travelling was stopped by police officers during road check duty. The appellant was found with 1.5 kilograms of marijuana. He was charged with Possession of Marijuana for the Purpose of Trafficking and sentenced to four (4) years imprisonment with hard labour.

**Aggravating Factors:**
- 2 previous convictions for similar offences.

**Mitigating Factors:**
- Plead guilty.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Four (4) years imprisonment with hard labour.
Police officers on a road check duty stopped the appellant’s vehicle. It was searched and officers discovered a crocus bag which contained 2.7 kilograms of marijuana. The appellant was convicted of Possession of Marijuana for the Purpose of Trafficking and sentenced to four (4) years imprisonment with hard labour.

**Aggravating Factors:**
- 3 previous convictions for Possession of Marijuana;
- Prevalence of drug trafficking in the country.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Four (4) years imprisonment with hard labour.

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Police officers observed the appellant with a bag in his hand. When he saw the officers, he dropped the bag and attempted to flee the scene, but was later arrested and charged. The bag contained 16 grams of marijuana. The appellant was convicted of Possession of Marijuana for the Purpose of Trafficking and sentenced to two (2) years imprisonment with hard labour.

**Aggravating Factors:**
- 4 previous convictions, which included a conviction for Trafficking in Cocaine;
- Prevalence of the offence and the need to send a message to society;
- Destructive nature of the offence and the need to protect young persons.

**Mitigating Factors (considered by the magistrate):**
- Pleaded guilty.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Two (2) years imprisonment with hard labour.
(*) Dennis Calliste v PC Neil Warner-Paul  
C.A.MAG.81/2000  
de la Bastide CJ, Jones JA  
January 23, 2001

The appellant was searched by a police officer and was found with 2 rocks of cocaine collectively weighing 0.2 grams. The appellant was charged with Possession of Cocaine for the Purpose of Trafficking within 100 metres of a school. He was sentenced to five (5) years imprisonment with hard labour.

**Aggravating Factors:**
- The appellant had 11 previous convictions.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Five (5) years imprisonment with hard labour.

(*) Intab Mohammed v SRP Gerald Assing  
C.A.MAG.203/2000  
Sharma JA, Lucky JA  
November 24, 2000

The respondent stopped the appellant’s vehicle and requested his driver’s permit. He had none. Then the respondent searched the appellant and found a piece of gold coloured foil containing 0.5 grams of marijuana. The appellant was charged with Possession of Marijuana for which he was convicted and fined $750.00, in default three (3) months imprisonment with hard labour.

**Aggravating Factors:**
- The seriousness of the offence;
- The need to deter the appellant.

**Mitigating Factors:**
- The age of the appellant;
- The fact that the appellant had no previous convictions;
- The fact that the appellant pleaded guilty at the first opportunity in effort not to waste the court’s time.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fined $750.00, in default three (3) months imprisonment with hard labour.
The respondent executed a warrant to search the premises of the appellant for arms and ammunition. There he found 60 foil packets of marijuana (110 grams). The appellant was charged and convicted of Possession of Marijuana for Trafficking for which he was fined $10,000.00, in default three (3) years imprisonment with hard labour.

**Aggravating Factors:**

- The prevalence of the offence for which the appellant was charged;
- The quantity of cannabis found in his possession;
- The fact that the appellant had 2 previous convictions for a similar offence;
- The appellant was in the process of packaging the cannabis for subsequent distribution.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

Fined $10,000.00, in default three (3) years imprisonment with hard labour.

The respondent was on duty when he observed several exchanges between the twenty-six (26) year old appellant and several young men. The respondent approached the appellant and saw in his right hand a clear piece of plastic which contained 5 foil packets of cocaine. The appellant was charged with Possession of Cocaine for the Purpose of Trafficking. Upon conviction, he was sentenced to twenty-four (24) months imprisonment with hard labour.

**Aggravating Factors (raised by counsel and noted by the magistrate):**

- The appellant had 2 previous convictions, one of which concerned a similar offence;
- The appellant was flagrantly selling the very deleterious cocaine.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

Twenty-four (24) months imprisonment with hard labour.
(\textit{*}) Marvin Lewis v PC Julien \\
C.A.MAG.116/2000 \\
Sharma JA, Nelson JA \\
November 20, 2000 \\
The respondent was on duty at a school bazaar where he searched persons prior to entry. He searched the appellant and found a black plastic bag in his left back pants pocket which contained 11 foil packets of marijuana (19 grams). The appellant was charged with Possession of Marijuana for the Purpose of Trafficking and was sentenced to twelve (12) months imprisonment with hard labour upon conviction.

Aggravating Factors:
- The prevalence and seriousness of the offence;
- The fact that the appellant had the marijuana at a school dance.

Mitigating Factors:
- The age of the appellant at the time of the offence (twenty-one (21));
- This was the appellant’s first offence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence: 
Twelve (12) months imprisonment with hard labour.

(\textit{*}) Guyapersad Sahadeo and Ramdaye Pattiram v PC Totaram Dookie \\
C.A.MAG.108/2000 \\
Sharma JA, Nelson JA \\
November 20, 2000 \\
The respondent executed a warrant to search the premises of the first appellant for narcotics. There he saw the first appellant in the porch while the second appellant, his wife, was at the back of the house. The third appellant, the daughter of the first and second appellants, was also present at the time. A search was conducted and a black bag which contained 140 grams of marijuana was found. The appellants were charged with Possession of Marijuana for the Purpose of Trafficking. Upon conviction, the first and second appellants were each fined $10,000.00, in default two (2) years imprisonment with hard labour. The third appellant was reprimanded and discharged under section 71(1)(a) of the Summary Courts Act, Chapter 4:20. The second appellant had a previous conviction.

Mitigating Factors (in respect of the third appellant):
- The age of the appellant, who was thirteen (13) years old at the time of the offence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
The first and second appellants were each fined $10,000.00, in default two (2) years imprisonment with hard labour.
The third appellant was reprimanded and discharged under Section 71(1)(a) of the Summary Courts Act, Chapter 4:20.

(*) Richard Johnswan v PC Earl Arthur  
C.A.MAG.36/2000  
Hamel-Smith JA, Jones JA  
August 4, 2000
The respondent discovered 6 kilograms of marijuana concealed in the rear and spare tyres of a vehicle on board the inter-island ferry in which the appellant and another were seated. The appellant was sentenced to six (6) years imprisonment with hard labour.

Aggravating Factors:
• The nature and scale of this operation;
• The seriousness of the offence;
• The manner in which it was committed;
• The quantity of drugs involved;
• The sentence was considered appropriate due to the aforementioned factors and notwithstanding the fact that the appellant had no previous convictions against him.

Disposition:
Conviction and sentence affirmed.

Sentence:
Six (6) years imprisonment with hard labour.

(*) Joseph Ramkissoon v PC Andy Cunningham  
C.A.MAG.8/2000  
Hamel-Smith JA, Jones JA  
August 2, 2000
The respondent stopped the vehicle in which the appellant was an occupant. A search was conducted and 45 grams of marijuana was found on the floor of the vehicle. The appellant pleaded guilty and was fined $10,000.00 or two (2) years imprisonment with hard labour in default.

Aggravating Factors:
• The appellant had 1 previous conviction.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $10,000.00, in default two (2) years imprisonment with hard labour.
(*) Frank Winchester v PC Garfield Moore  
C.A.MAG.9/2000  
Hamel-Smith JA, Jones JA  
August 2, 2000

The respondent observed the appellant with his hands clenched and he became suspicious. He approached the appellant, searched him and discovered a match box with marijuana therein. The appellant pleaded guilty to a charge of Possession of Marijuana and was fined $2,000.00, in default nine (9) months imprisonment with hard labour.

Aggravating Factors:

- The appellant had 6 previous convictions, 5 of which were for narcotics.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $2,000.00, in default nine (9) months imprisonment with hard labour.

(*) John Aguillera v PC Lawrence Mitchell  
C.A.MAG.64/2000  
Ibrahim JA, Warner JA  
July 27, 2000

The appellant’s vehicle was stopped while police officers were on road check duty. The appellant was searched and he was found with 2 grams of marijuana in his pants pocket. The appellant was charged with Possession of Marijuana and fined $1,000.00 or three (3) months imprisonment with hard labour in default.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $1,000.00, in default three (3) months imprisonment with hard labour.

(*) Ernest Halls v PC Kirk Griffith  
C.A.MAG.73/2000  
de la Bastide CJ, Warner JA  
June 30, 2000

The respondent, along with other police officers, executed a warrant to search the premises of the appellant for arms and ammunition. There they found a plastic bag containing 946 grams of marijuana, which was placed in a drum half-filled with water in a bedroom. The appellant was convicted on a charge of Possession of Marijuana for the Purpose of Trafficking, for which he was sentenced to fifty (50) months imprisonment with hard labour.
Aggravating Factors:
- The substantial quantum involved – 946 grams;
- The seriousness of the offence – narcotic offences attracted severe penalties under the law having regard to the damage narcotics were doing to the society, especially the youth.

Mitigating Factors:
- No previous convictions.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fifty (50) months imprisonment with hard labour.

(*) Sudesh Persad v SRP Eric George
C.A.MAG.74/2000
de la Bastide CJ, Warner JA
June 30, 2000

The respondent was travelling in a private car and became suspicious of the appellant whom he had under observation. The respondent alighted from the vehicle and conducted a search of the appellant, whereupon he found 14 foil packets of marijuana (25 grams). The appellant was charged with Possession of Marijuana for the Purpose of Trafficking for which he was convicted and sentenced to ten (10) years imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):
- The appellant had 3 previous convictions;
- The nature and prevalence of this type of offence;
- The dangers and consequences to society of this type of offence.

Mitigating Factors (considered by the magistrate):
- The appellant did not waste judicial nor the State’s time and entered a guilty plea.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Three (3) years imprisonment with hard labour.

(*) Premchan Gosine v PC Renzey Ramdeen
C.A.MAG.32/2000
Ibrahim JA, Permanand JA
June 28, 2000

The respondent searched the appellant and found 3 grams of marijuana on his person. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking. He pleaded guilty and was fined $300.00, in default nine (9) months imprisonment with hard labour.
Aggravating Factors:

- The nature and prevalence of the offence;
- The legislature has regarded this offence as a very serious one, recognising that marijuana is detrimental to the community at large;
- The quantum of marijuana involved.

Mitigating Factors:

- The appellant’s family commitments and his ability to pay a fine;
- The appellant had no previous convictions of a similar nature.

Disposition:
Conviction and sentence affirmed.

Sentence:
Fined $300.00, in default nine (9) months imprisonment with hard labour.

(*) Kambon Nicholas v PC Eusebio Cooper  
C.A.MAG.225/1999  
Sharma JA, Warner JA  
March 29, 2000

The respondent was on patrol duty with other police officers and observed the appellant seated in an abandoned house. The respondent entered and took possession of a black plastic bag which contained foil packets of 480 grams of marijuana. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking. Upon conviction, he was sentenced to seven (7) years imprisonment with hard labour.

Aggravating Factors:

- The seriousness and prevalence of the offence;
- The amount of the drug could not have been for personal use;
- The imposition of a custodial sentence would serve as a deterrent to those young persons of the age of the appellant (twenty (20) years old).

Disposition:
Appeal against conviction dismissed. Appeal against sentence allowed and varied.

Sentence:
Twelve (12) months imprisonment with hard labour.

(*) Edwin Alexander v SRP George  
C.A.MAG.258/1999  
Ibrahim JA, Permanand JA  
March 27, 2000

The appellant was found with 1.8 grams of marijuana and was charged with Possession of Marijuana to which he pleaded guilty. He was fined $1,500.00, in default four (4) months imprisonment with hard labour.
Mitigating Factors:

- The appellant admitted that he used the drug.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $1,500.00, in default four (4) months imprisonment with hard labour.

(*) Kazim Ali v PC Wayne Mohammed  
C.A.MAG.259/1999  
Ibrahim JA, Permanand JA  
March 27, 2000

The respondent stopped the vehicle which the appellant was driving and searched it pursuant to information that it was being used to convey arms, ammunition, and narcotics. He observed a black garbage bag therein and a strange odour coming from the vehicle. He searched the bag and found 1.6 kilograms of marijuana. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking. Upon conviction, the appellant was fined $2,000.00, in default three (3) years imprisonment with hard labour.

Aggravating Factors:

- The seriousness and prevalence of the offence as mirrored by the appellant’s action to have such quantity of the drug in his possession and for sale.

Mitigating Factors:

- No previous convictions.

Disposition:

Appeal against conviction dismissed. Appeal against sentence allowed. Sentence varied.

Sentence:

Fined $5,000.00.

(*) Dexter Andrews v PC Wayne Mohammed  
C.A.MAG.261/1999  
Ibrahim JA, Permanand JA  
March 27, 2000

The respondent executed a warrant to search for arms and ammunition at the premises of the appellant. Instead, he found 90 grams of marijuana. The appellant pleaded guilty to a charge of Possession of Marijuana for the Purpose of Trafficking. He was fined $5,000.00, in default nine (9) months imprisonment with hard labour.

Aggravating Factors:

- The prevalence of the offence in society;
- The deterrent effect on the appellant.
Mitigating Factors:
  • The appellant pleaded guilty.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $5,000.00, in default nine (9) months imprisonment with hard labour.

(*) Hillary Cox v Cpl Baldeo Nanan
C.A.MAG.268/1999
Ibrahim JA, Permanand JA
March 27, 2000

The respondent and other officers on duty in a forested area observed a camp near a marijuana plantation for 10 minutes. They saw the appellant and another tending to the plants. The appellant attempted to escape when alerted to the police presence, but was apprehended and taken to the camp where a search revealed the presence of 2 firearms, 2 rounds of ammunition, 2 cutlasses, a white plastic bucket containing marijuana, $3,120.00 in TT currency, and $20.00 in US currency. The appellant was charged with Cultivation of Marijuana for which he was convicted and sentenced to nine (9) years imprisonment with hard labour.

Aggravating Factors:
  • The number of marijuana plants – about $50,000.00 worth of plants were burnt and destroyed;
  • The disastrous effects that drugs have on addicts;
  • The deterrent aspect on other cultivators;
  • The prescribed maximum sentence for the offence;
  • The efforts of the Government of Trinidad and Tobago and governments worldwide to eradicate the drug menace.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Nine (9) years imprisonment with hard labour.
The appellants and two others, including a police officer, were travelling in a vehicle searched by police officers. A canvas bag which contained 560.9 grams of marijuana was discovered hidden under the driver’s seat. The appellants were convicted of Possession of Marijuana for the Purpose of Trafficking and were sentenced to sixty-four (64) months imprisonment with hard labour.

**Aggravating Factors (considered by the magistrate):**

- The nature and seriousness of the offence;
- The minimum penalty (at the time of sentencing) was 5 years;
- It was a joint venture which involved a police officer, who was one of the four defendants charged with the offence;
- Large quantity of narcotic.

**Mitigating Factors:**

- The defendants did not have any previous convictions.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed. Sentence varied.

**Sentence:**

Five (5) years imprisonment with hard labour.

The respondent executed a warrant to search the premises of the appellant and found a firearm and ammunition in a pouf in the living room. The appellant, together with three others, was charged with Possession of an Unlicensed Firearm and Ammunition. The appellant pleaded guilty and was sentenced to two (2) years imprisonment with hard labour.

**Aggravating Factors:**

- The seriousness and prevalence of the offence;
- No explanation furnished for the presence of the unlicensed firearm, therefore making it reasonable to assume that it was in his possession for the commission of a serious offence.

**Mitigating Factors (considered by the magistrate):**

- The appellant was a young man and this was his first offence.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.
Sentence:

Two (2) years imprisonment with hard labour.

(*) Victor Henderson v PC Derick Walker A3-182
C.A.MAG.157/1999
Sharma JA, Warner JA
February 21, 2000

The appellant was found walking with a brown bag containing 17 foil packets of marijuana (50.5 grams), TT $945.00, and US $31.00. He was charged with Possession of Marijuana for the Purpose of Trafficking and was sentenced to seven (7) years imprisonment with hard labour. The appellant had 1 previous conviction for a similar offence.

Aggravating Factors (considered by the magistrate):

• The serious nature of the offence;
• The prevalence of this offence in society.

Mitigating Factors (considered by the magistrate):

• The age of the appellant.

Disposition:

Appeal allowed. Conviction affirmed. Sentence varied.

Sentence:

Five (5) years imprisonment with hard labour.

(*) Sherwin Charles v PC Raymond Emmanuel A3-183
C.A.MAG.186/1999
de la Bastide CJ, Permanand JA
October 28, 1999

Police officers searched the appellant's vehicle and discovered a garbage bag which contained 4 pounds of marijuana. The appellant was convicted of Possession of Marijuana for the Purpose of Trafficking and sentenced to three and a half (3.5) years imprisonment with hard labour. It was also ordered that the vehicle, which was admitted as being used as a means of transporting the marijuana, be destroyed.

Aggravating Factors (considered by the magistrate):

• The appellant freely admitted that he had gotten a job to transport marijuana and the Court found that no remorse was shown on his part;
• The scourge of drug trafficking in the country.

Disposition:

Conviction affirmed. Sentence varied. Order of forfeiture of the motor vehicle quashed.

Sentence:

Two (2) years imprisonment with hard labour.
The respondent intercepted a vehicle in which the appellant was an occupant. The appellant threw 2 cocaine rocks out of the vehicle and was cautioned, arrested, and charged with Possession of Cocaine for the Purpose of Trafficking (1.4 grams). Upon conviction, the appellant was fined $10,000.00 or three (3) years imprisonment with hard labour in default.

**Aggravating Factors:**
- The expressed purpose of the appellant for his purchase of it, that is, for resale;
- The appellant’s age (thirty-three (33) years old).

**Mitigating Factors:**
- The appellant’s socio-economic circumstances;
- The appellant’s remorse.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fined $10,000.00, in default three (3) years imprisonment with hard labour.

The respondent saw the appellant at a football match with a ‘funny looking cigarette’. The respondent retrieved same, searched the appellant, and found a quantity of marijuana. The appellant was convicted on a charge of Possession of Marijuana (9.7 grams) for which he was fined $7,500.00, in default three (3) years imprisonment with hard labour.

**Aggravating Factors:**
- The nature and prevalence of the offence;
- The flagrant use of the narcotic by the appellant.

**Mitigating Factors:**
- The magistrate considered the plea in mitigation;
- No previous convictions.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fined $7,500.00, in default three (3) years imprisonment with hard labour.
Kello James v PC Nemest Joseph  
C.A.MAG.126/1999  
Sharma JA, Nelson JA  
July 30, 1999

Police officers on road check duty stopped the car in which the appellant and others were travelling and informed them that they had received information that there were narcotics in the vehicle. The officers searched the vehicle and recovered parcels of marijuana weighing 1.3 kilograms. The appellant and others were charged with Possession of Marijuana for the Purpose of Trafficking. The appellant pleaded guilty. A sentence of three (3) years imprisonment with hard labour was imposed.

Mitigating Factors:
- The appellant had no previous convictions.

Disposition:
Sharma JA commented that the sentence is normally five (5) years for Trafficking. Sentence varied.

Sentence:
Three (3) years simple imprisonment.

(*) Smythe Henry v PC Vernon Williams  
C.A.MAG.78/1999  
Hamel-Smith JA, Permanand JA  
July 29, 1999

The respondent executed a warrant to search the premises of the appellant and there found marijuana which was later analysed and found to be 2,546.4 grams. The appellant was sentenced to seventy-eight (78) months imprisonment with hard labour.

Aggravating Factors:
- The nature and seriousness of the offence. This was a case of Possession of a Narcotic for Trafficking and the court considered that at the time of the incident, the influx of narcotics into the society was a growing concern and the danger its existence could have on society;
- The quantum involved (2,546.4 grams). This was clearly a case of Trafficking in the narcotic and one had to consider the number of persons who would be affected if such a quantum found its way onto the nation’s streets.

Mitigating Factors (taken into consideration by the magistrate):
- The appellant had no previous convictions.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Seventy-eight (78) months imprisonment with hard labour.
Willard Awong v PC Wilson
C.A.MAG.79/1999
Hamel-Smith JA, Permanand JA
July 29, 1999

The respondent executed a warrant on the premises of the appellant to search for dangerous drugs. The respondent found, in a downstairs room, a quantity of marijuana on the floor which was later analysed and determined to be 2 kilograms in weight. At trial, the appellant pleaded guilty and was sentenced to seven (7) years imprisonment and a fine of $35,000.00, in default three (3) years imprisonment with hard labour.

Aggravating Factors (considered by the magistrate):
- The quantum was substantial and it could be reasonably inferred that the narcotic was for sale and not for personal use;
- The seriousness and prevalence of the offence;
- The necessity to apply the punitive and deterrent principles in imposing sentence.

Aggravating Factors (considered by the Court of Appeal):
- Same as above.

Mitigating Factors (considered by the Court of Appeal):
- The guilty plea of the appellant;
- The clean record of the appellant;
- There was insufficient evidence that there was any profit-making machine, as such.

Disposition:
Appeal allowed. Conviction affirmed. Sentence varied.

Sentence:
Five (5) years imprisonment with hard labour.

Wendell Daniel v PC Michael Ashby
C.A.MAG.10/1999
de la Bastide CJ, Nelson JA
May 26, 1999

The appellant was searched by police officers and he was found with 14 plastic bags of marijuana together weighing 33 grams. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking and sentenced to two (2) years imprisonment with hard labour.

Aggravating Factors:
- Prevalence of the offence;
- The quantity of marijuana;
- Destructive nature of drugs in society;
- The appellant had recently been released from prison for an identical offence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Two (2) years imprisonment with hard labour.

(17) William Paul aka Ricky Paul v PC Bebee
C.A.MAG.187/1997
Hamel-Smith JA, Jones JA
November 26, 1998
The respondent and other police officers were on road check duty and had cause to stop the vehicle being driven by the appellant. When the appellant came out of same, officers noticed a bulge in his trousers and conducted a search. They found a revolver with 3 live rounds of ammunition. The appellant was charged with Possession of a Firearm and Ammunition on account of the fact that he did not possess a Firearm User’s Licence. He was later convicted and sentenced to two (2) years imprisonment with hard labour.
Aggravating Factors:
• The prevalence and frequency of firearm related offences.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Two (2) years imprisonment with hard labour.

(17) Daniel Benjamin aka Dallion Benjamin v Cpl Ronald Ifill
C.A.MAG.41/1998
Ibrahim JA, Warner JA
May 27, 1998
The respondent and other police officers saw the appellant run out of an abandoned house with a blue bag on his shoulder, which he dropped. The respondent searched the bag and found marijuana. The appellant was sentenced to five (5) years imprisonment with hard labour upon conviction for Possession of Marijuana for the Purpose of Trafficking (2.32 kilograms).
Aggravating Factors (considered by the magistrate):
• The quantum of narcotics found;
• The seriousness and prevalence of the offence.
Mitigating Factors (considered by the magistrate):
• The age of the matter;
• The length of time the appellant remained in custody awaiting trial.
Disposition:
Appeal dismissed. Conviction affirmed.
Sentence:
Five (5) years imprisonment with hard labour.
(*) Ricardo La Borde v PC Linley Paul
C.A.MAG.32/1998
Ibrahim JA, Permanand JA
May 27, 1998

Police officers searched the appellant and discovered 6 foil packets of marijuana (23.5 grams). The appellant was convicted of Possession of Marijuana for the Purpose of Trafficking and sentenced to five (5) years imprisonment with hard labour.

Disposition:
Conviction affirmed. Sentence varied.

Sentence:
Three and a half (3.5) years imprisonment with hard labour.

Paul Jackman v PC Victor Munroe
C.A.MAG.152/1997
Sharma JA, Permanand JA, Jones JA
December 5, 1997

Police officers on mobile patrol duty observed the suspicious looking appellant and another in a parked vehicle. The appellant was seated behind the steering wheel. Marijuana was found under the passenger’s seat of the vehicle. The appellant was charged with Possession of Marijuana (0.02 grams). He pleaded guilty and was fined $1,000.00, in default three (3) months imprisonment with hard labour.

Mitigating Factors:
- No previous convictions;
- Appellant was twenty (20) years old at the time of the offence;
- Had impressive academic qualifications;
- Displayed an ability to achieve short-term goals;
- Disclosed an intention to further his education abroad;
- Received favourable testimonials from a pastor/student counsellor;
- Showed remorse;
- Attained spiritual maturity and discontinued indulgence in alcohol.

Disposition:
The sentence of a fine was varied and an order made under Section 71(1)(a) of the Summary Courts Act, Chapter 4:20.

Dismissed under Section 71(1)(a) of the Summary Courts Act, Chapter 4:20.

(*) Damian Smith v PC John Adams
C.A.MAG.2/1997
Ibrahim JA, Hosein JA
August 19, 1997

The respondent executed a search warrant at the home of the appellant. He found a white plastic bag which contained 58 hand rolled marijuana cigarettes (39 grams) and TT $47.00
in the couch. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking. Upon conviction, the appellant was fined $25,000.00, in default five (5) years imprisonment.

Aggravating Factors:

- The nature and prevalence of the offence;
- The weight of the narcotic involved;
- The packaging and quantity of the narcotic, which suggested that it was for distribution;
- The appellant’s previous conviction for a similar offence.

Mitigating Factors:

- The appellant’s age and earning capacity.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $25,000.00, in default five (5) years imprisonment.

(*) Chunilal Bhagaloo v SRP George
C.A.MAG.91/1997
Ibrahim JA, Hamel-Smith JA
July 31, 1997

The respondent was on mobile patrol when he caused the appellant to stop his vehicle. He searched the appellant and found a foil packet of marijuana (8.5 grams). The appellant was charged with Possession of Marijuana and upon conviction, he was fined $4,000.00 or six (6) months imprisonment with hard labour in default.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $4,000.00, in default six (6) months imprisonment with hard labour.

(*) David Williams v PC Mahabir Maharaj
C.A.MAG.35/1997
Sharma JA, Permanand JA
July 30, 1997

The appellant was seated in the driver’s seat of a parked car. A police officer searched the vehicle and a bag was discovered on the floor of the car. It contained 39 wrapped foil packets of marijuana that together weighed 189.2 grams. The appellant was convicted of Possession of Marijuana for the Purpose of Trafficking and fined $15,000.00 or four (4) years imprisonment with hard labour on payment of $4,000.00.

Aggravating Factors:

- Seriousness and gravity of the offence;
• Frequency with which the type of offence was being committed;
• Profound adverse effects that drugs have on society.

Mitigating Factors:
• No previous convictions;
• The appellant had 3 young children that he solely supported.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Fined $15,000.00, in default four (4) years imprisonment with hard labour on payment of $4,000.00.

(*) Brian Constance and Lyntron Baptiste v PC Curtis Thomas
C.A.MAG.47/1997
Hamel-Smith JA, Hosein JA
July 29, 1997
The respondent and other officers were on mobile patrol duty on the date in question. When the respondent approached the appellants, the first appellant shouted “Police, boy, police” whereupon both appellants rose from their seats. The first appellant threw a foil packet to the second appellant who caught it and began to run. The respondent gave chase, caught that appellant, and discovered that the packet contained marijuana (26.4 grams). The appellants were charged with Possession of Marijuana for Trafficking and fined $10,000.00, in default three (3) years imprisonment with hard labour.

Aggravating Factors:
• The nature and prevalence of the offence.

Mitigating Factors:
• First offence;
• Appellant (Constance) was a thirty-six (36) year old shoemaker with 3 children.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Fined $10,000.00, in default three (3) years imprisonment with hard labour.

(*) Jiuanlal Ragoobar v PC Glynn
C.A.MAG.45/1997
Hamel-Smith JA, Hosein JA
July 29, 1997
The respondent was on duty when he stopped the vehicle in which the appellant was the driver and sole occupant. The appellant fled, leaving behind a black plastic bag and two covered white plastic buckets which contained marijuana. The appellant was charged with
Possession of Marijuana for the Purpose of Trafficking. Upon conviction, he was sentenced to five (5) years imprisonment with hard labour.

**Aggravating Factors:**
- The facts and circumstances surrounding the commission of the offence;
- The locality in which the offence was committed;
- The frequency with which the offence was committed in this district;
- The gravity and seriousness of the offence.

**Disposition:**
Appeal dismissed. Conviction affirmed. Sentence varied.

**Sentence:**
Four (4) years imprisonment with hard labour.

(*) Lawrence Greene v PC Anthony Charles  
C.A.MAG. 16/1997  
Hamel-Smith JA, Permanand JA  
March 26, 1997

The respondent and other officers executed a search warrant at the home of the appellant. In the bedroom of the said home, they found, concealed in a mattress, a homemade shotgun (made of metal and a piece of pipe) which contained a 16-gauge cartridge. The appellant was charged with Possession of a Firearm and Ammunition. Upon conviction he was sentenced to eighteen (18) months imprisonment with hard labour.

**Aggravating Factors:**
- The nature and prevalence of the offences;
- The very structure of the firearm suggested nefarious use.

**Mitigating Factors:**
- The age and occupation of the appellant (twenty-six (26) year old electrician).

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Eighteen (18) months imprisonment with hard labour.

(*) Vince Walker v PC Mc Intosh  
C.A.MAG.17/1997  
Hamel-Smith JA, Permanand JA  
March 26, 1997

The appellant was found guilty of being in Possession of 441.1 grams of marijuana which he had in his hand and threw away when approached by the police. He was sentenced to seven (7) years imprisonment with hard labour.
Aggravating Factors (considered by the magistrate):

- The nature and prevalence of the offence;
- The adult age of the appellant;
- The quantity of marijuana involved.

Other Factors:

- The appellant's plea for leniency.

Disposition:

Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:

Three (3) years imprisonment with hard labour.

Clinton Forbes v Sgt Chandrabhan Maharaj
C.A.MAG.37/1988
Ibrahim JA, Gopeesingh JA
March 24, 1997

The respondent and several other police officers executed a search warrant at the premises of the appellant. The police officers recovered a bag which contained 600 grams of marijuana from the kitchen. The appellant, his wife, and cousin (all occupants of the apartment at the time of the search) were cautioned, arrested, and charged with Possession of Marijuana. The appellant was convicted and sentenced to five (5) years imprisonment with hard labour.

Disposition:

Sentence varied.

Sentence:

Eighteen (18) months imprisonment with hard labour.

(*) Pooran Kalipersad v PC Neil Brandon John
C.A.MAG.138/1996
Sharma JA, Ibrahim JA, Gopeesingh JA
February 28, 1997

The respondent went to the premises of the appellant to execute a search warrant. There he found plant material. Forensic analysis revealed that it was 407.7 grams of marijuana. The appellant was convicted on a charge of Possession of Marijuana for the Purpose of Trafficking and was sentenced to a term of imprisonment of seven (7) years with hard labour.

Aggravating Factors:

- The nature and prevalence of the offence;
- The large quantity of narcotic involved;
- The age of the appellant (thirty-eight (38) years old).
Mitigating Factors:

- The appellant had no previous convictions;
- The appellant’s duties towards his family.

Disposition:

Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:

Five (5) years imprisonment with hard labour.

(*) Anthony Julien v PC Valentine Millette
C.A.MAG.88/1996
Ibrahim JA, Hamel-Smith JA
December 20, 1996

Police officers apprehended the appellant with a bag which contained 23 foil wrapped hand rolled marijuana cigarettes together weighing 9.81 grams. The appellant was convicted of Possession of Marijuana and sentenced to six (6) months imprisonment with hard labour.

Mitigating Factors:

- The appellant had no previous convictions.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Six (6) months imprisonment with hard labour.

(*) Francis Rosarie v PC Hayden Mc Kenzie
C.A.MAG.67/1996
Sharma JA, Hosein JA
December 17, 1996

Upon receipt of information via the wireless set, the respondent and other police officers on mobile duty went in pursuit of the vehicle in which the appellant was travelling. The respondent searched the appellant and found cocaine (10.8 grams). He was charged with Possession of a Dangerous Drug for the Purpose of Trafficking. He was sentenced to five (5) years imprisonment with hard labour upon conviction.

Aggravating Factors:

- The nature and prevalence of the offence;
- The quantity of narcotic involved.

Mitigating Factors:

- The appellant’s age and family obligations;
- The appellant’s health condition.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour.

Superintendent Jack and Customs Excise Officer Anthony Springer v Horace Lionel Hosein
C.A.MAG.60/1992
Sharma JA, Ibrahim JA, Hamel-Smith JA
September 29, 1996

The respondent arrived on a flight with two pieces of baggage in his possession. The customs officer inspected the box and its contents. The respondent claimed that he was unaware of the contents and that another person had given it to him. The officer and others unscrewed the back of a black and white television and discovered 6 firearms and 300 rounds of ammunition and 2 magazines. After inquiries, the respondent was subsequently charged with the relevant offences. The charges were dismissed. The State appealed the decision.

Aggravating Factors:

- The quantity of arms and ammunition found in the respondent’s possession was not for personal use;
- At the age of twenty-one (21), he was fined $150.00 for being in Possession of a Firearm;
- He went abroad for the sole purpose of purchasing the arms and ammunition;
- It was a serious offence. The quantity of arms and ammunition involved was described by the court as a “large amount for what you would call weapons for a mini army”;
- He never admitted to committing the offence when caught, but attempted to implicate innocent people;
- He knew what he was about and he operated in a systematic and contrived way;
- The public interest – the use of the firearms was extremely prevalent.

Disposition:
Convicted and sentenced.

Sentence:
Two (2) years imprisonment with hard labour for Possession of a Firearm.
One (1) year imprisonment for Possession of Ammunition.

Due to the circumstances of the case, the sentences were to run consecutively.
(*) Rishi Samaroosingh v PC Honore
C.A.MAG.44/1995
de la Bastide CJ, Gopeesingh JA
June 27, 1996

The respondent executed a search warrant at the premises of the appellant where 5 kilograms of cocaine were found. Additionally, the appellant took the officers to the back of the house where more cocaine was identified in some bushes. The appellant said he found it during a fishing expedition and sold a quantity for $1,000.00. He was charged with Possession of Cocaine for the Purpose of Trafficking. He was sentenced to seven (7) years imprisonment with hard labour upon conviction.

Aggravating Factors:
- The prevalence of the offence;
- The quantity (5 kg);
- The detrimental effect the quantity would have had, had it fallen into the wrong hands.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Three (3) years imprisonment with hard labour.

(*) Robert Nicholas v EC J Borneo
C.A.MAG.74/1992
Ibrahim JA, Gopeesingh JA
March 26, 1996

The respondent saw the appellant at the back of a shed with a black plastic bag between his legs. He appeared to be checking something and placed it in the bag. The officers approached, examined the bag, and discovered 53 parcels of marijuana. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking and was sentenced to three (3) years imprisonment with hard labour upon conviction.

Aggravating Factors:
- The prevalence of this type of offence;
- The quantity of narcotic despite the fact that no weight was given.

Disposition:
Appeal allowed. Conviction affirmed. Sentence varied.

Sentence:
Fined $5,000.00, in default nine (9) months imprisonment with hard labour.
Patrick Lee Singh v PC Lloyd Mc Alpin  
C.A.MAG.283/1991  
de la Bastide JA, Hamel-Smith JA  
February 29, 1996  
The appellant was found in Possession of 14 hand rolled marijuana cigarettes for which he was sentenced to twelve (12) months imprisonment with hard labour. He appealed to vary the sentence to a fine.  

**Aggravating Factors:**  
- Two previous convictions: Possession of Cocaine and Possession of Marijuana.

**Mitigating Factors:**  
- The conviction was ten and a half (10.5) years old and because of the magistrate’s failure to give reasons, the appeal had just come up;  
- The provision of three testimonials attesting to the appellant’s positive change of lifestyle as he was now drug free and married with 4 children.

**Disposition:**  
This was an unusual case and even where there was a long delay, the court did not interfere with the sentence, but here it was considered cruel to impose the original sentence. Sentence varied.  

**Sentence:**  
Fined $2,000.00, in default four (4) months imprisonment with hard labour.

(*) Michael Charles v PC Frankie Richardson  
C.A.MAG.019/1992  
Ibrahim JA, Gopeesingh JA  
February 27, 1996  
The respondent found in the appellant’s vehicle a green nylon travelling bag which contained a large quantity of marijuana in loose plant form, along with 5 foil packets of marijuana, altogether weighing approximately 500 grams. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking, for which he was sentenced to four (4) years imprisonment with hard labour upon conviction.  

**Aggravating Factors:**  
- The quantity and composition of narcotic found clearly suggested the preparation for wholesale distribution and trade in society.

**Mitigating Factors:**  
- This was the appellant’s first brush with the law;  
- Other factors (not specified as aggravating or mitigating factors);  
- The age of the appellant (thirty-six (36) years old);  
- 16 year employee of Ministry of Works.

**Disposition:**  
Appeal dismissed. Conviction and sentence affirmed.
Sentence:

Four (4) years imprisonment with hard labour.

(⁎) Lennox Huggins v PC Kevin Ransome
C.A.MAG.25/1992
Ibrahim JA, Gopeesingh JA
February 27, 1996

The respondent and other police officers observed that the appellant and another man walked into a track with a green bag in hand. The respondent examined the bag and found 22 small brown envelopes with marijuana. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking and upon conviction was sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors:
- The nature of the offence;
- The prevalence of the offence;
- The court believed that a custodial sentence would be a deterrent in this particular case.

Mitigating Factors:
- The age of the appellant (thirty-three (33) years old);
- The appellant had 2 children;
- No previous convictions.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Three (3) years imprisonment with hard labour.

(⁎) Derek Figaro v PC Clarke
C.A.MAG.82/1993
Hamel-Smith JA, Permanand JA
November 29, 1995

The appellant was searched at the airport where he attempted to board a flight out of the country. He was found with 595 grams of cocaine concealed in his shoes. He was convicted of Possession of Cocaine for the Purpose of Trafficking and sentenced to nine (9) years imprisonment with hard labour.

Disposition:
Conviction affirmed. Sentence varied.

Sentence:

Eight (8) years imprisonment with hard labour.
The respondent searched the appellant’s hand luggage at the airport in which 453 grams of marijuana was found. Additionally, 32 grams of marijuana was found in the appellant’s socks. The appellant was charged on 2 charges of Possession of Marijuana for the Purpose of Trafficking. Upon conviction, the appellant was sentenced to one (1) year imprisonment with hard labour on the first charge and five (5) years imprisonment with hard labour on the second.

Aggravating Factors (considered by the magistrate):

- The appellant had a previous conviction in Puerto Rico.

Disposition:

Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:

Three (3) years imprisonment with hard labour on the first charge.

Five (5) years imprisonment with hard labour on the second charge.

Police officers searched a car that was occupied by the appellant and two others. They discovered 800 grams of marijuana valued at $5,000.00. The appellant was convicted of Possession of Marijuana for the Purpose of Trafficking and fined $6,000.00, in default nine (9) months imprisonment with hard labour.

Mitigating Factors:

- The appellant pleaded guilty.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $6,000.00, in default nine (9) months imprisonment with hard labour.

Police officers executed a search warrant at the home of the appellants where they found 23 foil wrappings (4 grams) in a plastic bag in a wardrobe. The appellants were convicted of Possession of Cocaine for the Purpose of Trafficking. The first appellant was sentenced to
five (5) years imprisonment with hard labour. The second appellant was fined $30,000.00, in default five (5) years imprisonment with hard labour.

**Aggravating Factors:**
- Nature and gravity of the offence.

**Mitigating Factors:**
- No previous convictions;
- Small quantity;
- The second appellant was the twenty-seven (27) year old mother of 2 young children and was unemployed.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Five (5) years imprisonment with hard labour for the first appellant.
Fine of $30,000.00, in default five (5) years imprisonment with hard labour for the second appellant.

(ª) Ian George v PC Eden Reyes
C.A.MAG.146/1993
Hamel-Smith JA, Hosein JA
October 31, 1995

The respondent and other police officers, on enquiries, observed the appellant standing in a yard with a black parcel in his hand. When the appellant saw the officers, he began to run but was pursued and caught. The respondent then took possession of the parcel and discovered a .38 Wesson revolver loaded with 6 rounds of ammunition and a black purse with 8 rounds of ammunition. The appellant was charged with Possession of the unlicensed revolver and 14 rounds of Ammunition. Upon conviction, he was sentenced to eighteen (18) months imprisonment on each charge.

**Aggravating Factors:**
- The loaded revolver and the ammunition;
- The appellant had a mask;
- The fact that the appellant ran when he saw the officers;
- There were too many crimes committed in the State involving the use of firearms: Murder, Wounding with Intent, and Armed Robberies.

**Mitigating Factors:**
- The defendant had no previous convictions and was twenty-four (24) years old.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Eighteen (18) months imprisonment with hard labour for Possession of a Firearm.
Eighteen (18) months imprisonment with hard labour for Possession of Ammunition.
Edwin Trotman v PC Athelstan Clinton  
C.A.MAG.145/1992  
de la Bastide CJ, Hamel-Smith JA  
October 31, 1995  
Police officers executed a search warrant at the appellant’s apartment where they found 4.5 grams of cocaine underneath a bed. The appellant was convicted of Possession of Cocaine for the Purpose of Trafficking and sentenced to twelve (12) months imprisonment with hard labour.

**Aggravating Factors:**
- Prevalence of the offence;
- Cocaine had become a plague to the national community.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Twelve (12) months imprisonment with hard labour.

Dexter Payne v PC Martin  
C.A.MAG.8/1993  
de la Bastide CJ, Hamel-Smith JA  
October 27, 1995  
The respondent was on foot patrol and noticed the appellant near the Priority Bus Route with a white plastic bag in his hand. The respondent took possession of the bag and found 10 pieces of foil containing 20 grams of marijuana. The appellant was charged with Possession of Marijuana for the Purpose of Trafficking. Upon conviction, the appellant was fined $10,000.00, in default three (3) years imprisonment with hard labour.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fined $10,000.00, in default three (3) years imprisonment with hard labour.

Rayshard Khan v Cpl Irving Glynn  
C.A.MAG.30/1992  
de la Bastide CJ, Hosein JA  
October 26, 1995  
The respondent and other police officers on road exercise duty stopped the vehicle in which the appellant was travelling. A search of the vehicle revealed a black plastic bag containing marijuana in the trunk of the vehicle and 7 parcels of the said drug behind the back seat. The appellant was sentenced to four (4) years imprisonment with hard labour for Possession of Marijuana for the Purpose of Trafficking.
Aggravating Factors:

- The nature and gravity of the offence;
- The prevalence of the offence;
- The quantity of drug found;
- The criminal record of the defendant.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Four (4) years imprisonment with hard labour.

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Michael Singh v PC Ainsley Garrick
C.A.MAG.243/1991
de la Bastide CJ, Hosein JA
October 26, 1995

The appellant was convicted on 2 charges of Possession of Cocaine for the Purpose of Trafficking for which he was sentenced to serve eight (8) and nine (9) years imprisonment respectively, both with hard labour. He appealed against the sentence.

Aggravating Factors:

- Prior conviction for possession of cocaine for which he was sentenced to a fine of $2,000.00 or nine (9) months imprisonment.

Mitigating Factors:

- The appellant pleaded guilty to both charges;
- Delay of five and a quarter years between the filing of the appeal and the hearing of it, during which time the appellant was in custody.

Disposition:

Reduction of sentence in each case by two (2) years.

Sentence:

Six (6) years imprisonment with hard labour on the first charge.

Seven (7) years imprisonment with hard labour on the second charge.

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(*) Curtis Sheppard v PC Stephen Sohun
C.A.MAG.106/1992
de la Bastide CJ, Sharma JA, Gopeesingh JA
July 26, 1995

The respondent retrieved from the appellant a white plastic bag which contained a hat and a quantity of marijuana (approximately 715 grams). The respondent charged the appellant with Possession of Marijuana for the Purpose of Trafficking. Upon conviction, he was sentenced to five (5) years imprisonment with hard labour.
Aggravating Factors:
- The nature, gravity and prevalence of the offence;
- The quantity of marijuana the appellant had in his possession;
- The appellant’s previous criminal record of 1 conviction for a similar offence (admitted).

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Five (5) years imprisonment with hard labour.

(*) Winston Sandy v PC Celvon Brown
C.A.MAG.23/1992
de la Bastide CJ, Sharma JA, Gopeesingh JA
July 25, 1995
Police officers found 17 pieces of cocaine wrapped in foil after they searched the appellant. He was convicted of Possession of Cocaine for the Purpose of Trafficking and sentenced to twelve (12) months imprisonment with hard labour.

Aggravating Factors:
- 1 previous conviction for possession of marijuana, however this infraction had taken place 12 years prior to the incident.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Twelve (12) months imprisonment with hard labour.

Brian Mitchell v PC Joseph Ferreira
C.A.MAG.21/1992
Hamel-Smith JA, Gopeesingh JA
July 23, 1992
The respondent discovered a cloth which contained a .38 special revolver, each of its 6 chambers loaded, in the bonnet of the appellant's vehicle. The appellant was convicted with Possession of a Firearm, to wit a revolver, and for being in Possession of 6 firearm cartridges. He was sentenced to two (2) years imprisonment with hard labour for the Firearm offence and twelve (12) months imprisonment with hard labour for the Ammunition offence, to run consecutively.

Aggravating Factors:
- A well thought out device was used to conceal the firearm and ammunition in the vehicle;
The appellant had knowledge of the device, hence he ran away;
The possession in this case went beyond “innocent possession” but was rather possession with a sinister motive;
Gravity of the offence.

Mitigating Factors:
- He was twenty-eight (28) years old;
- He had no previous convictions;
- He was self-employed in his mother’s catering business and earned between $1,800.00–$2,000.00 per month;
- He surrendered himself to the police;
- He was in a common law relationship, had 2 children, and was expecting a third child.

Disposition:
Convictions and sentences affirmed but varied to run concurrently.

Sentence:
Two (2) years imprisonment with hard labour for Possession of a Firearm.
Twelve (12) months imprisonment with hard labour for Possession of Ammunition.
Sentences to run concurrently.

Bhola Hasranah v PC Trevor Clarke
C.A.MAG.37/1990
Bernard CJ, Sharma JA
March 6, 1992

The appellant was charged with being in Possession of a Firearm and Possession of Ammunition. The respondent went to the home of the appellant with a warrant to search for Firearms and Ammunition. He found a black garbage bag which contained a shotgun and 12 rounds of 16-gauge cartridges. The appellant was sentenced by the magistrate to nine (9) months imprisonment with hard labour on each offence to run consecutively.

Aggravating Factors:
- Very serious offence;
- The appellant did not, at first reasonable opportunity, volunteer the information which he did through his attorney at the trial. By that, the court meant that when, according to the respondent, the firearm and ammunition were found and he had been cautioned, all that he was alleged to have said to the police officer was that he had the things for protection;
- Recent previous conviction for the same type of offence;
- Regard had to the public welfare and its safety.

Mitigating Factors:
- He was the father of a number of children;
- He was very active in the social and cultural activities in the area.
Disposition:
Conviction and sentence affirmed.

Sentence:
Nine (9) months imprisonment with hard labour for Possession of a Firearm.
Nine (9) months imprisonment with hard labour for Possession of Ammunition.
Sentences to run consecutively.

(*) Alvin Craig v PC Leroy Jones
C.A.MAG.237/1991
Bernard CJ, Sharma JA
January 30, 1992

The respondent recovered a brown paper bag which contained marijuana (69.6 grams) from the appellant. He was sentenced to two (2) years imprisonment with hard labour upon conviction for Possession of Marijuana for the Purpose of Trafficking.

Aggravating Factors:
• The appellant had a previous conviction for a similar offence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.

(*) Ian Williams v PC Joseph Honore
C.A.MAG.78/1991
Bernard CJ, Sharma JA, Ibrahim JA
October 10, 1991

Police officers found 3 marijuana cigarettes (3.5 grams) after a search of the appellant was conducted. The appellant was charged with Possession of Marijuana and sentenced to thirty (30) days imprisonment with hard labour.

Aggravating Factors:
• Seriousness of the offence;
  • The appellant exhibited no remorse.

Mitigating Factors:
• No previous convictions.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Thirty (30) days imprisonment with hard labour.
Sexual Offences (A4)

AGGRAVATING FACTORS:

- The victim was a young child and there were repeated incidents of sexual abuse;
- The defendant was related to or held a position of trust in relation to the victim or the victim’s parents, such as a teacher or neighbour;
- The offence was continued or repeated despite the victim’s protestations;
- The offence was accompanied by violence;
- The indecency involved in the act was of an obvious and gross character;
- Although the victim is not a child, there is still a significant disparity in age between the victim and the defendant.

MITIGATING FACTORS:

- The offender was young and immature.

Current Maximum Penalties for Sexual Offences

Sexual Intercourse with a Female between 14 and 16 years*

Prescribed penalty:
$20,000.00 or five (5) years imprisonment: Section 7(1) of the Sexual Offences Act, Chapter 11:28; Section 100(5) of the Summary Courts Act, Chapter 4:20; Second Schedule, Section 33.

Indecent Assault*

Prescribed penalty:
$20,000.00 or five (5) years imprisonment: Section 15(1) of the Sexual Offences Act, Chapter 11:28; Section 100(5) of the Summary Courts Act, Chapter 4:20; Second Schedule, Section 33.

Serious Indecency*

Prescribed penalty:
$20,000.00 or five (5) years imprisonment: Section 16(1) of the Sexual Offences Act, Chapter 11:28; Section 100(5) of the Summary Courts Act, Chapter 4:20; Second Schedule, Section 33.

*Note: See Table of Maximum Penalties (Summary Convictions) at page XXX for History of and Changes to Offence and Penalty.
The appellant was charged with Serious Indecency contrary to s 16(1) Sexual Offences Act, Chapter 11:28. The appellant pleaded not guilty.

The court imposed a sentence of three (3) years imprisonment with hard labour and to pay compensation of $10,000.00 within two (2) months from the date of the expiration of the jail term, in default six (6) weeks imprisonment.

**Aggravating Factors:**

- None.

**Mitigating Factors:**

- The appellant was well respected in his community;
- The age of the appellant;
- Expression of contrition and his plea for the imposition of a fine and community service.

**Current Maximum Penalty:** Fine of $20,000.00 or five (5) years imprisonment.

**Disposition:**

Appeal dismissed. Conviction, sentence, and compensation affirmed.

**Sentence:**

Three (3) years imprisonment with hard labour and to pay compensation of $10,000.00 within two (2) months from the date of the expiration of the jail term, in default six (6) weeks imprisonment.
AGGRAVATING FACTORS:

- The driver was under the influence of alcohol or drugs;
- The driver was racing, whether competitively driving against another vehicle on a public road or driving at excessive speed for entertainment or was being ostentatious;
- The driver disregarded warnings from his passengers;
- The driver was engaged in a prolonged, persistent and deliberate course of bad driving: ignored the traffic signals and red lights, overtook on the wrong side of the roadway, drove on the pavement, and so on;
- The driver simultaneously committed other offences, for instance, drove without a licence or policy of insurance;
- The driver had previous convictions for motoring offences, particularly offences which involved bad driving or the consumption of excessive alcohol before driving;
- The driver demonstrated bad behaviour at the time of the offence, for instance, a “hit and run” incident;
- The driving was particularly atrocious, for instance, where excessive speed was used in an attempt to evade law enforcement officials.

MITIGATING FACTORS:

- The incident may be described as a ‘one off’ or a momentary reckless error of judgment such as briefly ‘dozing off’ at the wheel;
- The driver has a good driving record, especially where he has maintained this record for a significant period of time;
- The driver pleaded guilty to the offence;
- The driver was genuinely remorseful and shocked by the incident.

Current Maximum Penalties for Road Traffic Offences

Driving when Under Influence of Liquor*

Prescribed penalty:

On the first conviction, a fine of $12,000.00 and to imprisonment for three (3) years, and on any subsequent conviction, to a fine of $22,500.00 and to imprisonment for five (5) years: Section 70(1) of the Motor Vehicles and Road Traffic Act, Chapter 48:50.

Dangerous Driving

Prescribed penalty:

$10,000.00 and imprisonment for five (5) years: Section 71A(1) of the Motor Vehicles and Road Traffic Act, Chapter 48:50.
Driving Without Due Care and Attention

Prescribed penalty:
$1,000.00 and disqualification from holding or obtaining a driver’s permit (for such period as the Court thinks fit for the first offence). For a second or subsequent conviction for a like offence, disqualification for not less than one (1) month: Section 72 of the Motor Vehicles and Road Traffic Act, Chapter 48:50.

*Note: See Table of Maximum Penalties (Summary Convictions) at page XXX for History of and Changes to Offence and Penalty.
The State v Faraz Mohammed
C.A.MAG.10/2013
Weekes JA, Soo Hon JA
June 24, 2013

The appellant was driving a motor vehicle under the influence of alcohol. The first breath sample taken on October 11, 2011 contained 129 micrograms per 100 millilitres of breath, which is 94 micrograms in excess of the prescribed limit. The second breath sample taken that day, approximately 10 minutes after the first, contained 96 micrograms per 100 mm of breath, which is 61 micrograms in excess of the prescribed limit.

Magistrate C Blake started with considering the mitigating and aggravating factors. The magistrate considered that a prison sentence would assist the appellant with his alcohol addiction. The appellant pleaded guilty.

The court imposed a sentence of five (5) years imprisonment with hard labour, permanently disqualified the appellant from holding a driver’s permit, and the permit was returned to Licensing Division.

The sentence was appealed due to its severity.

Aggravating Factors:

• The seriousness of the offence;
• The prevalence of the offence;
• 2 previous convictions for driving under the influence of alcohol;
• The last offence occurred 1 month prior and the appellant had been incarcerated for the offence;
• The appellant admitted to having a drinking problem yet chose to drive.

Mitigating Factors:

• Guilty plea;
• The appellant expressed remorse.

Current Maximum Penalty: Fine of $12,000.00 and three (3) years imprisonment for first offence. Fine of $22,000.00 and five (5) years imprisonment for subsequent offences.

Disposition:

Appeal dismissed. Conviction and sentence affirmed. The sentence to run from the date of conviction.

Sentence:

Five (5) years imprisonment with hard labour.

Permanently disqualified from holding a driver’s permit.

Permit returned to Licensing Division.
(6) Gewan Kathwaroo v PC Wayne Mohess  
C.A.MAG.84/2009
Weekes JA, Yorke-Soo Hon JA
January 21, 2010

The victim was a pedestrian who had been standing at the side of the road where there was no pavement. The appellant’s van collided with the left side of the victim’s body. The victim indicated that she detected the scent of alcohol on the appellant. Additionally, the appellant failed to render aid to her. As such, the appellant was charged with Driving without Due Care and Attention, and Failure to Render Aid. He was convicted and sentenced as follows: On the first charge he received a fine of $1,000.00, in default three (3) months imprisonment with hard labour and disqualification from holding a driver’s permit for two (2) years. On the second charge he received a fine of $1,000.00, in default three (3) months imprisonment with hard labour.

Aggravating Factors:
- The appellant drove and caused a serious accident while under the influence of alcohol;
- The appellant failed to stop and render aid to the victim;
- The appellant showed no remorse for his conduct.

Disposition:
Appeal withdrawn. Appeal dismissed and order of the magistrate, with respect to fines, confirmed. Order with respect to disqualification of driver’s permit varied and removed.

Sentence:
Fined $1,000.00, in default three (3) months imprisonment with hard labour in respect of both charges.

Timothy Suchit v PC Ronnie Deonarine  
C.A.MAG.131/2006
Weekes JA, Mendonca JA
July 3, 2007

The appellant’s vehicle collided with the victim’s vehicle. The appellant’s vehicle stopped past an intersection then reversed onto the victim’s vehicle, thereby causing damage to both vehicles. The appellant was found guilty on a charge of Driving Without Due Care and Attention and was fined $500.00, in default two (2) months imprisonment with hard labour.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $500.00, in default two (2) months imprisonment with hard labour.
The appellant travelled north from an intersection and entered the southern or filter lane in a westerly direction and in so doing struck the victim’s vehicle. The appellant was charged with Driving Without Due Care and Attention. Upon conviction, the court imposed the maximum fine and the appellant was disqualified from driving.

Aggravating Factors:
- The appellant showed no remorse;
- The appellant did not accept responsibility for his actions.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Maximum fine and disqualified from driving.

The appellant was convicted of Driving Without Due Care and Attention and was fined $250.00, in default twenty-one (21) days imprisonment with hard labour and disqualification from holding a driver’s permit for six (6) months.

Mitigating Factors:
- While the appeal was pending, the appellant did not have his driver’s permit for 2 months and therefore did not drive during that period of time;
- The appellant’s father was ill and the appellant was the only available driver for his father.

Disposition:
Appeal dismissed. Conviction affirmed.

Sentence:
Fined $250.00, in default twenty-one (21) days imprisonment with hard labour and disqualification from holding a driver’s permit for six (6) months.

The appellant pulled out onto the highway and crashed into the victim’s car. The appellant was convicted of Driving Without Due Care and Attention and was fined $450.00, in default three (3) months imprisonment with hard labour.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $450.00, in default three (3) months imprisonment with hard labour.

(*) Jewan Balkaran v PC Eon Bishop
C.A.MAG.29/2004
Kangaloo JA, John JA
July 14, 2004
The thirty-three (33) year old appellant’s vehicle collided with the victim’s parked pick-up. The appellant was charged with Driving Without Due Care and Attention. Upon conviction, the appellant was fined $1,000.00, in default four (4) months imprisonment with hard labour.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $1,000.00, in default four (4) months imprisonment with hard labour.

(*) Richard Beharry v Cpl Ramdeen Ramsarran
C.A.MAG.69/2004
Hamel-Smith JA, Mendonca JA
July 6, 2004
The appellant, a driver of a three-tonne vehicle, drove the said vehicle at high speed on the outside of the designated driver’s lane and subsequently collided with another vehicle. The driver of the other vehicle became unconscious, the passenger sustained two broken legs, and the car itself was severely damaged. The appellant was convicted of Dangerous Driving and fined $2,000.00, in default three (3) months imprisonment with hard labour and disqualified from holding or obtaining a driver’s permit for a period of two (2) years.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $2,000.00, in default three (3) months imprisonment with hard labour and disqualified from holding a driver’s permit for a period of two (2) years.

(*) Harold Latchman v Sgt Neil Quash
C.A.MAG.432/2003
Nelson JA, John JA
April 6, 2004
The appellant drove his vehicle straight towards the victim and struck her, which caused her to fall onto its bonnet. The vehicle then travelled some 300 feet away with her on the bonnet before it came to a sudden stop and the victim then fell onto the roadway. The appellant then
sped off. He was convicted of Dangerous Driving which caused bodily harm to the victim and sentenced to twelve (12) months imprisonment with hard labour.

Disposition:
Appeal dismissed. Sentence varied.

Sentence:
Fined $2,000.00, in default four (4) months imprisonment with hard labour and compensation in the sum of $2,500.00, in default four (4) months imprisonment.

Gary Watche v Cpl Andrew Forbes  A5-10
C.A.MAG.281/2003
Hamel-Smith JA, Nelson JA
December 15, 2003

The appellant, who drove in a westerly direction, attempted to overtake vehicles on the westbound lane when he struck another vehicle that was proceeding east on the east-bound lane. The appellant was convicted of Driving Without Due Care and Attention. Two persons were injured as a result of the accident. The appellant was fined $1,000.00, in default three (3) months imprisonment with hard labour, compensation in the sum of $12,000.00 to one of the injured persons, and $7,000.00 to the other, in default six (6) weeks simple imprisonment, and three (3) years disqualification from holding a driver’s permit.

Aggravating Factors:
- Degree of carelessness on the part of the appellant in causing the collision.

Mitigating Factors:
- No previous convictions;
- Based on the medical report, the injuries themselves were not serious.

Disposition:
Conviction affirmed. Sentence varied to the extent that the term of disqualification was reduced to six (6) months.

Sentence:
Fined $1,000.00, in default three (3) months imprisonment.
Disqualification from holding a driver’s permit for six (6) months.
Order for compensation quashed.

The Court of Appeal stated that the magistrate should hesitate to embark on any complicated investigation and leave the party to pursue his civil remedy. A civil remedy of compensation can be made in straightforward cases that do not involve complicated investigations.
Michelle Snaggs v Osmond Kerr  
C.A.MAG.349/2003  
Sharma CJ, Warner JA  
December 8, 2003

The respondent was driving his vehicle which the appellant’s vehicle collided into. The court found that the respondent did what was necessary to ensure that it was safe for him to manoeuvre. The court found that the appellant was not a careful and prudent driver and that she ought to have approached the intersection with care, and that she was required to stop as she approached the intersection. She was fined $450.00, in default twenty-one (21) days imprisonment with hard labour.

Disposition:
Appeal dismissed. Sentence affirmed.

Sentence:
Fined $450.00, in default twenty-one (21) days imprisonment with hard labour.

(*) Michael Williams v PC Brian Blackman  
C.A.MAG.303/2003  
Sharma CJ, John JA  
December 4, 2003

The appellant drove his vehicle at high speed and broke a red traffic signal which caused a collision with the victim’s vehicle. The appellant was charged with Driving in a Manner that was Dangerous to the Public, having regard to all the circumstances of the case. The appellant was fined $500.00, in default one (1) month imprisonment with hard labour. He was also disqualified from holding and/or obtaining a driving permit for a period of one (1) year.

Disposition:
Appeal dismissed. Sentence affirmed.

Sentence:
Fined $500.00, in default one (1) month imprisonment with hard labour and disqualified from holding and/or obtaining a driving permit for one (1) year.

(*) Trevor Marcelle v PC Rito Manbodh  
C.A.MAG.221/2003  
Hamel-Smith JA, Jones JA  
July 23, 2003

The appellant pulled his vehicle in front of the victim’s vehicle, resulting in damage to both vehicles which were in motion at the time of the incident. He was charged with Driving Without Due Care and Attention. He was fined $500.00 to be paid within two (2) weeks, in default two (2) months imprisonment with hard labour. The appellant was also suspended from holding or obtaining a driving permit for thirty (30) days.

Disposition:
Appeal dismissed. Sentence affirmed.
Sentence:
Fined $500.00, in default two (2) months imprisonment with hard labour. Fine to be paid within two (2) weeks.
Suspension from holding a driving permit for thirty (30) days.

Sherwin Lopez v PC Raffic Mohammed  
C.A.MAG.230/2002  
Nelson JA, Kangaloo JA  
May 28, 2003
The appellant broke a red light at an intersection and collided with another vehicle which suffered damage to its front, including its lights and bumper. The appellant was found guilty of Driving in a Manner Dangerous to the Public.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Disqualified from driving for eighteen (18) months.

Frank Rahim v PC Steve Ragoo  
C.A.MAG.288/2001  
de la Bastide CJ, Kangaloo JA  
February 27, 2002
The appellant was charged with Driving Without Due Care and Attention. He attempted to make a U-turn to re-enter a supermarket but drove on the other side’s median and squeezed the victim against a mailbox. The victim suffered injury to his chest and belly which was evidenced by a medical report. The appellant was convicted on the charge.

Aggravating Factors:
• Weight was given to the medical report.

Disposition:
Matter dismissed.

Sentence:
Fined $750.00, in default three (3) months imprisonment with hard labour.

(* ) Chunilal Bebassie v PC Winston Burton  
C.A.MAG.120/2000  
Sharma JA, Lucky JA  
January 25, 2001
The court found that the appellant drove with excessive speed and that he did not allow sufficient space between his vehicle and the vehicle in front of him. As a result, a collision occurred. The appellant was charged with Driving Without Due Care and Attention and was fined $200.00, in default seven (7) days imprisonment with hard labour.
Mitigating Factors:

- First time offender and in the circumstances, the court felt that the appellant should not be treated severely.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fined $200.00, in default seven (7) days imprisonment with hard labour.

(*) Deoraj Singh v Cpl Frank Marshall  
C.A.MAG.92/2000  
Hamel-Smith JA, Nelson JA  
November 20, 2000

The victim pulled his vehicle to the left and the appellant’s vehicle collided with it and caused damage to same. Additionally, he suffered injuries to his hand, mouth and back. He asked the appellant to take him to the hospital but aid was not rendered in this regard. The appellant was charged with and convicted of both Failure to Render Aid and Driving Without Due Care and Attention. He was fined $210.00 and $500.00 respectively and one (1) month imprisonment with hard labour, in default (in each instance).

Disposition:

Appeal dismissed. Convictions and sentences affirmed.

Sentence:

Fined $210.00, in default one (1) month imprisonment with hard labour for Failure to Render Aid.

Fined $500.00, in default one (1) month imprisonment with hard labour for Driving Without Due Care and Attention.

(*) Edsel Sandy v PC Oliver Alleyne  
C.A.MAG.28/2000  
Hamel-Smith JA, Jones JA  
August 3, 2000

The appellant was charged with Driving Without Due Care and Attention having collided with the victim’s vehicle after he entered the opposite side of a bridge. The appellant was found guilty and was fined $600.00, in default two (2) months imprisonment with hard labour.

Aggravating Factors:

- The nature and prevalence of the offence.

Mitigating Factors:

- The appellant’s previously clean record;
- The apparent age of the appellant.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $600.00, in default two (2) months imprisonment with hard labour.

(*) William Pierre v PC Reginald George  
C.A.MAG.133/1999  
Hamel-Smith JA, Warner JA  
July 30, 1999  
The respondent stopped the vehicle which was being driven by the appellant after he noticed that it swerved about the road. The appellant was found guilty on a charge of Driving or attempting to drive his motor vehicle While Under the Influence of drink or drug. He was fined $400.00, in default two (2) months imprisonment with hard labour. Additionally, he was disqualified from holding or obtaining a driver’s permit for twelve (12) months.  

Aggravating Factors:
- The seriousness of the offence;  
- The appellant had previous convictions for reckless driving and driving without a permit.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $400.00, in default two (2) months imprisonment with hard labour.  
Disqualified from holding or obtaining a driver’s permit for twelve (12) months.

(*) Charles De Silva v MVO Hylton Francis  
C.A.MAG.8/1998  
Sharma JA, Warner JA  
May 26, 1998  
The respondent was standing in the middle of the road conducting traffic when he was forced to take evasive action to avoid being run down by the appellant’s vehicle. The appellant had driven his vehicle onto the main road in a dangerous manner. The appellant was charged with Driving Without Due Care and Attention and Driving Without a Valid Driver’s Permit. He was fined $250.00, in default one (1) month imprisonment with hard labour.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fined $250.00, in default one (1) month imprisonment with hard labour.
FORFEITURE OF RECOGNIZANCE (A6)

Current Maximum Penalty for Forfeiture of Recognizance

Prescribed penalty:

Forfeiture of security or forfeiture of an amount less than the value of the security: Section 17 of the Bail Act, Chapter 4:60
Ramnarace Rampersad v The State
C.A.MAG.26/2014
Weekes JA, Soo Hon JA
September 18, 2014

The appellant entered into a recognizance in the sum of $40,000.00 for the appearance of A in a matter before the court. A failed to appear on March 24, 2010, a warrant was issued, and the appellant was summoned to show why the sum should not be forfeited. The appellant claimed that illness prevented him from securing A’s attendance. The appellant could advance no explanation for A’s absence which found favour with the court. The court found that he did not exercise due diligence in securing the attendance of the appellant.

Magistrate J Connor formed the view that, since the matter was determined shortly after the issue of a warrant for the appellant with minimal disruption to the justice system, the court did not order the forfeiture of the entire sum. The court ordered $15,000.00 to be forfeited, in default that distress be levied on the appellant’s goods.

Aggravating Factors:
- No aggravating factors listed in reasons.

Mitigating Factors:
- No mitigating factors listed in reasons.

Current Maximum Penalty: Forfeiture of security or forfeiture of an amount less than the value of the security

Disposition:
Appeal dismissed. Order affirmed.

Sentence:
Forfeit sum of $15,000.00, in default that distress be levied on the appellant’s goods.

Junior Inniss Redhead v The State
C.A.MAG.21/2014
Weekes JA, Mohammed JA
July 1, 2014

On April 05, 2007, the appellant took bail for S to the value of $25,000.00. On April 13, 2007, S failed to attend court and the appellant could not account for his absence on that day. He stated that he made checks at S’s residence and did not see him. He further claimed that when he checked, the matter was dismissed. The court found that the appellant did not take sufficient steps to try to fulfil his duties as surety. The appellant pleaded not guilty.

Magistrate G Scotland considered the financial situation of the appellant and ordered only a portion to be forfeited.

The court imposed an order to forfeit a sum of $20,000.00, in default six (6) weeks imprisonment, with time allowed of twelve (12) weeks.
Aggravating Factors:

- No aggravating factors listed in reasons.

Mitigating Factors:

- No mitigating factors listed in reasons.

Current Maximum Penalty: Forfeiture of security or forfeiture of an amount less than the value of the security.

Disposition:

Appeal dismissed. Order affirmed.

Sentence:

Forfeit sum of $20,000.00, in default six (6) weeks imprisonment, with time allowed of twelve (12) weeks.

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Inniss Redhead v The State  A6-3
C.A.MAG.23/2014
Weekes JA, Mohammed JA
July 1, 2014

On July 07 2006, the appellant took bail for V to the value of $45,000.00. On July 25 2006, V failed to attend court and the appellant could not account for his absence on that day. He could also not offer any evidence to support his statement that he believed that matter concerning V was subsequently dismissed. The appellant pleaded not guilty.

Magistrate G Scotland considered the financial situation of the appellant and ordered only a portion to be forfeited. She noted that only in exceptional circumstances will the court absolve the surety or order the forfeiture of a lesser sum. It was the duty of the surety to use all means at his disposal and in his power short of physical force to ensure that the defendant appeared before the magistrate on the appropriate date.

The court imposed an order to forfeit a sum of $20,000.00, in default six (6) weeks imprisonment, with time allowed of six (6) weeks.

Aggravating Factors:

- The seriousness and prevalence of the offence;
- The act was deliberate and premeditated;
- The use of a weapon, namely a gun;
- The age of the appellant (thirty-seven (37) years old).

Mitigating Factors:

- No previous convictions;
- Sole breadwinner and father of 3 young children.

Current Maximum Penalty: Forfeiture of security or forfeiture of an amount less than the value of the security.
Disposition:
Appeal dismissed. Order affirmed.

Sentence:
Forfeit sum of $20,000.00, in default six (6) weeks imprisonment, with time allowed of six (6) weeks.
Section B

High Court Matters

Offences Against the Person (B1)

Aggravating Factors:

- The offence was committed with a weapon;
- The victim was struck on the head;
- The seriousness of the offence;
- The defendant acted out of a loss of temper;
- Previous convictions;
- The attack was unprovoked;
- The absence of remorse;
- The prevalence of the offence.

Mitigating Factors:

- The defendant had no companions when committing the offence;
- No injuries sustained during the commission of the offence;
- Guilty plea;
- No previous convictions;
- Genuine remorse.

Current Maximum Penalties for Manslaughter/Unlawful Killing

Manslaughter

Prescribed penalty:

Imprisonment for life/term of years/payment of a fine as the Court shall direct: Section 6 of the Offences Against the Person Act, Chapter 11:08.

Causing Death by Dangerous Driving

Prescribed penalty:

Amendment (2000) – Section 71 of the Motor Vehicles and Road Traffic Act, Chapter 48:50:
(1) Any person who causes the death of another person by driving a motor vehicle dangerously on a road, commits an offence and is liable on conviction on indictment to imprisonment for fifteen years.

(2) A person convicted of an offence under this section shall, without prejudice to the power of the Court to order a longer period of disqualification, be disqualified for a period of fifteen years from the date of the conviction from holding or obtaining a driving permit, and on a second conviction for a like offence he shall be permanently disqualified from holding or obtaining a driving permit.

(3) Any constable may arrest without warrant the driver of any motor vehicle who commits an offence under this section within his view, if he refuses to give his name and address, or if the constable has reason to believe that the name or address so given is false, or if the motor vehicle does not bear an identification plate.

Current Maximum Penalty for Attempted Murder

Attempted Murder
Prescribed penalty:
Imprisonment for life or for any term of years: Section 9 of the Offences Against the Person Act, Chapter 11:08.

Current Maximum Penalties for Wounding with Intent

Shooting/Wounding with Intent to do Grievous Bodily Harm
Prescribed penalty:
Imprisonment for fifteen (15) years: Section 12 of the Offences Against the Person Act, Chapter 11:08.

Inflicting Injury with or without a Weapon
Prescribed penalty:
Imprisonment for five (5) years: Section 14 of the Offences Against the Person Act, Chapter 11:08.

Current Maximum Penalties for Kidnapping

Kidnapping (for Ransom)
Prescribed penalty:
Imprisonment for not less than the remainder of natural life: Section 3 of the Kidnapping Act, Chapter 11:26.

Kidnapping (Common Law)
Life imprisonment.
The State v Thomas Mason
H.C.91/2012
Justice Gillian Lucky
February 19, 2016

On September 23 2006, around 5:30 pm, the complainant was in the yard at his residence breaking ice. While he was doing this, he heard the defendant’s voice behind him saying, “Ah tell yuh about peeing dey.” The complainant turned around and saw that the defendant was armed with a cutlass and he was coming towards him. The complainant raised his hand in defence and this caused him to sustain a chop to the same hand. He ran off but the defendant pursued him and a struggle ensued. The complainant was able to escape and he was taken to the hospital where it was found that he suffered the following: laceration to the left wrist with tendon injury; small laceration below the left lower eyelid; small cut and swelling to the right upper lip; minor grazes to the knuckles and palm of the right hand; injuries inflicted by a sharp object with severe force. The defendant was later arrested, cautioned and formally charged. The defendant pleaded guilty.

Justice G Lucky started with considering the current maximum penalty of fifteen (15) years imprisonment.

The court imposed a sentence of a bond in the sum of $10,000.00 to keep the peace and be of good behaviour for a period of five (5) years, in default six (6) months imprisonment with hard labour and to be placed on probation for the duration of the bond.

Aggravating Factors:
- The seriousness of the offence;
- The use of a weapon (cutlass).

Mitigating Factors:
- Guilty plea;
- The defendant had no previous convictions.

Current Maximum Penalty: Fifteen (15) years imprisonment.

Sentence:
Bond in the sum of $10,000.00 to keep the peace and be of good behaviour for a period of five (5) years, in default six (6) months imprisonment with hard labour and to be placed on probation for the duration of the bond.

The State v Joel Osbourne, David Walker, Burt Pierre and Joanne Walker
H.C.S.105/2011
Justice Maria Wilson
December 18, 2015

The complainant went to collect a cell phone at an NHA housing scheme and while waiting for David Walker, he came out with a piece of iron and rushed towards him. The complainant ran and David Walker pursued him. While the complainant attempted to leave the housing
scheme, Joanne Walker stood with her two arms open, blocking the complainant. Burt Pierre then came up to the complainant and slammed into him, pushing him against the wall. At that point, David Walker and Joel Osbourne came running towards the complainant. Joel Osbourne cuffed him and David Walker beat him with the piece of iron about his head. While hitting him, David Walker said, “The next time yuh send people fuh me make sure dey kill meh!” The complainant’s brother intervened to assist him but Joel Osbourne and Joanne Walker held him in a headlock. Joel Osbourne cuffed the complainant’s brother twice on the mouth. The complainant managed to free himself and David Walker followed him and struck him on his head. All of the defendants pleaded not guilty.

**Aggravating Factors:**
- The prevalence and seriousness of the offence;
- The use of a weapon;
- The victim suffered injuries to the head;
- The defendant committed offences since the incident.

**Mitigating Factors:**
- Participation limited to slapping and cuffing (Joel Osbourne);
- No offences committed since incident (Burt Pierre);
- No previous convictions and limited participation in the incident (Joanne Walker).

**Current Maximum Penalty:** Five (5) years imprisonment for Unlawful Wounding. Fifteen (15) years imprisonment for Wounding with Intent. Two (2) years imprisonment for Common Assault.

**Sentence:**

**Joel Osbourne:**
Fine of $2,000.00, in default two (2) months imprisonment and a bond in the sum of $2,000.00 to keep the peace and be of good behaviour for two (2) years, in default to return to the court for sentencing for Unlawful Wounding.

Bond in the sum of $1,000.00 to keep the peace and be of good behaviour for two (2) years, in default to return to the court for sentencing for Common Assault.

**David Walker:**
Eighteen (18) months imprisonment with hard labour for Wounding with Intent.

**Burt Pierre:**
Fine of $3,500.00, in default six (6) months imprisonment and a bond in the sum of $2,000.00 to keep the peace and be of good behaviour for two (2) years, in default to return to the court for sentencing for Unlawful Wounding.

**Joanne Walker:**
Fine of $2,000.00 in default two (2) months imprisonment and a bond in the sum of $2,000.00 to keep the peace and be of good behaviour for two (2) years, in default to return to the court for sentencing for Unlawful Wounding.

Bond in the sum of $1,000.00 to keep the peace and be of good behaviour for two (2) years, in default to return to the court for sentencing for Common Assault.
The defendant had a former relationship with the complainant during which they had a son. The defendant told the complainant that he had lost his wallet and was coming to borrow $100.00. When he came to her house he attacked her with a knife, stabbing her several times about her body including in her neck and chest and strangling her at one point. This attack was committed in the presence of their son, who was around 1 year old at the time. The complainant’s mother and brother also witnessed the incident and attempted to stop the defendant but to no avail. Following the unprovoked attack, the defendant then tried to cut himself with the knife. The defendant pleaded not guilty.

Justice M Wilson started with twelve (12) years imprisonment and deducted two (2) years for mitigating factors in relation to the offender.

The court imposed a sentence of ten (10) years imprisonment with hard labour with two hundred and twelve (212) days spent in custody to be deducted.

Aggravating Factors:
- The prevalence and seriousness of the offence as the court found this was a case of gender based violence;
- The use of a weapon to inflict injury;
- The act was premeditated;
- The defendant committed the act in the presence of his son and the complainant’s relatives who tried to stop him;
- The complainant sustained serious injuries and became partially disabled as a result and unable to work;
- The age of the defendant (thirty-six (36) years old) and the complainant (twenty-one (21) years old) at the time of the offence.

Mitigating Factors:
- The defendant was considered to be of good character despite 3 convictions for Possession of Marijuana in 1990 and 1993;
- The defendant had not committed any other offences since this offence.

Current Maximum Penalty: Life imprisonment.

Sentence:
Ten (10) years imprisonment with hard labour with two hundred and twelve (212) days spent in custody to be deducted.

The State v Basdeo Maharaj
H.C.72/2002
Justice Gillian Lucky
October 25, 2015

Around 7:15 pm, the complainant was at home in the company of her mother. At that time the complainant began hearing noise around the house. She exited the house and called her dog. She went back into the house but then left the premises and went to the neighbour’s house.
The complainant then heard screams coming from her house. She immediately returned and on entering she observed the defendant, her stepfather at the time, holding a rolling pin in his right hand and struggling with her mother. The complainant approached them and attempted to get her mother away from the defendant. While she attempted to do this, the defendant struck her on the middle of her forehead with the rolling pin. The complainant went to the mirror and saw a substance resembling blood on her forehead and thereafter she was taken to the hospital. The defendant was arrested, cautioned and formally charged. The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty for the offences. She then gave a maximum sentence indication of a non-custodial sentence.

The court imposed a sentence of a bond in the sum of $5,000.00 to keep the peace and be of good behaviour for a period of one (1) year.

**Aggravating Factors:**

- The seriousness of the offence;
- The defendant had a previous conviction of wounding with intent;
- The use of a weapon.

**Mitigating Factors:**

- Guilty plea.

**Current Maximum Penalty:** Life imprisonment for Attempted Murder. Fifteen (15) years imprisonment for Wounding with Intent. Five (5) years imprisonment for Unlawful Wounding.

**Sentence:**

Bond in the sum of $5,000.00 to keep the peace and be of good behaviour for a period of one (1) year.
The court imposed a sentence of a fine of $3,000.00, in default three (3) months imprisonment with hard labour. The court also ordered that compensation of $5,000.00 be paid, in default three (3) months imprisonment with hard labour.

**Aggravating Factors:**

- The seriousness of the offence;
- The prevalence of the offence;
- The defendant had threatened the victim;
- The use of a weapon (cutlass);
- The seriousness of the injury.

**Mitigating Factors:**

- Guilty plea;
- The defendant was remorseful;
- The victim forgave the defendant;
- The defendant no longer has a drug problem.

**Current Maximum Penalty:** Fifteen (15) years imprisonment.

**Sentence:**

Fine of $3,000.00, in default three (3) months imprisonment with hard labour.

Compensation of $5,000.00 be paid, in default three (3) months imprisonment with hard labour.

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**The State v Madho Roodal and David Francis**  
**H.C.3/2013**  
Justice Gillian Lucky  
June 30, 2015

On the date in question, the brother of the deceased discovered his body clad only in short pants. Earlier that day, Enoch Bullock was stopped by the first defendant who told him that he (the first defendant) and David Francis (the second defendant) put a serious ‘cutass’ on the deceased and he would be sure to “lie down on bed for about 4 months”. The two defendants were later arrested for the death of the deceased. The first defendant denied being involved in the death of the deceased. On April 08, 2007 while being escorted to the restroom he made an utterance “Hear nah when I did talk to you the last time I didn’t tell you the whole truth about how the thing did happen, because I fed up of him only thieving out meh garden and selling it.” The first defendant admitted that he and the second defendant went to the open cane field where the second defendant held the deceased and placed him in the van where he started beating the deceased. At the camp the first defendant said that the second defendant continued beating the deceased. After the beating, both defendants lifted the victim and transported him back to the cane field. The second defendant stated that the first defendant said that the deceased stole several items from him. The second defendant said that the first defendant told him to make sure that the deceased did not get away because if he let that happen he would beat him (the second defendant). The second defendant stated that he tried to stop him from beating the deceased and pleaded for him to stop. Both defendants pleaded guilty.
Justice G Lucky started with considering the maximum penalty of life imprisonment. She then gave a maximum sentence indication of seventeen (17) years imprisonment for each of the defendants. A third of the sentence was deducted for the guilty plea and a further eight (8) years and three (3) months were deducted for time spent in custody.

The court imposed a sentence of three (3) years and one (1) month imprisonment for both defendants.

**Aggravating Factors:**
- The seriousness and prevalence of the offence;
- Both defendants acted together;
- The deceased was hit about the body and suffered injuries throughout his body;
- The act was premeditated, deliberate, and planned;
- Francis had 2 previous convictions.

**Mitigating Factors:**
- Guilty plea;
- Both defendants had no previous convictions;
- They had positive Bio-Social reports.

**Current Maximum Penalty:** Life imprisonment.

**Sentence:**
Three (3) years and one (1) month imprisonment.

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The State v Rishi Powder

H.C.S.86/2012

Justice Gillian Lucky
May 29, 2015

At about 4:00 pm the defendant, who is the neighbour of the complainant, went to ‘Chatoo’s Bar’. At the time he was smelling of alcohol, staggering, and asked to buy $5,000.00 worth of pork. Mr Chatoo said that he didn’t have any pork. The defendant started to behave in a disrespectful manner to the owner and the customers. Mr Chatoo then asked him to leave. Later, the defendant began ‘throwing words’ for Mrs Chatoo. At some point, the defendant lit a firecracker and threw it behind the counter of the bar while Mr Chatoo was parking his car in the garage. While he closed one side of the garage door, the defendant got in the car, started it, put it in reverse with speed toward the garage gate Mr Chatoo was closing. The car ran into the gate, narrowly missing Mr Chatoo who jumped out of the way. The car ran through the gate, knocked down a shed, table, two benches, and two posts and then eventually got stuck in a drain. The defendant was then charged. The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty for the offences.

The court imposed a sentence of a bond of $20,000.00 and to be of good behaviour for five (5) years, in default to return to the court for sentencing. The court also ordered that compensation of $7,500.00 be paid, in default to return to the court for sentencing.

**Aggravating Factors:**
- The defendant was held to a higher standard as he was an off duty police officer;
- The defendant lost his temper;
• The use of obscene language;
• The influence of alcohol;
• The manner in which the offences were committed.

Mitigating Factors:
• Guilty plea;
• The defendant had no previous convictions;
• The defendant was no longer abusing alcohol;
• The victim asked the court to be lenient;
• The defendant had made positive lifestyle changes.

Current Maximum Penalty: Five (5) years imprisonment for Inflicting Injury with or without a Weapon. Two (2) years imprisonment for Malicious Damage.

Sentence:
Bond of $20,000.00 and to be of good behaviour for five (5) years, in default to return to the court for sentencing.
Compensation of $7,500.00 be paid, in default to return to the court for sentencing.

The State v Claude Toby
H.C.S.049/2010
Justice Gillian Lucky
February 27, 2015

Around 7:50 am the complainant was asleep in his bedroom when his neighbour, the defendant entered the room. The accused was armed with a short blade cutlass and proceeded to “planass” the complainant on the right side of his face, left hand, and right knee. The defendant was later arrested and cautioned. The defendant admitted to the offence by saying, “Officer the man owe me some money. I really did not mean to do him that.” The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty for the offence; fifteen (15) years imprisonment.

The court imposed a sentence of compensation of $15,000.00, a bond to keep the peace and be of good behaviour for five (5) years, and anger management counselling along with reports and updates. In default of these, the defendant to be brought back for sentencing.

Aggravating Factors:
• The seriousness of the offence.

Mitigating Factors:
• Guilty plea;
• The injuries the complainant sustained were not life threatening;
• The defendant was remorseful;
• The complainant accepted an apology from the defendant.

Current Maximum Penalty: Fifteen (15) years imprisonment.
Sentence:
Compensation of $15,000.00 and a bond to keep the peace and be of good behaviour for five (5) years, and anger management counselling, in default to be brought back for sentencing.

The State v Anthony Farrow
H.C.S.109/2011
Justice Gillian Lucky
February 23, 2015

The complainant left his home driving his wheel tractor to load sugar cane. On arrival at the cane field the defendant stopped and approached the complainant and asked him for $20.00. The complainant refused, stating that he did not have the money and while loading his cane he felt a blow to his head. He put his left hand forward to defend himself from further chops and turned around, at which point he recognised the defendant standing over him with a cutlass in hand. The complainant was dealt chops on his left hand and left side of his head, across the left ear, and forearm.

Justice G Lucky started with considering the maximum penalty of fifteen (15) years imprisonment.

The court imposed a sentence of a bond to keep the peace and be of good behaviour, in default three (3) months imprisonment; a fine of $3,000.00, in default six (6) months imprisonment; compensation of $12,000.00 be paid to the victim, in default six (6) months imprisonment; enrolment and participation in the Alcohol Anonymous Programme for two (2) years; enrolment and completion of an Anger Management course recommended by the Probation Services Division, in default six (6) months imprisonment; monthly progress report to the Probation Office to be delivered to the court every four (4) months; and a final report submitted to the court and the Director of Public Prosecution upon completion of both Alcohol Anonymous and Anger Management courses.

Aggravating Factors:
- The seriousness of the offence;
- The attack was unprovoked;
- The use of a weapon (cutlass);
- The seriousness of the injury.

Mitigating Factors:
- Guilty plea;
- The defendant had no previous convictions.

Current Maximum Penalty: Fifteen (15) years imprisonment.

Sentence:
A bond to keep the peace and be of good behaviour, in default three (3) months imprisonment;
A fine of $3,000.00, in default six (6) months imprisonment;
Compensation of $12,000.00 be paid to the victim, in default six (6) months imprisonment;
Enrolment and participation in the Alcohol Anonymous Programme for two (2) years;
Enrolment and completion of an Anger Management course recommended by the Probation Services Division, in default six (6) months imprisonment;

Monthly progress report to the Probation Office to be delivered to the court every four (4) months; and

A final report submitted to the court and the Director of Public Prosecution upon completion of both Alcohol Anonymous and Anger Management courses.

The State v Kyril Cordoner 
H.C.S.2/2012
Justice Maria Wilson
June 12, 2014

The complainant was standing at Delaford junction when the defendant came in front of him. The complainant and defendant had lived on the same street. The defendant drew a cutlass from his waist and raised it at the complainant and the two men scrambled on the roadway with the complainant holding on to the cutlass. A third party intervened to stop the altercation and the complainant walked a short distance away and noticed that some of his fingers were cut. A police vehicle was passing along the area at the time and was stopped by the complainant. The complainant told the officer what happened. The defendant pleaded guilty.

The court accepted the substance of the Plea Agreement and placed the defendant on a bond in the sum of $5,000.00 to be of good behaviour for a period of three (3) years, in default to be brought back for sentencing. The court also ordered compensation to be paid to the complainant in the sum of $12,000.00. The compensation to be paid in three (3) instalments: $4,000.00 forthwith, $4,000.00 on or before August 29, 2014, and the final payment on or before October 31, 2014.

Aggravating Factors:

- The prevalence of the offence.

Mitigating Factors:

- Guilty plea;
- The age of the defendant at the time of the offence (twenty-one (21) years old).

Current Maximum Penalty: Five (5) years imprisonment.

Sentence:

Bond in the sum of $5,000.00 to be of good behaviour for a period of three (3) years, in default to be brought back for sentencing.

Compensation to be paid in the sum of $12,000.00 in three (3) instalments.
The State v Joseph Layne  
H.C.S.15/2011  
Justice Maria Wilson  
April 28, 2014

The complainant was doing work at the home of his cousin. The complainant took his wheelbarrow and pushed it out of the premises and closed the gate behind him. While standing between the handles of the wheelbarrow, the defendant came from the yard in front of the complainant with a piece of black industrial iron in one hand and asked the complainant why he told his father about him and to leave Concordia, using obscene language. The defendant then beat him with the piece of iron about his body even after the complainant fell to the ground. The defendant pleaded not guilty.

The court imposed a sentence of eight (8) years imprisonment with hard labour with one hundred and fifty (150) days spent in custody to be deducted from sentence.

Aggravating Factors:

- The prevalence and seriousness of the offence;
- The act was unprovoked;
- The use of a weapon.

Mitigating Factors:

- The age of the defendant at the time of the offence (twenty-three (23) years old);
- The defendant was believed to be of good character.

Current Maximum Penalty: Fifteen (15) years imprisonment.

Sentence:

Eight (8) years imprisonment with hard labour (with one hundred and fifty (150) days to be deducted from sentence).

The State v Rydell Charles  
H.C.S.32/2011  
Justice Althea Alexis-Windsor  
March 27, 2014

The complainant was driving to his house. He saw the defendant, whom he knew, under a tree in a portion of land owned by the complainant’s family. The complainant told the defendant to come off his land. The defendant told the complainant that he could smoke him out any time. The complainant drove off to his home, which was close by. A short time later, the complainant heard someone calling his name in front of the house. He looked and saw no one. He went to the platform of his house and saw the defendant with two cutlasses, one in either hand. The defendant attacked the complainant and he felt a burning sensation across his neck, chest, and forearm. The complainant threw himself at the defendant. One cutlass fell and the defendant ran off with the other. The defendant pleaded not guilty.

Justice A Alexis-Windsor started with three (3) years imprisonment having regard to all the mitigating and aggravating circumstances. She then deducted six (6) months for time spent in custody.

The court imposed a sentence of two (2) years and six (6) months imprisonment.
Aggravating Factors:

- The seriousness of the offence;
- The prevalence of the offence;
- The defendant threatened to kill the complainant;
- The use of an offensive weapon;
- The defendant had previous convictions.

Mitigating Factors:

- The defendant was gainfully employed;
- There were no further offences committed up to incarceration in 2008;
- The defendant was gainfully employed and offered compensation to the complainant;
- The defendant acted alone.

Current Maximum Penalty: Fifteen (15) years imprisonment.

Sentence:

Two (2) years and six (6) months imprisonment.

The State v Daniel James  
H.C.S.18/2013  
Justice Maria Wilson  
December 16, 2013

The complainant returned to his home at Golden Lane and saw the vehicle of Alvin James, father of the defendant, parked in his yard. The complainant spoke to Alvin James who eventually moved his vehicle from the yard. It was at this point that the defendant said words to the effect, “Allyuh fraid he, he have any land here?” The defendant then drove his vehicle on 3 occasions towards the complainant, while the complainant jumped away and hit the hood of the vehicle with his hands. The complainant managed to pick up a stone and grand charged and the defendant reversed out of the drive way but returned with his brothers armed with missiles. One of the brothers held the complainant in a headlock while the defendant approached the complainant with a hammer and attempted to attack him. A struggle ensued and eventually the defendant retrieved a cutlass from his father, approached the complainant, and swung the cutlass at him. The complainant blocked the blow with his hand and received injuries as a result of the incident. The defendant pleaded not guilty.

The court imposed a bond in the sum of $15,000.00 to keep the peace and be of good behaviour for a period of three (3) years, in default to be brought before the court for sentencing. The court also ordered the defendant to pay the complainant $18,000.00 as compensation for the injuries sustained: $5,000.00 to be paid by January 31, 2014 and $13,000.00 to be paid by June 30, 2014.

Aggravating Factors:

- The prevalence and seriousness of the offence;
- The defendant was armed with a cutlass;
- The injury the complainant sustained led to a permanent scar and the inability to use the index finger of the right hand.
Mitigating Factors:

- The age of the defendant at the time of the offence (twenty-two (22) years old);
- The defendant offered an apology after committing the offence and at court;
- The defendant was of good character.

Current Maximum Penalty: Fifteen (15) years imprisonment.

Sentence:

Bond in the sum of $15,000.00 to keep the peace and be of good behaviour for a period of three (3) years, in default to be brought before the court for sentencing.

The court also ordered the defendant to pay the compensation of $18,000.00 to the complainant in two (2) instalments.

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The State v Stephen Baptiste  
H.C.S.21/2012  
Justice Maria Wilson  
November 05, 2013

The complainant left a harvest in Delaford and went to his wife’s business place as he was feeling weak, being diabetic. He went to the back of the building to gain entry and heard strange voices from the restroom. He looked inside through ventilation blocks and saw the defendant sitting on a bed with a towel on his wife. The complainant then knocked on the door and when his wife opened the door, the defendant ran to the front of the building and entered his car. The complainant went to the defendant and asked him what he was doing inside, to which the defendant did not reply. The defendant pulled out a cutlass. There was a scuffle over the cutlass and the complainant sustained injuries on his head, eye and hand. The defendant pleaded not guilty.

The court imposed a sentence of five (5) years imprisonment with hard labour (less time spent in custody). The defendant also volunteered to pay compensation in the sum of $50,000.00.

Aggravating Factors:

- The prevalence of crimes of violence;
- The use of a weapon;
- The serious and permanent effect of the injuries.

Mitigating Factors:

- The defendant was of good character;
- The defendant gave himself up to the police and made a report about the incident;
- He assisted with the investigation by retrieving the cutlass;
- The defendant was a fire officer and gave years of service to the community;
- He was married and had 3 children;
- The defendant paid with a cheque as an initial compensation for the injuries.

Current Maximum Penalty: Fifteen (15) years imprisonment.

Sentence:

Five (5) years imprisonment with hard labour (less time spent in custody).
The State v Kareem Francis  
H.C. 3/2011  
Justice Maria Wilson  
November 02, 2012  

The complainant, who was nine (9) years old, was eating a mango at home following which he threw away the mango. The defendant was upstairs a house opposite the complainant’s home and told him not to pelt and threw something hitting the complainant in his eye. The next morning the complainant was taken for a medical examination. The complainant suffered a significant injury to his eye and a chance of becoming blind. The defendant pleaded guilty.  

The defendant was bonded in the sum of $5,000.00 to keep the peace and be of good behaviour for a period of three (3) years, in default to be brought back before the court for sentencing. Justice C Browne-Antoine ordered the defendant to pay the complainant $30,000.00 in three instalments: a first payment of $10,000.00 by October 29, 2012, a second payment of $10,000.00 by November 22, 2012, in default nine (9) months imprisonment, and a final payment of $10,000.00 by November 22, 2013, in default nine (9) months imprisonment.  

**Aggravating Factors:**  
- The prevalence of abuse of children;  
- Breached position of trust;  
- The offence was committed in the complainant’s home;  
- There was a significant disparity in the age between the defendant and the complainant.  

**Mitigating Factors:**  
- Guilty plea;  
- The defendant was a first time offender;  
- The age of the defendant at the time of the offence (fourteen (14) years old);  
- Offered and paid $10,000.00 compensation;  
- No premeditation involved.  

**Current Maximum Penalty:** Fifteen (15) years imprisonment.  

**Sentence:**  
Bond in the sum of $5,000.00 to keep the peace and be of good behaviour for a period of three (3) years, in default to be brought back before the court for sentencing. Compensation of $30,000.00 in three instalments to complainant.  

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The State v Dinelle Smith  
H.C. 128/2010  
Justice Maria Wilson  
September 28, 2012  

The defendant was in a relationship with the complainant. The defendant received information that the complainant was cheating on him. He picked her up at her home to buy her a drink but instead repeatedly questioned her. He then repeatedly attacked the complainant.  

The court imposed a sentence of three (3) years imprisonment with hard labour for inflicting Grievous Bodily Harm, three (3) years imprisonment with hard labour for Kidnapping, and
three (3) years imprisonment with hard labour for False Imprisonment. The time spent in custody awaiting trial, thirty-four and a half (34.5) months, to be deducted from sentence.

**Aggravating Factors:**

- The defendant used a weapon;
- The complainant was repeatedly attacked;
- The prevalence of violent crimes;
- Time and location of the act (early hours of morning increased vulnerability of the victim);
- The complainant was prevented from getting help.

**Mitigating Factors:**

- The age of the defendant at the time of the offence (twenty-eight (28) years old);
- The attack was unplanned;
- The attack was not part of a gang or group;
- The complainant was not a child or vulnerable person;
- The offence was not committed against persons in public service;
- The weapon was not taken to the scene with the intention of using it;
- The offence was not part of a pattern of offending;
- There was no forced entry into the complainant’s home and no previous threats of violence;
- The defendant was provoked into committing the act.

**Current Maximum Penalty:** Five (5) years imprisonment for Inflicting Injury with or without a Weapon. Life imprisonment for Kidnapping.

**Sentence:**

Three (3) years imprisonment with hard labour for Wounding with Intent to do Grievous Bodily Harm.

Three (3) years imprisonment with hard labour for Kidnapping.

Three (3) years imprisonment with hard labour for False Imprisonment.

The time spent in custody awaiting trial, thirty-four and a half months (34.5), to be deducted from sentence.

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The State v Narine Ramkissoon
H.C.115/2010

Justice Maria Wilson
June 20, 2012

The complainant was outside the Railway Pub, Caroni when he got into an altercation with the defendant. The complainant saw the defendant harassing another person and attempted to intervene by telling the defendant to leave the other man alone. The defendant grabbed a beer bottle out of the complainant’s hand and threw it on the ground and they started to argue. The defendant and his friends left and returned. While waiting for transport to go home, the complainant felt a blow to his face and turned around and saw no one. A little while after he saw the defendant fire chops at him. They both struggled for the cutlass. The
complainant managed to get away from the defendant and obtained assistance from someone at the bar. He sustained 2 deep lacerations on his hands and could not use 4 fingers on his left hand. The defendant pleaded guilty.

Justice M Wilson accepted the Plea Agreement filed on June 14, 2012.

The court imposed a bond to be of good behaviour and keep the peace for three (3) years, in default to be brought for sentencing.

**Aggravating Factors:**
- The defendant used a sharp instrument;
- Severe force was used;
- The complainant suffered injuries to both hands resulting in limited use of them.

**Mitigating Factors:**
- The age of the defendant at the time of the offence (twenty (20) years old);
- The defendant was highly intoxicated;
- The defendant spent one and a half (1.5) months in custody while awaiting hearing;
- Guilty plea;
- The defendant expressed remorse;
- The defendant offered to pay compensation of $25,000.00 to the complainant;
- The defendant was a single parent to a three year old;
- The defendant effectively had good character.

**Current Maximum Penalty:** Five (5) years imprisonment.

**Sentence:**

Bond to be of good behaviour and keep the peace for three (3) years, in default to be brought for sentencing.
AGGRAVATING FACTORS:

- Weapon used was real and not an imitation;
- The weapon was discharged and injury resulted;
- Violence was used upon the victim;
- The offender acted with others;
- There was careful reconnaissance and planning involved;
- Offender motivated by intention to cause harm or take revenge;
- Intimidation or face-to-face confrontation with the victim;
- Use of force, or threat of force, against victim (not amounting to robbery);
- High level of inconvenience caused to victim, eg replacing house keys, credit cards, etc.

MITIGATING FACTORS:

- The defendant had no companions when committing the offence;
- No injuries sustained during the commission of the offence;
- Return of stolen property;
- Offender motivated by desperation or need arising from particular hardship and not merely delinquency.

**Current Maximum Penalty for Larceny**

**Simple Larceny**

Prescribed penalty:

Five (5) years imprisonment: Section 4 of the Larceny Act, Chapter 11:12.

**Current Maximum Penalty for Burglary**

**Burglary**

Prescribed penalty:

Fifteen (15) years imprisonment: Section 27 of the Larceny Act, Chapter 11:12.

**Current Maximum Penalties for Larceny of or Interference with a Motor vehicle**

**Steals a Motor Vehicle**

Prescribed penalty:

Fifteen (15) years imprisonment: Section 4A(1)(a) of the Larceny Act, Chapter 11:12.
With Intent to Steal Motor Vehicle, Removes, Obliterates, Defaces, Tampers with or Renders in any way Illegible, or Alters the Engine Number or Chassis Number of a Motor Vehicle
Prescribed penalty:
Fifteen (15) years imprisonment: Section 4A(1)(b) of the Larceny Act, Chapter 11:12.

Repaints or Alters Motor Vehicle without Consent of the Owner
Prescribed penalty:
Fifteen (15) years imprisonment: Section 4A(1)(c) of the Larceny Act, Chapter 11:12.

Receives/In Possession of Stolen Motor Vehicle
Prescribed penalty:
Fifteen (15) years imprisonment upon conviction on indictment: Section 4A(1)(d) of the Larceny Act, Chapter 11:12.

Current Maximum Penalties for Robbery Offences

Robbery with Aggravation
Prescribed penalty:
Fifteen (15) years imprisonment: Section 24(1) of the Larceny Act, Chapter 11:12.

Robbery
Prescribed penalty:
Ten (10) years imprisonment: Section 24(2) of the Larceny Act, Chapter 11:12.

Assault with Intent to Rob
Prescribed penalty:
Five (5) years imprisonment: Section 24(3) of the Larceny Act, Chapter 11:12.
The State v Shem Hope  
H.C. 92/2010  
Justice Gillian Lucky  
February 02, 2016

The complainant bought a vehicle for $50,000.00 and gave it to Holton Des Vignes so that he could use it as a taxi and pay a weekly rate. About 12:00 am that day, while in the area of the Croisee in San Juan, two men entered the said car driven by Mr Des Vignes, one in the front passenger seat and the other at the back. Another man entered and paid for 2 seats. Mr Des Vignes began to feel uneasy and he switched off the engine under some lights on a street. He lifted the bonnet of the car and slipped the keys in the front pocket of the car. Suddenly the two men started to beat Mr Des Vignes. One of the men took the keys started the engine while the other man entered the vehicle. They drove off and Mr Des Vignes went to the Barataria Police Station. The defendant, when arrested, stated, “Boss, I take away this car from two youth men out by de road. I saw them hid between de bush and I take de key and drive away de car”. The defendant was then formally charged. The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty of fifteen (15) years imprisonment.

The court imposed a sentence of a bond in the sum of $5,000.00 to keep the peace and be of good behaviour for three (3) years, in default to serve five (5) months imprisonment with hard labour and to be placed on probation for duration of the bond.

Aggravating Factors:
- The seriousness of the offence;
- The prevalence of the offence;
- The licence plate was changed;
- The defendant had two previous convictions;
- The defendant exited the vehicle and ran, in an attempt to hide from the police.

Mitigating Factors:
- Guilty plea.

Current Maximum Penalty: Fifteen (15) years imprisonment.

Sentence:
Bond in the sum of $5,000.00 to keep the peace and be of good behaviour for three (3) years, in default to serve five (5) months imprisonment with hard labour and to be placed on probation for duration of the bond.
The State v Kenneth Thomas
H.C.55/2015
Justice Gillian Lucky
December 23, 2015

On July 10 2007, the complainant went to Nelson Street, Port of Spain to collect a cheque from her employer. She approached her vehicle, pressed the alarm, opened the door of the vehicle and as she attempted to close said door, she felt a force preventing her from closing the door. The complainant struggled with a man pulling at the driver’s side door. His strength soon prevailed and he entered the driver’s side compelling her to move to the passenger side. At this point, the defendant entered from the back left-hand side of the vehicle and ordered the complainant to put the seat in a fully reclined position. The man drove off in a southerly direction with the defendant and the complainant. The defendant took possession of the complainant’s wallet valued at $500.00, her mobile phone valued at $1,000.00, and another phone valued at $300.00. After driving for some time, the man driving noticed a police car near to them. He then darted out of the vehicle followed by the defendant. The officers ran in pursuit of the men and arrested the defendant a short distance away. The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty for the offences. The first offence carried a maximum penalty of fifteen (15) years imprisonment and the second offence was not determined.

The court imposed a sentence of six (6) years and eight (8) months imprisonment for Robbery with Aggravation and four (4) years imprisonment for Kidnapping to run concurrently. Time spent in custody of over eight (8) years was deducted. The defendant was discharged.

Aggravating Factors:

- The seriousness of the offence;
- The defendant was in the company of another person;
- The victim was questioned about the ability of her family to pay ransom;
- The defendant and another person exited the vehicle while it was in danger of rolling down the hill with the victim still inside.

Mitigating Factors:

- Guilty plea;
- The defendant had no previous convictions.

Current Maximum Penalty: Fifteen (15) years imprisonment for Robbery with Aggravation. Life imprisonment for Kidnapping.

Sentence:

Six (6) years and eight (8) months imprisonment for Robbery with Aggravation.
Four (4) years imprisonment for Kidnapping.

To run concurrently.
The State v Attiene Pope  
H.C.S.911/2012  
Justice Gillian Lucky  
July 10, 2015

At around 10:00 pm the complainant parked and secured his vehicle in his yard by locking all doors and windows and went to bed. At around 6:00 am the next morning the complainant made a check and discovered that it was missing. The vehicle was valued at $71,000.00 and he gave no one permission to borrow it. A report was made and a few days later officers found the defendant in the vehicle parked at the side of the road, asleep in the front driver side seat. The defendant claimed, “Officer ah breddrin lend meh dat car to drop two women in Rio Claro last night and ah drink plenty rum so I couldn’t drive back South.” The defendant was arrested and formally charged. The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty of fifteen (15) years imprisonment.

The court imposed a sentence of a bond to be of good behaviour for three (3) years, in default to return to the court for sentencing.

Aggravating Factors:
- The seriousness of the offence;
- The prevalence of the offence;
- The defendant had 13 previous drug charges.

Mitigating Factors:
- Guilty plea;
- The defendant was remorseful;
- The Probation Officer’s report was positive;
- The defendant made positive life changes.

Current Maximum Penalty: Fifteen (15) years imprisonment.

Sentence:
Bond to be of good behaviour for three (3) years, in default to return to the court for sentencing.

The State v Donny Ramkissoon  
H.C.S.133/2012  
Justice Gillian Lucky  
May 27, 2015

Mr Narindra Marajh woke up after hearing dogs barking and, on his way back after investigating, saw a man pointing a gun at him and he said “come”. The gunman had a bandanna over his face and ordered Mr Marajh to stoop down and as he did, another man came to him and placed a gun to his head. One of the men took the ring (valued $500.00) off his finger and a third man appeared holding a cutlass. They tied him up and took him to his bedroom where they robbed him of $200.00 and an ornamental sword that hung on the wall. There was also a fourth man with a cutlass. Mr Marajh and his family were robbed of items including jewellery, cash, and a cellphone. During the robbery, a car pulled up and a loud explosion was heard. The defendant was picked up by the police and identified as a suspect in the matter. The defendant, who was seventeen (17) years old at the time, admitted that he,
Terry Lee and others robbed the family of money and jewellery and then shot at a man. The defendant admitted that he was given “a small money”. The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty of fifteen (15) years imprisonment. She then deducted a third of the sentence for the guilty plea and another six (6) years for time spent in custody.

The court imposed a sentence of a bond to be of good behaviour for five (5) years, in default one (1) year imprisonment. The court also ordered a fine of $18,000.00 be paid.

Aggravating Factors:
- The seriousness and prevalence of the offence;
- The use of weapons to intimidate;
- The defendant acted with others;
- Violence was used on the victims;
- The defendant had 2 previous convictions.

Mitigating Factors:
- Guilty plea;
- The age of the defendant (seventeen (17) years old);
- The defendant issued an apology to the victims;
- The defendant showed remorse;
- The defendant cooperated with the police and admitted involvement.

Current Maximum Penalty: Fifteen (15) years imprisonment.

Sentence:
Bond to be of good behaviour for five (5) years, in default one (1) year imprisonment. Fine of $18,000.00.

The State v Jameel Douglas
H.C.84/2010

Justice Maria Wilson
December 19, 2012

The complainant, a fishmonger, was at his stall in Barataria when he saw the defendant riding a bike. About 3 minutes later, the complainant felt a presence and saw the defendant at his side with a gun pointed to his head. The defendant demanded money from him and he gave him $1,000.00 cash. The defendant pleaded not guilty.

Justice M Wilson considered that he had already spent three (3) years, eight (8) months and twenty-one (21) days in prison.

The court ordered a bond to keep the peace and be on good behaviour for three (3) years, in default to be brought for sentencing.

Aggravating Factors:
- The prevalence and seriousness of the offence;
- The use of a weapon;
- Careful recognizance was involved.
Mitigating Factors:

- The defendant did not discharge the firearm and did not inflict injury upon the victim;
- The defendant did not act with others;
- The age of the defendant at the time of the offence (twenty-one (21) years old);
- The defendant assisted police with investigations;
- The defendant seemed to be of good character.

Current Maximum Penalty: Fifteen (15) years imprisonment.

Sentence:

Bond to keep the peace and be of good behaviour for a period of three (3) years, in default to be brought back before the court for sentencing.

The State v Curtis Augustine  
H.C.24/2011
Justice Carla Browne-Antoine
April 25, 2012

The complainant was walking when the defendant approached and asked her the time. After she replied, the defendant pushed her into nearby bushes and got on top of her demanding everything. The defendant was armed with a cutlass and made threats. The complainant handed over her jewellery and handbag. The defendant then ran off into the bushes. The complainant received multiple lacerations and abrasions about her body as a result of the incident. The defendant was later positively identified by the complainant in an ID parade. The defendant pleaded guilty.

Justice C Browne-Antoine started with considering the maximum penalty of fifteen (15) years imprisonment. She then deducted one (1) year from the maximum penalty for the guilty plea and then two (2) years from the maximum penalty for the time spent in custody.

The court imposed a sentence of twelve (12) years imprisonment with hard labour.

Aggravating Factors:

- The injuries suffered by the complainant;
- The prevalence of the offence;
- The defendant had 10 previous convictions.

Mitigating Factors:

- Guilty plea.

Current Maximum Penalty: Fifteen (15) years imprisonment.

Sentence:

Twelve (12) years imprisonment with hard labour.
The State v Curtis Taylor
H.C.97/1995
Justice Carla Browne-Antoine
November 21, 2011

Stevens and Johnsons store was closed for business. The Assistant Managing Director went to the store to see if all was well. He went in and noticed goods on the floor and immediately called the police. It was then it was discovered that the store was broken into as there was a hole in the ceiling on the first floor and a window was open. Several items including clothing and household items valued at $123,813.20 were stolen. Police found a fingerprint on a video cassette tape found in the attic. Finger print analysis revealed it belonged to the defendant. The defendant pleaded not guilty.

Justice C Browne-Antoine started with considering whether there should be a deduction in sentence due to time passed since the incident. After looking at the authorities, she decided against a deduction. She started with five (5) years and then deducted one (1) year for the time spent in custody between arrest and trial. The court imposed a sentence of four (4) years imprisonment with hard labour.

**Aggravating Factors:**
- The act was premeditated, well planned, and executed;
- The prevalence of the offence;
- The seriousness of the offence as none of the stolen items were recovered;
- The defendant had 6 previous convictions, 2 of which were for dishonest offences.

**Mitigating Factors:**
- Period of two hundred and eighty-two (282) days spent in custody.

**Current Maximum Penalty:** Ten (10) years imprisonment.

**Sentence:**
Four (4) years imprisonment with hard labour.
AGGRAVATING FACTORS:

- Large quantity involved as opposed to a small amount for personal use;
- Well-orchestrated operation;
- High degree of involvement;
- Possession of the drug in a public place or school;
- The offender was acting in a position of special responsibility, for example a teacher or bus driver;
- Supply made to vulnerable persons including children;
- Involvement of vulnerable persons in the drug trade, including children;
- Persistent use or cultivation of the drug;
- Use of sophisticated systems of cultivation/trafficking/concealment;
- Carrying/Brandishing the firearm in a public place;
- Planned illegal use of the firearm;
- Persons in society were put in fear by the presence of the firearm;
- The offender participated in a violent incident while carrying the firearm.

MITIGATING FACTORS:

- Co-operates with law enforcement officials;
- Supplies valuable information on drug trafficking to law enforcement officials;
- Evidence submitted that the drug was used to assist with a medical condition;
- No intention to use the firearm.

Current Maximum Penalties for Drug Offences

Possession of any Dangerous Drug

Prescribed penalty:
$50,000.00 and ten (10) years imprisonment: Section 5(1) of the Dangerous Drugs Act, Chapter 11:25.

Cultivation of Marijuana*

Prescribed penalty:
$100,000.00 or where there is evidence of the street value of the marijuana, ten (10) times the street value of the marijuana, whichever is greater, or imprisonment for life: Section 5(3) (b) of the Dangerous Drugs Act, Chapter 11:25.
Cultivation of Opium, Poppy or Coca Plant*

Prescribed penalty:
$200,000.00 or where there is evidence of the street value of the dangerous drug, fifteen (15) times the street value of the dangerous drug, whichever is greater, and imprisonment for twenty-five (25) years to life: Section 5(3A) of the Dangerous Drugs Act, Chapter 11:25.

 Trafficking a Dangerous Drug or in Possession for the Purpose of Trafficking

Prescribed penalty:
$100,000.00 or where there is evidence of the street value of the dangerous drug, three (3) times the street value of the dangerous drug, whichever is greater, and imprisonment for life: Section 5(5) of the Dangerous Drugs Act, Chapter 11:25.

 Trafficking in a Substance other than a Dangerous Drug which He Represents to be a Dangerous Drug

Prescribed penalty:
$100,000.00 or where there is evidence of the street value of the dangerous drug, three (3) times the street value of the dangerous drug, whichever is greater, and imprisonment for life: Section 5(6) of the Dangerous Drugs Act, Chapter 11:25.

 Trafficking or in Possession for the Purpose of Trafficking of Dangerous Drug or a Substance other than a Dangerous Drug which he represents to be a Dangerous Drug on any School Premises or within 500m thereof

Prescribed penalty:
$150,000.00 or where there is evidence of the street value of the dangerous drug, three (3) times the street value of the dangerous drug, and imprisonment for life: Section 5(7) of the Dangerous Drugs Act, Chapter 11:25.

Current Maximum Penalties for Possession of Firearms and/or Ammunition

Possession of a Firearm or Ammunition (without Firearm User’s Licence)

Prescribed penalty:
Fifteen (15) years imprisonment; Section 6(3)(a)(ii) of the Firearms Act, Chapter 16:01.

Selling/Transferring Firearms/Ammunition to a Person not being Holder of Firearm User’s Licence

Prescribed penalty:
Fifteen (15) years imprisonment: Section 9(1)(b) of the Firearms Act, Chapter 16:01.
JUDGMENTS

The State v Jose Ordaz Longart and Ismael Rodriguez

H.C.3/2015

Justice Gillian Lucky

December 18, 2015

Around 11:30 pm on that day, the complainant was in company with other officers of the Organised Crime Narcotics and Firearms Bureau. The officers concealed themselves in a bushy area facing the sea and noticed a greyish coloured vessel approaching the shore. There were 4 occupants but 3 disembarked leaving 1 on board. The 3 men came out of the vessel with what appeared to be 3 feed type bags and 1 dark coloured bag. The officers stopped the men while the other man aboard the vessel was able to flee. When asked what was contained in the bags the response was “no habla ingles”. Each bag contained several packets. The men were cautioned and arrested. Once examined, it was found that the feed type bags which were in the possession of the men contained 30 packets each of marijuana in the amounts of 29.206 kilograms, 29.193 kilograms, and 29.02 kilograms. The dark coloured bag contained 10 packets of cocaine weighing 11.132 kilograms. The defendants pleaded guilty.

Justice G Lucky started with considering the maximum penalty of life imprisonment. She then gave a maximum sentence indication of eighteen (18) years imprisonment for the first offence and twenty-one (21) years imprisonment for the second offence. A third of the sentence was deducted for the guilty plea and a further ten (10) years was deducted for time spent in custody.

The court imposed a sentence of two (2) years imprisonment for the first offence and four (4) years imprisonment for the second offence, to run concurrently, for both defendants.

Aggravating Factors:
- The seriousness and prevalence of the offence;
- The quantum of the drugs (6.82 kilograms of cocaine and 87.365 kilograms of marijuana);
- The age of both defendants at the time of the offence (Jose Longart – forty-one (41) years old and Ismael Rodriguez – thirty-five (35) years old);
- The act was premeditated, deliberate, and planned.

Mitigating Factors:
- Guilty plea;
- Both defendant had no previous convictions;
- They had positive Bio-Social reports.

Current Maximum Penalty: Fine of $100,000.00 or where there is evidence of the street value of the dangerous drug, three (3) times the street value of the dangerous drug, whichever is greater and imprisonment for life.
Sentence:

Two (2) years imprisonment for Possession of a Dangerous Drug for the Purpose of Trafficking (Cocaine).

Four (4) years imprisonment for Possession of a Dangerous Drug for the Purpose of Trafficking (Marijuana).

To run concurrently.

The State v Danielle Brooks  
H.C.108/2013  
Justice Althea Alexis-Windsor  
October 30, 2015

Police executed a warrant at an apartment. There were 46 cylindrical objects on the table. The defendant told the police she had already ingested 10 of them. The defendant was taken to hospital where she excreted 17 wrapped cylindrical pellets. The cylindrical pellets were proven to be cocaine. The defendant pleaded guilty.

Justice A Alexis-Windsor started at seven (7) years. She then deducted one (1) year for mitigating circumstances and then two (2) years and six (6) months for time spent in custody.

The court imposed a sentence of three (3) years and six (6) months imprisonment.

Aggravating Factors:

- The defendant had previous convictions for the same offence;
- There was a pattern of behaviour which demonstrated a lifestyle choice.

Mitigating Factors:

- Guilty plea;
- The defendant committed no offence while on bail;
- The defendant came from a broken home;
- The defendant saved the time of the judicial and prosecution witnesses.

Current Maximum Penalty: Fine of $50,000.00 and imprisonment not exceeding ten (10) years.

Sentence:

Three (3) years and six (6) months imprisonment.

The State v Terrence Lee  
H.C.S.140/2012  
Justice Gillian Lucky  
February 04, 2015

Around 4:45 am Darren Mohammed went by the home of his uncle Dilip Latchman to buy aloo pies. When Mr Mohammed reached by the driveway he observed someone about 6 feet away bending down and moving up and down. He blew his horn for a minute and then ran up to the window of his uncle’s house and said “bandit”. At this point Mr Latchman was in the kitchen preparing for the next day and upon hearing this he and others left the kitchen. As Mr Latchman approached the gate he saw a man holding a gun to Mr Mohammed’s throat.
The man holding the gun wore a mask. The masked man then shouted for the keys to open the gate. While they did this the gunman kept kicking Mr Latchman and also hit him twice on the head with the butt of the gun. The masked man told Mr Latchman to lie on the ground and while he was doing this he heard a loud explosion and felt immense pain. The man told him to tell his family to throw the money which they did. The masked man then left in Mr Mohammed’s vehicle. The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty for the offences. She then gave a maximum sentence indication of eight (8) years imprisonment for Shooting with Intent and two counts of Robbery with Aggravation, and three (3) years and four (4) months imprisonment for Possession of a Firearm without Firearm User’s Licence and Possession of Ammunition without Firearm User’s Licence. She then deducted ten (10) years and two (2) months for time spent in custody.

The court imposed a sentence of one (1) year and two (2) months imprisonment.

Aggravating Factors:
- The seriousness and prevalence of the offence;
- The family was terrorised for 30 minutes;
- The use of a weapon;
- The defendant had 2 previous convictions.

Mitigating Factors:
- Guilty plea;
- The defendant did not act alone.

Current Maximum Penalty: Fifteen (15) years imprisonment for Possession of a Firearm without Firearm User’s Licence, and Fifteen (15) years imprisonment for Possession of Ammunition without Firearm User’s Licence. Fifteen (15) years imprisonment for Shooting with Intent. Fifteen (15) years imprisonment for Robbery with Aggravation.

Sentence:
One (1) year and two (2) months imprisonment.

The State v Sanjay Rampersad and Ricky Mohammed
H.C.32/2007
Justice Maria Wilson
January 30, 2015

A party of officers parked in an unmarked police vehicle near a mall observed both defendants standing next to a 28oC vehicle nearby. Both men looked behind them and appeared to be nervous. Both defendants then jumped into the car and drove to the exit. The police vehicle then blocked the path of the 28oC. After being questioned by the officers, they denied having any illegal substance in the vehicle. The officers carried out a search in the vehicle and found 2 tote bags containing 51 packages of cannabis sativa weighing 52.18 kilograms with a value of about $688,000.00. Homes of the defendants were searched and a green tote bag was found in Rampersad’s house containing 27 packets of cannabis sativa weighing 27.84 kilograms. Both pleaded not guilty.
Justice M Wilson considered the decision in *Barry Hinds* in the interpretation of s 5(5) of the Dangerous Drugs Act, Chapter 11:25. She started with eighteen (18) years imprisonment and deducted time spent in custody.

The court imposed a sentence of eighteen (18) years imprisonment with hard labour less three (3) months spent in custody for Rampersad and eighteen (18) years imprisonment with hard labour less six (6) months spent in custody for Mohammed.

**Aggravating Factors:**

- The prevalence and seriousness of the offence;
- The quantum of drugs;

**Mitigating Factors:**

- Rampersad had no previous convictions;
- He was forty-two (42) years old and married, with 3 children;
- He was the sole breadwinner after his wife got injured in an accident;
- He spent three (3) months awaiting trial.
- Mohammed was thirty-nine (39) years and had 1 son for whom he has the responsibility of maintaining;
- He spent 6 months in prison awaiting trial.

**Current Maximum Penalty:** Fine of $100,000.00 or three (3) times the street value of drug if there is evidence, whichever is greater, and life imprisonment.

**Sentence:**

Eighteen (18) years imprisonment with hard labour less three (3) months spent in custody for Sanjay Rampersad.

Eighteen (18) years imprisonment with hard labour less six (6) months spent in custody for Ricky Mohammed.

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**The State v Conroy Daniel**  
H.C.S.110/2011

Justice Gillian Lucky  
January 28, 2015

Around 5:00 am the Police Constable Sean Sookram was on enquiries with other officers attached to the Organised Crime and Narcotics Unit. They approached a vehicle where they saw a woman occupying the front driver seat and the defendant in the back. PC Sookram identified himself to them, told them of information he had received, cautioned them and asked them to step out of the car. The defendant was searched and nothing illegal was found on his person. The officers began to search and found 2 feed-type bags at the back seat of the vehicle near to the position the defendant had been seated. The trunk also had 4 similar feed-type bags. Altogether the bags were found to contain 18 packets of marijuana which weighed in total 65.62 kilograms. The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty for the offences. She then gave a maximum sentence indication of eighteen (18) years imprisonment for the offences. She then deducted a third for the guilty plea and then seven (7) years and eight (8) months for time spent in custody.
The court imposed a sentence of ten (10) months imprisonment.

**Aggravating Factors:**

- The seriousness and prevalence of the offence.

**Mitigating Factors:**

- Guilty plea;
- The defendant had no previous convictions;
- The defendant admitted his involvement in the offence;
- The defendant expressed remorse.

**Current Maximum Penalty:** $100,000.00 or three (3) times the street value of the dangerous drug, whichever is greater, and imprisonment life for Possession of a Dangerous Drug for the Purpose of Trafficking (Marijuana).

**Sentence:**

Ten (10) months imprisonment.

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The State v Junior Phillips  
B3-6  
H.C.S.1/2013  
Justice Maria Wilson  
March 20, 2014

A party of police officers went to the defendant’s home in Mount St George with a search warrant to search defendant’s home. The officers found and seized a large black plastic bag containing 16 packages of cannabis sativa amounting to 15.4 kilograms, TT$4,316.65 and a US$5.00. The defendant pleaded not guilty.

Justice M Wilson applied decision in Barry Hinds in sentencing the defendant.

The court imposed a sentence of eight (8) years imprisonment and deducted time spent in custody from December 03, 2013. Sentence to run from date of conviction of December 03, 2013.

**Aggravating Factors:**

- The prevalence and seriousness of drug offences;
- The quantum of drugs with a street value of $400,000.00;
- The packaging of the drug suggested a well organised drug operation.

**Mitigating Factors:**

- The age of the defendant at the time of the offence (twenty-six (26) years old);
- The defendant had no previous convictions or pending matters;
- He was self-employed as a fisherman and electrician;
- He was the father of 6 children for whom he provided support and assistance.

**Current Maximum Penalty:** $100,000.00 or three (3) times the street value of drugs where this evidence, whichever is greater, and life imprisonment.

**Sentence:**

Eight (8) years imprisonment and deducted time spent in custody from December 03, 2013.
Police officers were on mobile patrol in a marked police vehicle dressed in police uniform. One of the officers observed a motor car PBF 5499 in the vicinity of the Claxton Bay overpass. The police siren was engaged and the vehicle was intercepted. The defendant and 2 other persons were the occupants, with the defendant being the driver. The vehicle was searched in their presence and an officer found a black bag containing 837.8 grams of cannabis sativa in the trunk of the vehicle. The defendant pleaded guilty.

Justice M Wilson started by interpreting s 5 of the Dangerous Drugs Act, Chapter 11:25 and found the penalties may be imposed accumulatively or alternatively. The court imposed a sentence of a bond in the sum of $25,000.00 to be of good behaviour for a period of five (5) years in breach to pay a fine of $6,000.00, in default three (3) months imprisonment.

Aggravating Factors:
- The prevalence and seriousness of the offence.

Mitigating Factors:
- Guilty plea;
- The defendant had no previous convictions or pending matters;
- The age of the defendant at the time of the offence (eighteen (18) years old);
- The defendant was a father of a 2 year old boy and the primary breadwinner;
- The defendant was gainfully employed as dispatcher at the Trinidad Express.

Current Maximum Penalty: Fifteen (15) years imprisonment.

Sentence:
Bond in the sum of $25,000.00 to be of good behaviour for a period of five (5) years, in breach to pay a fine of $6,000.00, in default three (3) months imprisonment.
The court imposed a sentence of six (6) years imprisonment for Holder and five (5) years imprisonment with hard labour for Johnfinn.

**Aggravating Factors:**
- The seriousness of the offence;
- The prevalence of the offence;
- The quantity of cocaine;
- The possession in a public place and risk of damage to the country’s reputation if exported and detected abroad.

**Mitigating Factors:**
- Good character of both defendants.

**Current Maximum Penalty:** $100,000.00 or three (3) times the street value of the dangerous drug, whichever is greater, and imprisonment for life.

**Sentence:**
Six (6) years imprisonment for Holder.

Five (5) years imprisonment with hard labour for Johnfinn.

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**The State v Robert Brown**

H.C.53/2010

Justice Devan Rampersad

April 14, 2011

On August 06 2005, PC Greaves and other police officers were on duty at a police checkpoint at the Piarco International Airport. PC Greaves summoned the defendant who was at the Departure Tax area at the time and told him that he had information that the he was in possession of dangerous drugs, to which the accused shook his head in the negative. The defendant was cautioned and taken to the baggage area at the airport where his suitcase was searched. The search revealed 4 packets containing a cream coloured powder substance (resembling that of heroin) concealed in the soles of 2 pairs of shoes. The search also revealed 39 clear plastic wrapped packages containing a quantity of cream coloured solids resembling heroin found concealed in 4 pieces of plywood on the 4 sides of the suitcase. The total weight of the cocaine amounted to 2.28 kilograms. The defendant pleaded guilty.

The court imposed a sentence of two (2) years imprisonment with hard labour after taking into account time spent in custody of five (5) years and eight (8) months.

**Aggravating Factors:**
- The seriousness of the offence.

**Mitigating Factors:**
- Guilty plea.

**Current Maximum Penalty:** $100,000.00 or three (3) times the street value of drugs where this evidence, whichever is greater, and life imprisonment.

**Sentence:**
Two (2) years imprisonment with hard labour.
AGGRAVATING FACTORS:

- The victim was a young child and there were repeated incidents of sexual abuse;
- The defendant was related to or held a position of trust in relation to the victim or the victim’s parents, such as a teacher or neighbour;
- The offence was continued or repeated despite the victim’s protestations;
- The offence was accompanied by violence;
- The indecency involved in the act was of an obvious and gross character;
- Although the victim is not a child, there is still a significant disparity in age between the victim and the defendant.

MITIGATING FACTORS:

- The offender was young and immature.

**Current Maximum Penalties for Sexual Offences**

**Rape**

Prescribed penalty:

Imprisonment for life (or remainder of natural life): Section 4(2) of the Sexual Offences Act, Chapter 11:28.

**Grievous Sexual Assault**

Prescribed penalty:

Imprisonment for life (or remainder of natural life depending on the circumstances): Section 4A; Section 4(2) of the Sexual Offences Act, Chapter 11:28.

**Sexual Penetration of a Child***

Prescribed penalty:

Life imprisonment: Section 18 of the Children Act, Chapter 46:01.

**Indecent Assault***

Prescribed penalty:

Five (5) years imprisonment for the first offence and ten (10) years for a subsequent offence: Section 15(1) of the Sexual Offences Act, Chapter 11:28.
Serious Indecency*
Prescribed penalty:
Five (5) years imprisonment: Section 16(1) of the Sexual Offences Act, Chapter 11:28.

Buggery*
Prescribed penalty:
Twenty-five (25) years imprisonment: Section 13(1) Sexual Offences Act, Chapter 11:28.

*Note: See Table of Maximum Penalties (Indictable Offences) at page XXXIX for History of and Changes to Offence and Penalty.
The State v Michael Guppy
H.C.76/2013
Justice Althea Alexis-Windsor
February 24, 2016
The defendant entered the home of a nine (9) year old child and committed buggery on him. The child was lying on the bed of his father. The defendant pleaded guilty.
Justice A Alexis-Windsor started with the maximum sentence of ten (10) years imprisonment. She then deducted one (1) year for mitigating factors and one (1) year and two (2) months for time spent in custody. The court imposed a sentence of seven (7) years and ten (10) months imprisonment with hard labour.

Aggravating Factors:
- The seriousness of the offence;
- The prevalence of the offence;
- The age of the victim;
- The defendant gained access to a place in which the victim lived.

Mitigating Factors:
- Guilty plea;
- The defendant had no previous convictions.

Current Maximum Penalty: Twenty-five (25) years imprisonment.

Sentence:
Seven (7) years and ten (10) months imprisonment with hard labour.

The State v Ikel Blackman
H.C.51/2012
Justice Althea Alexis-Windsor
March 02, 2016
The defendant carried a thirteen (13) year old female away and spent the entire night with her and had sexual intercourse with her. The defendant also invited her to participate in a threesome with another man who was present at the house. He did not force the situation when she declined. The defendant pleaded guilty.
Justice A Alexis-Windsor started with eight (8) years imprisonment for Sexual Intercourse with a Female Under Fourteen and seven (7) years imprisonment for Indecent Assault. She then deducted five (5) years for the time spent in custody.
The court imposed a sentence of three (3) years imprisonment for Sexual Intercourse with a Female Under Fourteen and two (2) years imprisonment for Indecent Assault; to run concurrently.
Aggravating Factors:
- The seriousness of the offence;
- The defendant had previous convictions for similar offences.

Mitigating Factors:
- Guilty plea;
- The age of the defendant;
- The defendant’s suitability for rehabilitation.

Current Maximum Penalty: Life imprisonment for Sexual Intercourse with a Female Under Fourteen*. Five (5) years imprisonment for first offence of Indecent Assault.

Sentence:
Three (3) years imprisonment for Sexual intercourse with a Female Under Fourteen.
Two (2) years imprisonment for Indecent Assault.
To run concurrently.

The State v Peter Rodriguez
H.C.90/2012
Justice Gillian Lucky
February 23, 2016

At around 2:00 pm the complainant was standing on the corner of Tunapuna Road and the Eastern Main Road. At the time she was a form three student and fourteen (14) years of age. The complainant had known the defendant for some years prior and on that day she saw him walking towards her. The defendant then asked the complainant if she wanted to go home with him and she replied in the affirmative. They proceeded to the home of the defendant and he then introduced her to two other men there as his girlfriend. They went to a bedroom where they talked and the complainant was given a meal which she consumed. From June 28 2006 to July 01 2006, the complainant stayed at the house with the defendant. They had sexual intercourse five times. On July 01, 2006 the mother of the complainant found her, and the defendant was arrested and later charged. The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty for the offences. She then gave a maximum sentence indication of six (6) years and eight (8) months imprisonment. The defendant spent nine (9) years and eight (8) months in custody. The time was considered spent.

Aggravating Factors:
- The seriousness and prevalence of the offence.

Mitigating Factors:
- Guilty plea;
- The defendant had no previous convictions;
- The defendant admitted his involvement in the offence;
- The defendant expressed remorse.

Current Maximum Penalty: Life imprisonment*. 
Sentence:
Six (6) years and eight (8) months imprisonment.

The State v Nigel Xavier  
H.C.S.137/2012  
Justice Carla Browne-Antoine  
January 07, 2016

Both the defendant and the complainant were employed at a dental office. While in the office, the defendant passed and hit the complainant on her shoulder and ran off. She ran behind him and hit him on his back following which he grabbed her right hand, spun her around, pulled her towards him and grabbed her vagina above her clothing. He told the complainant that he was going to rape her that day and she managed to fight him off. The defendant pleaded not guilty.

Justice C Browne-Antoine considered authorities and found that a fine was suitable in these circumstances.

The court imposed a fine of $20,000.00 and compensation to the complainant of $10,000.00.

Aggravating Factors:
- The prevalence of sexual offences;
- The act was against a co-worker;
- The distress and embarrassment the complainant would have endured in having to report the incident and testify.

Mitigating Factors:
- Non-violent circumstances;
- The incident would have lasted a short time;
- The defendant did not plead guilty but did apologise to the complainant after the incident.

Current Maximum Penalty: Five (5) years imprisonment.

Sentence:
Fine of $20,000.00 and compensation to complainant of $10,000.00.

The State v Mervyn Connell  
H.C.S.100/2012  
Justice Maria Wilson  
November 25, 2015

The defendant, twenty-six (26) years old, was a neighbour of the complainant, thirteen (13) years old. The complainant did not wish to testify because she forgave the defendant and suffered from epileptic fits so could not recall the incident and was deemed hostile. The defendant pleaded not guilty.

Justice M Wilson stated the need for more sentencing options to be available in keeping with the spirit of restorative justice.
The court imposed a sentence of two (2) years imprisonment, with time spent in remand to be deducted from sentence for both counts. The sentence to run concurrently from the date of conviction.

**Aggravating Factors:**
- The seriousness and prevalence of the offence.

**Mitigating Factors:**
- The defendant had no previous convictions.

**Current Maximum Penalty:** Life imprisonment.

**Sentence:**
Two (2) years imprisonment, with time spent in remand to be deducted from sentence for both counts.
To run concurrently.

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The State v Garvin Samuel  
H.C.S.27/2014  
Justice Gillian Lucky  
January 26, 2015

At around 7:00 am Elizabeth Wallace was at her home bathing her son outside in front of the house. The defendant came up and stood next to her. The defendant spoke to her and said that he heard that she and her husband had a misunderstanding that morning. The defendant then told her that “his thing getting hard” and Ms Wallace then told the defendant to leave her alone. The defendant told her that he had been in jail for 13 years for killing an old lady with a pillow and raping her. Ms Wallace became afraid and then began to run from the defendant with her baby in her hand. The defendant ran up to her and dragged her back into the house. The defendant threatened to kill the woman if she did not do as she said. The defendant asked the woman to ‘suck his penis’ and she was frightened, so she complied. He also had sexual intercourse with her for 15 minutes. He asked to place his penis in her bottom but she refused. The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty for the offences. For the first offence, she started at thirteen (13) years and four (4) months imprisonment then deducted four (4) months for the guilty plea and a further six (6) years and seven (7) months for time spent in custody.

The court imposed a sentence of six (6) years and five (5) months imprisonment for Rape and five (5) years imprisonment with hard labour for Grievous Sexual Assault, to run concurrently.

**Aggravating Factors:**
- The prevalence and seriousness of the offences;
- The defendant persisted despite the victim’s protest;
- The defendant had her son with her during the incident;
- The victim was dragged back to the house after attempting to escape;
- The defendant had 2 previous convictions which he mentioned to the victim during the offence;
- The defendant threatened to kill the victim.
Mitigating Factors:

- Guilty plea.

Current Maximum Penalty: Life imprisonment for both offences.

Sentence:

Six (6) years and five (5) months imprisonment for Rape.

Five (5) years imprisonment with hard labour for Grievous Sexual Assault.

To run concurrently.

The State v Daniel Edwards

H.C.81/2012

Justice Carla Browne-Antoine

July 25, 2014

The defendant worked for the complainant’s father. The complainant was tutored on the same compound. On August 29, 2007 the complainant contacted the defendant via telephone and asked him to meet her in the bathroom of her father’s company. They met around 12:30 pm and began kissing and eventually had sexual intercourse in the toilet area. On September 03, 2007 the defendant again met the complainant in the bathroom. The complainant removed her school uniform and the defendant had sexual intercourse with her, this time using a condom. About a week later, the complainant told her parents what happened and a medical examination revealed that her hymen was recently ruptured. The defendant pleaded guilty.

Justice C Browne-Antoine considered the authorities and that there were also twenty-five (25) testimonials of the defendant’s good moral character.

The court imposed a term of fifteen (15) months imprisonment with hard labour on each count, to run concurrently.

Aggravating Factors:

- The defendant was an employee of the complainant’s father;
- The defendant took advantage of the access he had to the complainant;
- The prevalence of the offence;
- The offence was repeated.

Mitigating Factors:

- Guilty plea indicating remorse;
- The age of the defendant (nineteen (19) years old);
- The defendant was self-employed and devoted his time to activities that benefitted his community;
- The complainant was a willing participant and initiated contact with the defendant.

Current Maximum Penalty: Life imprisonment.

Sentence:

Fifteen (15) months imprisonment with hard labour for each count.

To run concurrently.
The State v Nigel Walcott
H.C.S.9/2012
Justice Maria Wilson
July 08, 2014

The complainant, fourteen (14) years old, came to know the defendant as he would visit her grandmother’s caretaker. The defendant gave her a letter asking if they could get together or “deal” and the complainant agreed. The complainant was set to go abroad and before she went away the defendant went to her home and started kissing her, at the back of the house. The defendant asked the complainant if she would like to have sex and she said no, but later said yes. The defendant removed the complainant’s clothing and they had sexual intercourse. The defendant pleaded guilty.

Justice M Wilson started with ten (10) years imprisonment and deducted three (3) years for the guilty plea, leaving seven (7) years. She further deducted two (2) years and two (2) months for other mitigating factors as well as time spent in custody of five (5) years and ten (10) months. This resulted in the defendant having already served his sentence. The defendant to be released forthwith.

Aggravating Factors:
• The prevalence and seriousness of the offence;
• The age difference between the defendant and the complainant.

Mitigating Factors:
• Guilty plea;
• The defendant had no previous convictions or pending matters;
• He was the father of 2.

Current Maximum Penalty: Life imprisonment*.

Sentence:
Ten (10) years imprisonment.

The State v Milton Trumpet
H.C.S.6/2013
Justice Maria Wilson
May 07, 2014

The complainant was fifteen (15) years and left school to go to the home of the defendant. The defendant told the complainant that she was not having any sex today as he knew that was her real purpose for visiting him and the complainant replied that she did not come for that. The defendant took a shower and came back out. It was then the complainant climbed on top of the defendant and continued kissing him following which they had sexual intercourse. The grandmother of the complainant eventually took her to the Old Grange Police Station and made a report. The defendant pleaded guilty.
The court placed the defendant on a bond in the sum of $5,000.00 to be of good behaviour for a period of three (3) years, in default to be brought back for sentencing.

Aggravating Factors:
- The prevalence and seriousness of the offence;
- The age difference between the complainant and the defendant;
- The injuries the complainant sustained in course of sexual intercourse as reflected in the medical report.

Mitigating Factors:
- Guilty plea and willingness to assist from an early stage in proceedings;
- Assisted with investigations;
- Parties became parent to a child born in September 2010 and the defendant aids in taking care of the child.

Current Maximum Penalty: Life imprisonment*.

Sentence:
Bond in the sum of $5,000.00 to be of good behaviour for a period of three (3) years, in default to be brought back for sentencing.

The State v Richardson Flemming
H.C.145/2006
Justice Althea Alexis-Windsor
April 09, 2014

The complainant was coming home from school. She felt someone walking behind her. The person grabbed her by the neck, pulled her into some bull grass while choking her. She started screaming. It was the defendant. He told her to stop or he would kill her. She stopped. She then saw that the defendant was someone she had known before. She offered him $14.00; he refused. The defendant stuck his tongue in her mouth and forcibly kissed her. He put her in a somewhat sitting position, unzipped his pants, pulled out his penis and forced her to perform oral sex on him. She did it until she started vomiting. He then pushed her in a lying position and performed oral sex on her. The defendant eventually allowed the complainant to go home. The defendant pleaded not guilty.

Justice A Alexis-Windsor started with ten (10) years imprisonment for Grievous Sexual Assault and eighteen (18) months imprisonment with hard labour for Assault Occasioning Actual Bodily Harm. She then deducted six (6) months for time spent in custody. The defendant to serve a term of nine (9) years and six (6) months imprisonment.

Aggravating Factors:
- The seriousness of the offence;
- The offence was accompanied by violence;
- The defendant threatened to kill the complainant;
- The age of the complainant;
- The defendant had previous convictions.

Mitigating Factors:
- The age of the defendant at the time of the offence.
Current Maximum Penalty: Life imprisonment for Grievous Sexual Assault. Five (5) years imprisonment for Assault Occasioning Actual Bodily Harm.

Sentence:
Nine (9) years and six (6) months imprisonment.

The State v Jade Bovell
H.C.S.16/2011
Justice Maria Wilson
April 03, 2014

While having a shower, the complainant saw the defendant armed with a cutlass and she asked what he wanted. The defendant quietly said, “You,” and pointed to her vagina. The complainant begged him not to hurt her like he had before and asked him to let her get a condom because of AIDS. The complainant ran to a bedroom in her house and tried to lock the door but the defendant burst open the door, throwing her on the bed and stood over her with a cutlass raised in the air. The complainant told the defendant that she was sorry she would not cause any more problems and the defendant pushed her to another bedroom with the cutlass against her back. The complainant tried to run to another room but he pushed her onto a bed and she gave him a condom. Whilst the defendant was removing his pants, she quickly dived for the cutlass and threw it through the window. The defendant hit her and threw her onto the bed and tried to force his penis into her mouth. The complainant tried to get him off and the defendant put on the condom and stroked his penis telling her to do it but she refused. He took out another condom, forced her legs apart and pushed his penis in and out of her vagina in a hard manner. She struggled with the defendant but he continued to have sex with her. The defendant pleaded not guilty. The defendant was found guilty by majority verdict.

The court imposed a sentence of twelve (12) years imprisonment with hard labour with five hundred and seventeen (517) days spent in custody to be deducted from the sentence.

Aggravating Factors:
- The prevalence of sexual offences;
- The use of a weapon.

Mitigating Factors:
- The defendant had no previous convictions.

Current Maximum Penalty: Life imprisonment.

Sentence:
Twelve (12) years imprisonment with hard labour with five hundred and seventeen (517) days to be deducted from sentence.
The defendant was a family friend staying with the complainant and her mother at their home in Lowlands before the incident. The complainant was nine (9) years old and asleep at her home when the defendant came into her bedroom and asked if she wanted him to rock her to sleep in the hammock, which she refused. He then asked her to kiss him and she refused. It was the first time that he made such a request of her. The defendant then proceeded to lie down on the complainant’s bed, place his hand on her and rub her breast. The complainant told him to stop and he did. The defendant then held on to the complainant’s hand, dragged her to the toilet, put her to lie down and removed her tights and underwear before putting his erect penis into her vagina. The complainant experienced pain and told the defendant to stop which he did. He then told the complainant not to tell her mother what happened and told her to lie down in her bed. The complainant told her mother what happened and they made a police report. The defendant pleaded guilty on both counts.

Justice M Wilson noted that the defendant did not plead guilty at the first opportunity since he first pleaded not guilty. He only pleaded guilty after DNA results which linked him to the offence, but before evidence was taken in the matter.

The court imposed a sentence of twelve (12) months imprisonment for Indecent Assault and ten (10) years imprisonment for Sex with a Female Under Fourteen to run concurrently less seven (7) days spent in remand.

**Aggravating Factors:**

- The prevalence and seriousness of sexual offences with females under fourteen (14);
- The age of the defendant at the time of the offence (thirty-two (32) years old);
- There was a breach of trust where the defendant was permitted to stay at the home of the complainant because he was a family friend.

**Mitigating Factors:**

- The defendant was steadily employed for a number of years;
- He maintained a sixteen (16) year old son;
- The duration of the incident was short;
- He was the father of 6 children to whom he provided support and assistance.

**Current Maximum Penalty:** Five (5) years imprisonment for first offence of Indecent Assault. Life imprisonment for Sexual Intercourse with a Female Under Fourteen years*.

**Sentence:**

Twelve (12) months imprisonment for Indecent Assault.

Ten (10) years imprisonment hard labour for Sexual Intercourse with a Female Under Fourteen years.

To run concurrently less seven (7) days spent in remand.
The State v Cecil Governor  
H.C.S.11/2012  
Justice Maria Wilson  
October 25, 2013  

The complainant was a fifteen (15) year old relative of the defendant’s wife and lived at their home with other relatives. The defendant’s wife and daughter went out and whilst away, the defendant came on the bed of the complainant, removed her clothes and had sexual intercourse with her without her consent. The defendant pleaded not guilty.

Justice M Wilson started with considering a twelve (12) year sentence and then deducted time spent in custody of four (4) months and two (2) days.

The court imposed a sentence of eleven (11) years and twenty-eight (28) days imprisonment with hard labour.

Aggravating Factors:

- The prevalence and seriousness of sexual offences;
- The defendant was in a position of trust;
- The age disparity between the defendant (sixty-nine (69) years old) and the complainant (fifteen (15) years old).

Mitigating Factors:

- The age of the defendant at the time of the offence (sixty-nine (69) years old);
- The defendant had no previous convictions.

Current Maximum Penalty: Life imprisonment.

Sentence:

Eleven (11) years and twenty-eight (28) days imprisonment with hard labour.

The State v Lincoln Blanc  
H.C.29/2011  
Justice Maria Wilson  
July 12, 2013  

The complainant, fifteen (15) years old, left church to drop 2 female members to the Piccadilly, Laventille taxi stand. The defendant called out to the complainant and explained to him that he knew where his brother was and that his brother was staying with him (the complainant’s brother was missing for 2 weeks). The complainant indicated that he wanted to speak with his father first before going to meet him but the defendant told him that he did not want the police to get involved. The complainant accompanied the defendant to a home and the defendant began to play with his hair and told him that he reminded him of his brother. The defendant then unzipped the complainant’s pants, masturbated his penis and performed oral sex on him. He made several offers to the complainant including $1,500.00, a cell phone, and clothes from abroad but the complainant refused all and the defendant threatened him. The defendant then walked the complainant home. The defendant pleaded not guilty.

The court imposed a sentence of seven (7) years imprisonment with hard labour. The court further ordered that upon release from prison, the defendant notify the nearest police station of his address and any other location to which he may move for a period of ten (10) years.
Aggravating Factors:
- The age of the victim at the time of the offence (fifteen (15) years old);
- The prevalence and seriousness of sexual offences;
- The attempt to bribe the complainant after the incident;
- The threats of violence after the act;
- No remorse shown;
- The complainant suffered emotional and psychological trauma;
- The complainant was lured under pretence of seeing his brother.

Mitigating Factors:
- The age of the defendant at the time of the offence (nineteen (19) years old);
- The defendant did not inflict physical injury.

Current Maximum Penalty: Life imprisonment*.

Sentence:
Seven (7) years imprisonment with hard labour.

The State v Clyde Groden  
H.C.S.1/2011  
Justice Carla Browne-Antoine  
October 24, 2012

The complainant was the fourteen (14) year old cousin of the defendant and lived a stone’s throw away from him. The defendant entered the complainant’s home on the pretext of wanting a hat (while she was at home alone) and violated her. The defendant tripped the complainant to get her to lie down on the bed, held his hand over her mouth as she screamed during the ordeal, and restrained her. The defendant pleaded not guilty.

Justice C Browne-Antoine noted that the defendant’s previous convictions demonstrated to the court that he had not seemed to learn to abide by the rules by which society operates. The judge was not minded to impose strokes as no weapon was used, nor were there threats of bodily harm, and no physical harm was suffered by the complainant, although there was sure to be psychological scars resulting from the traumatic episode.

The court imposed a sentence of fifteen (15) years imprisonment with hard labour to begin from date of sentence.

Aggravating Factors:
- The seriousness of the offence;
- The prevalence of the offence;
- The age of the complainant (fourteen (14) years old);
- The complainant was a relative of the defendant;
- The offence was accompanied by violence;
- The defendant had previous convictions;
- The complainant had to be removed from her home as a result of the incident which would have increased her trauma;
- The defendant showed no remorse.
Mitigating Factors:

- None.

Current Maximum Penalty: Life imprisonment.

Sentence:
Fifteen (15) years imprisonment with hard labour.

The State v Anthony McLean
H.C.45/2009
Justice Andre Mon Desir
July 27, 2011

On September 04, 2013, at the East Side Plaza in Port of Spain, the defendant, upon seeing the victim enter the male toilet, followed him into the toilet. The accused approached the victim from behind, put his hand over the victim’s mouth so that he could not scream and then proceeded to drag him into one of the nearby cubicles. While in the cubicle, he closed the door, pulled down the victim’s school pants, bent him over the toilet and buggered him for about 3-5 minutes. The defendant pleaded not guilty.

The court imposed a sentence of twenty (20) years imprisonment with hard labour.

Aggravating Factors:

- The age of the victim at the time of the crime (sixteen (16) years old);
- The seriousness of the offence;
- The humiliation and degradation suffered by the victim;
- The offence took place in a public place;
- The level of premeditation;
- The lack of remorse;
- The age disparity between the defendant and the victim (forty-eight (48) years);
- The trauma caused to the victim.

Mitigating Factors:

- The age of the defendant at the time of the crime (sixty-four (64) years old).

Current Maximum Penalty: Twenty-five (25) years imprisonment.

Sentence:
Twenty (20) years imprisonment with hard labour.


Murder and Felony Murder (B5)

AGGRAVATING FACTORS:

- The extent of planning and premeditation;
- The offence was committed for gain;
- The involvement of multiple attackers;
- The use of a weapon;
- The use of gratuitous violence;
- The concealment of the body.

MITIGATING FACTORS:

- The defendant was believed to be of good character;
- The age of the defendant at the time of the offence;
- The defendant expressed remorse.

Current Maximum Penalties for Murder and Felony Murder

Murder

Prescribed penalty:

Death: Section 4 of the Offences Against the Person Act, Chapter 11:08.

Felony Murder

Prescribed penalty:

Life imprisonment: Criminal Law Act, Chapter 10:04/Case Law.

The State v Randy Mohammed  
H.C.113/2010  
Justice Althea Alexis-Windsor  
December 11, 2015

The defendant and 2 other persons went to the home of the deceased to enquire about an argument that took place between one of the person’s (Son’s) sister and the deceased. An altercation ensued among them, resulting in the deceased being “collared”. The deceased retaliated by taking a hammer and attempted to hit Son. Son took the hammer from the deceased and attempted to hit the deceased with it. The deceased’s brother took the hammer away. Son left the yard of the deceased’s home. Subsequently the defendant and the other person attempted to leave the deceased’s yard, but the deceased took up a garden fork and attacked the defendant with it, causing another altercation. During the altercation, the defendant drew an unidentified object from his waist. The deceased ran and was pursued by the defendant, who was making a “cuffing” motion to the deceased’s back with the unidentified object in his hand. The deceased fell to the ground in an adjacent yard and the defendant continued making stabbing motions at him. Son returned to the scene and started punching the deceased while the defendant held the deceased in a “headlock.” The 3 men dragged the deceased towards the road where he fell. He later died at hospital. The defendant pleaded not guilty.

Justice A Alexis-Windsor started the maximum penalty of life imprisonment. Having regard to all the circumstances, she then determined the appropriate sentence to be twelve (12) years imprisonment. She then deducted five (5) years and nine (9) months for time spent in custody and one (1) year and three (3) months for mitigating factors.

The court imposed a sentence five (5) years imprisonment with hard labour.

**Aggravating Factors:**
- The seriousness of the offence;
- The prevalence of the offence;
- The extent of the injuries inflicted upon the deceased.

**Mitigating Factors:**
- The age of the defendant at the time of the offence (twenty-one (21) years old);
- The defendant had no previous convictions;
- The defendant expressed remorse;
- The defendant was provoked by the deceased.

**Current Maximum Penalty:** Life imprisonment.

**Sentence:**
Five (5) years imprisonment with hard labour.
The State v Daniel Muhammed  B5-2
H.C.7/2012
Justice Maria Wilson
December 04, 2015

The defendant met another person in San Juan who informed him that he had a robbery to go on. The defendant accompanied that person to a muffler shop owned by the father of the deceased. Both parties walked up to the deceased while the other person told the deceased to give them everything. The defendant then held the deceased from behind in a bear hug while the other perpetrator pulled a knife from his waist and stabbed the deceased in his chest and stomach. The deceased fell to the ground and the other person took the deceased’s wallet and then took a piece of iron from the ground and hit the deceased on his head. They both then fled the scene of the incident. The deceased was discovered by his father some hours later and died at the hospital 3 days after the attack. The defendant pleaded guilty to felony murder.

Justice M Wilson started with twenty-one (21) years imprisonment and deducted a third for the guilty plea, reducing it to fourteen (14) years. She then deducted time spent in custody from October 12, 2007.

The court imposed a sentence of seven (7) years, ten (10) months, and twenty-four (24) days imprisonment. The first review of the sentence will take place on November 13, 2018.

Aggravating Factors:

• The prevalence and seriousness of the offence;
• Participation with others;
• The offence was committed in pursuit of financial gain;
• The pain and suffering the deceased would have endured.

Mitigating Factors:

• Guilty plea;
• The defendant had no previous convictions;
• The age of the defendant at the time of the offence (seventeen (17) years old).

Current Maximum Penalty: Life imprisonment.

Sentence:

Seven (7) years, ten (10) months, and twenty-four (24) days imprisonment.

The State v Kamal Pooran and Ramzan Asgarali  B5-3
H.C.S.87/2000
Justice Carla Browne-Antoine
November 17, 2015

Both defendants entered the deceased’s taxi. One of them placed a rope around the deceased’s neck. They both came out of the car and took the deceased to a cocoa tree where they tied him up. They then took out a cable and hit the deceased in his head with it a few times before covering his body with cocoa leaves. They then tried to sell the deceased’s car but the buyer said that he had to run a search on it first. They drove off and the car eventually shut down. The deceased’s body was later discovered by his family members. Both defendants pleaded guilty to felony murder.
Justice C Browne-Antoine considered a starting point of twenty-eight (28) years imprisonment and deducted quarter for the guilty plea leaving twenty-one (21) years. Time spent in custody was deducted.

The court imposed a sentence of four (4) years, five (5) months, and eighteen (18) days imprisonment.

**Aggravating Factors:**
- The prevalence of the offence;
- The robbery was premeditated;
- The offence was committed in pursuit of financial gain;
- The pain and suffering the deceased would have endured;
- The disposal of the body in a callous manner;
- Both knew the deceased from their community;
- Asgarali had previous convictions that could not be verified.

**Mitigating Factors:**
- Guilty plea;
- Pooran had no previous convictions;

**Current Maximum Penalty:** Death.

**Sentence:**
Four (4) years, five (5) months, and eighteen (18) days imprisonment.

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The defendant along with 2 other persons entered a taxi driven by the deceased and announced a robbery. One of the men pulled out a gun, got out of the vehicle, and ordered the deceased to lie on the ground. They eventually placed the deceased in the trunk of his vehicle while he begged for his life. They drove off and stopped in the vicinity of the Lady Young Road where they took the deceased out of the trunk and one of the men hit him on his head with a wheel spanner and car jack resulting in his falling to the ground. They later threw the deceased over a precipice. Later on that night, they noticed a police van following them. They jumped out of the vehicle and ran away. The deceased’s body was discovered by some passers-by the following day. The defendant pleaded guilty to felony murder.

Justice C Browne-Antoine considered a starting point of thirty (30) years imprisonment with a tenth discount for guilty plea, reducing the term to twenty-seven (27) years. She then deducted time spent in custody.

The court imposed a sentence of eleven (11) years, eleven (11) months and two (2) days from date of sentence.

**Aggravating Factors:**
- The prevalence of the offence;
- The robbery was premeditated;
- The offence was committed in pursuit of financial gain;
The pain and suffering the deceased would have endured;
• The disposal of the body in a callous manner;
• Fleeing from the police after the incident.

**Mitigating Factors:**
• Guilty plea;
• The defendant had no previous convictions;
• The defendant appeared to have cooperated with the police upon arrest.

**Current Maximum Penalty:** Death.

**Sentence:**

Eleven (11) years, eleven (11) months and two (2) days imprisonment.

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The defendant, together with A, B, and C all met to lime at A’s home. The lime ended and C had a conversation with the defendant’s sister. C then went in search of the defendant. C eventually went to the back of a nearby Community Centre where he saw the defendant and the deceased together. The deceased was seventeen (17) years at the time. C enquired what was going on to which the defendant replied that they were going to teach Ronnie Ram (the deceased) a lesson. C understood this statement to mean that the deceased was going to be beaten due to his previous interaction with the defendant’s sister. B was also there and he took off his jersey and gave it to C, who was then standing behind the deceased. A and the defendant were standing in front of the deceased. C put the jersey over the deceased’s mouth and A then went to the side of the deceased and began punching him in the stomach, following which the deceased fell. The deceased was bawling out to the defendant that he was sorry and did not mean any of it. The defendant then walked up to the deceased, who was being subdued on the ground by A and C, and stabbed the deceased twice with a knife. The perpetrators then fled the scene. The post-mortem report revealed the deceased suffered at least 4 stab wounds and sustained other defensive wounds. The defendant pleaded guilty to felony murder.

The defendant was sentenced to detention at the court’s pleasure. Justice C Browne-Antoine started with a minimum term of twenty-four (24) years imprisonment and deducted a third discount for the guilty plea reducing the minimum term to sixteen (16) years. Time spent in custody of seven (7) years and ten (10) months was deducted leaving eight (8) years and two (2) months imprisonment. The sentence is to be reviewed in June, 2018 in accordance with Chuck Attin.

**Aggravating Factors:**
• The defendant participated in the offence with three other persons;
• The plan to hurt the deceased and ‘teach him a lesson’ was premeditated.

**Mitigating Factors:**
• Guilty plea;
• The age of the defendant at the time of the offence (sixteen (16) years old).
Current Maximum Penalty: Life imprisonment.

Sentence:
Detention at the court’s pleasure: Sixteen (16) years imprisonment.

The State v Avinash Pooran  
H.C.S.47/2011  
Justice Althea Alexis-Windsor  
June 10, 2015

The defendant and 2 others decided to steal a car. In furtherance thereof, they boarded the “PH” taxi of the deceased, who was known to the defendant. During the robbery, the other men stabbed the deceased several times about the body. Upon seeing the other men stabbing the deceased, the defendant exited the car and assisted the other men in removing the deceased from the vehicle by kicking him. Thereafter, the defendant kicked the deceased into a drain. The next day, the defendant along with other persons tried to burn the car. The defendant removed the indicator lights from the car and took them home. The defendant pleaded not guilty.

Justice A Alexis-Windsor started with thirty (30) years imprisonment. She then deducted eight (8) years and six (6) months for the time spent in custody.

The court imposed a sentence of twenty-one and a half (21.5) years imprisonment with a minimum sentence of fifteen (15) years to be served.

Aggravating Factors:
- The seriousness of the offence;
- The defendant participated in the offence with 2 other persons;
- The participation in the events which lead to the death of the deceased was planned.

Mitigating Factors:
- The age of the defendant at the time of the offence (seventeen (17) years old);
- The defendant had no previous convictions;
- There was no evidence that the defendant knew that the other parties were armed with a knife;
- The defendant did not actually inflict wounds to the deceased.

Current Maximum Penalty: Life imprisonment.

Sentence:
Twenty-one and a half (21.5) years imprisonment.

The State v Leston Paul Henry  
H.C.34/2008  
Justice Carla Browne-Antoine  
May 20, 2015

The defendant and 2 other men went to the home of the deceased and demanded his car keys and bank card. The deceased handed over money and his keys and told them his bank card was in his car. The deceased was forced to sit in the backseat of his car while one of the men
drove, looking for an ATM. They ended up in Chaguaramas and the defendant was left alone with the deceased in the car while the other men went to the ATM. The defendant told the deceased that he would give him a cutlass and let him go. He did so and while the deceased ran off a distance away, he informed the other men that the deceased escaped. The two men recaptured the deceased and ‘planassed’ him. They then drove to a cane field where the two men continued to ‘planass’ and chop the deceased. The defendant was instructed to help hold down the feet of the deceased whilst one of the men drove the car over the deceased’s body. The defendant pleaded guilty to felony murder.

The defendant was sentenced to detention at the court’s pleasure. Justice C Browne-Antoine started by setting the minimum term at twenty-one (21) years imprisonment and gave a third discount for the guilty plea reducing the minimum term to fourteen (14) years imprisonment. The court then deducted ten (10) years and three (3) months spent in custody leaving a minimum term of three (3) years and nine (9) months to be served. A sentence review is to take place in May, 2018 in accordance with guidelines in Chuck Attin.

Aggravating Factors:

- The prevalence of the offence;
- The seriousness of the offence;
- The defendant participated in the offence with two other persons;
- The deceased died in a horrific manner.

Mitigating Factors:

- Guilty plea;
- The age of the defendant at the time of the offence (fourteen (14) years old);
- The defendant had no previous convictions;
- The participation in the offences appeared to be unplanned and spontaneous;
- The defendant attempted to release the deceased;
- The defendant assisted the police with investigations.

Current Maximum Penalty: Life imprisonment.

Sentence:

Fourteen (14) years imprisonment.
five (5) months remaining to be served. In light of the fact that the defendant had a 6% chance of recidivism, the court found that there was no need for a preventative phase of his detention and ordered that he be released forthwith after serving the minimum period. Upon release on licence, the defendant was subject to a period of probation of two (2) years.

**Aggravating Factors:**
- The prevalence of the offence;
- The offence was done for financial gain.

**Mitigating Factors:**
- Guilty plea;
- The age of the defendant.

**Current Maximum Penalty:** Life imprisonment.

**Sentence:**
Ten (10) years and six (6) months imprisonment.

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The deceased left Tableland and proceeded in his vehicle towards San Fernando. The following day, his lifeless body was found at Fairfield. The deceased’s vehicle was discovered in Princes Town by the police. Some of the fingerprint impressions lifted from the vehicle were those of the defendant. The defendant was arrested and dictated a cautionary statement to police, admitting that he and others participated in the robbery of the deceased’s vehicle and his subsequent murder. The defendant pleaded not guilty.

Justice A Alexis-Windsor started with thirty (30) years imprisonment based on the felony murder rule. She then deducted four (4) years and one (1) month for the time spent in custody. The court imposed a sentence of nineteen (19) years and six (6) months imprisonment.

**Aggravating Factors:**
- The prevalence of the offence;
- The offence was committed in pursuit of financial gain;
- There was a senseless murder of an innocent citizen;
- The defendant had active participation in the commission of an offence;
- The defendant stole personal effects of the deceased.

**Mitigating Factors:**
- The defendant had a difficult childhood with economic constraints;
- The defendant left school and began working at a tender age (twelve (12) years old);
- The defendant was believed to be of good character.

**Current Maximum Penalty:** Life imprisonment.

**Sentence:**
Nineteen (19) years and six (6) months imprisonment.
AGGRAVATING FACTORS:

- The driver was under the influence of alcohol or drugs;
- The driver was racing, whether competitively driving against another vehicle on a public road or driving at excessive speed for entertainment or was being ostentatious;
- The driver disregarded warnings from his passengers;
- The driver was engaged in a prolonged, persistent, and deliberate course of bad driving: ignored the traffic signals and red lights, overtook on the wrong side of the roadway, drove on the pavement, and so on;
- The driver simultaneously committed other offences, for instance, drove without a licence or policy of insurance;
- The driver had previous convictions for motoring offences, particularly offences which involved bad driving or the consumption of excessive alcohol before driving;
- The driver demonstrated bad behaviour at the time of the offence, for instance, a “hit and run” incident;
- The driving was particularly atrocious, for instance, where excessive speed was used in an attempt to evade law enforcement officials.

MITIGATING FACTORS:

- The incident may be described as a ‘one off’ or a momentary reckless error of judgment such as briefly ‘dozing off’ at the wheel;
- The driver has a good driving record, especially where he has maintained this record for a significant period of time;
- The driver pleaded guilty to the offence;
- The driver was genuinely remorseful and shocked by the incident.

Current Maximum Penalty for Road Traffic Offences

Causing Death by Dangerous Driving

Prescribed penalty:

Amendment (2000) – Section 71 of the Motor Vehicles and Road Traffic Act, Chapter 48:50:

1) Any person who causes the death of another person by driving a motor vehicle dangerously on a road, commits an offence and is liable on conviction on indictment to imprisonment for fifteen years.

2) A person convicted of an offence under this section shall, without prejudice to the power of the Court to order a longer period of disqualification, be disqualified for a period of fifteen years from the date of the conviction from holding or obtaining a driving permit, and on a second conviction for a like offence he shall be permanently disqualified from holding or obtaining a driving permit.

3) Any constable may arrest without warrant the driver of any motor vehicle who commits an offence under this section within his view, if he refuses to give his name and address, or if the constable has reason to believe that the name or address so given is false, or if the motor vehicle does not bear an identification plate.
The State v Lester Constantine
H.C.39/2010
Justice Gillian Lucky
December 11, 2015

Around 11:35 pm Harridass Kanhai, a bus driver employed with the Public Transport Service Corporation (PTSC), was driving on the Priority Bus Route in a westerly direction. Upon approaching the intersection of the Priority Bus Route and the Lady Young Extension Road near Morvant, he observed that the traffic light was on green for traffic going in a westerly direction. Mr Kanhai proceeded through the intersection with caution at a speed of approximately 20–25 kilometres per hour. When the bus had almost crossed the light, there was the sound of a bang on the right-hand side of the bus. When he looked in the rear-view mirror, a vehicle was capsized in the middle of the road. Mr Kanhai came out of the bus and saw the defendant and another man lying on the ground. When he asked who the driver was, the defendant said it was the man lying on the ground. Sometime later, the defendant admitted that he was the driver of the vehicle. Subsequently on December 09, 2001 the other man died from his injuries sustained due to the accident. The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty of fifteen (15) years imprisonment.

The court imposed a sentence of a bond in the sum of $5,000.00 to keep the peace and be of good behaviour for three (3) years, in default to serve five (5) months imprisonment with hard labour and to be placed on probation for duration of the bond.

**Aggravating Factors:**
- The behaviour of the defendant as he falsely claimed that one of the victims was responsible for the crash.

**Mitigating Factors:**
- Guilty plea;
- The defendant had no previous convictions;
- The defendant had a good driving record.

**Current Maximum Penalty:** Fifteen (15) years imprisonment.

**Sentence:**
Bond in the sum of $5,000.00 to keep the peace and be of good behaviour for five (5) years, in default to serve twelve (12) months imprisonment with hard labour.
The State v Dale Hernandez  
H.C.S.129/2012  
Justice Gillian Lucky  
May 29, 2015

At approximately 2:20 pm, the defendant was travelling west along the South Trunk Road, La Romain. Joel Phillip was seated in the front and Duane Davis at the back. The defendant was driving at approximately 30 miles per hour towards the Bamboo Village Traffic lights when, on reaching about 100 feet after the lights, a car came to a sudden stop. The defendant pulled onto the eastbound lane where he collided with the front of a vehicle resulting in the death of the driver, Peter Wilson. The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty of fifteen (15) years imprisonment.

The court imposed a sentence of a bond in the sum of $25,000.00 to keep the peace and be of good behaviour for five (5) years, in default to return to the court for sentencing. The court also ordered that compensation of $15,000.00 be paid to the wife of the deceased.

**Aggravating Factors:**
- The seriousness of the offence;
- The prevalence of the offence.

**Mitigating Factors:**
- Guilty plea;
- The defendant had no knowledge of a defective braking system;
- There was no premeditation involved;
- The defendant was not reckless;
- The wife of the deceased asked the court to pardon the defendant.

**Current Maximum Penalty:** Fifteen (15) years imprisonment.

**Sentence:**
Bond in the sum of $25,000.00 to keep the peace and be of good behaviour for five (5) years, in default to return to the court for sentencing.
Compensation of $15,000.00 to be paid to the wife of the deceased.

The State v Ramsaran Padrath  
H.C.S.72/2010  
Justice Gillian Lucky  
February 23, 2015

The defendant was the driver of a lorry in the company of his wife Vindra Salick (deceased), Indar Seegobin (her uncle) and his wife Angela Subajan. They travelled to Rio Claro to attend a wake and on returning home, the defendant stopped to allow the ladies to urinate. After Angela relieved her bladder she walked away to allow the defendant to do same. The deceased went to the back of the vehicle near the rear wheel. The defendant reversed the vehicle allowing another car to pass and in the process collided with the deceased causing her death. The defendant admitted to having two drinks of White Oak earlier that night. The defendant pleaded guilty.
Justice G Lucky started with considering the maximum penalty of fifteen (15) years imprisonment.

The court imposed a sentence of a bond in the sum of $25,000.00 to keep the peace and be of good behaviour for five (5) years, in default to return to the court for sentencing.

**Aggravating Factors:**
- The seriousness of the offence.

**Mitigating Factors:**
- Guilty plea;
- The defendant was genuinely shocked;
- There was no demonstration of bad behaviour at the time of the offence;
- The defendant took steps to rush the victim to a health facility immediately upon realising what had happened;
- The defendant had been severely traumatised having lost his wife.

**Current Maximum Penalty:** Fifteen (15) years imprisonment.

**Sentence:**

Bond in the sum of $25,000.00 to keep the peace and be of good behaviour for five (5) years, in default to return to the court for sentencing.
AGGRAVATING FACTORS:
- The extent of planning and premeditation;
- The offence was committed for gain;
- The involvement of multiple attackers;
- The use of a weapon;
- The use of gratuitous violence;
- The concealment of the body.

MITIGATING FACTORS:
- The defendant was believed to be of good character;
- The age of the defendant at the time of the offence;
- The defendant expressed remorse.

Current Maximum Penalty for Arson

Setting Fire to a Dwelling House, Any Person Being Therein

Prescribed penalty:
Life imprisonment: Section 4 of the Malicious Damage Act, Chapter 11:06.
At around 4:00 am the complainant was at his home where he was asleep in the first bedroom on the eastern side of the house. He was awakened by a crashing sound, similar to that of glass being broken. The complainant left his bed and saw fires in the living room by the television, the kitchen, and the kitchen window. He looked through the window and saw a shirtless man running with a jersey tied around his head. The complainant noticed this man to be the defendant. The defendant was 15 feet away from the complainant and, with the aid of street lights he was able to see the defendant clearly. The complainant knew the defendant for roughly 10 years as he lives approximately 500 metres away from him. On December 7, 2007 at around 2:30 am the defendant came to the house of the complainant with a bucket. The bucket contained 10 flambeaux and matches. The complainant reached for the bucket, the defendant ran, and then the police were called. The defendant admitted the crime to the police by saying, “Yes ma’am I try to burn the man house because of the way he does treat me, I was over-crowded with rage.” The defendant pleaded guilty.

Justice G Lucky started with considering the maximum penalty of life imprisonment.

The court imposed a sentence of a bond in the sum of $5,000.00 to keep the peace and be of good behaviour for three (3) years, in default to return to the court for sentencing.

**Aggravating Factors:**
- The seriousness of the offence;
- The act was intentional;
- The premeditation involved;
- The defendant returned a second time to the victim’s premises with accelerants.

**Mitigating Factors:**
- Guilty plea;
- The defendant had no previous convictions.

**Current Maximum Penalty:** Life imprisonment.

**Sentence:**

Bond in the sum of $5,000.00 to keep the peace and be of good behaviour for three (3) years, in default to return to the court for sentencing.
Section C

Criminal Appeals

Offences Against the Person (C1)

Aggravating Factors:

- The offence was committed with a weapon;
- The victim was struck on the head;
- The seriousness of the offence;
- The appellant acted out of a loss of temper;
- Previous convictions;
- The attack was unprovoked;
- The absence of remorse;
- The prevalence of the offence.

Mitigating Factors:

- The appellant had no companions when committing the offence;
- No injuries sustained during the commission of the offence;
- Guilty plea;
- No previous convictions;
- Genuine remorse.

Current Maximum Penalties for Manslaughter/Unlawful Killing

Manslaughter

Prescribed penalty:

Imprisonment for life/term of years/payment of a fine as the court shall direct: Section 6 of the Offences Against the Person Act, Chapter 11:08.
Causing Death by Dangerous Driving

Prescribed penalty:

**Amendment (2000) – Section 71 of the Motor Vehicles and Road Traffic Act, Chapter 48:50:**

1. Any person who causes the death of another person by driving a motor vehicle dangerously on a road, commits an offence and is liable on conviction on indictment to imprisonment for fifteen years.

2. A person convicted of an offence under this section shall, without prejudice to the power of the Court to order a longer period of disqualification, be disqualified for a period of fifteen years from the date of the conviction from holding or obtaining a driving permit, and on a second conviction for a like offence he shall be permanently disqualified from holding or obtaining a driving permit.

3. Any constable may arrest without warrant the driver of any motor vehicle who commits an offence under this section within his view, if he refuses to give his name and address, or if the constable has reason to believe that the name or address so given is false, or if the motor vehicle does not bear an identification plate.

Current Maximum Penalty for Attempted Murder

**Attempted Murder**

Prescribed penalty:

Imprisonment for life or for any term of years: Section 9 of the Offences Against the Person Act, Chapter 11:08.

Current Maximum Penalties for Wounding with Intent

**Shooting/Wounding with Intent to do Grievous Bodily Harm**

Prescribed penalty:

Imprisonment for fifteen (15) years: Section 12 of the Offences Against the Person Act, Chapter 11:08.

**Inflicting Injury with or without a Weapon**

Prescribed penalty:

Imprisonment for five (5) years: Section 14 of the Offences Against the Person Act, Chapter 11:08.
Current Maximum Penalties for Kidnapping

Kidnapping (for Ransom)

Prescribed penalty:

Imprisonment for not less than the remainder of natural life: Section 3 of the Kidnapping Act, Chapter 11:26.

Kidnapping (Common Law)

Prescribed penalty:

Life imprisonment.
On the evening of February 1st 2005 the deceased went to the home of his adopted brother and complained that he had been beaten by the appellant. The deceased and his brother proceeded to a house where the appellant and his brothers were. An argument ensued and the appellant picked up a knife and attempted to attack the deceased and his brother. The appellant's father then entered the scene. He was questioned by the deceased's brother about the beatings inflicted upon the deceased by his son. The appellant's father walked off towards his home without responding. He subsequently returned with a knife. The appellant's brother had a piece of pipe. A fracas then ensued. At the end, the deceased was stabbed multiple times and died.

The appellant was jointly charged with his father and brother for the murder of the deceased. The father and brother were acquitted but the appellant was sentenced to death by hanging. On appeal, the conviction was quashed and a retrial ordered. The appellant subsequently pleaded guilty to the offence of manslaughter on February 18th 2016. At sentencing, the judge refused to apply the full one third discount on the basis that the guilty plea had not been made at the earliest opportunity.

On appeal the court noted that a post-arraignment guilty plea did not automatically deprive an offender of an approximate one third discount and that a great deal turned on what the court considered to be the first reasonable opportunity. The court considered that there would be cases where the appellant genuinely did not know whether he was guilty or not, for example where he had no recollection of events. The court also considered that at his first trial the appellant might have thought that a plea of guilty for the charge of manslaughter was not available to him since his attorney did not think that manslaughter arose on the evidence. The trial judge had also held the view that manslaughter by reason of provocation did not arise on the evidence. The court considered the particular circumstances of the appellant's case and found that the guilty plea had been made at the first reasonable opportunity.

**Aggravating Factors:**
- None.

**Mitigating Factors:**
- None.

**Current Maximum Penalty:** Life imprisonment.

**Disposition:**
Appeal allowed. Sentence of Judge set aside.

**Sentence:**
Eleven (11) years and four (4) months imprisonment.
(*) Lister Jack v The State  
C.A.CRIM.3/2009  
Weekes JA, Yorke-Soo Hon JA, Bereaux JA  
January 14, 2010

The appellant, in the company of another, stole from the company at which he was employed and attempted to murder a fellow employee during the execution of the robbery. The victim was on duty at the company’s premises. The appellant knocked on the door of the premises and was allowed to enter. The appellant then threatened the victim by placing a knife to her throat and demanded that he be given “all the guns and the green bag of money”. The appellant was then joined by another man and the victim was tied up and taken to a vault where firearms were kept. The victim was made to lie on the floor and was kicked on her head. The appellant then placed a string around her neck and attempted to strangle her. This caused her to bleed through her nostrils and lose consciousness. The appellant was convicted of Attempted Murder and Robbery with Aggravation.

Aggravating Factors (considered by the trial judge):
- Seriousness of offences committed;
- Prevalence of the offences, particularly the offence of Robbery with Aggravation;
- Breach of trust as a security officer;
- The offence was planned;
- There was an intention to commit more serious harm (murder) than actually resulted from the offence of Robbery with Aggravation;
- The appellant operated with an unidentified accomplice;
- Use of a weapon, namely a knife, to frighten and injure another person;
- Abuse of power – the appellant stole from the company he worked for;
- The Attempted Murder failed at a late stage when blood started to flow from the victim’s nose and she lost consciousness.

Mitigating Factors (considered by the trial judge):
- The appellant was treated as a person of good character even though he had a previous conviction for Store Breaking and Larceny because there was no violence involved in the commission of that offence and the conviction was 11 years prior;
- Spent 4 years in custody.

Current Maximum Penalty: Life Imprisonment for Attempted Murder. Fifteen (15) years imprisonment for Robbery with Aggravation.

Disposition:
Appeal dismissed. Convictions affirmed. Sentence varied from fourteen (14) years imprisonment to ten (10) years imprisonment for Robbery with Aggravation.

Sentence:
Twenty-five (25) years imprisonment with hard labour for Attempted Murder.
Ten (10) years imprisonment with hard labour for Robbery with Aggravation.
Sentences to run concurrently.
Jawan Jaggernauth, Andrew Kanhai v The State  
Hamel-Smith JA, Warner JA, Weekes JA  
October 29, 2008  

The appellants were charged with the Murder of the deceased, who at the time had been working in his garden with another man, Phillip. Jaggernauth was armed with a cutlass with which he “planassed” both men for 30 minutes. Kanhai was armed with a gun. Phillip escaped and heard a loud explosion shortly thereafter. Subsequently, the deceased’s body was discovered in a ravine. At trial, Jaggernauth was sentenced to twenty (20) years imprisonment with hard labour for Manslaughter. Kanhai, however, received the death sentence on the charge of Murder. Jaggernauth appealed against the sentence while Kanhai appealed against conviction and sentence.

**Aggravating Factors:**

In relation to Kanhai:
- Tactical guilty plea advanced after the voir dire;
- Seriousness of the offence.

**Mitigating Factors:**

In relation to Jaggernauth:
- Youth (eighteen (18) years old at the time of the offence);
- Treated as being of previous good character (despite 2 minor convictions for unrelated offences);
- Time spent in custody (48 months or 6 “prison years”).

**Disposition:**

In relation to Kanhai: Appeal allowed.

In relation to Jaggernauth: Court of Appeal found the trial judge’s sentence was excessive. Appeal dismissed. Sentence varied.

**Sentence:**

In relation to Kanhai: Conviction and sentence quashed. Retrial ordered.

In relation to Jaggernauth: Fifteen (15) years imprisonment with hard labour.

(*)& Sean Smart v The State  
C.A.CRIM.4/2008  
Hamel-Smith JA, John JA, Weekes JA  
October 9, 2008  

The appellant, acting in concert with other persons, ostensibly soldiers, took the victim to the Lady Young Road where he was beaten, a gun was placed in his mouth and he was thrown off the edge of a precipice. The appellant was convicted of the following:

1. Kidnapping – Eighteen (18) years imprisonment with hard labour;
2. False Imprisonment – Eighteen (18) years imprisonment with hard labour;
3. Assault Occasioning Actual Bodily Harm – Three (3) years imprisonment with hard labour;
(4) Common Assault – Eighteen (18) months imprisonment with hard labour.
Sentences to run concurrently.

Aggravating Factors:

- Kidnapping had become an extremely prevalent offence;
- Seriousness of the offence;
- The appellant was a former soldier who was in a position of trust and authority;
- The incident undermined public confidence in law enforcement authorities;
- The degree of violence used;
- A firearm was involved, it was placed in the mouth of the victim and clicked a couple of times while the victim closed his eyes.

Mitigating Factors:

- No previous convictions;
- There was no ransom demand made and the period of detention was not lengthy;
- On the facts, the Court of Appeal ruled that the mere existence of a medical condition (the appellant suffered from epilepsy and this was not before the trial judge) is not necessarily a mitigating factor.

Disposition:

Appeal dismissed. Convictions and sentences affirmed.

Sentence:

Eighteen (18) years imprisonment with hard labour for Kidnapping.
Eighteen (18) years imprisonment with hard labour for False imprisonment.
Three (3) years imprisonment with hard labour for Assault Occasioning Actual Bodily Harm.
Eighteen (18) months imprisonment with hard labour for Common Assault.
Sentences to run concurrently.

Michael Mann v The State
Hamel-Smith JA, John JA, Weekes JA
July 22, 2008

The appellant shot at 4 police officers, wounding 2 of them. He was convicted on 4 counts of Shooting with Intent at police officers, and Possession of a Firearm, and Possession of Ammunition without the necessary user’s licence. He was sentenced to fifteen (15) years imprisonment with hard labour on each of the 4 counts of Shooting with Intent. On the count of Possession of a Firearm, he was sentenced to ten (10) years imprisonment, and on the count of Possession of Ammunition he was sentenced to five (5) years imprisonment. All sentences to run concurrently.

Aggravating Factors:

- The appellant was not a first time offender. He had already spent time in custody for the commission of similar offences, shooting at police;
- The age of the appellant (forty-eight (48)).
Disposition:
Appeal dismissed. Convictions and sentences affirmed.

Sentence:
Fifteen (15) years imprisonment with hard labour on four counts of Shooting with Intent to do Grievous Bodily Harm;
Ten (10) years imprisonment with hard labour for Possession of a Firearm;
Five (5) years imprisonment with hard labour for Possession of Ammunition.

Sentences to run concurrently.

Dale Richards v The State
C.A.CRIM.15/2007
Warner JA, John JA, Weekes JA
April 29, 2008

The sixteen (16) year old victim and the thirty (30) year old appellant had a short relationship. On the date in question, a quarrel erupted between the two. The appellant then said that he was going for his gun which he referred to as his “pipe”. The victim then locked herself in a bedroom but the appellant fired the gun through a window which caused the victim’s sister to sustain a bullet wound to her calf and the victim was struck by 4 bullets which went through her thigh. The appellant was convicted and sentenced on the following counts:

1. Shooting with Intent to do Grievous Bodily Harm – Twelve (12) years imprisonment with hard labour;
2. Wounding with Intent to do Grievous Bodily Harm – Ten (10) years imprisonment with hard labour;
3. Possession of a Firearm without a Firearm User’s Licence – Ten (10) years imprisonment with hard labour;
4. Possession of Ammunition without a Firearm User’s Licence – Ten (10) years imprisonment with hard labour;
5. Assault Occasioning Actual Bodily Harm – Two (2) years imprisonment with hard labour.

Sentences to run concurrently.

Aggravating Factors:

- The appellant had 24 convictions, 21 for Robbery with Aggravation and 3 other convictions, including Possession of a Weapon and Causing Grievous Bodily Harm, for which he was convicted and was then serving a 12 year sentence;
- The casual way in which the appellant announced that he was going for his gun;
- The seriousness of the offences.

Disposition:
Appeal dismissed. Convictions and sentences affirmed.


**Sentence:**

Twelve (12) years imprisonment with hard labour for Shooting with Intent to do Grievous Bodily Harm;

Ten (10) years imprisonment with hard labour for Wounding with Intent to do Grievous Bodily Harm;

Ten (10) years imprisonment with hard labour for Possession of a Firearm without a Firearm User’s Licence;

Ten (10) years imprisonment with hard labour for Possession of Ammunition without a Firearm User’s Licence;

Two (2) years imprisonment with hard labour for Assault Occasioning Actual Bodily Harm.

Sentences to run concurrently.

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**Paul Cox v The State**

C.A.CRIM.24/2006

Hamel-Smith JA, John JA, Weekes JA

March 13, 2008

The deceased and the appellant were at the home of the deceased’s female friend. The appellant, who shared a relationship with the deceased, became aware that she also shared a sexual relationship with her friend. The appellant became angry and later, while they were in a taxi, confronted the deceased about that relationship. This eventually led to the deceased’s death. The appellant had little recollection of the events, particularly of dragging the deceased out of the taxi and committing the offence. The appellant was convicted on a charge of Murder and sentenced to death.

**Aggravating Factors:**

- The prevailing conditions in the country, namely the increased number of senseless and brutal killings. The court stated that offences of this nature must attract the upper end of the scale, recognising that each case must be dealt with on its own merits.

**Disposition:**

Conviction of Murder quashed. Manslaughter substituted. The sole issue on appeal was whether the appellant got a fair trial. The appellant claimed that Counsel representing him at the trial failed to take proper instructions from him, and that failure affected the fairness of the trial in such a manner as to result in a miscarriage of justice. The State was forced to concede that the benefit of the doubt had to be given to the appellant that his attorneys had failed to take written instructions from him before embarking on the trial. The conduct of attorneys representing the appellant at the trial fell far below the standard required of them.

**Sentence:**

Twenty-five (25) years imprisonment with hard labour.
The State v Kerwin Jerome  
C.A.CRIM.36/2007  
Hamel-Smith JA, John JA, Weekes JA  
March 11, 2008

The victim was chopped with a cutlass and he received several injuries to his hands, shoulders, neck and face. The court held a Newton Hearing and accepted the respondent’s version of events. The respondent contended that the victim was a homosexual who made unwanted sexual advances towards him. A struggle ensued and the victim was chopped with a cutlass. The respondent was charged with Attempted Murder, and in the alternative, Wounding with Intent. He pleaded guilty to the lesser charge of Wounding with Intent and was sentenced to two (2) years imprisonment. The State appealed on the ground of leniency of sentence.

Aggravating Factors:

• The seriousness of the offence;
• The prevalence of the offence;
• The victim sustained severe injuries including fractures to his skull.

Mitigating Factors:

• No previous convictions;
• The respondent was twenty-nine (29) years old;
• He was a husband and father who was expecting his fourth child;
• Testimonials submitted on the respondent’s behalf;
• Medical evidence supported the respondent’s version of events that he was attacked first with the cutlass and the victim’s dog;
• The respondent offered to pay compensation to the victim.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Two (2) years imprisonment with hard labour.

Keith Winter v The State  
C.A.CRIM.14/2007  
Hamel-Smith JA, John JA, Weekes JA  
March 4, 2008

The appellant and the victim were in a relationship that became troubled. The victim had previously obtained a protection order against the appellant. The night before the incident, the appellant threatened the victim by telling her he would “Buss her face”. She then went to the police station and reported the threat. Eight hours after the victim lodged the report, the appellant went to her home and attacked her with a cutlass. She tried to escape but was dealt several chops about her body. The appellant also aimed the cutlass at her neck, but she managed to deflect the blow with her hand. The appellant was convicted of Attempted Murder and sentenced to twenty-five (25) years imprisonment with hard labour.
Aggravating Factors:

- The seriousness of the offence;
- Prevalence of domestic violence crimes in society;
- No demonstration of remorse by the appellant who, according to the trial judge, walked away “calmly and openly after the attack”;
- Strong and compelling evidence;
- The trial judge described the attack as “calculated, cynical and vicious”;
- Appellant showed “utter contempt for the law” according to the trial judge, as he attacked the victim a mere 8 hours after she made a report to the police concerning his threat;
- Appellant was in his forties at the time of the incident – not a young man – and should have dealt with his problems in a more mature fashion;
- The appellant had 1 previous summary conviction for Possession of an Offensive Weapon, however little weight was given to this since the court considered it to be a comparatively minor offence;
- The reason for the non-completion was that the victim shielded the chop directed at her neck with her forearm and yet the appellant pursued her into a neighbour’s house where she was able to hide in a locked bedroom.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Twenty-five (25) years imprisonment with hard labour.

Darryl Samnarinesingh v The State
C.A.CRIM.52/2006
Hamel-Smith JA, John JA, Weekes JA
February 28, 2008
The appellant, as well as 4 other accused, was convicted of Kidnapping and False Imprisonment. The victim was held for 2 days in a forested area and released after the victim’s mother refused to pay a ransom. The appellant was sentenced to seventeen (17) years imprisonment with hard labour on each of the counts, to run concurrently.

Aggravating Factors:

- The seriousness of the offence;
- The appellant was a serving police officer at the time of the offence;
- The appellant formed a relationship with the victim’s sister and visited the family while plotting the kidnapping;
- The appellant played a leading role in the kidnapping.

Mitigating Factors:

- First offence of the appellant.

Disposition:
Appeal dismissed. Convictions and sentences affirmed.
Sentence:
Seventeen (17) years imprisonment with hard labour on each of the counts, to run concurrently.

The State v Paul Pallackdharry  
C.A.CRIM.47/2006  
Hamel-Smith CJ (Ag), John JA, Weekes JA  
December 11, 2007

The victim was “liming” at a bar when he was approached by the respondent and a co-accused. He was verbally abused by them and eventually attacked with a knife. He sustained multiple stab wounds to the back of his neck and lost consciousness. Both accused were convicted of Attempted Murder and sentenced to ten (10) years imprisonment with hard labour. The State appealed on the ground of leniency of sentence.

Aggravating Factors:
• The severity of the attack, which was life threatening;
• Serious injuries sustained which have continuing effects;
• The respondent was a former member of the Defence Force and although regard was given to his service to the country, the court found his actions to be “inconceivable”;
• No remorse shown by the respondent.

Mitigating Factors:
• No previous convictions;
• Probation Officer’s report submitted in the respondent’s favour.

Disposition:
Appeal dismissed. Conviction affirmed.

Sentence:
Ten (10) years imprisonment with hard labour.

Peter Cadette v The State  
C.A.CRIM.27/2005  
John JA, Archie JA, Mendonca JA  
July 20, 2007

The appellant and his estranged wife had a verbal confrontation over an alleged relationship between the appellant’s wife and a third party. The appellant inflicted 5 chop wounds on her with a cutlass that severed her head. He also fatally chopped their child. At trial, he claimed that he was in a fit of rage and lost his self-control. At trial, the jury returned verdicts of guilty on both counts of Murder with which he was charged. The trial judge imposed the mandatory death sentence on him.

Disposition:
Sentence varied by the Court of Appeal. Verdict of Manslaughter substituted. The appellant argued that the trial judge failed to direct the jury adequately or at all on how they should deal with certain comments he made in the sentencing hearing of Terry Yearwood (who had been indicted for the murder of his estranged wife), such comments being potentially prejudicial
to the appellant’s case and such failure by the trial judge adversely impacted on the fairness of the appellant’s trial. An application to discharge the jury, since the jurors in the appellant’s case had been sitting in the court during the sentencing exercise of Yearwood, had been made at the trial.

Where in the course of a criminal trial, inadmissible or prejudicial evidence against a defendant is allowed into evidence, the court has a discretionary power to discharge the jury from returning a verdict in the case. In this case, what the jury had to decide was whether this was a case of provocation; that the statements made by the judge in the sentencing of Yearwood were capable of directly impacting on the question, if there was a loss of self-control and whether it was inexcusable.

In the circumstances, there was a real danger of bias against the appellant. The court was guided by the provisions of s 45 of the Supreme Court of Judicature Act, Chapter 4:01 in substituting a verdict of Manslaughter in this case.

Sentence:
Twenty (20) years imprisonment on each count.

(*) Aaron Ali v The State
C.A.CRIM.4/2005
John JA, Archie JA, Weekes JA
February 23, 2006

The appellant was involved in an altercation with the deceased, whom he shot and killed. The appellant alleged that the deceased chased him with a knife. The appellant was charged with Murder, but found guilty of the lesser offence of Manslaughter and sentenced to eighteen (18) years imprisonment with hard labour.

Aggravating Factors:
• The court must show its contempt for particular crimes through sentencing;
• 1 previous conviction for Possession of Marijuana;
• The appellant had an initial fracas with a third person and went home deliberately for his gun, a mere 10 minutes before the deceased was killed;
• Seriousness and prevalence of the offence in today’s society.

Mitigating Factors:
• Appellant’s age (twenty-seven (27) years old);
• No previous convictions for an offence involving violence;
• Expressed remorse;
• Spent 2 years and 7 months in prison.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Eighteen (18) years imprisonment with hard labour.
The appellant was convicted of Manslaughter by reason of provocation and sentenced to twelve (12) years imprisonment with hard labour. The appellant was engaged in an argument with the deceased, his brother, concerning the sale of lumber on lands owned by the appellant’s family. The jury found that the appellant was provoked and retaliated by striking the deceased several blows with a piece of wood.

**Aggravating Factors (considered by the trial judge):**
- There were 17 injuries revealed on the deceased’s body, including multiple lacerations to the head and face, revealing a level of brutality;
- The deceased was the appellant’s younger brother.

**Mitigating Factors (considered by the trial judge):**
- Age of the appellant (sixty (60) years old);
- The appellant had been in custody (4.5 years).

**Disposition:**
Sentence varied.

**Sentence:**
Ten (10) years imprisonment with hard labour.

The respondent got his licence only 4 months prior to driving a long journey. Along the way, he fell asleep. He was awakened by a loud sound and discovered that he struck and killed a family of 4 persons. The respondent was indicted for Manslaughter but found guilty of the lesser offences of 4 counts of Dangerous Driving and sentenced to disqualification from holding a valid driver’s permit for ten (10) years.

**Mitigating Factors:**
- No previous convictions;
- Had expressed remorse and at the time of trial, the respondent was still seeking assistance to cope with the incident;
- Compensation was paid to the husband/father and baby who survived the incident;
- The respondent was seventeen (17) years and seven (7) months old at the time of the incident;
- The respondent met all the requirements of a safe and prudent driver while on the journey immediately before the incident. The case was distinguished from other dangerous driving cases, for instance: speeding, wrongly overtaking, driving under the influence of alcohol or driving a vehicle that was not in a roadworthy condition;
- A custodial sentence would not serve any useful purpose.
Disposition:
Appeal dismissed. Conviction and sentence affirmed. Disqualification imposed to stand.

Sentence:
Disqualified from holding a valid driver’s permit for ten (10) years, to commence from the date of sentencing: May 27, 2005.

The State v Roxanne Headley aka “Anna” C1-16
C.A.CRIM.56/2003
Sharma CJ, Warner JA, Mendonca JA
May 9, 2005

The victim and the twenty-seven (27) year old respondent lived in close proximity and had a history of animosity between them. The victim was seriously wounded by the respondent, who was armed with a cutlass at the time. As a result, the victim had numbness, scarring, and loss of the full use of 2 of her fingers. The respondent was charged with Wounding with Intent but was found guilty of Unlawful Wounding for which she was sentenced to three (3) days imprisonment. The State appealed on the ground of leniency of sentence.

Aggravating Factors:
• The seriousness of the injuries sustained by the victim;
• The respondent had 2 offences against her, one of which was dismissed and the other for which she was convicted and placed on a bond;
• The seriousness of the offence.

Disposition:
Sentence varied.

Sentence:
Nine (9) months imprisonment (three (3) months simple imprisonment and six (6) months suspended; community service not exceeding one hundred (100) hours).

Junior Colin Nicome v The State C1-17
C.A.CRIM.83/1999
Hamel-Smith JA, Jones JA, Kangaloo JA
January 17, 2005

The deceased was living with the principal witness (S) when the appellant, with whom she shared a personal relationship, attacked her with a cutlass. The appellant was convicted of Murder and sentenced to death. He appealed against his conviction on the ground of provocation. The Court of Appeal found that the appellant was provoked and lost his self-control as evidenced by the “frenzied” attack on the deceased, who was dealt some 50 injuries about her body. The brutal attack was triggered by the deceased’s refusal at the last minute to go with the appellant to their new home, although they had previously planned this together. Instead, she had chosen to stay at the home of S.
Mitigating Factors:

- There was no previous history of violence of abusive conduct;
- The appellant was described as a non-violent man.

Disposition:
Conviction for Murder quashed. Manslaughter substituted. The Court of Appeal held that the issue of provocation was a live issue and not a speculative possibility. The learned trial judge did not fully appreciate the extent of the provocative events and his failure to direct the jury to the effect that an intention to kill was not inconsistent with provocation in the circumstances of this case was fatal. This was not considered an appropriate case for the application of the proviso.

Sentence:
Twenty (20) years imprisonment with hard labour.

Alston Roberts v The State C1-18
C.A.CRIM.39/1999
Sharma CJ, Jones JA, Mendonca JA
November 19, 2004

The appellant and the deceased lived together with the appellant’s 3 sons. The appellant’s brother heard cries which awakened him. Thereafter he found the deceased’s lifeless body in the appellant’s room. No other person was present in that room at the time. The appellant was convicted on a charge of Murder and sentenced to death.

Mitigating Factors:

- Diminished responsibility/capacity of the appellant, who, according to the report of Dr. Peter Lewis, suffered from mild mental retardation, alcohol dependency (in remission), and dysthmic disorder with features of major depression;
- Time spent in custody, upwards of 9 years and on death row for approximately 7 years.

Disposition:
No useful purpose would be served by the continued incarceration.

Sentence:
Release of the appellant with immediate effect.

Allan Ramdass v The State C1-19
Hamel-Smith JA, Jones JA, John JA
October 7, 2004

The appellant broke into the house of the deceased, a seventy-eight (78) year old woman, whom he gagged, tied up, and with whom he confessed to having sexual intercourse. He then stole $485.00 which he found under her mattress. The appellant was a drug user and he gave a statement to the police in which he admitted that he had smoked cocaine before the killing and was looking for money to purchase some more. He pleaded guilty to the lesser
offence of Manslaughter on the charge of Murder. The plea was accepted and the appellant was sentenced to fifteen (15) years imprisonment with hard labour to follow a ten (10) year sentence that he was then serving.

**Aggravating Factors:**

- Previous convictions for offences ranging from Larceny to Robbery with Aggravation between 1990 and 1996;
- The seriousness of the offence;
- The victim was a helpless old woman;
- The prevalence of the offence.

**Disposition:**
Appeal dismissed. Sentence affirmed.

**Sentence:**
Fifteen (15) years imprisonment with hard labour.

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Kellon John v The State

C.A.CRIM.18/2004
Sharma CJ, Warner JA, Mendonca JA
September 30, 2004

The victim was followed by car to his residence, and then to the home of his sister-in-law where he was abducted by five armed men, including the appellant, whom he knew for 3 years prior. He was struck twice in the face with a gun and an attempt was made to shoot him in the leg. After being blindfolded and taken to another location, a demand for a ransom of $500,000.00, and his wife’s firearm was made. The victim was detained for a period of 3 days. He was released after his brother dropped off a bag containing $100,000.00 and $70,000.00 worth of jewellery. Subsequently, the appellant raised a defence of alibi. The appellant was convicted of Kidnapping and Assault Occasioning Actual Bodily Harm and was sentenced to thirty (30) years imprisonment with hard labour and two (2) years imprisonment respectively. Sentences to run concurrently.

**Aggravating Factors:**

- The seriousness and frequency of the offence;
- The presence and use of weapons.

**Mitigating Factors:**

- None identified, though the court stated that if the appellant wanted to show remorse or wanted to mitigate his sentence in any way, he had an adequate opportunity to do so by informing the police of the other people who had joined him in the dastardly act.

**Disposition:**
Sentences not to run concurrently. Where weapons are used, particularly where a firearm is used in the carrying out of the offence, the policy of the Court of Appeal is to impose consecutive sentences.

**Sentence:**
Thirty (30) years imprisonment with hard labour for Kidnapping.
Two (2) years imprisonment with hard labour for Assault Occasioning Actual Bodily Harm. Sentences to run consecutively.

Kevin Edmund and Dike Williams v The State
Hamel-Smith JA, Nelson JA, John JA
July 29, 2004

The appellants knew the victim for 10 years before the hold up, in which Edmund was armed with a gun and Williams with a cutlass. The victim handed over $1,060.00 in compliance with the appellants’ demand for money. Thereafter, the appellants inflicted chop wounds about the victim’s body because of their suspicions that he had more money. The appellants were indicted for Attempted Murder and Robbery with Violence but were convicted of Wounding with Intent and Robbery with Violence. On each charge, the appellants were sentenced to fifteen (15) years imprisonment, to run concurrently. Additionally, each appellant was ordered to receive fifteen (15) strokes with the birch for Robbery with Violence.

Aggravating Factors:
- The high incidence of violent crimes;
- This was an “unprovoked and unwarranted attack” which resulted in particularly severe injuries.

Disposition:
Appeal dismissed. Convictions and sentences affirmed.

Sentence:
Fifteen (15) years imprisonment on each charge (to run concurrently) and fifteen (15) strokes with the birch for Robbery with Violence.

(*) Boyie Straker v The State
C.A.CRIM.59/2003
Hamel-Smith JA, Jones JA, Archie JA
July 20, 2004

The victim was struck in the face by a stone or boulder thrown by the appellant. The victim sustained serious injury and the appellant was charged with Wounding with Intent. The appellant was found guilty but insane. He was ordered to be detained in safe custody at the St. Ann’s Mental Hospital at the court’s pleasure.

Disposition:
Appeal dismissed. Conviction and order affirmed.

Sentence:
Detention at St. Ann’s Mental Hospital at the court’s pleasure.
Sean Subransingh v The State
Sharma CJ, Hamel-Smith JA, Jones JA
July 7, 2004

The appellant, together with 4 other persons, kidnapped Camille Bobart at Gulf City Mall, La Romaine, and demanded a ransom for her release. The victim was taken to a townhouse in Westmoorings, but was told that she was in Venezuela. The appellant was convicted and sentenced to fifteen (15) years imprisonment with hard labour.

Aggravating Factors:
- Showed no remorse, maintained that he was innocent after he was convicted;
- Need to deter others who believe that kidnapping is an easy way to enrich themselves;
- Ransom was demanded, which made the offence more serious;
- In the conduct of his defence, the appellant cast aspersions on the integrity of law enforcement agencies.

Mitigating Factors:
- No previous convictions.

Disposition:
Appeal dismissed. Convictions and sentences affirmed.

Sentence:
Fifteen (15) years imprisonment with hard labour.

Desmond Rennie v The State
C.A.CRIM.14/2003
Sharma CJ, Hamel-Smith JA, John JA
June 14, 2004

There was an issue over the ownership of land on which the victim lived. The appellant, a police officer, came with the supposed owner of the land and another person and instructed the victim to vacate the land within a certain period or “things would be worse...” The appellant returned in about a month and set fire to the property. This caused two of the victim’s children to suffer 15% burns. The appellant was charged with 1 count of arson and 2 counts of Causing Grievous Bodily Harm to two of the victim’s infants, K and B. He was sentenced to six (6) years imprisonment with hard labour for arson and received a sentence of five (5) years for each of the offences of causing Grievous Bodily Harm with Intent (to run concurrently).

Aggravating Factors (considered by the trial judge):
- The extent to which injury, in this sense financial loss, was intended;
- The element of premeditation regarding the type of flammable objects used;
- The actual injuries inflicted;
- That there were two other persons who were present and who rendered assistance in the principal offence, arson;
- The breach of trust by a person holding a high office in the Police Service (Police Corporal).
Disposition:
Appeal allowed in respect of counts relative to infant B (based on a determination of legal issues). Appeal dismissed in respect of all counts relative to infant K. Convictions and sentences affirmed.

Sentence:
Six (6) years imprisonment with hard labour for Arson.
Five (5) years imprisonment with hard labour for Causing Grievous Bodily Harm to K.

(*) Wilfred J Duffriend v The State  
C.A.CRIM.46/2002  
Jones JA, Warner JA, John JA  
October 23, 2003

The deceased was the wife of the appellant from whom he was separated. The deceased was unlawfully killed during a heated altercation that ensued after the appellant overheard her and her cousin making a joke at his expense. He was convicted of Manslaughter by provocation and sentenced to nine (9) years imprisonment with hard labour.

Mitigating Factors:
• Provocation;
• The circumstances of his youth (where he was born/grew up);
• The appellant left school at the age of thirteen (13);
• Previous good character.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Nine (9) years imprisonment with hard labour.

Perry Huggins v The State  
C.A.CRIM.35/2002  
Nelson JA, Kangaloo JA, John JA  
July 21, 2003

The appellant, armed with a cutlass and a sledgehammer, threatened to kill the victim whom he had known for 6 years. The victim was hit from behind and when he turned around, he saw 2 other men with masks. He attempted to run 3 times but was restrained by the other 2 men to allow the appellant to chop him. The appellant chopped him, which caused the victim to become unconscious. The appellant was charged with Attempted Murder and Wounding with Intent but was convicted on the latter charge. He was sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors (considered by the trial judge):
• The use of a deadly weapon (a cutlass);
• The fact that the appellant was accompanied by 2 other men;
The severity and long-term effects of the injuries sustained by the victim. The victim had difficulty speaking because of a compound fracture of his jaw.

Mitigating Factors (considered by the trial judge):

- The appellant had no previous convictions.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Five (5) years imprisonment with hard labour.

Elias Robin Henry v The State  
C.A.CRIM.86/2001  
Sharma CJ, Jones JA, John JA  
June 7, 2003

The appellant was a maxi taxi driver and the deceased was a passenger in the maxi taxi. A dispute arose between the two over where the deceased boarded the taxi and the requisite fare. The appellant came out of the vehicle armed with a knife and accosted the deceased. He chucked, shoved, and struck him in the chest. Subsequently, the deceased collapsed and died due to shock and haemorrhage consistent with the stab wound. The appellant was convicted on the lesser count of Manslaughter on the ground of provocation. The trial judge imposed a sentence of thirty (30) years imprisonment with hard labour.

On appeal, the court found the sentence to be too severe and inconsistent with the sentences imposed in similar cases.

Disposition:

Conviction affirmed. Sentence varied.

Sentence:

Twelve (12) years imprisonment with hard labour.

(*) Victor Flores v The State  
C.A.CRIM.54/2001  
Sharma JA, Jones JA, Lucky JA  
May 13, 2003

The appellant ran up to the victim and her boyfriend when they were in a parked car and demanded money and jewellery. He eventually got into the car and instructed the victim's boyfriend, at gunpoint, to reverse. He fired the gun through the hood of the vehicle and directed the victim's boyfriend to proceed to a clearing in the bushes where he ordered the couple to strip. The appellant gave the couple a choice of death by knife or gun and instructed the victim to stab her boyfriend when she chose the former. She did not comply. Thereafter, he instructed the victim's boyfriend to drive to a wooden house where he left him. Subsequently, he had sexual intercourse with the victim without her consent in the vehicle. This sequence of events lasted 4 hours and resulted in the appellant being found guilty on an indictment containing 7 counts. He was sentenced as follows:
On counts 1 and 2 for Kidnapping, he was sentenced to twelve (12) years imprisonment with hard labour;

On count 3 for Rape, he was sentenced to twelve (12) years imprisonment with hard labour;

On count 4 for Robbery with Aggravation, he was sentenced to ten (10) years imprisonment with hard labour;

On count 5 for Possession of a Firearm, he was sentenced to three (3) years imprisonment with hard labour;

On count 6 for Possession of Ammunition, he was sentenced to two (2) years imprisonment with hard labour;

On count 7 for Malicious Damage, he was sentenced to one (1) year imprisonment with hard labour.

Sentences to run concurrently.

**Aggravating Factors:**

- The appellant had several previous convictions including Possession of a Weapon, Resisting Arrest, Malicious Damage and Housebreaking, and Larceny;
- The appellant put the victims through an ordeal of terror and mental torture for a period of four (4) hours;
- The cool and calculated manner in which the appellant went about committing the offences;
- The seriousness of the offences.

**Mitigating Factors:**

None specifically listed by the trial judge, though counsel for the appellant raised the following in mitigation:

- The age of the appellant (thirty-six (36) years old);
- The fact that he had 3 children;
- The time spent in prison awaiting trial (2 years).

**Disposition:**

Appeal dismissed. Convictions and sentences affirmed.

**Sentence:**

Twelve (12) years imprisonment with hard labour for two (2) counts of Kidnapping.

Twelve (12) years imprisonment with hard labour for Rape.

Ten (10) years imprisonment with hard labour for Robbery with Aggravation.

Three (3) years imprisonment with hard labour for Possession of a Firearm.

Two (2) years imprisonment with hard labour for Possession of Ammunition.

One (1) year imprisonment with hard labour for Malicious Damage.

Sentences to run concurrently.
(*) Timothy Wise v The State
C.A.CRM.75/2000
Sharma CJ, Hamel-Smith JA, John JA
December 2, 2002

The appellant, armed with a gun, broke into the home of the victim. He announced a hold-up and demanded money and jewellery. A struggle ensued and the appellant shot the victim in his head and hit him in his eye with the gun butt, causing loss of sight. The appellant also stabbed the victim several times about his head and neck and choked him. The attack stopped upon the intervention of the victim’s neighbours who pelted stones at the appellant. The appellant was charged with Attempted Murder, Assault with Intent to Rob, Possession of a Firearm, Possession of Ammunition, Possession of a Firearm with Intent to Endanger Life, and Possession of Ammunition to Endanger Life. He was sentenced to twenty (20) years imprisonment with hard labour for the offence of Attempted Murder.

Aggravating Factors (taken into consideration by the trial judge):

- The appellant was described by the trial judge as “a menace to society and a dangerous individual that society needs to be protected from”;
- Previous convictions for Burglary, Possession of a Dangerous Drug, Rape, 2 counts of Serious Indecency, and Robbery with Aggravation;
- Nature of the offence, entering one’s home to commit a robbery and attacking the victim with an intention to kill;
- Seriousness of the offence;
- Nature of the injuries sustained.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Twenty (20) years imprisonment with hard labour for Attempted Murder.
Eight (8) years imprisonment with hard labour for Assault with Intent to Rob.
Five (5) years imprisonment with hard labour for Possession of a Firearm.
Five (5) years imprisonment with hard labour for Possession of Ammunition.
Three (3) years imprisonment with hard labour for Possession of a Firearm with Intent to Endanger Life.
Three (3) years imprisonment with hard labour for Possession of Ammunition to Endanger Life.

Sentences two to six to run concurrently but consecutive to the sentence imposed for Attempted Murder.
Francis Young v The State  
C.A.CRIM.2/2001  
Hamel-Smith JA, Lucky JA, Kangaloo JA  
July 26, 2002

A group of family members and friends were vacationing in Tobago and were approached by 3 masked men armed with a gun, a machete, and a crowbar. The men demanded money and instructed that the group accompany them to the bank to withdraw cash. The appellant was convicted on 2 counts of Kidnapping and 2 counts of Robbery with Aggravation. He was sentenced to ten (10) years imprisonment with hard labour on the two counts for Kidnapping and fifteen (15) years imprisonment with hard labour and fifteen (15) strokes with the birch for the counts of Robbery with Aggravation, to run concurrently.

Aggravating Factors:

- The 2 previous convictions of the appellant (the more recent being for Housebreaking and Larceny);
- The need for protection of the society;
- The deterrence of the offender and of others who might be tempted to offend;
- The need to preserve confidence in the judicial system;
- The seriousness of the offence.

Disposition:

Sentences affirmed.

Sentence:

Ten (10) years imprisonment with hard labour on the two counts for Kidnapping.

Fifteen (15) years imprisonment with hard labour and fifteen (15) strokes with the birch for the counts of Robbery with Aggravation.

Sentences to run concurrently.

Dennis Chadee v The State  
C.A.CRIM.72/2000  
Hamel-Smith JA, Nelson JA, Lucky JA  
July 10, 2002

The victim used a footpath through the appellant’s premises. The appellant approached the victim menacingly with a stone and a bottle. He indicated that he did not want anyone to pass through his property and then he struck the victim whereupon she became unconscious. She suffered the loss of her left eye. The appellant was convicted on a charge of Wounding with Intent to do Grievous Bodily Harm and was sentenced to eight (8) years imprisonment with hard labour. An order of compensation was also made.

Aggravating Factors:

- The extent of the injuries sustained by the victim, that is, the loss of an eye;
- The Act was described by the trial judge as “wicked and cruel”.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.
Sentence:

Eight (8) years imprisonment with hard labour.

(*) The State v Haniff Baksh
C.A.CRIM.25/1999
Permanand JA, Jones JA, Kangaloo JA
May 7, 2002

The fifty (50) year old respondent chopped the victim several times with a cutlass on her left hand. She was hospitalised for 9 days and suffered permanent disability and loss of movement in her left little finger. The respondent was charged with Wounding with Intent to do Grievous Bodily Harm. He pleaded guilty and was placed on a bond in the sum of $15,000.00 for two (2) years. The State appealed on the basis of leniency of sentence.

Mitigating Factors:

• Compensation was offered to the victim;
• The entry of a guilty plea by the respondent;
• The respondent had no previous convictions.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Placed on a bond in the sum of $15,000.00 for two (2) years.

Ashton Lee v The State
C.A.CRIM.73/2001
Sharma JA, Jones JA, Nelson JA
April 11, 2002

The deceased and the appellant shared a common-law relationship and lived together for 5 years. The deceased died after the appellant inflicted multiple stab wounds about her body which her eighteen (18) year old son witnessed. The appellant was charged with Murder and convicted thereof and sentenced to death by hanging.

The Court of Appeal stated that the case for the appellant was not adequately put to the jury and that the circumstances in which the offence was committed raised the question of a loss of self-control. The relationship between the appellant and the deceased was strained. Further, the appellant was humiliated by the deceased who allegedly burnt his clothes and threw him out of the house. Also, the evidence of multiple stab wounds raised the question of a frenzied attack. In determining the issue of sentence, the Court of Appeal stated that, “It is not open to anyone, whatever the circumstances, to react in the way in which this appellant had acted. We appreciate that there might have been trying circumstances, however, we do not feel that domestic problems should be settled in that fashion. There are other lawful and reasonable ways to deal with such matters, and no one ought to be allowed to take the law into their own hands.”

Disposition:

Conviction and sentence quashed. Manslaughter substituted.
Sentence:
Twenty (20) years imprisonment with hard labour.

(6) Ramsingh Jairam and Krishna Persad v The State
Hamel-Smith JA, Permanand JA, Warner JA
January 24, 2002

The appellants pulled up alongside the vehicle, in which the deceased and a female occupant were parked. The first appellant approached with a gun and demanded the deceased’s wallet and then shot and killed him. The female occupant was then taken by the appellants to a cane yard where she was repeatedly raped and then shot in her vagina. The appellants were charged with the Murder of the deceased.

Aggravating Factors:
In relation to the first appellant:
- He fired the fatal shot.

In relation to the second appellant:
- He was involved in the brutal attack of a couple, a crime of violence involving the unlawful act of killing the deceased, an unarmed man.

Mitigating Factors:
In relation to the second appellant:
- He was a secondary party. The judge failed to direct the jury on the question of foresight by a secondary party;
- He was incarcerated for sixteen (16) years at the time of the appeal, and had been on death row on 2 occasions;
- He was nineteen (19) at the time of the offence, though this was not specifically noted as a mitigating factor.

Disposition:
In relation to the first appellant:
Appeal dismissed. Conviction and sentence affirmed. Despite the time lapse since the commission of the offence, the Court of Appeal stated that the death penalty was mandatory unless the Mercy Committee commuted the sentence.

In relation to the second appellant:
Appeal allowed and a conviction for Manslaughter substituted on the basis that, given the failure of the trial judge to direct the jury on the question of foresight by a secondary party, the conviction for Murder could not stand.

Sentence:
In relation to the first appellant: Death penalty imposed.
In relation to the second appellant: Twenty (20) years imprisonment with hard labour.
The appellants appealed to the Privy Council. The Privy Council, in the case of Jairam, refused his appeal against conviction. The Board found that a direction given to the jury was a positive misdirection. The Privy Council, however, considered and applied the proviso under section 44(1) of the Supreme Court of Judicature Act and held that although the test was a high one, the Board was satisfied that it was met in this particular case. In the case of Persad, the Privy Council allowed his appeal and his conviction for Manslaughter was quashed on the basis that the Court of Appeal could have had no basis for holding that the shooting was foreseeable by Persad. It was therefore not open to the Court of Appeal to substitute a verdict of Manslaughter.

Privy Council Sentence:
In relation to Jairam:
Appeal against conviction refused.
In relation to Persad:
Appeal allowed and conviction for Manslaughter quashed.

(*) Randy Singh v The State C1-35
C.A.CRIM.16/2001
Hamel-Smith JA, Jones JA, Lucky JA
January 23, 2002

The appellant went to the victim's home and demanded money for cutting his lawn, which he had done but without the consent of the victim. The appellant threatened to injure the victim and then burst two gold chains from his neck and ran off. The appellant and another returned a short while after and chopped the victim several times. The victim suffered injuries to his hands. The appellant was charged with Attempted Murder, Wounding with Intent, and Robbery. He was convicted of Wounding with Intent and sentenced to seven (7) years imprisonment with hard labour.

Aggravating Factors (considered by the trial judge):
- The severity of the injuries inflicted upon the victim.

Mitigating Factors (considered by the trial judge):
- The previously untarnished record of the appellant.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Five (5) years imprisonment with hard labour.

Wayne Lewis v The State C1-36
C.A.CRIM.37/2001
Sharma JA, Jones JA, Nelson JA
January 22, 2002

The appellant was charged with the Murder of the deceased, his friend and a foreman with the Unemployment Relief Programme. The murder arose after a dispute over some monies
which the deceased was supposed to have paid to the appellant. The appellant was charged with and convicted of Murder.

**Aggravating Factors:**
- None specifically identified, though the appellant was armed with an offensive weapon (a gun).

**Mitigating Factors:**
- The matter was six (6) years old at the time of the appeal and the appellant spent about three (3) years in prison, part of which was on death row.

**Disposition:**
The Court of Appeal substituted a verdict of Manslaughter. The Court of Appeal said this would have been a classic case for a retrial, however, they had been urged by both counsel for the appellant and counsel for the State that this would be an appropriate case in which to exercise their powers under the Supreme Court of Judicature Act to substitute a verdict of Manslaughter. The question for the judge was whether there was evidence that the appellant had lost his self-control; that in answering this question, the jury would have been entitled and bound to take into account all the actual circumstances and the facts and matters leading up to the killing. In this particular case, the trial judge fell into error in not directing the jury on a question of provocation despite the fact that both attorneys for the defence and prosecution agreed that Manslaughter should be left to the jury on the ground of provocation. Therefore, there was a miscarriage of justice and the conviction ought to be quashed.

In deciding whether to order a retrial or substitute a verdict of Manslaughter, the court took into account: (a) that both counsel urged the court to substitute a verdict of Manslaughter; (b) there was a strong likelihood that the witnesses would not be located and; (c) this matter was 6 years old and the appellant had spent more or less than 3 years in prison, part of which was on death row.

**Sentence:**
Fifteen (15) years imprisonment with hard labour.

(*) Ronald Manickchand v The State  
C.A.CRIM.5/1999  
Hamel-Smith JA, Jones JA, Kangaloo JA  
January 5, 2002

The intoxicated appellant threatened to chop the victim if he did not give him back money that was owed to him. The appellant fired a chop at the victim who parried the blow. His left hand was severed from the wrist which caused him to lose the use of his hand. The appellant was charged with Wounding with Intent and was sentenced to seven (7) years imprisonment with hard labour.

**Mitigating Factors:**
- The appellant was under the influence of alcohol (though a factor, it was not an excuse for the behaviour of the appellant);
- The appellant spent one year on remand awaiting trial.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Seven (7) years imprisonment with hard labour.

Horace Stephen v The State  
C.A.CRIM.15/1999  
Hamel-Smith JA, Permanand JA, Warner JA  
November 23, 2001

The appellant accused the victim of stealing his chicken. The victim denied the allegation and the appellant then ran towards him with a sharpened cutlass and threatened to kill him. The victim sustained chop wounds to his right hand, his back, and the side of his chest. The appellant was charged with Attempted Murder and Wounding with Intent. He was convicted of Attempted Murder and sentenced to twenty (20) years imprisonment with ten (10) strokes with the birch. 

Aggravating Factors:
• The seriousness of the charge;
• The severity of the victim’s injuries.

Mitigating Factors:
• The appellant had already been incarcerated for 3.5 years;
• Although the charge was serious and the injuries were severe, the court found that the 2 men were neighbours on good terms and it was quite unlikely that, but for the incident of the stealing of the chicken, this would have occurred. The court said that a life sentence generally amounts to 15 years, unless for good reason the judge specifically orders a fixed term in excess of that.

Disposition:
Conviction affirmed. Sentence varied to one of twelve (12) years imprisonment with hard labour. Order of strokes not enforced.

Sentence:
Twelve (12) years imprisonment with hard labour.

(*) Jonathan Howell v The State  
C.A.CRIM.91/1999  
Hamel-Smith JA, Permanand JA, Warner JA  
October 11, 2001

The appellant banged the victim’s head on a wall and threatened to stab him. A woman approached them but ran off because she said that the appellant appeared to be angry. The appellant followed her and choked her and the victim hit him with a stick. The appellant then made a stab at the victim’s waist. The appellant was convicted on charges of Wounding with Intent and Common Assault. He was sentenced to five (5) years and one (1) year of imprisonment respectively.
Aggravating Factors (considered by the trial judge):
- The seriousness and prevalence of the offence.

Mitigating Factors (considered by the trial judge):
- The age of the appellant (twenty-six (26));
- The fact that the appellant had no previous convictions.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence regarding the first count varied.

Sentence:
Five (5) years imprisonment with hard labour for Wounding with Intent.
One (1) year imprisonment with hard labour for Common Assault.
Sentences to run concurrently.

(*) Hollister Codrington v The State
C.A.CRIM.81/1999
de la Bastide CJ, Jones JA, Lucky JA
October 9, 2001
The victim had known the appellant for about 15 years before the incident. They had had an intimate relationship for about 4 months. The appellant approached and started harassing the victim about a gas cylinder and then about her seeing someone else. The appellant slapped the victim and chopped her twice on the head and left leg with a cutlass. The appellant was charged with Wounding with Intent. He initially pleaded not guilty, but changed his plea to one of guilty of Unlawful Wounding. He was sentenced to two (2) years imprisonment with hard labour.

Mitigating Factors:
- The age of the appellant (sixty-six (66) years old).

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Two (2) years imprisonment with hard labour.

(*) Hollister Codrington v The State
C.A.CRIM. 80/1999
de la Bastide CJ, Jones JA, Lucky JA
October 9, 2001
The victim was seated in front of his gate and the appellant, whom he had known before, came up to him, dragged him 10 to 12 feet, and threatened him. The appellant then unwrapped a cutlass and chopped the victim several times. The victim's hand was completely severed and he sustained lacerations to his neck, ear and left foot. He was hospitalised for two weeks, was scarred by the injuries and the affected hand was somewhat disabled. The appellant was indicted for Attempted Murder and in the alternative, Wounding with Intent. He pleaded
guilty to Wounding with Intent and was sentenced to seven (7) years imprisonment with hard labour.

Mitigating Factors:
- The age of the appellant (sixty-six (66) years old);
- The appellant pleaded guilty;
- The appellant demonstrated contrition.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Seven (7) years imprisonment with hard labour.

George Moore v The State
cA.CRIM.61/1993
De la Bastide CJ, Jones JA, Lucky JA
June 12, 2001

The appellant shot the deceased at a bar. The explanation given by the appellant was that he was suffering from mental illness; a psychosis which caused him to have delusions. He perceived that the deceased was a threat to him. He was originally convicted of Murder which was overturned on appeal and a retrial was ordered. He was convicted a second time for Murder. His appeal to the Court of Appeal was dismissed. The Privy Council substituted a conviction of Manslaughter for the conviction of Murder.

Mitigating Factors:
- Abnormality of the mind;
- Free of all symptoms of psychosis for the last 10 years;
- He had been in prison for 16 years and spent 9 of them on death row;
- Physical disabilities (cataract causing substantially impaired vision, 70% loss of hearing, weakness of his knees) and the pathetically bad standard of medical treatment for prisoners;
- Very small chance of the appellant becoming a danger to any member of society.

Disposition:
Little purpose would be served by prolonging the appellant's period of incarceration and it was proper to release him on a probation order for three (3) years on the condition that he was placed:

1. Under the supervision of a welfare officer;
2. Under the care of Dr Ghany and presented himself once per month for examination at the outpatient clinic at St Ann's Hospital.
Deodath Ramlakhan v The State  
C.A.CRIM.46/1999  
de la Bastide CJ, Jones JA, Lucky JA  
June 12, 2001

The appellant indicated that he was going to kill the victim and immediately afterwards struck a blow with his cutlass, which severed one hand at the wrist and cut deeply into the other forearm. The appellant was convicted on a charge of Wounding with Intent to do Grievous Bodily Harm but acquitted of Attempted Murder. He was sentenced to eight (8) years imprisonment with hard labour.

Aggravating Factors:

- The seriousness of the injuries:
  (a) Total severing of one arm from the middle of the forearm and a very deep cut on the other arm at the same level; and
  (b) Had the victim not received hospital treatment when he did, he might have died as a result of the wounds.

- He was left with amputation of his left-arm, being left-handed.

Disposition:

Conviction and sentence affirmed.

Sentence:

Eight (8) years imprisonment with hard labour.

(*) Anthony James Thomas v The State  
C.A.CRIM.115/1998  
de la Bastide CJ, Jones JA, Nelson JA  
March 20, 2001

The appellant and the victim lived together in a common-law relationship which ended shortly before the incident occurred. The appellant accosted the victim at the gate of her workplace, took out a screwdriver, and held it to her. The appellant then took money from the victim’s purse. Thereafter, he took the victim in a car to another location where he led her down a track. There, a struggle ensued and eventually the victim was able to throw the screwdriver away. The appellant took up a piece of wood and dealt the victim a severe blow to the head which knocked her unconscious. The appellant was charged with Attempted Murder, Causing Grievous Bodily Harm, and Robbery with Aggravation. The appellant was convicted of Causing Grievous Bodily Harm and Robbery with Aggravation and he was sentenced to ten (10) years and five (5) years imprisonment with hard labour respectively.

Aggravating Factors (considered by the trial judge):

- This was a “heinous and sickening crime” according to the trial judge;
- The victim was put through an extended period of intimidation;
- The appellant displayed an attitude of non-repentance by casting aspersions on the character of the investigator, the justice of the peace, and other witnesses;
- The weapons that were used (a piece of wood and a screwdriver);
• The degree of injury;
• The repeated attacks with severe force.

**Mitigating Factors (considered by the trial judge):**

• The appellant was a first offender;
• The appellant showed “an inkling of a little bit of remorse” when he took the police to the scene of the crime.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

Ten (10) years imprisonment with hard labour for Causing Serious Bodily Harm with Intent.

Five (5) years imprisonment with hard labour for Robbery with Aggravation.

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Andrew Malchan v The State

C.A.CRIM.27/2000

Sharma JA, Hamel-Smith JA, Nelson JA

February 19, 2001

The appellant caused the death of his two stepsons, Gary and Adrian, on two separate occasions, by his actions in castigating the children for misbehaviour. The cause of death for Gary remained undetermined, while Adrian died from blunt craniocerebral trauma (head injury) “associated with battered child syndrome”. Subsequently, the appellant buried the bodies in the backyard. The appellant was charged with Murder and sentenced to death. He appealed against conviction and sentence. The Court of Appeal quashed the conviction for Murder and substituted a verdict of guilty of Manslaughter. It was not a case of direct intent to kill or cause Grievous Bodily Harm. In the absence of evidence to support an oblique intent to Murder, the direction in terms of oblique intent was wrong, and deprived the appellant of the only possible verdict on the evidence: Manslaughter either by reason of an unlawful and dangerous act causing death, or because the mens rea of Murder was not proved.

**Aggravating Factors:**

• The killings were described as “brutal and brutish”;
• Age of the deceased;
• Relationship of deceased and appellant;
• The burial of the bodies in the backyard.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

Fifteen (15) years imprisonment with hard labour on count one.

Twenty (20) years imprisonment with hard labour on count two.
Ancil Lambert v The State  
Hamel-Smith JA, Jones JA, Lucky JA  
February 13, 2001

The victim and his mother were seated in a KFC restaurant. The appellant, a serving member of the Police Service, harassed the victim’s mother until she was forced to ask the security guard to ask him to leave. The appellant then pushed their food off the table and issued a threat that he would come back for them. Subsequently, the victim encountered the appellant, who was armed with a cutlass, which he used to inflict wounds on the victim. The appellant was charged with Wounding with Intent and was sentenced to seven (7) years imprisonment with hard labour.

**Aggravating Factors (considered by the trial judge):**
- This was an “unprovoked attack”;
- The appellant was a serving member of the Police Service.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Seven (7) years imprisonment with hard labour.

The State v Moonais Rudal  
C.A.CRIM.98/1998  
de la Bastide CJ, Warner JA, Lucky JA  
December 15, 2000

The respondent and another person set the victim on fire after they stopped to give him a lift in the tray of their van. The victim suffered burns to his back and lower body. Both men were charged with Attempted Murder, Causing Grievous Bodily Harm with Intent, and Robbery with Violence. Rudal pleaded guilty of Causing Grievous Bodily Harm with Intent and was acquitted of the 2 other counts. Rudal was sentenced to eighteen (18) months imprisonment.

**Mitigating Factors:**
- The respondent spent eighteen (18) months in custody;
- The respondent pleaded guilty;
- The age of the respondent at the time of the offence (thirty-five (35) years old);
- The respondent had an unblemished record;
- The offer of $10,000.00 to the victim was not treated as an expression of contrition. The court found that there was no reason why that money should not have been paid to the victim, regardless of the sentence imposed on the respondent.

**Disposition:**
Four (4) years imprisonment. Eighteen (18) months already served to be deducted from the four (4) years sentence imposed. The court ordered the remainder of the sentence (two (2) years and six (6) months) be served by the respondent.
Sentence:
Four (4) years imprisonment with hard labour.

Don Renaud v The State
C.A.CRIM.74/1998
de la Bastide CJ, Nelson JA, Lucky JA
November 16, 2000

The deceased was unwilling to accept the breakup of the relationship between herself and the appellant, a police officer. During an altercation, the appellant attempted to restrain the deceased and thereby caused her death by strangulation. He then hung her body from a tree. The appellant was convicted of Manslaughter and sentenced to ten (10) years imprisonment with hard labour.

Aggravating Factors:
• The gravity of the offence;
• The profession of the appellant;
• The relationship between the appellant and deceased.

Disposition:
Sentence affirmed.
Sentence:
Ten (10) years imprisonment with hard labour.

(*) Anthony Padmore v The State
C.A.CRIM.54/1998
de la Bastide CJ, Jones JA, Nelson JA
October 17, 2000

The seventeen (17) year old victim and the appellant previously had a romantic relationship. The appellant went to the victim’s house and questioned whether she had had sexual intercourse with a male guest who was then at the home. He indicated that the doctor informed him that he had a disease. He asked whether she still loved him and when she answered ‘no’, he said that if he could not have her, no one else could. He then burnt the victim’s face, chest, hands, and legs with a liquid which he threw on her. The appellant was convicted on a charge of Causing Grievous Bodily Harm for which he was sentenced to ten (10) years imprisonment with ten (10) strokes.

Aggravating Factors (considered by the trial judge):
• It was a “deliberate and brutal act” and a “cold and calculated act of cruelty”;
• The severity of the injuries to the victim which caused her “permanent damage”.

Mitigating Factors (considered by the trial judge):
• The age of the appellant at the time of the offence (twenty-one (21) years old);
• The appellant had not committed any similar act since the commission of the offence.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Ten (10) years imprisonment with hard labour and ten (10) strokes.

(*) Sylvan Sookhoo, Len Ramdeo and Another v The State
Hamel-Smith JA, Jones JA, Warner JA
September 28, 2000

The appellants and another man laid in wait for the victim and together attacked him. Two of them had pieces of wood and the other, a cutlass. The appellants and another said, “kill him, kill him” as they all ran after the victim. The first appellant struck the victim with a piece of wood on his rib cage. The second appellant was responsible for striking the victim on his back as he attempted to flee. The appellants were charged with Attempted Murder and, alternatively, Wounding with Intent. Both appellants were convicted on the alternative count of Wounding with Intent. The first appellant was sentenced to six (6) years imprisonment with hard labour and the second appellant received a sentence of five (5) years imprisonment with hard labour.

Mitigating Factors:
• The appellants had no previous convictions;
• The appellants had dependents who would be hard pressed by the loss of their support (financially).

Disposition:
Appeals dismissed. Convictions and sentences affirmed.

Sentence:
First appellant – Six (6) years imprisonment with hard labour.
Second appellant – Five (5) years imprisonment with hard labour.

Orie Andrews v The State
C.A.CRIM.21/1998
Sharma JA, Hamel-Smith JA, Jones JA
June 6, 2000

The appellant, in company with other persons (including the deceased), was at the back of the appellant’s home where allegations were made against the deceased that he stole marijuana. The deceased was then beaten and tied to a tree. His nude body was later discovered with several injuries including the removal of his eyes. The appellant and 2 other men were charged with the Murder of the deceased. The appellant was found guilty on the lesser count of Manslaughter. The trial judge imposed a sentence of twelve (12) years imprisonment with hard labour.

Aggravating Factors:
• No remorse shown (considered by the trial judge);
• The heinous and callous killing of the deceased;
• A drug-related killing;
• The seriousness of the offence;
• The prevalence of the offence from the drug trade.

Mitigating Factors:
• The age of the appellant (considered by the trial judge);
• No previous convictions;
• Time spent in custody (six (6) years awaiting trial).

Disposition:
Sentence reduced.

Sentence:
Ten (10) years imprisonment with hard labour.

Narine Bharat v The State  
de la Bastide CJ, Permanand JA, Warner JA
July 11, 2000

The appellant set the victim, his wife, on fire after a quarrel ensued between them. The victim sustained burns to her neck, chest, breasts, arms, and below the navel. She was hospitalized for 5.5 months. The appellant was convicted of Wounding with Intent for which he was sentenced to twelve (12) years imprisonment with hard labour and twelve (12) strokes with the birch.

Mitigating Factors (considered by the trial judge):
• The age of the appellant (thirty-three (33) years old);
• The fact that the appellant had no previous convictions;
• The appellant was the father of 2 young children.

Disposition:
Having regard to the nature of the act perpetrated, the Court of Appeal was not inclined to reduce the sentence. Appeal dismissed. Sentence varied to the extent of removing the order for strokes.

Sentence:
Twelve (12) years imprisonment with hard labour.

Ramsarran Persad and Zamilla Persad v The State  
C.A.CRIM.157/1997
Ibrahim JA, Permanand JA, Warner JA
May 11, 2000

The appellant and the victim had a conversation about rent the victim owed. The appellant struck the victim across the head with a “pig foot” (crowbar). The appellant dug out the victim’s eye. The victim struggled but was struck on the knee and ankle by the appellant’s wife. The appellant then chopped the victim about the body and then shoved the “pig foot” in his mouth.
The victim suffered lacerations to various body parts; the right wrist was almost completely severed, the right eye was missing, and the right leg was fractured. The appellant and his wife were charged with Attempted Murder and Wounding with Intent. The appellant was convicted of Attempted Murder and was sentenced to life imprisonment, while his wife was convicted of Wounding with Intent, for which she was sentenced to a bond to keep the peace for five (5) years, in default five (5) years imprisonment with hard labour.

Aggravating Factors:
In respect of Ramsarran:

- He was a pastor and was supposed to lead his ‘flock’.

Mitigating Factors:
In respect of Zamilla:

- The secondary role she played in the incident. She was an aider and an abettor who acted on instruction of her husband.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Life imprisonment.

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Indravani Ramjattan v The State
C.A.CRIM.59/1995
de la Bastide CJ, Ibrahim JA, Warner JA
October 7, 1999

The appellant was in a common-law relationship with the deceased while pregnant with her lover’s child. She suffered violence and abuse at the hands of the deceased over a prolonged period. The appellant and her lover formulated a plan to murder the deceased. She left the back door of her house open to facilitate the attack on the deceased by her lover and his friend. The deceased was beaten and his body was placed in his van, which was pushed down a river and set afire. The 2 men were convicted, along with the appellant, of Murder. The conviction was quashed and a verdict of Manslaughter substituted. The medical report persuaded the court to reduce the conviction to one of Manslaughter, by virtue of Diminished Responsibility. It was the first time that the issue of “Battered Woman Syndrome” had been raised to support a defence under s 4A(1) of the Offences Against the Person Act, Chap. 11:08. Even though the appellant claimed that she was not a participant in the killing, the effect of the jury’s verdict was to establish that she was at least an accessory to it; she was therefore entitled to invoke s 4A(1).

Mitigating Factors:

- Abnormality of the mind;
- Battered woman syndrome;
- Years of abuse;
- The appellant’s problem was created by the brutal treatment which she received at the hands of her common-law husband.
Disposition:
Sentence of five (5) years imprisonment substituted.

Sentence:
Five (5) years imprisonment with hard labour.

Ramnath Harrilal v The State
C.A.CRIM.46/1996
de la Bastide CJ, Ibrahim JA, Warner JA
July 9, 1999
The appellant cohabitated with the deceased. A quarrel ensued leading to violence and the appellant rendered the deceased unconscious after he struck her with an iron bar obtained from the garden shed. He attempted to revive her but efforts proved futile. He concluded that she was dead and dismembered her body parts and deposited some in a latrine and the others elsewhere. The appellant was convicted of Murder at a retrial.

Aggravating Factors:
• The court described the killing as “a brutal one”.

Mitigating Factors:
• The appellant had a clean record;
• The appellant was a skilled person;
• The time spent in custody – a period of 13.5 years with eight years and 3 months spent in the condemned cells.

Disposition:
The Privy Council substituted the verdict of Manslaughter on the ground of Diminished Responsibility and imposed a sentence of five (5) years imprisonment with hard labour.

Sentence:
Five (5) years imprisonment with hard labour.

(*) Errol Horne v The State
C.A.CRIM.20/1998
Sharma JA, Hamel-Smith JA, Jones JA
June 8, 1999
A dispute arose over the ownership of some coconut trees. The appellant, armed with a cutlass, chopped the victim on his fingers, forearm and wrist. The attack occurred in the presence of a police officer. The appellant was convicted on a charge of Wounding with Intent for which he was sentenced to six (6) years imprisonment with hard labour.

Aggravating Factors:
• The extent of the injuries suffered by the victim, who was left with a permanent disability, that is, the loss of two fingers on his right hand;
• The attack was described by the trial judge as an “unprovoked attack on an unarmed man.”
Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Six (6) years imprisonment with hard labour.

(*) Chandrashakar Ramlogan v The State
C.A.CRIM.116/1990
Sharma JA, Hamel-Smith JA, Permanand JA
May 27, 1999
The appellant was convicted of the Unlawful Killing of his mother who was discovered lying in her bed with injuries about her body. The appellant confessed to the killing. There was evidence that he had been heavily drinking on the night of the incident and that he was moderately mentally retarded and of a very low level of intelligence.

Mitigating Factors:
- Mental retardation.

Disposition:
Appeal against sentence allowed. Sentence varied from twenty-two (22) years imprisonment with hard labour to one of thirteen (13) years imprisonment with hard labour.

Sentence:
Thirteen (13) years imprisonment with hard labour.

(*) Darren Joseph v The State
C.A.CRIM.25/1997
Ibrahim JA, Jones JA, Warner JA
November 10, 1998
The appellant, armed with a cutlass and in the company of another, went to the home of the deceased and demanded to see the deceased’s husband. The deceased told them to leave and the appellant’s accomplice shot the deceased in her chest. The appellant was convicted of Manslaughter and sentenced to ten (10) years imprisonment with hard labour.

Aggravating Factors:
- Need to deter others;
- Nature and seriousness of the offence;
- The appellant did not attempt to discourage the accomplice from shooting the deceased.

Mitigating Factors:
- No previous convictions;
- The appellant was eighteen (18) years old at the time of the offence;
- In custody for almost 5 years awaiting trial.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Ten (10) years imprisonment with hard labour.

(*) Mahadeo Bhimsingh v The State
C.A.CRIM.73/1998
Sharma JA, Permanand JA, Warner JA
October 30, 1998

The appellant threatened the victim’s mother, following which an argument erupted between the victim and the appellant. The appellant threatened to chop the victim, at which point the victim threw stones at the appellant. The appellant then took up a cutlass and chopped the victim several times. He was asked by a third party to stop but went back towards the victim and inflicted further chops. He was convicted on a charge of Wounding with Intent for which he was sentenced to seven (7) years imprisonment with hard labour.

Aggravating Factors:
• The seriousness of the injuries;
• Although the trial judge accepted that the victim “provoked” the appellant, he considered that the appellant went above and beyond what was necessary in the circumstances.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Seven (7) years imprisonment with hard labour.

(*) Eugene King v The State
C.A.CRIM.16/1998
Sharma JA, Hosein JA, Permanand JA
October 28, 1998

The appellant visited the home of the victim to persuade her to withdraw a warrant that she had taken out for him in connection with the maintenance of their child. When she refused, the appellant struck her with an ice pick near her navel. A series of events then transpired. The victim sustained injuries after the appellant chopped her several times, when she fell to the ground. The appellant was convicted of Wounding with Intent. He was sentenced to fourteen (14) years imprisonment with hard labour.

Aggravating Factors (considered by the trial judge):
• The severity of the injuries sustained by the victim which the doctors described as “life threatening”;
• The appellant did not plead guilty to the lesser offence of Wounding but took a chance with the jury on the stand. Ultimately, he was convicted.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.
Sentence:
Ten (10) years imprisonment with hard labour.

(*) Marcelle Skeete v The State  
C.A.CRIM.57/1995  
Sharma JA, Ibrahim JA, Hosein JA  
October 15, 1998

The appellant and the victim had a relationship which ended 2 years before the incident. The appellant inflicted chop wounds all over her body with a cutlass. The victim attempted to call her sister for help but the appellant warned against it and threatened to kill her and then ingest poison. The victim eventually fell unconscious. The appellant was convicted on a charge of Attempted Murder for which he was sentenced to life imprisonment.

Disposition:

Sentence:
Life imprisonment and fifteen (15) strokes with the birch.

(*) Anthony Mc Sween v The State  
C.A.CRIM.15/1991  
de la Bastide CJ, Permanand JA, Warner JA  
October 7, 1998

During Carnival celebrations, the victim had a cup which hung off his shoulder. The appellant pulled at it. The victim then faced the appellant who, at this time, pulled out a knife and attempted to make slashes at the victim’s abdomen. The victim pushed the appellant and ran but received five stabs to the back of his body. The victim fell and the appellant dealt him stabs to his abdomen. He also sustained defensive wounds to his left wrist. He began to run but eventually fell to the ground unconscious. The appellant was convicted of Wounding with Intent for which he was sentenced to nine (9) years imprisonment with hard labour.

Aggravating Factors (considered by the trial judge):
- The seriousness of the offence;
- The seriousness of the injuries sustained by the victim;
- The 2 previous convictions of the appellant.

Mitigating Factors (considered by the trial judge):
- The age of the appellant at the time. At sentencing, the appellant was twenty-six (26) years old.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Nine (9) years imprisonment with hard labour.
(*) Multiza Ali v The State C1-63
C.A.CRIM.36/1995
Sharma JA, Hosein JA, Permanand JA
July 21, 1998

The appellant lived at the residence of the deceased. A quarrel over $25.00 erupted between them. Thereafter, the deceased excluded the appellant from the house. On the following day, the appellant returned to collect his things and there, struck the deceased four or five times on his head with a baton. The jury convicted him for Manslaughter and he was sentenced to twenty-five (25) years imprisonment with hard labour and twenty (20) strokes.

Mitigating Factors:

- The appellant, at the time of the appeal, had spent nine (9) years in prison.

Disposition:

Appeal allowed. Sentence varied.

Sentence:

Fifteen (15) years imprisonment with hard labour and ten (10) strokes.

Ricky Small and Patricia Boodoo v The State C1-64
Ibrahim JA, Hamel-Smith JA, Warner JA
July 15, 1998

The appellants had a previous relationship out of which a child was born. Patricia Boodoo lived with her father, the deceased. On the day prior to the Murder, she invited Ricky Small to the home. He expressed reservations about going because her family did not approve of the relationship. She reassured him that her father would be asleep. Small came, entered the back door which had been left open, and proceeded to Patricia’s bedroom. Subsequently, to Ricky’s surprise, the deceased entered the bedroom and attacked him. He retaliated and the deceased fell motionless to the ground. Both appellants took him to his bedroom. Ricky left and Patricia fetched a bottle of Dettol which she poured into the deceased’s mouth and placed the remainder into his hand to make it appear as if the deceased had consumed the same. The deceased died and the appellants were charged with Murder. They pleaded guilty to Manslaughter.

Mitigating Factors:

In respect of Patricia:

- It was clear that the substance administered by Patricia had no effect on the cause of death;
- There was neither a pre-arranged plan between herself and Ricky to murder her father nor a plan devised right there at the scene.

In respect of Ricky:

- No premeditated plan to kill;
- He was provoked by the deceased;
- No weapon was used in the course of the scuffle;
- He was there lawfully on the premises.
Disposition:
In respect of Patricia:
There was no evidence to implicate her, hence the plea should not have been recorded and entered. Conviction and sentence quashed.

In respect of Ricky:
Sentence varied from twenty (20) years imprisonment with hard labour to ten (10) years imprisonment with hard labour.

Sentence:
In respect of Patricia:
Conviction and sentence quashed.

In respect of Ricky:
Ten (10) years imprisonment with hard labour.

The State v Anthony Amoroso Centeno
C.A.CRIM.152/1997
Sharma JA, Hosein JA, Warner JA
June 30, 1998

The respondent alleged that he had been provoked by the deceased over a period of time, during which the deceased threatened, assaulted, and persistently demanded money from him. This culminated in the deceased’s death when the deceased made a final demand from the respondent for some $800.00. The respondent was originally charged with Murder but was found guilty of Manslaughter by reason of provocation. The trial judge ordered the respondent to sign a bond in the sum of $25,000.00 to keep the peace and be of good behaviour for two (2) years, in default five (5) years imprisonment with hard labour. The State sought, on appeal, to challenge the sentence imposed by the trial judge on the grounds of leniency.

Aggravating Factors:
- Seriousness of the offence resulting in the taking of a life.

Mitigating Factors:
- Provocation for prolonged period.

Disposition:
Order of the trial judge set aside.

Sentence:
Three (3) years imprisonment with hard labour.
The State v Garfield Timothy Joseph  
C.A.CRIM.124/1997  
Sharma JA, Hosein JA, Warner JA  
June 16, 1998

The two and a half (2.5) year old deceased was struck in the stomach by her mother’s common-law husband because she ate her infant sister’s share of dasheen. She subsequently died due to traumatic rupture of the stomach. At the trial, the respondent pleaded guilty to Manslaughter for the Unlawful Killing of the child. He was sentenced to two (2) years hard labour to be suspended if he did not run afoul of the law for the next five (5) years. The State appealed.

**Aggravating Factors:**
- Showed no remorse;
- The gravity of the offence;
- The proliferation of domestic violence against women and defenceless children;
- The fact of the concealment – the respondent concealed the heinous act and remonstrated with the deceased’s mother when she attempted to question him about the “black and blue” area under the deceased’s belly;
- The age of the deceased;
- Relationship of appellant to deceased.

**Mitigating Factors:**
- No previous record or history of violence or abuse (which, according to Sharma JA, applied up to the point of the fatal blow).

**Disposition:**
Appeal allowed against sentence. Sentence varied.

**Sentence:**
Three (3) years imprisonment with hard labour.

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(*) Ramnarine Panan aka “Sona” v The State  
C.A.CRIM.148/1997  
de la Bastide CJ, Jones JA, Warner JA  
May 15, 1998

The victims, a husband and wife, returned home and found that their ducks and fowls were dead in the back yard. The husband went to question the appellant, their neighbour, about whether he knew anything about the death of the birds. The appellant uttered words to the effect that he would kill somebody. The victims went home and the appellant subsequently came and called out to the husband. The victims went outside. The appellant was armed with a cutlass and a piece of iron and threatened to kill. The appellant dealt the husband a chop which he stopped with his hands. He sustained injuries to his wrist. The wife ran but the appellant caught her and chopped her on the head and this rendered her unconscious. The appellant was charged with Attempted Murder and 2 counts of Wounding with Intent. He was convicted on the two counts of Wounding with Intent and sentenced to eight (8) years imprisonment with hard labour on each.
Aggravating Factors:

- The nature of the offence, which was described by the trial judge as “a very cruel act”.

Mitigating Factors:

- The appellant had no previous convictions.

Disposition:

Appeal dismissed. Convictions and sentences affirmed.

Sentence:

Eight (8) years imprisonment with hard labour.

(*) Albert De Craney v The State  
C.A.CRIM.52/1996  
Sharma JA, Hosein JA, Jones JA  
March 25, 1998

An argument erupted between the parties at a bar after the deceased refused to buy a beer for the appellant. The appellant left and returned with a gun, pushed the deceased away and fired three shots at him, which proved to be fatal. The appellant was charged with the Murder of the deceased. At the retrial, the State accepted the appellant’s plea of guilty of Manslaughter due to an anticipated difficulty in proving its case on account of death of key witnesses over the years. The appellant was sentenced to six (6) years imprisonment with hard labour.

Disposition:

Appeal dismissed. Sentence affirmed.

Sentence:

Six (6) years imprisonment with hard labour.

Robert Noreiga v The State  
C.A.CRIM.44/1994  
de la Bastide CJ, Permanand JA, Warner JA  
March 13, 1998

The incident arose out of a dispute over a very small amount of money, $3.00 on one account and $3.25 on another. The appellant was charged with Murder after fatally stabbing the deceased in the presence of another person. At the trial, the jury returned a verdict of guilty of Manslaughter. The trial judge imposed a sentence of life imprisonment, not to be released for at least fifteen (15) years.

Aggravating Factors:

- 4 previous convictions: 2 for Larceny, 1 for House Breaking and Larceny, and 1 for Possession of a Cutlass;
- The heinous offence of taking a human life – “to kill a man for $3.25 is almost unbelievable, certainly it is inexcusable, something for which it is difficult to find any mitigating factor.”
Disposition:
Court of Appeal affirmed the sentence but ordered that the sentence would run from the date of the conviction.

Sentence:
Fifteen (15) years imprisonment with hard labour.

Corneal Francis et al v The State
de la Bastide CJ, Permanand JA, Warner JA
March 11, 1998

The victim and his wife were asleep at their home. They were awakened by a loud noise and the appellants barged into the room. One of the appellants was armed with a cutlass and he dealt the victim several chops about his body and then robbed him. The victim suffered 28 injuries, several of them life threatening. The appellants were charged with: Attempted Murder, Robbery with Aggravation, and Housebreaking with Intent. They were sentenced to twenty (20) years imprisonment with hard labour and twenty (20) strokes with the whip for the offence of Attempted Murder.

Aggravating Factors:
- The nature of the offence – breaking into the home of innocent citizens and attacking them;
- Making attacks against the police officers concerned saying they concocted evidence;
- The first appellant had 1 previous conviction of Robbery with Aggravation.

Disposition:
Conviction and sentence affirmed.

Sentence:
Twenty (20) years imprisonment with hard labour and twenty (20) strokes with the whip.

Nigel Deonarine v The State
C.A.CRIM.50/1994
de la Bastide CJ, Ibrahim JA, Jones JA
February 17, 1998

The appellant and two others robbed the deceased of a car, which he used to ply as a taxi. Police officers in the area heard an explosion and observed the deceased shot and attempting to run from his car. The car sped off quickly and knocked the deceased down. The jury accepted that the appellant did not believe that the firearm was to be used during the robbery. The appellant was convicted of Manslaughter and sentenced to twenty-five (25) years imprisonment with hard labour.

Aggravating Factors:
- The appellant’s aspersions against the police officers;
- Nineteen (19) at the time of the offence – the age of discretion – and ought to have known better;
His participation in the robbery, in that he drove the car that struck the deceased;
No remorse.

Mitigating Factors:
No previous convictions.

Disposition:
Leave to appeal refused. Conviction and sentence affirmed.

Sentence:
Twenty-five (25) years imprisonment with hard labour.

(*) Bobby Riza Mohammed v The State
C.A.CRIM.76/1995
de la Bastide CJ, Hamel-Smith JA, Hosein JA
January 23, 1998

A sixty (60) year old woman left home and never returned. Her body was discovered in a pond by a cane farmer. She bore a large wound on her neck and another from her navel to her pubic area. Her mouth and hands were tied with cloth and a piece of wire was tied around her neck. Her death allegedly arose out of a dispute with the appellant whom she accused of stealing in her pine garden and she also accused the appellant of “using up” her daughter. The appellant was convicted of Manslaughter.

Aggravating Factors:
The Court of Appeal noted this case to be one of the grosser, more cruel and reprehensible kinds of Manslaughter.

Mitigating Factors:
At the time of sentencing, the appellant had been in prison for 4.5 years, a short part of which was spent on “death row”;
No previous convictions.

Disposition:
A conviction of Manslaughter was substituted.

Sentence:
Fifteen (15) years imprisonment with hard labour.

(*) Jaimungal Prabhoo and Mihan Prabhoo v The State
C.A.CRIM.51/1991
Sharma JA, Permanand JA, Jones JA
January 20, 1998

The second appellant had used expletives to the victim’s mother and then the victim’s family began to throw stones. A stone hit the first appellant who then took a cutlass and chopped the victim. A struggle ensued and the victim sustained injuries and chops to his hands. The appellants were each convicted on the charge of Causing Grievous Bodily Harm and were both sentenced to a good behaviour bond and compensation. The appeal was withdrawn.
Disposition:
Conviction and sentence affirmed.

Sentence:
Placed on a bond to be of good behaviour.

(*) Michael Fernandez v The State
C.A.CRIM.29/1997
Ibrahim JA, Hamel-Smith JA, Permanand JA
November 5, 1997

The appellant and 3 others, armed with a gun, chopper and cutlass, abducted the victim and her boyfriend. Thereafter, various items were stolen from them and their lives were threatened. Eventually, they were both taken to another location where the victim was subjected to acts of serious indecency, buggery, and sexual intercourse without her consent. En route to the said location, the victim was indecently assaulted by two of the four abductors. The appellant was convicted on a 7 count indictment for Robbery with Aggravation, Rape, Buggery, Serious Indecency, Indecent Assault, and 2 counts of Kidnapping and was sentenced to twenty-two (22) years imprisonment and ten (10) strokes with the birch.

Disposition:
Appeal dismissed. Convictions and sentences affirmed.

Sentence:
Twenty-two (22) years imprisonment with hard labour and ten (10) strokes with the birch.

(*) Benny Persad and Dial Persad v The State
C.A.CRIM.5/1994
Sharma JA, Ibrahim JA, Permanand JA
September 26, 1997

The appellants and the victim were neighbours and had a dispute. They chopped the victim, causing him to sustain several injuries to the forearm and leg. The appellants were charged with Attempted Murder and Wounding with Intent. They were convicted of Attempted Murder and were each sentenced to fifteen (15) years imprisonment with hard labour.

Disposition:
Appeal dismissed. Sentence reduced.

Sentence:
Ten (10) years imprisonment with hard labour.
Charles Dougdeen, Dexter Braithwaite, Anthony Clovis
and Terrance Phillip v The State C1-76
C.A.CRIM.78–81/1997
Sharma JA, Gopeesingh JA, Permanand JA
July 16, 1997

The appellants took the deceased to the beach house of the first named appellant and there he was beaten to death. This stemmed from an alleged indecent act which the deceased was accused of having committed against a female friend of the first named appellant. The four appellants were charged with the Murder of the deceased. At trial, the State accepted a guilty plea to the lesser charge of Manslaughter. All of the appellants, with the exception of Braithwaite, were sentenced to fifteen (15) years imprisonment with hard labour. Braithwaite was sentence to seven (7) years imprisonment with hard labour on the basis of his minimal involvement in the offence.

Aggravating Factors:
- “Brutal and merciless” beating of the deceased causing death.

Disposition:
Sentence of Braithwaite varied by increasing it “to bring it in line with the others”. The trial judge proposed to impose sentences on the basis of joint enterprise, therefore it was wrong to impose such a significantly lower sentence on Braithwaite.

Sentence:
Fifteen (15) years imprisonment with hard labour.

(*) Estephani Thompson v The State C1-77
C.A.CRIM.77/1996
Sharma JA, Gopeesingh JA, Permanand JA
July 16, 1997

The victim lived with her common-law husband at the appellant’s home. The appellant was the victim’s mother-in-law. The appellant and the victim had a strained relationship. The victim brushed past a one-burner petrol stove on which the appellant was toasting bread. The victim went outside with her baby in her hand. The appellant followed and then dealt a blow to the back of the victim’s head. The appellant then struck the victim on her back with the stove, causing her to sustain burns to her body. The appellant was convicted of Wounding with Intent for which she was sentenced to five (5) years imprisonment with hard labour.

Aggravating Factors:
- The seriousness of the injuries sustained by the victim, which left her badly burnt and unable to walk without the aid of crutches.

Mitigating Factors:
- The age of the appellant at the time of sentencing (fifty-nine (59)). A long prison sentence was thought to be inappropriate.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
Five (5) years imprisonment with hard labour.

Farouk Khan v The State
C.A.CRIM.73/1994
Hamel-Smith JA, Gopeesingh JA, Hosein JA
June 24, 1997
The appellant inflicted chop wounds on the victim, his brother-in-law, with whom he had had a turbulent relationship. The victim sustained injuries to his hand and leg which he used to defend himself against the attack. The appellant was convicted of Wounding with Intent and was sentenced to twelve (12) years imprisonment with hard labour.

Mitigating Factors (considered by the trial judge):
- The age of the appellant at the time of sentencing (forty-seven (47) years old);
- There was a delay of nine (9) years before the State brought the matter before the court.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Twelve (12) years imprisonment with hard labour.

(*) Dexter Mc Intyre, Roger Wells and Joseph Ayres v The State
C1-79
Ibrahim JA, Gopeesingh JA, Permanand JA
June 20, 1997
The 3 appellants (and an unknown person) approached and attacked the victim’s friend in the yard. They were collectively armed with 2 cutlasses, a gun and a hatchet. On more than 1 occasion, there was a threat to kill the victim which culminated in several cutlass chops and blows to his head, with a piece of wood. The victim sustained 5 wounds and 4 fractures and was hospitalised for 4 months. The victim was also robbed of 4 gold rings, valued at $1,000.00. The appellants were charged with Wounding with Intent and Robbery with Aggravation. They were convicted of Wounding with Intent and were each sentenced to the maximum sentence of fifteen (15) years imprisonment with hard labour and fifteen (15) strokes.

Aggravating Factors:
- The severity of the injuries sustained by the victim who lost an arm and was left with his “guts protruding” after the wounds had been inflicted;
- The extent of the violence towards the victim;
- The appellants showed no contrition.

Disposition:
Leave to appeal refused. Conviction and sentence affirmed.

Sentence:
Fifteen (15) years imprisonment with hard labour and fifteen (15) strokes.
(6) Fyzool Ali v The State
C.A.CRIM.54/1995
Sharma JA, Hamel-Smith JA, Hosein JA
June 15, 1997
The appellant and the deceased were seen drinking together on the date of the incident. The appellant was later seen chopping the deceased on his head and about his body with a brushing cutlass. The appellant was convicted of Murder and sentenced to death. The appellant appealed on the ground that the trial judge did not put the issue of provocation and self-defence to the jury despite the appellant’s testimony that the deceased argued with him and threatened to kill him.

Disposition:
Verdict of Manslaughter substituted. Sentence varied.

Sentence:
Ten (10) years imprisonment with hard labour.

Ryan Bharat v The State
C.A.CRIM.84/1996
de la Bastide CJ, Hamel-Smith JA, Hosein JA
March 18, 1997
The deceased died following an altercation with the appellant after they left a bar. He died after receiving fatal blows to his head with an iron bar and a chop in the area of his shoulder with a cutlass. Initially it was a fist fight which was intercepted by the appellant’s father and a third party. The deceased left the scene and returned with a cutlass. The appellant armed himself with a piece of iron on the roadway. The appellant struck the deceased and caused him to fall. The appellant then picked up the cutlass and chopped the deceased. The deceased was put in a car to be taken to the hospital. Simultaneously, the appellant returned with a spade and attempted to strike the unconscious deceased but struck the car instead, since a third party intervened. The deceased later died due to injuries suffered. The appellant was charged and convicted of Murder of the deceased. He appealed.

Aggravating Factors:
- The deceased was chopped while he lay helpless on the ground.

Mitigating Factors:
- On the issue of provocation, it was the deceased who initiated the resumption of hostilities by arming himself with the cutlass and returning to the scene, thereby rekindling the rage which the appellant’s father sought to put out;
- No criminal record/good background (not, however, specifically identified as a mitigating factor).

Disposition:
The Court of Appeal substituted the conviction for Manslaughter.

Sentence:
Six (6) years imprisonment with hard labour.
(*) Sadhu Ramphal v The State
C.A.CRIM.46/1995
Ibrahim JA, Hamel-Smith JA, Permanand JA
December 12, 1996

The appellant and the deceased were drinking at a bar and they left together. There was evidence of a fight between the appellant and the deceased, who was later discovered dead with stab wounds to his neck and temple. The appellant was convicted of Manslaughter and sentenced to life imprisonment.

Disposition:
Conviction affirmed. Sentenced varied.

Sentence:
Fifteen (15) years imprisonment with hard labour.

(*) Vinova Bhola v The State
C.A.CRIM.18/1995
Sharma JA, Hamel-Smith JA, Permanand JA
May 15, 1996

The victim was almost knocked down by a car driven by the appellant. An argument ensued and the appellant went to his truck, took a cutlass and chopped the victim, who suffered lacerations to his face. The appellant was convicted of Wounding with Intent for which he was sentenced to five (5) years imprisonment with hard labour and ten (10) strokes with the birch.

Aggravating Factors (considered by the trial judge):
- The seriousness of the offence;
- The permanent scars inflicted on the victim.

Mitigating Factors (considered by the trial judge):
- The appellant pleaded guilty to the offence;
- The appellant had a clean record;
- The matter had been hanging over the appellant’s head for a considerable time.

Disposition:
Conviction affirmed. Sentence varied.

Sentence:
Placed on a bond in the sum of $20,000.00 for two (2) years to keep the peace and be of good behaviour, in default three (3) years imprisonment with hard labour.
Torrel James v The State
C.A.CRIM.71/1992
Hamel-Smith JA, Gopeesingh JA, Permanand JA
May 15, 1996
The victim and the appellant previously shared a relationship which came to an end a year before. After that, the victim got married. The appellant entered the victim’s father’s home where she had been staying. The appellant entered a bedroom where the victim and her husband were asleep and there inflicted chop wounds on both parties. The victim’s father heard the commotion and entered the room to investigate. He was also dealt several chops. The appellant was charged with Attempted Murder of the victim and her father. On conviction, he was sentenced on each count to fifteen (15) years imprisonment with hard labour and ten (10) strokes with the birch, to run consecutively.

Aggravating Factors (according to Hamel-Smith JA in the Court of Appeal):

- The appellant’s attack on the victim was a “vicious and premeditated one”;
- The seriousness of the offence which resulted in “life threatening injuries” to both the victim and her father, which was indicative of an intention to kill;
- The court said that unless special circumstances are shown to justify the imposition of consecutive sentences, they should run concurrently. No special circumstances were apparent on the record.

Disposition:
Appeal against conviction and sentence dismissed. Sentences were to run concurrently. The order for strokes was varied.

Sentence:
Fifteen (15) years imprisonment with hard labour on each count and ten (10) strokes with the birch.
Sentences to run concurrently.

(*) Everton Mapp v The State
C.A.CRIM.51/1992
Sharma JA, Hamel-Smith JA, Hosein JA
March 12, 1996
The victim and the appellant had shared a common-law relationship. The incidents occurred over a two-day period. The appellant questioned the victim about the men with whom she had been and simultaneously cuffed her about the body. Subsequently, she was burnt with matches on her lips, thighs, breasts and anus. The following night, the appellant jabbed her with a guitar and burnt her vagina. He was sentenced to ten (10) years imprisonment with hard labour on the first count and fifteen (15) years imprisonment with hard labour on the second. An order for ten (10) strokes with the cat-o-nine tails on each count was made.

Aggravating Factors (considered by the trial judge):

- The appellant was a police officer.

Disposition:
Conviction affirmed. Sentence varied.
Sentence:
Fifteen (15) years imprisonment with hard labour and fifteen (15) strokes.

Harry Kamachie, Rama Kamachie, Munesh Kamachie, Krishna Kamachie and Fefe Kamachie v The State C1-86
C.A.CRIM.93–97/1991
Sharma JA, Hosein JA, Permanand JA
February 7, 1996

There was a vehicular accident involving one of the appellants and the victim's son. The first appellant went to the victim's house to settle the claim for the accident. The prosecution claimed that the appellants chopped up a car with a cutlass and then mercilessly chopped and beat the victim. The victim suffered life threatening injuries and the loss of an arm. The defence claimed that the victim's son was drunk and began firing chops at the first appellant, who used the victim as a shield and this resulted in the victim being chopped by his (the victim's) own son. All five of the appellants were convicted of Attempted Murder. They were sentenced as follows:

First appellant – Twenty (20) years imprisonment with hard labour.
Second appellant – Fifteen (15) years imprisonment with hard labour.
Third, Fourth, and Fifth appellant – Ten (10) years imprisonment with hard labour.

Aggravating Factors (considered by the trial judge):

In relation to the first appellant:
- The appellant had several previous convictions and appeared to be a violent man;
- The appellant was armed;
- The appellant was a principal party to the incident.

In relation to the second appellant:
- The age of the appellant – the appellant was forty-seven (47) years old and should have known better;
- The appellant was armed;
- The appellant was a principal party to the incident.

In relation to the third, fourth, and fifth appellants:
- The seriousness of the offence.

Mitigating Factors (considered by the trial judge):

In relation to the third, fourth, and fifth appellants:
- The relative youth of the appellants: twenty-three (23), thirty (30), and twenty-six (26) years old respectively.

Aggravating Factors (considered by the Court of Appeal):
- The injuries suffered by the victim were “life threatening”;
- The act was described by the court as “atrocious and heinous” when a family took the law into their hands.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:
First appellant – Twenty (20) years imprisonment with hard labour.
Second appellant – Fifteen (15) years imprisonment with hard labour.
Third, Fourth, and Fifth appellants – Ten (10) years imprisonment with hard labour.

(*) Steve Marcano v The State
C.A.CRIM.61/1991
Ibrahim JA, Hamel-Smith JA, Hosein JA
December 13, 1995
An argument ensued between the victim and the appellant after which the appellant attacked the victim with a razor. The victim sustained injuries and the appellant was charged with Wounding with Intent to Cause Grievous Bodily Harm. On conviction, he was sentenced to ten (10) years imprisonment with hard labour.

Aggravating Factors:
- The appellant had a long history of convictions, most of them for violence.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.
Sentence:

(*) Clinton Phillips aka “Jap” v The State
C.A.CRIM.40/1995
Ibrahim JA, Gopeesingh JA, Permanand JA
December 12, 1995
An argument erupted between 2 brothers, the victim and the appellant. The appellant passed through the victim’s yard without first obtaining permission to do so. The victim eventually went back to his home but overheard the appellant refer to him as “Satan” and threaten to kill him. The appellant came back with a bent cutlass and called for the victim to come out, which he did. The appellant inflicted several wounds on the victim which caused lacerations to his arm and injuries to his eye. The appellant was convicted of Causing Grievous Bodily Harm with Intent. He was sentenced to three (3) years imprisonment with hard labour.

Aggravating Factors (considered by the trial judge):
- The prevalence of crimes of violence.

Disposition:
Conviction and sentence affirmed.
Sentence:
Three (3) years imprisonment with hard labour.
(*) Carl Morris v The State
C.A.CRIM.36/1991
Ibrahim JA, Gopeesingh JA, Hosein JA
December 8, 1995

The appellant broke into the victim’s house and stole items together valued at $765.00. The victim encountered the appellant on the steps of the house. There the appellant beat him with a pistol on the head, face and hands. He was dealt several stabs with a knife to the hands and face. The appellant also robbed the victim of his wallet valued at $15.00, $8.00 in cash and a watch. The appellant was convicted of the following offences and sentenced as follows:

1. Wounding with Intent – Fifteen (15) years imprisonment with hard labour.
2. Housebreaking and Larceny – Five (5) years imprisonment with hard labour.
3. Robbery with Violence – Fifteen (15) years imprisonment with hard labour.

Sentences to run concurrently.

Aggravating Factors:
- The appellant had 20 previous convictions (some for similar offences);
- The age of the victim (seventy (70) years old).

Disposition:
Appeal dismissed. Convictions and sentences affirmed.

Sentence:
Fifteen (15) years imprisonment with hard labour for Wounding with Intent.
Five (5) years imprisonment with hard labour for Housebreaking and Larceny.
Fifteen (15) years imprisonment with hard labour for Robbery With Violence.
Sentences to run concurrently.

Gopaul Kissoon and Jairam Sankar v The State
Ibrahim JA, Hosein JA, Permanand JA
June 29, 1995

Both appellants chopped the victim with cutlasses, one after the other. The victim sustained injuries to his left shin, right foot, right upper arm, left hand and head. When the victim was dealt the final blow to the head, one of the appellants said “we finish him”. Both appellants were jointly charged with and convicted of the offence of Wounding with Intent. Each was sentenced to twelve (12) years imprisonment with hard labour.

Aggravating Factors (considered by the trial judge):
- The seriousness of the attack which was described by the trial judge as “vicious and unprovoked”.

Mitigating Factors (considered by the trial judge):
- The antecedents of the appellants. Both had a previously unblemished record;
- The prejudice suffered by the appellants due to the four and a half (4.5) year delay in listing the appeals.
Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Seven (7) years imprisonment with hard labour.

(*) Ruth Ramsey v The State  
C.A.CRIM.26/1990  
Ibrahim JA, Hamel-Smith JA, Hosein JA  
January 11, 1995
The appellant alleged that on the date of the incident, her father attempted to have sexual intercourse with her against her will. He tore her jersey and she picked up a nearby cutlass and dealt him several blows with it. The appellant was convicted of Manslaughter and sentenced to seven (7) years imprisonment with hard labour.

Disposition:
Sentence varied.

Sentence:
Six (6) weeks imprisonment with hard labour.

Francis Turton v The State  
C.A.CRIM.112/1988  
Des Iles JA, Mc Millan JA, Davis JA  
January 25, 1990
The appellant shot the victim’s husband and when she ran towards him to render assistance, 2 shots were fired at her. The first grazed her forehead and left a mark, while the second entered the left side of her neck which rendered her unconscious. The appellant was convicted of Wounding with Intent and was sentenced to five (5) years imprisonment with hard labour.

Mitigating Factors:
- No previous convictions;
- In the past 12 years since the offence, the appellant had become involved in a common law relationship and had 4 children. He also maintained a stable behavioural pattern.

Disposition:
Conviction quashed and a conviction for the lesser offence of Unlawful Wounding substituted. The appellant had been in prison since October 21st, 1988. Such a term would permit him to be discharged from prison forthwith.

Sentence:
Discharged from prison forthwith.
AGGRAVATING FACTORS:

- Weapon used was real and not an imitation;
- The weapon was discharged and injury resulted;
- Violence was used upon the victim;
- The offender acted with others;
- There was careful reconnaissance and planning involved.
- Offender motivated by intention to cause harm or take revenge;
- Intimidation or face-to-face confrontation with the victim;
- Use of force, or threat of force, against victim (not amounting to robbery);
- High level of inconvenience caused to victim, e.g., replacing house keys, credit cards, etc.

MITIGATING FACTORS:

- The appellant had no companions when committing the offence;
- No injuries sustained during the commission of the offence;
- Return of stolen property;
- Offender motivated by desperation or need arising from particular hardship and not merely delinquency.

Current Maximum Penalty for Larceny

Simple Larceny

Prescribed penalty:

Five (5) years imprisonment. Any person who commits Simple Larceny after being convicted of an arrestable offence is liable to imprisonment for ten (10) years: Section 4, section 36(1) of the Larceny Act, Chapter 11:12.

Current Maximum Penalty for Burglary

Burglary

Prescribed penalty:

Fifteen (15) years imprisonment: Section 27 of the Larceny Act, Chapter 11:12.

Current Maximum Penalties for Larceny of or Interference with a Motor Vehicle

Steals a Motor Vehicle

Prescribed penalty:

Fifteen (15) years imprisonment upon conviction on indictment: Section 4(A)(1)(a) of the Larceny Act, Chapter 11:12.
With intent to steal Motor Vehicle, Removes, Obliterates, Defaces, Tampers with or renders in any way Illegible, or Alters the Engine Number or Chassis Number of a Motor Vehicle
Prescribed penalty: 
Fifteen (15) years imprisonment: Section 4(A)(1)(b) of the Larceny Act, Chapter 11:12.

Repaints or Alters Motor Vehicle without Consent of the Owner
Prescribed penalty: 
Fifteen (15) years imprisonment: Section 4(A)(1)(c) of the Larceny Act, Chapter 11:12.

Receives/In Possession of Stolen Motor Vehicle
Prescribed penalty: 
Fifteen (15) years imprisonment upon conviction on indictment: Section 4(A)(1)(d) of the Larceny Act, Chapter 11:12.

Current Maximum Penalties for Robbery Offences
Robbery with Aggravation
Prescribed penalty: 
Fifteen (15) years imprisonment: Section 24(1) of the Larceny Act, Chapter 11:12.

Robbery
Prescribed penalty: 
Ten (10) years imprisonment: Section 24(2) of the Larceny Act, Chapter 11:12.

Assault with Intent to Rob
Prescribed penalty: 
Five (5) years imprisonment: Section 24(3) of the Larceny Act, Chapter 11:12.
The appellant and 2 accomplices held up a bar with guns. The appellant placed his foot on a police officer’s back and demanded his cell phone. When the officer handed over his wallet, the appellant realised he was a police officer and suggested “let we kill him”. Thereafter, the police officer was kicked repeatedly about the body. The appellant was convicted of Robbery with Violence and Common Assault. He was sentenced to twelve (12) years imprisonment with hard labour for the former offence and six (6) months imprisonment for the latter offence.

**Aggravating Factors:**
- The appellant was armed with a firearm;
- He held up a bar with 30–40 patrons who could have been seriously injured or killed;
- The violence to the police officer;
- The threat to kill the police officer.

**Mitigating Factors:**
- No mitigating factors identified, although the appellant had spent 2 years in custody awaiting trial.

**Disposition:**
Sentence upheld. The court found the sentences were just and the appellant suffered no miscarriage of justice.

**Sentence:**
Twelve (12) years imprisonment with hard labour for Robbery with Violence.
Six (6) months imprisonment for Common Assault.

The appellant and 2 others broke into and entered the victim’s home armed with an ice pick, gun and cutlass. They demanded money and threatened to kill her sons. It was later discovered that the telephone wire was cut, one of the dogs was dead, and items valued at $10,000.00 were missing from the home. The appellant was convicted of Burglary and Robbery with Aggravation and sentenced to twelve (12) years imprisonment with hard labour on both counts, to run concurrently.
Aggravating Factors:
- The seriousness of the offence;
- Prevalence of the offence;
- The family was terrorized for half an hour;
- The mother was sexually assaulted;
- The need to protect society.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Twelve (12) years imprisonment with hard labour.

(6) Damian Turpin v The State
C.A.CRIM.52/2004
Hamel-Smith JA, John JA, Weekes JA
May 3, 2005
The appellant held the victim at gunpoint while his counterpart grabbed her handbag, which contained $6,600.00 in cash. The appellant was convicted on a charge of Robbery with Aggravation and sentenced to seven (7) years imprisonment with hard labour.

Aggravating Factors:
- Young persons who arm themselves with weapons and rob others are “a scourge to society”;
- Weapon involved;
- Need to deter others.

Mitigating Factors:
- No previous convictions;
- The appellant was in custody for 3 years preceding the trial.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Seven (7) years imprisonment with hard labour.

Allan Jones v The State
C.A.CRIM.32/2004
Hamel-Smith JA, John JA, Mendonca JA
March 24, 2005
The appellant, together with 2 others, armed with a gun and knife, forced his way into the victim’s apartment and robbed the occupants of cash and jewellery and indecently assaulted them by forcing one victim to perform fellatio on him while he inserted his finger into the other victim’s vagina and fondled her breasts. The appellant was convicted and sentenced on 2 counts of Robbery with Aggravation to ten (10) years imprisonment on each count, on 2
counts of Serious Indecency to three (3) years imprisonment on each count and on 2 counts of Indecent Assault to three (3) years imprisonment; sentences to run concurrently.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Ten (10) years imprisonment on each count for two counts for Robbery with Aggravation.
Three (3) years imprisonment on each count for two counts of Serious Indecency.
Three (3) years imprisonment on two counts of Indecent Assault.

(*) Renrick Gaskin v The State
C.A.CRIM.44/2003
Jones JA, John JA, Archie JA
June 29, 2004
At a bar, the appellant took $1,700.00 from one patron’s pants pocket and then shot him in his leg. Another patron’s car valued at $110,000.00 was stolen. The appellant was convicted on charges of Robbery with Violence and Robbery with Aggravation and sentenced to eight (8) years imprisonment with hard labour for each offence, to run concurrently.

Aggravating Factors:
• 4 previous convictions;
• The seriousness of the charges;
• After shooting one of the victims, the appellant cursed him by saying “take that” followed by obscenities;
• The appellant was armed with a gun and he had previously served a term of imprisonment for Possession of a Firearm and Ammunition;
• Pain and trauma suffered by the victims.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Eight (8) years imprisonment with hard labour.

(*) Michael Saney v The State
C.A.CRIM. 62/2003
Sharma CJ, Kangaloo JA, John JA
April 29, 2004
The appellant was charged with Larceny of $30,000.00 in cash. The victim gave the appellant the cash to register his vehicle at the Licensing Office. Months later, the victim was stopped by police who seized the vehicle. The appellant was sentenced to three (3) years imprisonment with hard labour.

Mitigating Factors (considered by the trial judge):
• The age of the appellant (forty-five (45) years old);
• Clean record.
Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Payment of compensation in the sum of $30,000.00 on the condition that he, the appellant, pay the sum of $15,000.00 within ten (10) days from the date thereof and the balance of $15,000.00 to be paid within six (6) weeks thereafter, in default of either payment, the sentence of the trial judge to be affirmed.

(*) Fred Joseph v The State
C.A.CRIM.41/2002
Hamel-Smith JA, Warner JA, John JA
October 21, 2003
The appellant approached the victim, placed a cold object to his neck and demanded money. He was charged with Robbery of keys. He was convicted and sentenced to twelve (12) years imprisonment with hard labour.

Aggravating Factors:
• The Appellant was previously convicted of a similar offence of Robbery and the same nature offence of Robbery with Aggravation.

Disposition:
Appeal against conviction and sentence dismissed.

Sentence:
Twelve (12) years imprisonment with hard labour.

Marlon Alleyne v The State
C.A.CRIM.137/1998
Hamel-Smith JA, Warner JA, Lucky JA
April 24, 2001
The appellant robbed a cashier in a supermarket of $7,000.00 at gun point. He was charged with and convicted of Robbery with Aggravation and received a sentence of eight (8) years imprisonment with hard labour.

Disposition:
The court found the sentence to be fair and adequate given the time spent in prison awaiting trial. Conviction and sentence affirmed.

Sentence:
Eight (8) years imprisonment with hard labour.
Deverad Selby v The State  
C.A.CRIM.53/1999  
de la Bastide CJ, Hamel-Smith JA, Warner JA  
March 9, 2000

The appellant was convicted of Robbery with Aggravation and was sentenced to fifteen (15) years imprisonment with hard labour and fifteen (15) strokes. The sentence was ordered to run from the commencement of another sentence of imprisonment imposed on him for a similar offence for which he had received twelve (12) years imprisonment.

**Mitigating Factors:**
- Unusual delay in appeal.

**Disposition:**
The court stated that the second offence, for which he was convicted, should not go unpunished. Sentence of fifteen (15) years quashed and a sentence of three (3) years imprisonment with hard labour substituted to run from the expiration of the previous sentence. The order for strokes was removed due to the fact that it would be harsh and inappropriate to execute same after a long delay.

**Sentence:**
Three (3) years imprisonment with hard labour.

(*) Steve Gonzales v The State  
C.A.CRIM.72/1996  
Ibrahim JA, Permanand JA, Warner JA  
February 3, 2000

The appellant and 2 other men took cash from a grocery store register while the appellant pointed a gun at the cashier. The appellant was convicted of 3 counts of Robbery with Aggravation and was sentenced to fifteen (15) years imprisonment with hard labour on each count.

**Aggravating factors (considered by the trial judge):**
- The presence of an authentic gun, which he pointed at the cashier;
- The absconding from legal custody;
- The previous conviction for a similar offence.

**Disposition:**
Appeal dismissed, Conviction affirmed. Sentences varied.

**Sentence:**
Ten (10) years imprisonment with hard labour on each count.

(*) Steve Gonzales v The State  
C.A.CRIM.35/1996  
Ibrahim JA, Permanand JA, Warner JA  
February 3, 2000

The appellant was convicted of 3 counts of Robbery with Aggravation. The victims were at a gas station when the appellant and another announced a “hold-up”.
First count: The appellant and another, being armed with a gun and knife, robbed MM of $500.00 in cash.

Second count: The appellant and another, being armed with a gun and knife, robbed RB of $23.00 dollars in cash.

Third count: The appellant and another, being armed with a gun and knife, robbed RS of $5.00 in cash.

He was sentenced to ten (10) years imprisonment with hard labour and ten (10) strokes with the whip on Count No 1; seven (7) years imprisonment with hard labour on Count No 2; and seven (7) years imprisonment with hard labour on Count No 3. Sentences to run concurrently.

Aggravating Factors:
- Serious offence;
- Previous convictions;
- Prevalence of the offence – hold-up of gas stations.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied to the extent that the order for the ten (10) strokes with the whip was quashed.

Sentence:
Ten (10) years imprisonment with hard labour for Robbery with Aggravation on the first count.

Seven (7) years imprisonment with hard labour for Robbery with Aggravation on the second count.

Seven (7) years imprisonment with hard labour for Robbery with Violence on the third count.

Sentences to run concurrently.

(*) Hugh Briggs v The State  
C.A.CRIM.117/1990  
de la Bastide CJ, Hamel-Smith JA, Warner JA  
January 25, 2000

The appellant and 2 others boarded the victim’s taxi. The appellant was armed with a gun while another was armed with a knife. They severely beat the victim and robbed him of his car. The victim was brutally stabbed in his chest and then dumped in a nearby cane field. The appellant was convicted on charges of Robbery with Aggravation and Wounding with Intent and sentenced to fifteen (15) years imprisonment with hard labour and ten (10) years imprisonment with hard labour with ten (10) strokes with the birch, respectively. Sentences to run concurrently.

Aggravating Factors:
- Five (5) previous convictions.

Disposition:
Appeal dismissed. Conviction and sentence affirmed. Order of ten (10) strokes with the birch was quashed.
Sentence:
Fifteen (15) years imprisonment with hard labour for Robbery With Aggravation.
Ten (10) years imprisonment with hard labour for Wounding With Intent.
Sentences to run concurrently from November 7, 1990.

Junior London v The State  C2-13
C.A.CRIM.120/1996
Ibrahim JA, Hamel-Smith JA, Warner JA
April 13, 1999
The appellant pointed a gun at the back of one of the employees at a grocery. The appellant’s accomplice took $700.00 from the drawer of the cash register and they both left. On a charge of Robbery with Aggravation, the appellant was convicted and sentenced to ten (10) years imprisonment with hard labour.

Aggravating Factors:
• Previous conviction for a similar offence;
• Seriousness of the offence;
• Armed with an offensive weapon.

Mitigating Factors:
• Awaited trial for a long period of time.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Ten (10) years imprisonment with hard labour.

Devon James v The State  C2-14
C.A.CRIM.60/1995
Sharma JA, Hosein JA, Warner JA
July 16, 1998
The appellant demanded the victim’s handbag and indicated that it was a “hold-up” and she would be killed if she failed to comply with his request. The appellant grabbed the bag and ran off. The victim’s husband pursued and the appellant fired a shot and escaped. The appellant was charged with Robbery with Aggravation, Shooting with Intent, Possession of a Firearm and Possession of Ammunition. The appellant was sentenced to seven (7) years imprisonment with hard labour and ten (10) strokes with the birch.

Aggravating Factors:
• The appellant showed no remorse;
• The gravity of the offence.

Mitigating Factors:
• The previously unblemished record of the appellant;
• The youth of the appellant.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Seven (7) years imprisonment with hard labour and ten (10) strokes with the birch.

Clinton Scantlebury and Ako Beckles v The State
C.A.CRIM.39/1997
de la Bastide CJ, Sharma JA, Hosein JA
November 6, 1997

The appellants and another approached a group of gamblers and demanded their money. Scantlebury was armed with a cutlass while Beckles had a gun. The appellants were charged with Robbing one of the persons present of his wrist watch and $200.00 in cash. Scantlebury was sentenced to thirteen (13) years imprisonment with hard labour while Beckles received twelve (12) years imprisonment with hard labour.

Aggravating Factors:
In relation to Scantlebury:
- Had 3 convictions, namely:
  (1) Breach of Curfew regulations;
  (2) Larceny, for which he had to sign a bond for two (2) years;
  (3) Possession of Marijuana for which he was sentenced to twelve (12) months imprisonment with hard labour (committed during period of bond).
- The current offence was committed five (5) months after his release from prison.

Mitigating Factors:
In relation to Beckles:
- No previous convictions. The court stated that the difference of 1 year between the two sentences did not provide ample recognition of the value of a previously clean record.

Disposition:
In relation to Scantlebury: No justification for interfering with the sentence of thirteen (13) years imprisonment with hard labour.
In relation to Beckles: Conviction affirmed and sentence reduced to ten (10) years imprisonment with hard labour on the basis of a previously clean record.

Sentence:
Thirteen (13) years imprisonment with hard labour in relation to Scantlebury.
Ten (10) years imprisonment with hard labour in relation to Beckles.
Cletus Noel v The State  
**C.A.CRIM.84/1991**  
de la Bastide CJ, Sharma JA, Permanand JA  
February 27, 1996

The appellant was charged with Robbery with Violence and gave evidence of having previously sold something to the victim for which he only obtained part payment. He claimed that he never forcibly took the money from the victim and that it was obtained after talks between the parties. The State alleged that the appellant locked the victim’s neck, hit him several times on his arm with a gun butt, and robbed him of $50.00. At trial, the appellant was convicted and was sentenced to eight (8) years imprisonment.

**Aggravating Factors:**
- The violence involved.

**Mitigating Factors:**
- No previous convictions;
- The amount of money that was taken ($50.00);
- This case fell into the less serious stratum in terms of the gravity of the offence.

**Disposition:**
Sentence varied.

**Sentence:**
Five (5) years imprisonment with hard labour.

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Ricky Jackson v The State  
**C.A.CRIM.119/1989**  
Bernard CJ, Gopeesingh JA, Permanand JA  
May 9, 1995

Three men approached the victim and his companion, one armed with a gun, the other armed with a cutlass, and another unarmed, and demanded money from them. The incident resulted in the victim sustaining a gunshot wound to the chest and $1,200.00 was taken from his pocket. The appellant was convicted of Robbery with Aggravation and Wounding with Intent and was sentenced to a term of imprisonment of eight (8) years on the first count and seven (7) years on the second count. An order for five (5) strokes with the birch was also made.

**Disposition:**
Conviction and sentence affirmed.

**Sentence:**
Eight (8) years imprisonment with hard labour for Robbery With Aggravation.
Seven (7) years imprisonment for Wounding with Intent.
Five (5) strokes with the birch.
Harrynarine Maharaj v The State  
C.A.CRIM.135/1988  
Bernard CJ, Gopeesingh JA, Permanand JA  
May 9, 1995

The applicant was found guilty of robbing the victim of $3,200.00 with a revolver. The trial judge sentenced him to twelve (12) years, which he antedated to a period covering the time the appellant was awaiting trial.

Mitigating Factors:
- The age of the applicant (fifty-five (55) years old);
- The fact that he was convicted in 1988 and had been in custody since then, awaiting his appeal.

Disposition:
The Court of Appeal said that the judge had no power to antedate a sentence. Sentence varied.

Sentence:
Nine (9) years imprisonment with hard labour.

Stephen Jack v The State  
C.A.CRIM.62/1988  
Des Iles JA, Mc Millan JA, Davis JA  
June 6, 1989

The victim was a woman of about sixty-six (66) years of age, who went into the female section of the public convenience on Chancery Lane, San Fernando. She had a purse containing about $65.00 Trinidad and Tobago currency and $5.00 Canadian currency beside her, and the appellant came in with a knife. He told her not to make a noise or he would take out her “guts”. The victim became afraid and begged him not to harm her, but to take the purse and money. He said he wanted to have sexual intercourse with her and proceeded to pull down his trousers, and as she held on to him in an effort to prevent this happening, he cuffed her several times in her face, resulting in a bleeding nose from a fractures nasal bone and small lacerations on her upper and lower lips, as well as on an upper eyebrow. The appellant was found guilty of Robbery with Aggravation, for which he was sentenced to the maximum term of fifteen (15) years imprisonment with hard labour and to receive ten (10) strokes with the birch.

Aggravating Factors:
- None specifically identified, though mention was made of the fact that the appellant had a prior conviction for a sexual offence against a ten (10) year old boy (for which he was serving a sentence of four (4) years imprisonment with hard labour).

Disposition:
Appeal against conviction dismissed. Conviction affirmed. Appeal against sentence allowed. Sentence varied.

Sentence:
Twelve (12) years imprisonment with hard labour.
Ten (10) strokes with the birch.
**Possession of Dangerous Drugs, Narcotics, Firearms and Ammunition (C3)**

**AGGRAVATING FACTORS:**
- Large quantity involved as opposed to a small amount for personal use;
- Well-orchestrated operation;
- High degree of involvement;
- Possession of the drug in a public place or school;
- The offender was acting in a position of special responsibility, for example a teacher or bus driver;
- Supply made to vulnerable persons including children;
- Involvement of vulnerable persons in the drug trade, including children;
- Persistent use or cultivation of the drug;
- Use of sophisticated systems of cultivation/trafficking/concealment;
- Carrying/Brandishing the firearm in a public place;
- Planned illegal use of the firearm;
- Persons in society were put in fear by the presence of the firearm;
- The offender participated in a violent incident while carrying the firearm.

**MITIGATING FACTORS:**
- Co-operates with law enforcement officials;
- Supplies valuable information on drug trafficking to law enforcement officials;
- Evidence submitted that the drug was used to assist with a medical condition;
- No intention to use the firearm.

**Current Maximum Penalties for Drug Offences**

**Possession of any Dangerous Drug**

Prescribed penalty:

$50,000.00 and ten (10) years imprisonment: Section 5(1) of the Dangerous Drugs Act, Chapter 11:25.

**Cultivation of Marijuana***

Prescribed penalty:

$100,000.00 or where there is evidence of the street value of the dangerous drug, ten (10) times the street value of the marijuana, whichever is greater, or imprisonment for life: Section 5(3)(b) of the Dangerous Drugs Act, Chapter 11:25.
Cultivation of Opium, Poppy or Coca Plant
Prescribed penalty:
$200,000.00 or where there is evidence of the street value of the dangerous drug, fifteen (15) times the street value of the dangerous drug, whichever is greater, and imprisonment for twenty-five (25) years to life: Section 5(3A) of the Dangerous Drugs Act, Chapter 11:25.

Trafficking a Dangerous Drug or in Possession for the Purpose of Trafficking
Prescribed penalty:
$100,000.00 or where there is evidence of the street value of the dangerous drug, three (3) times the street value of the dangerous drug, whichever is greater, and imprisonment for life: Section 5(5) of the Dangerous Drugs Act, Chapter 11:25.

Trafficking in a Substance other than a Dangerous Drug which he Represents to be a Dangerous Drug
Prescribed penalty:
$100,000.00 or where there is evidence of the street value of the dangerous drug, three (3) times the street value of the dangerous drug, whichever is greater, and imprisonment for life: Section 5(6) of the Dangerous Drugs Act, Chapter 11:25.

Trafficking or in Possession for the Purpose of Trafficking of Dangerous Drug or a Substance other than a Dangerous Drug which he represents to be a Dangerous Drug on any School Premises or within 500m thereof
Prescribed penalty:
$150,000.00 or where there is evidence of the street value of the dangerous drug, three (3) times the street value of the dangerous drug, and imprisonment for life: Section 5(7) of the Dangerous Drugs Act, Chapter 11:25.

Current Maximum Penalties for Possession of Firearms and/or Ammunition
Possession of a Firearm or Ammunition (without Firearm User’s Licence)
Prescribed penalty:
Fifteen (15) years imprisonment; Section 6(3)(a)(ii) of the Firearms Act, Chapter 16:01.

Selling/Transferring Firearms/Ammunition to a Person not being Holder of Firearm User’s Licence
Prescribed penalty:
Fifteen (15) years imprisonment: Section 9(1)(b) of the Firearms Act, Chapter 16:01.
Alvin Harry v The State
C.A.CRIM.S.17/2013
Weekes JA, Soo Hon JA, Mohammed JA
July 23, 2015

At around 4:35 am on May 14 2003, officer Smith, armed with a warrant, went to the home of Dave Andrews. He was accompanied by other police officers including Police Constable Simon and Police Constable Sutherland. All the officers were dressed in plain clothes. Upon arrival, officers Smith, Simon and Sutherland approached the front door of the house while the others took up positions on the compound which was unfenced. The officers searched the interior of the house and on top of an old stove, officer Smith found a Carl Walther 9mm 380 pistol which was loaded with a magazine containing 7 rounds of .380 ammunition and a black plastic bag containing plant material resembling marijuana. Officer Smith asked the appellant and Andrews if they had Firearms User’s Licences for the pistol, to which the appellant replied “no”. The appellant was cautioned by officer Smith and responded “All yuh ent see what going on in town or what, that is for my protection.” The contents of the bag were shown to the appellant and Andrews. Officer Smith told them he was of the opinion that it was marijuana and he cautioned them and they made no reply. The marijuana weighed 130.9 grams. The appellant pleaded not guilty.

The court imposed a sentence of eight (8) years imprisonment with hard labour for each of the first two counts and five (5) years imprisonment with hard labour on the third count.

Aggravating Factors:
• None.

Mitigating Factors:
• None.

Current Maximum Penalty: Fifteen (15) years imprisonment for Possession of a Firearm. Fifteen (15) years imprisonment for Possession of Ammunition. Fine of $50,000.00 and ten (10) years imprisonment for Possession of Marijuana.

Disposition:
Appeal on sentence allowed. Conviction affirmed.

Sentence:
Eight (8) years imprisonment with hard labour for Possession of a Firearm.
Eight (8) years imprisonment with hard labour for Possession of Ammunition.
Five (5) years imprisonment with hard labour for Possession of Marijuana.
The appellant was the driver of a vehicle in which police officers found 23 packets (41.86 kilograms) of marijuana, 22 of which were hidden in a feed bag in the trunk while 1 was found on the back seat of the said vehicle. The appellant was charged with the Possession of Marijuana for the Purpose of Trafficking. Upon conviction, he was sentenced to eight (8) years imprisonment with hard labour.

**Aggravating Factors:**

- The seriousness of the offence. The court found that the quantity and the packaging revealed that this was no small operation;
- The quantum of the dangerous drug.

**Mitigating Factors:**

- The previously clean record of the appellant.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**

Eight (8) years imprisonment with hard labour.

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Ten packages of cocaine (7.368 kilograms) were discovered in a car solely occupied and driven by the appellant. The appellant was convicted of Possession of Cocaine for the Purpose of Trafficking and sentenced to ten (10) years imprisonment with hard labour.

**Aggravating Factors:**

- 3 previous convictions;
- Large quantity of drug;
- Principles of sentencing – the need to deter the appellant;
- Prevalence of the offence.

**Mitigating Factors (considered by the trial judge):**

- Fifty-four (54) years old with a family of 3 young children;
- In custody for the past 3 years awaiting trial;
- Since the incident, had not had any infringement against the law.

**Disposition:**

Appeal dismissed. Conviction and sentence affirmed.
Ten (10) years imprisonment with hard labour.

In relation to the minimum mandatory sentence, the trial judge ruled that Section 5(4) of the Dangerous Drugs Act, No 38 of 1991 as amended by Section 5(5) of Act, No 44 of 2000 cannot be interpreted as imposing a minimum mandatory sentence of 25 years imprisonment for someone convicted of being in Possession of a Dangerous Drug for the Purpose of Trafficking. The Court of Appeal upheld the conviction and sentence.

Richard Govia, Lystra Ravello and Nicholas Cadette v The State
C.A.CRIM.2–4/2006
Hamel-Smith JA, John JA, Weekes JA
July 17, 2007

The appellants were travelling in a vehicle that was under police surveillance. The vehicle was searched and therein officers discovered a bag containing 4.1 kilograms of marijuana. The appellants were jointly convicted of Possession of Marijuana for the Purpose of Trafficking and sentenced to twelve (12) years imprisonment with hard labour.

Aggravating Factors (considered by the trial judge):
- Cadette had a previous conviction for Possession of a Firearm;
- Ravello had a previous conviction for Possession of Marijuana;
- The marijuana was found next to Govia in the back seat;
- Prevalence of the offence;
- The nation had a reputation of being a significant international drug transshipment point;
- The use and abuse of drugs had destroyed the lives of many youths;
- The maximum sentence was life imprisonment;
- The evidence suggested that this was an organised operation: the amount of marijuana, the manner in which it was packed, and the open area where it was found in the car.

Mitigating Factors (considered by the Court of Appeal):
- The amount of marijuana was not too substantial;
- There was nothing in the evidence to suggest that the appellants were of a higher echelon of a well-organised international or national drug trafficking ring;
- Ravello pleaded guilty;
- Govia had no previous convictions.

Disposition:
Sentence varied.

Sentence:
Eight (8) years imprisonment with hard labour.
Edward Wadalay v The State
C.A.CRIM.1/2006
Hamel-Smith JA, John JA, Weekes JA
May 16, 2006

Police officers executed a search warrant at the appellant’s home where they discovered a bag hidden behind a wardrobe which contained 3.15 kilograms of marijuana. The appellant was convicted of Possession of Drugs for the Purpose of Trafficking and sentenced to ten (10) years imprisonment with hard labour.

Aggravating Factors:
- 3 previous convictions for the same offence;
- Seriousness and prevalence of the offence.

Mitigating Factors (considered by the trial judge):
- Father of 8 young children;
- Spent 2 years in custody in connection with this matter;
- Co-operated with police officials and did not attempt to make allegations of misconduct against the police officers.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Ten (10) years imprisonment with hard labour.

Jimmy Lotus Granados v The State
C.A.CRIM.34/2004
Hamel-Smith JA, Kangaloo JA, Archie JA
March 9, 2005

The appellant, his wife, and young child arrived in a vehicle near a river where they were observed by police officials. The appellant’s vehicle was searched and 3 bags which contained marijuana (28.33 kilograms) were discovered. The appellant was convicted of Possession of Marijuana for the Purpose of Trafficking and sentenced to seven and a half (7.5) years imprisonment with hard labour.

Aggravating Factors:
- The seriousness of the offence.

Mitigating Factors:
- No previous convictions;
- Spent 3 years in custody awaiting trial.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Seven and a half (7.5) years imprisonment with hard labour.
(*) Reynold Singh v The State  C3-7
C.A.CRIM.11/2003
Hamel-Smith JA, Kangaloo JA, John JA
July 27, 2004

A party of police officers observed the appellant receiving 3 large cardboard boxes from a man on a boat. The boxes contained 86.8377 kilograms of marijuana. The appellant was jointly charged with another for Possession of Marijuana for the Purpose of Trafficking. He was sentenced to fourteen (14) years imprisonment with hard labour.

Aggravating Factors:

- The seriousness of the offence;
- Large quantity of drugs.

Mitigating Factors (considered by the trial judge):

- No previous convictions.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fourteen (14) years imprisonment with hard labour.

Nanlal Sooknanan v The State  C3-8
C.A.CRIM.20/2003
Hamel-Smith JA, Jones JA, Kangaloo JA
March 25, 2004

The police found 25 packages of cocaine (20.003 kilograms) in the appellant’s vehicle. He was convicted on a charge of Possession of Cocaine for the Purpose of Trafficking and was sentenced to twenty (20) years imprisonment.

Mitigating Factors:

- The appellant had a clean record;
- The age of the appellant (forty-two (42) years old);
- Continuous imprisonment since 1999 as a result of the charge.

Disposition:

Appeal against conviction dismissed.

Sentence:

Twenty (20) years imprisonment with hard labour.
Phillip Yearwood v The State  
C.A.CRIM.22/2002  
Jones JA, Warner JA, Kangaloo JA  
March 11, 2004

The appellant was a passenger in a vehicle which was intercepted by police officers. He was searched and cocaine was found on his person, in his front pocket, in a plastic bag. He was convicted on a charge of Possession of Cocaine for Trafficking for which he was sentenced to five (5) years imprisonment with hard labour.

**Aggravating Factors:**
- The appellant had 5 previous convictions for narcotics-related offences.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Five (5) years imprisonment with hard labour.

Emmanuel Wilson v The State  
C.A.CRIM.44/2001  
Jones JA, Nelson JA, Lucky JA  
May 15, 2003

The police stopped a vehicle and noticed 2 long objects resembling firearms which they seized. Neither the appellant nor the other occupant had Firearm User’s Licences. Upon further search, the police found 2 feed bags containing marijuana, 3 shotguns and 4 shotgun cartridges. The appellant was convicted of:

1. Being in Possession of 6 kilograms of Marijuana for the Purpose of Trafficking, for which he was sentenced to twelve (12) years imprisonment with hard labour;
2. Being in Possession of Ammunition, for which he was sentenced to three (3) years imprisonment with hard labour; and
3. Being in Possession of Firearms without the requisite licence, for which he was sentenced to three (3) years imprisonment with hard labour.

Sentences to run concurrently.

**Aggravating Factors (considered by trial judge):**
- The need for punishment;
- Deterrence;
- He had 2 previous convictions for Possession of Marijuana for the Purpose of Trafficking and Possession of Ammunition;
- Seriousness of the offence;
- The maximum penalty for the offence.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.
Sentence:

Twelve (12) years imprisonment with hard labour for Possession of Marijuana for the Purpose of Trafficking;

Three (3) years imprisonment with hard labour for Possession of Ammunition;

Three (3) years imprisonment with hard labour for Possession of Firearms.

Sentences to run concurrently.

(*) Hurban Paul v The State
C.A.CRIM.1/2002
Sharma JA, Warner JA, Lucky JA
December 10, 2002

The appellant was stopped by police officers in the airport. Officers searched the person of the appellant and found 2.202 kilograms of cocaine in a brown plaster band strapped around his stomach area and in packets in the soles of his shoes. The appellant was convicted on a charge of Possession of Cocaine for the Purpose of Trafficking. He was sentenced to nine (9) years imprisonment with hard labour.

Mitigating Factors (considered by the trial judge):

• Guilty plea entered;
• The age of the appellant (fifty-three (53) years old);
• This was the appellant’s first brush with the law.

Disposition:

Appeal dismissed. Appellant to serve sentence imposed.

Sentence:

Nine (9) years imprisonment with hard labour.

John Hanoman v The State
C.A.CRIM.35/2000
Sharma CJ, Nelson JA, Lucky JA
December 13, 2000

Marijuana (6.36 kilograms) was found at the appellant’s residence, in 3 black garbage bags in the kitchen cupboard. The appellant was convicted on a charge of Possession of Marijuana for Trafficking. He was sentenced to seven (7) years imprisonment with hard labour.

Aggravating Factors:

• Previous convictions (5) for similar offences;
• The seriousness and prevalence of the offence;
• The trial judge found it difficult to find mitigating factors, despite the fact that his poor health was raised in mitigation by counsel.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.
Sentence:

Seven (7) years imprisonment with hard labour.

Mantoor Ramdhanie, Deochan Ramdhanie, Patrick Toolsie and Ken Gresham v The State
Ibrahim JA, Hamel-Smith JA, Permanand JA
June 30, 2000

The first and second appellants were arrested and charged indictably with the offence of Possession of a Dangerous Drug, namely cocaine, for the Purpose of Trafficking. They had in their possession 8.5 kilograms of cocaine with an estimated street value of $4,000,000. On the same day, the third and fourth appellants were also arrested for a similar offence. The quantity of cocaine allegedly found in their possession was 2.25 kilograms.

They were sentenced as follows:

First appellant: A confiscation order was made for the first appellant to pay a fine of $3,887,604.58 within three (3) months, or fifteen (15) years imprisonment with hard labour. For the conviction, the sentence was imprisonment for life, not being released before the expiration of twenty (20) years if the confiscation order was duly paid; if it was not paid, the first appellant was to serve at least thirty-five (35) years imprisonment with hard labour.

Second appellant: A confiscation order was made for the second appellant to pay a fine of $1,816,003.71 within three (3) months, or twelve (12) years imprisonment with hard labour. For the conviction, the sentence was imprisonment for life, not being released before the expiration of twenty (20) years if the confiscation order was duly paid; if it was not paid, the second appellant was to serve at least thirty-two (32) years imprisonment with hard labour.

Third appellant: A confiscation order was made for the third appellant to pay a fine of $23,537.00 within three (3) months, or four (4) years imprisonment with hard labour. For the conviction, the sentence was imprisonment for life, not being released before the expiration of twenty (20) years if the confiscation order was duly paid; if it was not paid, the third appellant was to serve at least twenty-four (24) years imprisonment with hard labour.

Fourth appellant: A confiscation order was made for the fourth appellant to pay a fine of $153.17 within three (3) months, or two (2) years imprisonment with hard labour. For the conviction, the sentence was imprisonment for life, not being released before the expiration of twenty (20) years if the confiscation order was duly paid; if it was not paid, the third appellant was to serve at least twenty-two (22) years imprisonment with hard labour.

Aggravating Factors:

• The nature of the offence;
• The quantity of drugs found in both vehicles;
• The relationship between the packages found in both vehicles and their similarities;
• The seriousness of the charges.

Mitigating Factors:

• No mitigating factors.
Disposition:
All appeals dismissed. Appeal against the fourth appellant’s sentence dismissed.

Sentence at the Court of Appeal:

First appellant: A confiscation order was made for the first appellant to pay a fine of $3,887,604.58 within three (3) months, or fifteen (15) years imprisonment with hard labour. For the conviction, the sentence was imprisonment for life, not being released before the expiration of twenty (20) years if the confiscation order was duly paid; if it was not paid, the first appellant was to serve at least thirty-five (35) years imprisonment with hard labour.

Second appellant: A confiscation order was made for the second appellant to pay a fine of $1,816,003.71 within three (3) months, or twelve (12) years imprisonment with hard labour. For the conviction, the sentence was imprisonment for life, not being released before the expiration of twenty (20) years if the confiscation order was duly paid; if it was not paid, the second appellant was to serve at least thirty-two (32) years imprisonment with hard labour.

Third appellant: A confiscation order was made for the third appellant to pay a fine of $23,537.00 within three (3) months, or four (4) years imprisonment with hard labour. For the conviction, the sentence was imprisonment for life, not being released before the expiration of twenty (20) years if the confiscation order was duly paid; if it was not paid, the third appellant was to serve at least twenty-four (24) years imprisonment with hard labour.

Fourth appellant: A confiscation order was made for the fourth appellant to pay a fine of $153.17 within three (3) months, or two (2) years imprisonment with hard labour. For the conviction, the sentence was imprisonment for life, not being released before the expiration of twenty (20) years if the confiscation order was duly paid; if it was not paid, the fourth appellant was to serve at least twenty-two (22) years imprisonment with hard labour.

The appellants appealed to the Privy Council.

The Privy Council allowed the appeals and quashed the convictions. The Privy Council considered that there was a material irregularity and unfairness in the trial process, and that the jury’s verdicts in respect of all four appellants could not be regarded as safe. The court did not give any directions for a fresh trial as the events in question were old; one of the appellants was dead, while the others had spent some nine (9) years in prison.

Sentence at Privy Council:

Appeals allowed and convictions quashed.

Nandram Mahabir v The State
C.A.CRIM.143/1997
Sharma JA, Hamel-Smith JA, Warner JA
June 25, 1998

Police officers searched the vehicle of which the appellant was the driver. Under the rear seat of the vehicle, a bag which contained cocaine wrapped in a number of sealed packages was discovered. The appellant was convicted on a charge of Possession of Cocaine for Trafficking and was sentenced to life imprisonment, not to be released before fifteen (15) years of imprisonment, with hard labour.
Mitigating Factors:

- None specifically, though counsel indicated that the appellant had no previous convictions.

Disposition:

Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:

Fifteen (15) years imprisonment with hard labour.

(*) Lawson Sylvester v The State  C3-15
C.A.CRIM.21/1997
de la Bastide CJ, Sharma JA, Jones JA
January 29, 1998

The appellant was about to board a flight at the airport where he was found with 760 grams of cocaine concealed in the innersoles of his sneakers. He was convicted of Possession of Cocaine for the Purpose of Trafficking and sentenced to twelve (12) years imprisonment with hard labour.

Aggravating Factors:

- This was a serious offence which adversely affects the country’s reputation;
- The prevalence of the offence.

Mitigating Factors:

- No previous convictions;
- The age of the appellant (thirty-one (31) years old).

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Twelve (12) years imprisonment with hard labour.

Roopnarine Boodram v The State  C3-16
C.A.CRIM.56/1997
Sharma JA, Hamel-Smith JA, Hosein JA
November 11, 1997

Police officers met the appellant outside premises owned by DC. The appellant had keys to the premises in his possession. He opened a padlock and allowed the officers to enter the premises. In the presence of the appellant, the officers executed a search warrant and found 45 vials of cocaine, 85 empty vials, 5 pieces of test tubes containing bicarbonate soda, plastic straws and $11,545.00 in cash. The appellant was convicted on a charge of Possession of Cocaine for the Purpose of Trafficking, for which he was sentenced to ten (10) years imprisonment with hard labour.
Mitigating Factors:

- The age of the appellant at the time of the offence (twenty-nine (29) years old);
- The matter was pending for 13 years.

Disposition:

Appeal dismissed. Conviction and sentence confirmed.

Sentence:

Ten (10) years imprisonment with hard labour.

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(*) Nizam Mohammed v The State
C.A.CRIM.48/1994
Sharma JA, Gopeesingh JA, Permanand JA
January 30, 1997

Police officers executed a search warrant on premises occupied by the appellant and 15 rocks of cocaine wrapped in silver paper were discovered hidden inside a wardrobe. The appellant was convicted of Possession of Cocaine for the Purpose of Trafficking and sentenced to life imprisonment.

Aggravating Factors (considered by the trial judge):

- Previous convictions including 1 for a similar offence.

Disposition:

Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:

Twelve (12) years imprisonment with hard labour.

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Karen Leslie Riley v The State
C.A.CRIM.55/1992
Sharma JA, Hamel-Smith JA, Hosein JA
March 14, 1996

The appellant was charged with Possession of cocaine (2.1 kilograms–street value over $1 million) for the Purpose of Trafficking at the airport. The drugs were contained in 2 packets hidden in the appellant’s girdle. A sentence of fifteen (15) years imprisonment with hard labour was imposed.

Aggravating Factors (considered by the trial judge):

- The appellant showed no remorse.

Mitigating Factors (considered by the trial judge):

- The time spent in custody (2.5-3 years).

Disposition:

Conviction affirmed. Sentence varied.

Sentence:

Eight (8) years imprisonment with hard labour.
NOTES
**AGGRAVATING FACTORS:**
- The victim was a young child and there were repeated incidents of sexual abuse;
- The appellant was related to or held a position of trust in relation to the victim or the victim’s parents, such as a teacher or neighbour;
- The offence was continued or repeated despite the victim’s protestations;
- The offence was accompanied by violence;
- The indecency involved in the act was of an obvious and gross character;
- Although the victim is not a child, there is still a significant disparity in age between the victim and the appellant.

**MITIGATING FACTORS:**
- The offender was young and immature.

**Current Maximum Penalties for Sexual Offences**

**Rape**
Prescribed penalty:
Imprisonment for life (or remainder of natural life): Section 4(2) of the Sexual Offences Act, Chapter 11:28.

**Grievous Sexual Assault**
Prescribed penalty:
Imprisonment for life (or remainder of natural life depending on the circumstances): Section 4A and 4(2) of the Sexual Offences Act, Chapter 11:28.

**Sexual Penetration of a Child***
Prescribed penalty:
Life imprisonment: Section 18 of the Children Act, Chapter 46:01.

**Indecent Assault***
Prescribed penalty:
Five (5) years imprisonment for the first offence and ten (10) years for a subsequent offence: Section 15(1) of the Sexual Offences Act, Chapter 11:28.

**Serious Indecency***
Prescribed penalty:
Five (5) years imprisonment: Section 16(1) Sexual Offences Act, Chapter 11:28.
Buggery*

Prescribed penalty:
Twenty-five (25) years imprisonment: Section 13(1) Sexual Offences Act, Chapter 11:28.

Incest*

Prescribed penalty:
Life imprisonment: Section 9(2) of the Sexual Offences Act, Chapter 11:28.

*See Table of Maximum Penalties (Indictable Offences) at page XXXIX for History of and Changes to Offence and Penalty.
The appellant had non-consensual sex with, and buggered the victim. The appellant pretended to be a customer at the store in which the victim worked. The appellant was armed with a knife. He demanded money from the victim and robbed her of her jewellery. He ordered her into an adjoining room where he taped her hands and eyes and partially undressed her. He then raped her and buggered her and spoke with her continuously as he committed those acts. He threatened to kill her because she had seen his face. He eventually left and took a faucet and a labelling machine with him. The appellant was convicted on charges of Rape, Buggery, and Robbery with Aggravation. He was sentenced to thirty (30) years imprisonment for Rape, twenty-three (23) years for Buggery, and thirteen (13) years for Robbery with Aggravation, to run concurrently.

Aggravating Factors (considered by the trial judge):
- The appellant’s use of an offensive weapon, namely a 6-inch knife;
- The rape was accompanied by buggery;
- The appellant threatened to kill the victim because she had seen his face;
- There was an element of planning and premeditation;
- The appellant had 4 previous convictions – 3 for Indecent Exposure and 1 for being found on premises for an Unlawful Purpose;
- The prevalence and seriousness of the offences;
- The lack of remorse.

Disposition:
Convictions affirmed. Sentences varied. The Court of Appeal stated:

“On the higher end of the scale is the case of Dominique London v The State (unrep.) Cr. App. No. 10. of 2003. In this case, the victim was a 15 year old girl, who was raped by the appellant over an extended period on three separate occasions. She was choked to the point of unconsciousness on two occasions. She was hospitalized for six days after the incident. The offence was committed while the appellant was out on bail. A sentence of 30 years hard labour was imposed.

In Steve Williams v The State (unrep.) Cr. App. No. 23 of 2001 the appellant was convicted of rape, buggery, serious indecency and robbery with aggravation. The offences took place over a period of 1½ hours. He was sentenced to life imprisonment for rape, not to be released before 20 years.

In Richard Elliot v The State (unrep.) Cr. App. No. 56 of 1999 the appellant was convicted of rape, buggery, serious indecency and indecent assault on a 19 years (sic) old girl. A knife was used in carrying out the offence, although no actual injury was inflicted with it. On the count of rape, the trial judge imposed a life sentence not to be released before 30 years. The Court of Appeal reduced the sentence to 15 years and 10 strokes.
In delivering judgment de la Bastide CJ stated as follows:

‘It is, however, necessary to keep a sense of proportion when sentencing in circumstances of this kind...Also, it is necessary to bear in mind, though it may be difficult to imagine, there are other cases of the same kind in which the aggravating circumstances are even worse than in this case. One such feature I might mention would be the participation of more than one person in the outrage, in what is known sometimes as “gang rape”. Also, it may be that the acts of sexual degradation are accompanied by physical violence of a greater or lesser degree.’

We bear in mind the principle outlined by the former Chief Justice in Richard Elliot (supra). While we note the careful approach of the trial judge in outlining the aggravating factors in this case, we consider that this case does not fall into the category of cases at the highest end of the scale.

Having regard to the circumstances of this case, and the sentences imposed in the cases cited to us, we consider the following sentences will do justice to this case...

Sentence:

Twenty (20) years imprisonment with hard labour for Rape.

Twenty (20) years imprisonment with hard labour for Buggery.

Twelve (12) years imprisonment with hard labour for Robbery with Aggravation.

(*) Gerard Edwin v The State C4-2
C.A.CRIM.35/2008
John JA, Mendonca JA, Yorke-Soo Hon JA
November 6, 2009

The appellant was armed with a gun that he placed by the victim’s waist and demanded money. Subsequently, the victim was taken to a nearby savannah where she was raped by the appellant. The appellant was convicted of Robbery with Aggravation, Abduction of a female for the purpose of Sexual Intercourse with her, and Rape. He was sentenced to ten (10) years, ten (10) years, and thirty (30) years imprisonment with hard labour respectively, to run concurrently.

Disposition:

Sentence varied.

Sentence:

Twenty (20) years imprisonment with hard labour.

Vernon Mahadeo v The State C4-3
C.A.CRIM.21/2008
Archie CJ, John JA, Yorke-Soo Hon JA
March 17, 2009

The thirteen (13) year old victim was driven by the appellant, her cousin’s husband, to a building and instructed to get out. She refused and the appellant threatened to beat her if she made noise. Thereafter, the victim was taken to a room where the appellant forcibly had sexual
intercourse with her. The appellant was convicted on a charge of Unlawful Sexual Intercourse with a Female Under Fourteen. He was sentenced to fifteen (15) years imprisonment with hard labour.

**Mitigating Factors:**
- The appellant’s clean record.

**Other Factors:**
- Family ties (no longer a weighty factor in mitigating);
- Length of time during which he was already incarcerated;
- The appellant’s medical condition (according to the Court of Appeal, the trial judge was well within his rights to ignore the appellant’s hypertension and diabetes).

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fifteen (15) years imprisonment with hard labour.

(*') Anthony Harris v The State
C.A.CRIM.28/2005
Hamel-Smith JA, John JA, Weekes JA
February 7, 2008

The appellant, in the company of another, entered a store and held the victim at gunpoint. He ordered her to go to the back of the store into a stock room where he ripped off her underclothes and sexually assaulted and raped her. The accomplice forced the victim to perform fellatio on him. The victim and another store occupant were robbed of $275.00 and $115.00 respectively. The appellant was convicted of Rape, Grievous Sexual Assault, and 2 counts of Robbery with Aggravation. He was sentenced to twenty (20) years imprisonment for Rape to run consecutively with ten (10) years imprisonment for Grievous Sexual Assault. He was sentenced to fifteen (15) years imprisonment on each count of Robbery to run concurrently with the other sentences.

**Aggravating Factors (considered by the trial judge):**
- The court took into account the principles of deterrence, retribution and rehabilitation;
- The victim suffered physical injuries and was subject to sexual degradation;
- Seriousness and prevalence of the offence.

**Mitigating Factors (considered by the trial judge):**
- No previous convictions;
- The appellant was eighteen and a half (18.5) years old at the time of the offence;
- Time spent in remand – a year and a few months.

**Disposition:**
Sentence varied to the extent that they were to run concurrently.
Sentence:
Twenty (20) years imprisonment for Rape.
Ten (10) years imprisonment for Grievous Sexual Assault.
Fifteen (15) years imprisonment on each count of Robbery.
All sentences to run concurrently.

(*) Gordon Cunningham v The State
C.A.CRIM.18/2005
Hamel-Smith JA, Kangaloo JA, Weekes JA
October 27, 2006

The victim, who was twelve (12) years old at the time of the incident, was the appellant’s niece. There were 3 incidents of a sexual nature, which occurred at the appellant’s home where the victim would occasionally visit after school. The appellant was convicted on 3 counts of Sexual Intercourse with a Female under the age of Fourteen and sentenced to ten (10) years imprisonment with hard labour on each count, sentences to run concurrently.

Aggravating Factors:
• Seriousness of the offence;
• Relationship of trust with the victim.

Mitigating Factors:
• No previous convictions;
• The appellant was forty-five (45) years of age at the time of the offence;
• Incident occurred 5–6 years ago;
• Father of 2 children.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Ten (10) years imprisonment with hard labour on each count.
Sentences to run concurrently.

Godfrey Gabriel v The State
C.A.CRIM.30/2005
John JA, Weekes JA, Mendonca JA
September 27, 2006

On Christmas Eve night, the appellant asked the thirteen (13) year old victim to come to his house because he had something for her. At the appellant’s home, the victim was pulled onto a bed where the appellant had sexual intercourse with her. The appellant was convicted on a charge of Sexual Intercourse with a Minor and sentenced to twenty (20) years imprisonment with hard labour.
Aggravating Factors:

- Seriousness of the offence;
- Prevalence of the offence;
- Strong and consistent message needs to be sent by the courts that this sort of behaviour would not be tolerated;
- Emotional and psychological trauma caused to victims of these types of crimes;
- The age of the appellant – thirty-two (32) at the time of the incident;
- The victim was differently-abled and suffered a disability;
- The appellant occupied a position of trust.

Mitigating Factors:

- No previous convictions;
- The appellant was well-regarded by the mother of the victim.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Twenty (20) years imprisonment with hard labour.

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Gregory Donnor v The State
C.A.CRIM.25/2005
Sharma CJ, Archie JA, Weekes JA
May 11, 2006

The appellant and the victim knew each other from the church they both attended. The appellant made advances to the victim. Although she tried to push him away, he managed to undress and rape her. The appellant was convicted on a charge of Rape and was sentenced to fifteen (15) years imprisonment with hard labour.

Aggravating Factors:

- The age of the victim, who was almost nineteen (19) years old at the time of the offence, while the appellant was approximately forty (40);
- There existed a level of trust;
- Prevalence of the offence in society;
- Psychological scars that the victims of these types of crimes face.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fifteen (15) years imprisonment with hard labour.
(*) Kevin Boyce v The State C4-8
C.A.CRIM.60/2004
Hamel-Smith JA, Kangaloo JA, Weekes JA
October 25, 2005

The appellant and 3 others abducted the victim from her vehicle and took her to a cane field where she was raped by all 4 persons. On the way to the cane field, the 4 men touched her breasts and her vagina. The appellant was convicted on charges of Rape, Serious Indecency, Indecent Assault and Kidnapping. He was sentenced to thirty (30) years, five (5) years (Serious Indecency and Indecent Assault), and fifteen (15) years imprisonment with hard labour, respectively (sentences to run concurrently).

Aggravating Factors:

- 3 previous convictions for Larceny, including Larceny of a Motor Vehicle;
- The victim was gang raped and this intensified the trauma of being raped;
- Gang rape was becoming prevalent and there was a need to deter potential gang rapists;
- Need to protect women in society.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Thirty (30) years imprisonment with hard labour for Rape.

Five (5) years imprisonment with hard labour for Serious Indecency.

Five (5) years imprisonment with hard labour for Indecent Assault.

Fifteen (15) years imprisonment with hard labour for Kidnapping.

Sentences to run concurrently.

(*) Mc Donald Toussant v The State C4-9
C.A.CRIM.06/2003
Hamel-Smith JA, Kangaloo JA, Mendonca JA
April 12, 2005

The appellant offered the victim a lift. She was taken off route, threatened with a cutlass, raped, and indecently assaulted. The appellant threatened to kill her if she told anyone about the incident. The appellant was convicted on charges of Sexual Intercourse with a Female Under Fourteen years of age and Indecent Assault. He was sentenced to twenty (20) years imprisonment with hard labour and ten (10) strokes with the birch for the offence of Sexual Intercourse with a Female Under Fourteen years, and four (4) years imprisonment with hard labour for Indecent Assault.

Aggravating Factors:

- The appellant’s previous convictions for 2 similar sexual offences;
- He was described as a ‘sexual predator’ by the trial judge;
- Court needs to protect society;
- Need to deter others;
- Need to punish the offender.
Mitigating Factors:

- He pleaded guilty and saved the victim the trauma of having to give evidence;
- The appellant was twenty-six (26) years old at the time of the incident;
- He was a family man.

Disposition:

Appeal against sentence allowed. Sentence varied.

Sentence:

Twenty (20) years imprisonment with hard labour for intercourse with a Female Under Fourteen years.

Four (4) years imprisonment with hard labour for Indecent Assault.

(*) Teeratraj Maharraj v The State
C.A.CRIM.50/2004
John JA, Archie JA, Weekes JA
March 3, 2005

The victim was the appellant’s step-daughter who lived with her grandparents. At the time of the incident, she was staying at the appellant’s home. The appellant was convicted on 1 count of Attempted Sexual Intercourse with a Female Under Fourteen and 6 counts of Sexual Intercourse with a Female Under Fourteen years and was sentenced on the first count to five (5) years imprisonment and on each of the other six (6) counts to fifteen (15) years imprisonment with hard labour (to run concurrently).

Aggravating Factors:

- The age and vulnerability of the victim, aged nine (9);
- The position of dependence and inexperience of the victim whom the appellant knew “before she was born”;
- The repetition of the sexual acts;
- The fact that the victim was subjected to further indignities or perversions, e.g. cunnilingus which preceded the sexual intercourse.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Five (5) years imprisonment with hard labour for Attempted Sexual Intercourse with a Female Under Fourteen years.

Fifteen (15) years imprisonment with hard labour on each of the six (6) counts of Sexual intercourse with a Female Under Fourteen years.

Sentences to run concurrently.
(*) Dave Lashley v The State  
C.A.CRIM.43/2004  
Hamel-Smith JA, John JA, Weekes JA  
March 1, 2005  

The victim was the appellant’s aunt who was thrown on the ground, threatened with a knife, raped, and buggered by the appellant. The appellant was convicted on charges of Rape and Buggery and sentenced to fifteen (15) and ten (10) years imprisonment with hard labour, respectively.

**Aggravating Factors:**
- Previous conviction for Attempted Sexual Intercourse with a Female Under Fourteen years;
- The seriousness of the offence;
- Victim’s first sexual encounter;
- Attack committed with such force that there was physical tearing;
- Brutal attack committed on a vulnerable person – the victim was fifty (50) years old, had a sheltered rural existence, and was slow in movement and frail in appearance;
- The victim was the appellant’s aunt, who cared for him when he was younger.

**Mitigating Factors:**
- Three (3) years spent in custody awaiting trial.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Fifteen (15) years imprisonment with hard labour for Rape.
Ten (10) years imprisonment with hard labour for Buggery.

Jomaine Bowen v The State  
C.A.CRIM.26/2004  
Hamel-Smith JA, Jones JA, John JA  
January 28, 2005  

The appellant was the cousin of the three (3) year old victim. The appellant was found guilty on 4 counts of Sexual Intercourse with a Female Under Fourteen for which he was sentenced to seven (7) years imprisonment with hard labour. He received five (5) years on each of the 4 counts of Serious Indecency. Sentences to run concurrently.

**Aggravating Factors (considered by the trial judge):**
- The age of the victim at the time of the offence (two and a half to three (2.5–3) years old);
- The appellant was placed in a position of trust to babysit his younger cousin.

**Mitigating Factors (considered by the trial judge):**
- No previous convictions;
- The Probation Officer’s report stated that he was a young man of good character;
- Petitions signed by 250 persons attesting to the appellant’s glowing performance at the workplace;
• The age of the appellant (15 years) old at the time of the offence;
• The delay of almost six (6) years for the matter to be dealt with.

Mitigating Factors (considered by the Court of Appeal):
• The Court of Appeal disagreed that the appellant breached a position of trust and stated that: One can readily understand the reposing of trust in a male adult to babysit a young girl child, but we do not think that the same can be said of a fifteen (15) year old male with a young girl. This is not to countenance the commission of the offence in any way, but in today’s world to repose such a high degree of trust in such a young person may be placing the bar somewhat on the high side.

Disposition:
Sentence reduced.
Sentence:
Three (3) years imprisonment with hard labour on each count.
Sentences to run concurrently.

John Alfonso v The State
C.A.CRIM.13/2004
Sharma CJ, Kangaloo JA, Archie JA
October 21, 2004

Over a period of time up to the age of twelve (12), offences of incest were perpetrated against the victim by her natural father, the appellant. She was nine (9) years old at the time of the first incident. The appellant was convicted of 3 separate charges of Incest and 1 charge of Indecent Assault. He was sentenced to ten (10) years simple imprisonment with respect to each count of the 3 offences of Incest to run concurrently. A sentence of one (1) year simple imprisonment was imposed for the offence of Indecent Assault to run consecutively to the sentences of ten (10) years, making a total of eleven (11) years imprisonment.

Aggravating Factors:
• The perpetrator was the victim’s natural father who breached her trust.

Mitigating Factors:
• None identified, even though the appellant was over sixty (60).

Disposition:
The Court of Appeal found that the trial judge took into account the age (over 60), health and other factors. Sentence affirmed though the court found it was on the low side. The court stated that the sentence is usually between fifteen (15) and eighteen (18) years imprisonment, even if the offender is over sixty (60).

Sentence:
Eleven (11) years imprisonment (1 year simple imprisonment included).
Ian Leith v The State  
C.A.CRIM.105/1998  
Sharma JA, Kangaloo JA, Archie JA  
October 21, 2004

The appellant pleaded guilty to charges of Rape and Unlawful Wounding and was sentenced to fifteen (15) years and two (2) years imprisonment with hard labour respectively (to run concurrently).

**Aggravating Factors:**
- The seriousness of the offence;
- The fact that it was accompanied by physical violence.

**Mitigating Factors:**
- None identified despite the appellant’s claim that his counsel acted contrary to his instructions, which the court rejected.

**Disposition:**
Conviction and sentence affirmed.

**Sentence:**
Fifteen (15) years imprisonment with hard labour for Rape.
Two (2) years imprisonment with hard labour for Unlawful Wounding.

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Dominique London v The State  
C.A.CRIM.10/2003  
Jones JA, Nelson JA, Mendonca JA  
July 22, 2004

The appellant purported to be the victim’s father’s friend and asked her to run an errand. The victim was fifteen (15) years old at the time of the incident. She was pursued down a track and a series of violent acts, and 3 incidents of rape followed. The victim was kept for a number of hours. Although the appellant denied the incident, he was convicted on a charge of Rape for which he was sentenced to thirty (30) years imprisonment with hard labour.

**Aggravating Factors:**
- The victim was tricked;  
- The number of rapes (3);  
- The victim was unconscious at the time of the third rape;  
- The victim was treated in the most violent conduct. She struggled, was choked and held prisoner for hours. Additionally, she spent six (6) days in the hospital;  
- The offence took place while the appellant was on bail (which was an extremely aggravating factor);  
- 7 previous convictions;  
- The appellant showed no remorse;  
- The appellant had the opportunity to save the victim the ordeal of another trial.
Disposition:
Sentence upheld.

Sentence:
Thirty (30) years imprisonment with hard labour.

(°) Uric Smith v The State
C.A.CRIM.46/2003
Hamel-Smith JA, Warner JA, Kangaloo JA
July 8, 2004

The victim was the thirteen (13) year old stepdaughter of the appellant’s uncle. While asleep, the victim felt the appellant’s hand upon her body. The appellant then raped her for about 20 minutes. Subsequently, at the age of fourteen (14), the appellant raped her on 2 occasions, which resulted in pregnancy. The appellant was convicted on charges of Sexual Intercourse with a Female Under Fourteen and 2 counts of Rape. He was sentenced to twenty (20) years imprisonment with hard labour on each count, to run concurrently.

Aggravating Factors:
- He was the nephew of the victim’s stepfather and in a position of trust;
- The victim was a Form 2 secondary school pupil at a prestigious high school and was forced to discontinue her studies at the age of fourteen (14) when she became a mother;
- The victim was stripped of her virginity;
- The resultant pregnancy;
- Deterrence and protection of society;
- The victim was very young and the appellant was forty (40) years old at the time of the offence;
- It was not a single episode but rather repeated acts by a grown man on a young child;
- The acts were planned;
- Threats were made to kill the victim’s mother and have the stepfather arrested.

Mitigating Factors:
- No previous convictions;
- Expressed remorse, however this remorse was only expressed at the late stage of sentencing. He had previously denied the allegations.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Twenty (20) years imprisonment with hard labour on each count.
Sentences to run concurrently.
Patrick Squires v The State  
C.A.CRIM.43/2003  
Sharma CJ, Jones JA, Nelson JA  
July 6, 2004

The victim was the seven (7) year old goddaughter of the appellant. At his home, he raped and committed buggery upon her. The appellant was convicted on charges of Sexual Intercourse with a Female Under Fourteen and Buggery. He was sentenced to life imprisonment with hard labour, not to be released for twenty (20) years for each of the offences.

Disposition:
Appeal dismissed. Convictions and sentences affirmed.

Sentence:
Twenty (20) years imprisonment with hard labour for Sexual intercourse with a Female Under Fourteen years.
Twenty (20) years imprisonment with hard labour for Buggery.

(*) Donaldson Forbes v The State  
C.A.CRIM.33/2002  
Jones JA, Archie JA, Mendonca JA  
July 1, 2004

The appellant pretended to take the victim to her boyfriend’s home. Instead, he took her to a house where he raped her. He was convicted of Rape and was sentenced to twelve (12) years imprisonment with hard labour.

Aggravating Factors:
• Offence would tend to leave psychological scars on the victim;
• Several previous convictions (first sexual offence);
• Need to protect society and punish the offender.

Mitigating Factors:
• No physical injury sustained.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Twelve (12) years imprisonment with hard labour.

Carl Jones v The State  
C.A.CRIM.3/2003  
Jones JA, Nelson JA, John JA  
April 28, 2004

On a date unknown, between June 1 and June 30 1998, the twelve (12) year old victim was at home with the appellant, her step-father, who had sexual intercourse with her. The appellant warned the victim against telling anyone about the incident. A report was made two (2) years
later. The appellant was convicted on a charge of Rape and was sentenced to fifteen (15) years imprisonment with hard labour.

**Aggravating Factors:**
- The age of the victim;
- The appellant was the victim’s stepfather and he was in a position of trust;
- The prevalence of the offence.

**Mitigating Factors:**
- No previous convictions;
- Counsel for the appellant sought to mitigate sentence by submitting that no violence was used during the commission of the crime. The court categorically stated that the lack of violence was not a mitigating factor in this case.

**Disposition:**
Leave to appeal refused. Conviction and sentence affirmed.

**Sentence:**
Fifteen (15) years imprisonment with hard labour.

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(*) Fitzroy Lessey v The State  
C.A.CRIM.14/2002  
Jones JA, Kangaloo JA, John JA  
June 3, 2003

The appellant was sixty-two (62) years old at the date of hearing and was sentenced to eighteen (18) years imprisonment for the offence of Rape of a young woman.

**Aggravating Factors:**
- The victim described the appellant as a father figure, having known him from the neighbourhood since she was eleven (11) years old.

**Disposition:**
Sentence upheld.

**Sentence:**
Eighteen (18) years imprisonment with hard labour.

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(*) Bernard Harricharan v The State  
C.A.CRIM.83/2001  
Sharma JA, Jones JA, Warner JA  
March 8, 2003

The appellant and his brother approached 2 secondary school girls from behind, grabbed them, placed cutlasses to their necks, and ordered them into a cane field. There, the girls were raped and their belongings were stolen. The appellant was jointly charged with his brother and they were both convicted of 2 counts of Robbery with Aggravation and sentenced to twelve (12) years imprisonment on each count. Additionally, the appellant was sentenced to twenty (20) years imprisonment on a count for Rape (to run concurrently).
Aggravating Factors:

• Robbery with aggravating circumstances of acting together, and also being armed with cutlasses;
• The circumstances of its commission: 2 young girls on their way home from school dragged into a cane field;
• The prevalence of the offence of Rape.

Mitigating Factors:

• The appellant and his brother (co-accused) were first time offenders.

Disposition:

Appeals dismissed in respect of all 3 counts. In relation to the sentence of twenty (20) years for Rape, the court ordered that (a) the sentence should run from the date of conviction, and (b) the Prison authorities should deduct from the twenty (20) year sentence the period of incarceration of twenty (20) months that the appellant underwent while awaiting trial.

Sentence:

Twelve (12) years imprisonment on each count of Robbery with Aggravation.

Twenty (20) years imprisonment for Rape.

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Earle Charles v The State  
C.A.CRIM.26/2001  
Hamel-Smith JA, Jones JA, Lucky JA  
January 17, 2003

The appellant was charged with Rape of his seventeen (17) year old daughter, which occurred at the home. The following day, she spoke to a teacher at school about the incident. The appellant completely denied the incident and alleged that the story was fabricated because her stepmother admonished her for having a relationship with the said teacher. The appellant was convicted on the charge and received a sentence of twelve (12) years imprisonment with hard labour.

Aggravating Factors:

• The high incidence of physical abuse being meted out to women.

Mitigating Factors:

• The age of the appellant (fifty-three (53) years old);
• No previous convictions, however the trial judge stated that this was the type of offence where good character cannot serve in good stead.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Twelve (12) years imprisonment with hard labour.
Neil La Caille v The State  
C.A.CRIM.80/2000  
Warner JA, Nelson JA, Lucky JA  
December 3, 2002  
The appellant had sexual intercourse with his twelve (12) year old stepdaughter without her consent. Her younger siblings came into the room during the ordeal. The appellant was charged with Sexual Intercourse with a Female Under Fourteen and was convicted and sentenced to fifteen (15) years imprisonment with hard labour.  
Disposition:  
Appeal dismissed. Conviction and sentence affirmed.  
Sentence:  
Fifteen (15) years imprisonment with hard labour.

Emmanuel Dover v The State  
C.A.CRIM.69/2000  
Warner JA, Nelson JA, John JA  
November 25, 2002  
The victim saw the appellant, whom she knew since she was five (5) years old, outside her home. He grabbed her hand, dragged her under her mother’s house, and raped her. The forty-seven (47) year old appellant was convicted of Rape of a fourteen year old girl. He was sentenced to ten (10) years imprisonment.  
Disposition:  
Appeal dismissed. Conviction and sentence affirmed.  
Sentence:  
Ten (10) years imprisonment with hard labour.

Lennox Millette v The State  
C.A.CRIM.22/2001  
Jones JA, Lucky JA, John JA  
October 10, 2002  
The victim and a male companion were accosted by the appellant who pretended to be a vendor. The appellant was convicted on charges of Rape and Serious Indecency for which he was sentenced to 2 concurrent terms of fifteen (15) years and five (5) years respectively.  
Aggravating Factors:  
• Nature of the offence;  
• The circumstances surrounding the commission of the offence.  
Disposition:  
Sentence affirmed. The court did not consider the sentence to be excessive.
Sentence:

Fifteen (15) years imprisonment with hard labour for Rape.

Five (5) years imprisonment with hard labour for Serious Indecency.

Steve Williams v The State

C.A.CRIM.43/2001

Jones JA, Warner JA, Lucky JA

October 3, 2002

The appellant unlawfully entered the victim’s home while armed with a gun. He demanded money and jewellery and repeatedly had non-consensual sexual intercourse with the victim and intermittently committed acts of buggery on her. Thereafter, he forced the victim to perform oral sex on him. The ordeal lasted 1.5 hours and was partially witnessed by the victim’s three (3) year old son. The appellant was convicted of the following offences for which he was sentenced to serve various terms of imprisonment:

1. **Burglary** – fifteen (15) years imprisonment;
2. **Rape** – life imprisonment, not to be released for twenty (20) years;
3. **Buggery** – ten (10) years imprisonment;
4. **Serious Indecency** – five (5) years imprisonment;
5. **Indecent Assault** – five (5) years imprisonment;
6. **Robbery with Aggravation** – fifteen (15) years imprisonment.

Aggravating Factors:

The trial judge considered the following with which the Court of the Appeal concurred:

- One and a half (1.5) hour ordeal;
- The victim was raped repeatedly (3 times);
- The victim was sodomized repeatedly (3 times);
- The victim was forced to perform oral sex;
- The victim’s son was present during part of the ordeal;
- The appellant’s previous convictions for similar offences.

Mitigating Factors:

- The acts which amounted to indecent assault were considered preparatory to, or merged with, the act of buggery so as to amount to one (1) incident.

Disposition:

Appeal allowed with respect to Indecent Assault. Conviction and sentence for Indecent Assault quashed. Appeal with respect to Rape, Buggery, Serious Indecency and Robbery with Aggravation dismissed. Convictions and sentences affirmed.

Sentence:

Fifteen (15) years imprisonment with hard labour for Burglary.

Life imprisonment, not to be released for twenty (20) years for Rape.

Ten (10) years imprisonment for Buggery.

Five (5) years imprisonment for Serious Indecency.

Fifteen (15) years imprisonment for Robbery with Aggravation.
The State v Damindra Latchman
C.A.CRIM.62/2000
Hamel-Smith JA, Nelson JA, Lucky JA
July 10, 2002

The respondent was found guilty on 3 counts of having Sexual Intercourse with his twelve (12) year old sister-in-law for which he was sentenced to six (6) years imprisonment with hard labour on each count, to run concurrently. The State appealed on the basis of leniency of the sentence.

**Aggravating Factors:**
- The respondent was in a position of trust and confidence;
- The respondent was twice the age of the victim;
- The respondent used force and instilled fear;
- The gravity of the offence.

**Mitigating Factors:**
- No previous convictions;
- The respondent was in custody for 2 years awaiting trial;
- The concern about sending relatively young persons and a first time offender to an extended term of imprisonment;
- The incidents of intercourse took place over a period of 6 months.

**Disposition:**
Appeal allowed. Sentence increased.

**Sentence:**
Eight (8) years imprisonment with hard labour on each count from the date of conviction.

Felix Sealy v The State
C.A.CRIM.70/1999
Permanand JA, Jones JA, Kangaloo JA
May 7, 2002

The appellant had sexual intercourse with his thirteen (13) year old stepdaughter and promised to pay her $1.50. Subsequently, the victim’s mother noticed her daughter’s weight gain which was pronounced in the stomach area. On another occasion, she saw the victim pull up her underwear while on a bed with the appellant. The incidents were reported. Subsequently, the victim discovered that she was eighteen (18) weeks pregnant and the appellant was charged accordingly. He pleaded guilty to both counts on the indictment:

1. Sexual Intercourse with a Female Under Fourteen;
2. Sexual Intercourse with a Female between Fourteen and Sixteen.

The appellant was sentenced to twelve (12) years imprisonment for the first offence and three (3) years imprisonment for the second, to run concurrently from the date of conviction.
Aggravating Factors:
- Even if the appellant was unaware of the age of the victim, he lived in the same house and knew she was in primary school;
- The result of pregnancy;
- The seriousness of the offence.

Mitigating Factors:
- The appellant never saw himself as the victim’s stepfather;
- The victim was a school girl;
- The appellant pleaded guilty.

Disposition:
Sentence affirmed.

Sentence:
Twelve (12) years imprisonment for Sexual Intercourse with a Female Under Fourteen years.
Three (3) years imprisonment for Sexual Intercourse with a Female between Fourteen and Sixteen years.

The State v Emmanuel Toney
C.A.CRIM.140/1998
Permanand JA, Jones JA, Kangaloo JA
May 7, 2002

The twenty-nine (29) year old respondent pleaded guilty to Sexual Intercourse with a thirteen (13) year old girl. The sexual act occurred at the home of the victim where the appellant was a habitual visitor. He was originally placed on bond for five (5) years. The State appealed on the basis on leniency of sentence.

Aggravating Factors:
- He was a habitual visitor to the home and was a person whom the girl trusted;
- The age of the victim (thirteen (13) years old).

Mitigating Factors:
- The respondent pleaded guilty;
- The respondent was twenty-nine (29) years old.

Disposition:
Sentence varied. The Court of Appeal said that for an offence of this nature, the imposition of a Bond sends an entirely wrong message.

Sentence:
Five (5) years imprisonment with hard labour.
Ramchand Rampersad v The State
C.A.CRIM.97/1999
Hamel-Smith JA, Jones JA, Warner JA
March 5, 2002
The victim accepted an offer of transportation from the appellant. The appellant did not stop at the points indicated. The appellant threatened the victim with a cutlass, pulled her into some bushes, and attacked and raped her. The appellant was convicted on a charge of Rape and was sentenced to twelve (12) years imprisonment with hard labour with ten (10) strokes with the birch.

**Aggravating Factors:**
- The presence of a weapon.

**Mitigating Factors:**
- The offence was committed 7 years prior and the appellant had been in custody since his conviction in 1999 (3 years prior to the date of the appeal).

**Disposition:**
Sentence varied.

**Sentence:**
Ten (10) years imprisonment with hard labour.

Richard Elliot v The State
C.A.CRIM.56/1999
de la Bastide CJ, Permanand JA, Jones JA
June 26, 2001
The victim was awakened by a masked man whom she recognised, by his eyes, as her stepfather’s half-brother. He committed acts of Rape, Buggery, Serious Indecency, and Assault on the victim. He was charged and convicted of the foregoing offences and sentenced as follows: Rape – life imprisonment (not to be released for a period of thirty (30) years) and ten (10) strokes with the birch; Buggery – Ten (10) years (maximum sentence); Serious Indecency – Five (5) years imprisonment (maximum sentence); Indecent Assault – Five (5) years (maximum sentence). Sentences to run concurrently.

**Mitigating Factors:**
- The age of the appellant – twenty-one (21) at the time of the offence;
- The appellant had an unblemished record;
- No actual violence though there was the threat of violence by the display of a knife;
- Time spent in jail, 2 years.

**Disposition:**
The Court of Appeal found a reduction in sentence was warranted. Sentences quashed.
Sentence:
Fifteen (15) years imprisonment with hard labour and ten (10) strokes with the birch for Rape.
Six (6) years imprisonment with hard labour for Buggery.
Three (3) years imprisonment with hard labour for Serious Indecency.
Three (3) years imprisonment with hard labour for Indecent Assault.
Sentences to run concurrently.

Timothy Wise v The State
C.A.CRIM.23/1999
Hamel-Smith JA, Permanand JA, Lucky JA
June 25, 2001

The appellant, a masked intruder armed with a cutlass, broke into a house and performed violent acts upon its occupants (SB and S). He struck SB across her face with the cutlass and proceeded to indecently assault and rape her. He then entered eleven (11) year old S’s room and digitally penetrated her. SB pleaded with him to leave S alone and the appellant then raped SB again. He then took items from the home including $500.00 in cash. The incidents resulted in the following convictions and sentences:

1. One (1) count of Rape, for which he was sentenced to fifteen (15) years imprisonment with hard labour and fifteen (15) strokes with the cat-o-nine;
2. Two (2) counts of Serious Indecency, for which he was sentenced to five (5) years imprisonment with hard labour to follow the fifteen (15) years imposed on count 1;
3. Serious Indecency – ten (10) years imprisonment with hard labour;
4. Robbery with Aggravation – fifteen (15) years imprisonment with hard labour.

Aggravating Factors:
- Actual use of violence.

Disposition:
Order for strokes in respect of the offence of Rape varied from fifteen (15) strokes with the cat-o-nine to fifteen (15) strokes with the birch.

Sentence:
Fifteen (15) years imprisonment with hard labour and fifteen (15) strokes with the birch for Rape (count 1).
Five (5) years imprisonment with hard labour to follow the fifteen (15) years imposed on count 1 for 2 counts of Serious Indecency.
Ten (10) years imprisonment with hard labour for Serious Indecency.
Fifteen (15) years imprisonment with hard labour for Robbery with Aggravation.
Surughlal Ramdass v The State  
C.A.Crim.26/2000  
de la Bastide CJ, Jones JA, Lucky JA  
May 31, 2001  
The forty-one (41) year old married appellant took the day off work, picked the twelve (12) year old victim up before school started, booked a hotel room and bought beer en route, for the child to drink. The appellant was convicted on a charge of having Sexual Intercourse with a twelve (12) year old and received a sentence of ten (10) years imprisonment with hard labour. He challenged the sentence on the basis that it was excessive in light of:

1. The overtures of the victim, who wrote love letters to the appellant; and  
2. His attempts to pay compensation to the victim as evidence of contrition.  

Aggravating Factors:  
- The appellant had a carefully constructed plan in order to take advantage of the girl's infatuation.  

Disposition:  
Appeal dismissed. Sentence affirmed.  

Sentence:  
Ten (10) years imprisonment with hard labour.  

Francis Joseph v The State  
C.A.Crim.97/1990  
de la Bastide CJ, Ibrahim JA, Jones JA  
January 27, 2000  
The victim, a thirteen (13) year old school girl, was in the company of friends near a water reservoir some distance from the roadway. Her friends left the area while the victim went to get her bicycle a short distance away. The appellant approached her and asked her to have sexual intercourse with him, which she refused. The appellant then raped her. A passerby came upon the scene and the appellant ran off. The appellant and the victim had previously known each other. The appellant was convicted of Rape and sentenced to fifteen (15) years imprisonment with hard labour and fifteen (15) strokes with the whip.  

Mitigating Factors:  
- Age of the appellant at the time of the offence (nineteen (19) years old);  
- Appellant’s previously clean record;  
- Absence of a weapon or physical violence.  

Disposition:  
Conviction affirmed. Original sentence quashed. Sentence varied.  

Sentence:  
Twelve (12) years imprisonment with hard labour.
(*) Hilary Mitchell v The State  
C.A.CRIM.34/1990  
de la Bastide CJ, Hamel-Smith JA, Warner JA  
January 25, 2000  

The appellant was the victim's stepfather with whom she lived. At the age of thirteen (13), the appellant tied her hands and raped her. On another occasion, he again had sexual intercourse with her which resulted in pregnancy and an offspring. The appellant was convicted on a charge of having Unlawful Sexual Intercourse with a girl under the age of Fourteen. He was sentenced to twenty-two (22) years imprisonment with hard labour. The appellant had no previous convictions.

Disposition:

Appeal against conviction refused. Appeal against sentence granted. Sentence reduced.

Sentence:

Fifteen (15) years imprisonment with hard labour.

(*) Quintin Charleau v The State  
C.A.CRIM.64/1995  
de la Bastide CJ, Jones JA, Warner JA  
December 10, 1998  

The appellant had sexual intercourse with his thirteen (13) year old daughter on the floor of the bedroom of the home, without her consent. He was convicted on a two-count indictment for Incest and Carnal Knowledge of a girl Under Fourteen. He was sentenced to thirty (30) years imprisonment with hard labour on each count, to run concurrently.

Aggravating Factors (considered by the trial judge):

- The appellant had previous convictions for Carnal Knowledge and Rape.

Disposition:

Appeal dismissed. Convictions affirmed.

Sentence:

Seven (7) years imprisonment with hard labour for Incest.

Thirty (30) years imprisonment with hard labour for Carnal Knowledge of a girl under Fourteen years.

Sentences to run concurrently.

(*) Kevon King aka “Strongy” v The State  
C.A.CRIM.155/1997  
Ibrahim JA, Permanand JA, Jones JA  
November 13, 1998  

The incident of rape occurred at an unfinished house where the victim went to shelter from the rain. The appellant's co-accused instructed him that he “have to break you out today”. The appellant was convicted on 1 count of Rape and sentenced to five (5) years imprisonment
with hard labour. He was jointly charged with another who was sentenced to seven (7) years imprisonment with hard labour.

Mitigating Factors (considered by the trial judge):

- The age of the appellant at the time of the offence (fourteen (14) years old);
- First time offender;
- While the matter was pending, over a 6 year period, the appellant had not gone astray.

Disposition:

Appeal refused. Conviction and sentence affirmed.

Sentence:

Five (5) years imprisonment with hard labour.

(*) Alton Porter v The State  
C.A.CRIM.165/1997  
Ibrahim JA, Hamel-Smith JA, Permanand JA  
June 5, 1998

The appellant and another, armed and with concealed faces, pretended to be police officers with a search warrant to be executed at the victim’s dwelling house. The members of that household had retired to bed when the appellant and his companion forced their way into the home. The appellant’s companion raped WB and CM and then forced them to perform oral sex. The appellant then entered the room and raped CM and forced her to perform oral sex on him, after which he again raped her. Both men then took items from the house including household items and jewellery. The appellant was convicted on a five-count indictment and he was sentenced as follows:

1. Rape of WB – Forty (40) years imprisonment;
2. Serious Indecency on WB – Five (5) years imprisonment;
3. Rape of CM – life imprisonment (not to be released before forty (40) years) and to receive twenty (20) strokes with the cat-o-nine tails;
4. Serious Indecency on CM – Five (5) years imprisonment; and
5. Burglary and Larceny – Fifteen (15) years imprisonment for stealing property in excess of $700.00.

Aggravating Factors:

- Pretending to be police officers;
- Pretending to have had warrants that would give them access to the house;
- Arming themselves with lethal weapons;
- Disguising themselves with ski masks;
- Carefully thought-out plan to go to commit the offences.

Mitigating Factors:

- The age of the appellant at the time of the offence (twenty-four (24) years old);
- Previously clean record.
Disposition:

Sentence:
1st Count – Twenty (20) years imprisonment.
2nd Count – Five (5) years imprisonment with hard labour.
3rd Count – Twenty (20) years imprisonment and to receive twenty (20) strokes with the cat-o-nine tails.
4th Count – Five (5) years imprisonment with hard labour.
5th Count – Fifteen (15) years imprisonment with hard labour.
All sentences to run concurrently.

(*) Brian Billy v The State C4-39
C.A.CRIM.1/1997
Sharma JA, Hosein JA, Warner JA
March 18, 1998

The appellant had offered the victim, a fifteen (15) year old school girl, a ride to school. While they were in the car, he threatened her with a knife and took her to a house where he locked her in a room. He forced her to have sexual intercourse and then instructed her to fondle his penis. He was convicted on charges of Rape and Serious Indecency, for which he was sentenced to seven (7) years imprisonment with hard labour and five (5) strokes, and nine (9) months imprisonment respectively, to run concurrently.

Aggravating Factors:
• Need to protect society from this type of serious offence – young people must be able to go about their lives without fear;
• Young victim;
• Although the appellant assisted the Servol Training Institute, the court found that he had betrayed the trust that the community had placed in him to work with young people;
• Need to deter others.

Mitigating Factors:
• No previous convictions;
• Incarcerated for 5 years prior to the trial.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Seven (7) years imprisonment with hard labour with five (5) strokes for Rape.
Nine (9) months imprisonment for Serious Indecency.
Sentences to run concurrently.
Nigel Osbourne v The State
C.A.CRIM.101/1997
Ibrahim JA, Hamel-Smith JA, Hosein JA
March 5, 1998

The appellant was a member of the Protective Services. By virtue of his office as a member of the Defence Force, he was issued an identification card which he used to pretend that he was a police officer with authority to investigate crime. He perpetrated an act of Rape on the victim for which he was sentenced to fifteen (15) years imprisonment with ten (10) strokes.

Aggravating Factors:
None specifically identified by the court, but it ought to be noted:
- The appellant was a member of the Defence Force and was in a position of trust and confidence;
- There was an element of trickery.

Disposition:
Sentence affirmed.

Sentence:
Fifteen (15) years imprisonment with ten (10) strokes.

(*) Errol Nurse Rudder v The State
C.A.CRIM.15/1997
Ibrahim JA, Hamel-Smith JA, Permanand JA
January 15, 1998

The appellant picked up the victim, a fourteen (14) year old school girl, on the pretext of dropping her to school. Instead, he took her to a track and forced her to have sexual intercourse with him. The appellant was convicted on a charge of Rape and sentenced to fifteen (15) years imprisonment with hard labour and ten (10) strokes with the birch.

Aggravating Factors:
- The victim was a virgin at the time of the incident;
- Need to protect women in society from sexual predators;
- The appellant was forty-three (43) years old at the time of the incident – an adult male with full consciousness.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fifteen (15) years imprisonment with hard labour and ten (10) strokes with the birch.
(*) Boodlal Sooklal v The State C4-42
C.A.CRIM.54/1997
Sharma JA, Permanand JA, Jones JA
November 19, 1997

The appellant was the stepfather of 2 girls who gave evidence that he performed acts of sexual intercourse with them on several occasions. The appellant was sentenced to terms of imprisonment, totalling twenty (20) years, on 3 counts of Sexual Intercourse with a Female Under Fourteen and 3 counts of Serious Indecency.

**Aggravating Factors:**
None specifically identified, though it is noteworthy to include:

- The young age of the victims – ten (10) and eleven (11) years old;
- The appellant was their stepfather and in a position of trust;
- There were repeated incidents.

**Disposition:**
Sentence affirmed.

**Sentence:**
Twenty (20) years imprisonment.

(*) Lennox Otway v The State C4-43
C.A.CRIM.73/1997
Sharma JA, Hosein JA, Permanand JA
November 13, 1997

The victim was walking along the roadway when the appellant approached her from behind, choked her, and pulled her into some bushes where she was raped. He was convicted on a charge of Rape and sentenced to twenty-five (25) years imprisonment with hard labour and ten (10) strokes with the birch.

**Aggravating Factors:**
- Fourteen (14) previous convictions – some of which were for sexual offences;
- Serious offence that must be treated severely;
- Previously served prison sentences but did not use the opportunities for rehabilitation, as was evident by his re-offending;
- Court had a duty to protect society.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Twenty-five (25) years imprisonment with hard labour and ten (10) strokes with the birch.
(*) Larry Baptiste v The State
C.A.CRIM.42/1997
Sharma JA, Permanand JA, Jones JA
November 7, 1997
The appellant, together with another, was charged with having sexual intercourse with
the victim without her consent. The victim was taken to a beach where she was raped by
the appellant’s accomplice in his presence. Afterwards, the appellant approached her and
attempted to put his penis in the victim’s mouth and attempted to have sexual intercourse
with her, but she was able to fight him off. At trial, the appellant was convicted of Rape as he
was found to be a part of a joint enterprise to rape the victim. He was sentenced to ten (10)
years imprisonment with hard labour.

Aggravating Factors:
- The appellant betrayed the trust that the victim had in him in arranging for her to get
  a ride home.

Mitigating Factors:
- The appellant assisted the victim in finding her way to a hotel where she received
  some assistance.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Ten (10) years imprisonment with hard labour.

(*) Christopher Glasgow v The State
C.A.CRIM.8/1997
Ibrahim JA, Hosein JA, Jones JA
October 8, 1997
The appellant, armed with a cutlass, attacked a group of 4 persons who were walking
home from a concert. Three of the victims were beaten but escaped. The fourth victim was
beaten and raped. The appellant was convicted on 3 counts of Assault Occasioning Actual
Bodily Harm and sentenced to nine (9) months imprisonment to run concurrently with his
conviction of Rape, for which he was sentenced to ten (10) years imprisonment and ten (10)
strokes with the birch.

Aggravating Factors:
- The seriousness of the offence;
- Need to protect society.

Disposition:
Appeal dismissed. Convictions and sentences affirmed.

Sentence:
Nine (9) months imprisonment on three counts of Assault Occasioning Actual Bodily Harm.
Ten (10) years imprisonment and ten (10) strokes with the birch for Rape.
Sentences to run concurrently.
(*) Lance O’Garro v The State  
C.A.CRIM.51/1996  
de la Bastide CJ, Gopeesingh JA, Hosein JA  
June 30, 1997

The appellant entered the fifteen (15) year old victim’s bedroom when she was asleep. She awoke to find him armed with a knife and he threatened to kill her. He then raped her and performed oral sex on her, without her consent. The appellant was charged with and convicted of the offences of Rape, Indecent Assault, and Serious Indecency. He was sentenced to thirty (30) years imprisonment with hard labour for Rape and twenty (20) years imprisonment with hard labour for Indecent Assault and for Serious Indecency.

Aggravating Factors (considered by the trial judge):
- Seriousness of the offence;
- Circumstances of the offence – the victim, a young school girl, asleep in her bedroom when the appellant intruded her privacy and committed pugnacious acts upon her;
- Previous conviction.

Disposition:
Appeal dismissed. Conviction affirmed. Sentence varied.

Sentence:
Twenty (20) years imprisonment with hard labour on the count of Rape.

(*) O’Brian Mc Carter v The State  
C.A.CRIM.45/1996  
Sharma JA, Gopeesingh JA, Hosein JA  
December 4, 1996

The appellant lured the victim into a track, pulled her into a house, pushed her down to the floor and raped her. The appellant was convicted on a charge of Rape for which he was sentenced to fifteen (15) years imprisonment with hard labour and ten (10) strokes with the whip.

Aggravating Factors:
- The seriousness of the offence;
- The appellant showed no remorse – maintained that he was innocent.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fifteen (15) years imprisonment with hard labour and ten (10) strokes with the whip.
Dion Julien v The State  
C.A.CRIM.56/1996  
de la Bastide CJ, Hamel-Smith JA, Gopeesingh JA  
July 11, 1996

The victim went to a dance on the invitation of the appellant, whom she knew. En route home, the appellant pushed her against a wall and she became unconscious. He engaged in sexual intercourse with her without her consent. The appellant splashed water on the victim’s face to revive her and offered to escort her home. The appellant was convicted on a charge of Rape for which he was sentenced to twenty (20) years imprisonment with hard labour.

**Mitigating Factors:**
- The age of the appellant, being twenty-two (22) or twenty-three (23) years old;
- The appellant had a clean record;
- He showed concern by splashing water on the victim’s face and asked her whether she wanted to be escorted home.

**Disposition:**
Sentence varied.

**Sentence:**
Ten (10) years imprisonment with hard labour.

(*) Soonar Mungroo v The State  
C.A.CRIM.17/1995  
Sharma JA, Hamel-Smith JA, Hosein JA  
May 10, 1996

The appellant entered the bedroom of his thirteen (13) year old daughter and forcibly had sexual intercourse with her, at knife point. He was convicted on a charge of Incest and sentenced to twenty-five (25) years imprisonment with hard labour.

**Aggravating Factors:**
- The “heinousness and repugnance” of the offence as described by the trial judge;
- The age of the victim (thirteen (13) years old);
- The position of trust and confidence in fathers.

**Disposition:**
Appeal dismissed. Conviction and sentence affirmed.

**Sentence:**
Twenty-five (25) years imprisonment with hard labour.
(*) Junior Alexander v The State
C.A.CRIM.80/1992
Sharma JA, Hamel-Smith JA, Hosein JA
May 8, 1996

The victim was a nurse on duty who was robbed and raped by the appellant, who was armed with a knife. The victim’s husband witnessed part of the act for which the appellant was convicted. For the offences of Robbery with Aggravation and Rape, he was sentenced to fifteen (15) years imprisonment with hard labour and thirty-five (35) years imprisonment with hard labour and twenty (20) strokes with a birch respectively (to run concurrently).

Aggravating Factors:
- The seriousness of the offence;
- The victim was at work in the quiet surroundings of the hospital where she looked after people in need;
- Weapon used;
- Husband witnessed part of the atrocious act;
- Need to deter others.

Disposition:

Appeal dismissed. Conviction and sentence affirmed.

Sentence:

Fifteen (15) years imprisonment with hard labour for Robbery with Aggravation.

Thirty-five (35) years imprisonment with hard labour and twenty (20) strokes with a birch for Rape.

Sentences to run concurrently.
MURDER AND FELONY MURDER (C5)

AGGRAVATING FACTORS:

- The extent of planning and premeditation;
- The offence was committed for gain;
- The involvement of multiple attackers;
- The use of a weapon;
- The use of gratuitous violence;
- The concealment of the body.

MITIGATING FACTORS:

- The appellant was believed to be of good character;
- The age of the appellant at the time of the offence;
- The appellant expressed remorse.

Current Maximum Penalties for Murder and Felony Murder

Murder

Prescribed penalty:
Death: Section 4 of the Offences Against the Person Act, Chapter 11:08.

Felony Murder

Prescribed penalty:
Life imprisonment: Criminal Law Act, Chapter 10:04/Case Law.
The respondent and others entered the deceased’s garden with the intention to commit a robbery. The respondent was armed with a shotgun, his co-assailants with cutlasses. The deceased and another man present were ordered by the co-assailants to lie on the ground. They were “planassed” while the respondent watched. The other man present escaped and contacted police. Upon arrival, the police discovered the deceased’s body lying face down in a ravine of water some distance from his garden. The respondent was arrested and charged with the murder of the deceased. The respondent pleaded guilty. The respondent was sentenced to ten (10) years imprisonment with hard labour to run from the date on which the he pleaded guilty.

Aggravating Factors:
- The respondent had previous convictions;
- The role the respondent played in the offence.

Mitigating Factors:
- Guilty plea;
- Time spent in custody.

Current Maximum Penalty: Death.

Disposition:
Appeal allowed. Sentence varied.

Sentence:
Nine (9) years and four (4) months imprisonment to run from date of guilty plea.
sentenced to fourteen (14) years imprisonment while Ayow was sentenced to twelve (12) years imprisonment.

The Court of Appeal endorsed the position expressed in R v Norfolk [2001] NZCA 245, that the assessment of the starting point is not capable of exact arithmetical gradation or scaling. It was said that the two matters that were susceptible to more exact mathematical calculation were the appropriate discount for a timely guilty plea and credit for time spent in pre-trial custody.

The court opined that the overall sentencing structure should, in general terms, (apart obviously from containing the judge’s explicit reasoning on all relevant issues) reflect the following matters:

(i) The calculation of the starting point which takes into account the aggravating and mitigating factors of the offence only; these are the objective circumstances which relate to the gravity of the offence itself and which assist in gauging its seriousness, that is, the degree of harmfulness of the offence;

(ii) An appropriate upward or downward adjustment of the starting point (or dependent on the circumstances, and if there is in effect, a cancelling out, no adjustment at all), which takes into account the aggravating and mitigating factors relative to the offender; these are the subjective circumstances of the offender which in turn inform the degree of the culpability of the particular offender;

(iii) (Where appropriate), a discount for a guilty plea; any deviation from the usual discount requires particularly careful justification and an explanation which is clearly expressed; and

(iv) Credit for the period of time spent in pre-trial custody.

The court went on to say that while a preferable methodology for sentencing had been adopted, it was nonetheless axiomatic that the exercise of sentencing must contain an appropriate level of flexibility. This level of flexibility was most evident at the second stage or tier of the process. However, the court cautioned against pegging set numerical values to various aggravating and mitigating factors. It was said that instead, what was required was that the relevant factors be taken into account by the sentencer and that appropriate adjustments be made to the starting point. The figure derived after the second stage adjustment should aim to broadly (and not with mathematical exactitude) reflect the mix of aggravating and mitigating factors relative to the particular offender.

Aggravating Factors:

- The extent of planning and premeditation;
- The offence was committed for gain;
- The involvement of multiple attackers;
- The use of a weapon;
- The use of gratuitous violence;
- The concealment of the body.

Mitigating Factors:

- None.

Current Maximum Penalty: Death.
Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fourteen (14) years imprisonment for Lauren Aguillera, Shawn Ballai, and Evans Ballai.
Twelve (12) years imprisonment for Richie Ayow.

Alexander Don Juan Nicholas, Gregory Tan and Oren Lewis v The State
C.A.CRIM.1–6/2013
Weekes JA, Soo Hon JA, Narine JA
December 17, 2013

On or about August 27, 2002 at around 10:00 pm, the appellants approached the deceased, who was a taxi-driver and hired him to take them to La Horquetta. The three appellants and another man, Barthol, entered the deceased’s car. Along the way, in a dark spot, Tan and Lewis pulled the deceased into the back seat of the car. Nicholas then went into the driver’s seat. Tan and Lewis proceeded to beat the deceased and he was robbed of $63.00. During the incident, the deceased pleaded for his life and urged the men to simply take the car and leave. However, Lewis told Nicholas “this man see too much” and said to Barthol, “youth man, you have to stay quiet on this one eh.” Tan and Lewis continued to beat the deceased. They then removed the deceased’s belt from his waist and began choking him with it. Barthol heard the deceased gasping for breath and then he heard a cracking sound. Lewis confirmed that the deceased was dead. The deceased’s body was then thrown into a river in Manzanilla. The appellants pleaded guilty.

The court imposed a sentence of life imprisonment for Murder.

The Court of Appeal reminded that in every case of sentencing on a conviction for felony murder the judge must consider what sentence is appropriate in the given circumstances. Consideration of the imposition of the death penalty ought to be reserved for cases in which there has been a finding of guilt and the circumstances are especially egregious and a flagrant assault on the sensibilities of all right thinking persons in the society. This is not to deny the discretion of a judge to impose such a sentence in a case in which there has been a plea of guilty, but that would apply only in the most egregious circumstances. Where a life sentence is at all a consideration, the first factor to be determined is the rehabilitative possibilities of the convict.

Aggravating Factors:
- The seriousness and prevalence of the offence;
- The offence was committed in pursuit of financial gain;
- The disposal of the deceased’s body;
- The appellants sold the parts of the car the morning after the incident;
- Lewis had formed an intention to cause grievous harm;
- The deceased was hit several times after he had died.

Mitigating Factors:
- Guilty plea;
- The appellants expressed remorse;
The ages of the appellants;
The appellants were good candidates for reform and social re-adaptation.

Current Maximum Penalty: Death

Disposition:
Appeal against sentence allowed. Sentence varied and to run from date of sentence.

Sentence:
Nineteen (19) years and ten (10) months imprisonment with hard labour.

Walter Borneo v The State  
C.A.CRIM.7/2011  
Weekes JA, Soo Hon JA, Narine JA  
April 05, 2011

The appellant was the deceased’s neighbour. On the day in question, the deceased’s wife had gone to open the gate to her apartment when she noticed some gunmen approaching. One of the gunmen locked her neck and took her to the living room of her apartment. The deceased was in the kitchen when one of the men asked him for “weed” to which the deceased replied that he did not know anything about that. The deceased was then taken to another apartment upstairs while his wife was kept downstairs. The deceased’s wife then heard a gunshot. The man who was holding her released her and ran. She then ran in the direction of the upstairs apartment. Before she reached upstairs, she saw two persons running away. She recognized one of the persons as the appellant. The appellant was arrested the following day. The appellant pleaded not guilty. He was charged with the murder of the deceased.

The court imposed a sentence of fifteen (15) years imprisonment with hard labour.

The Court of Appeal expounded that time spent in custody ought to be discounted from the sentence. Prevailing conditions on remand in prisons are such that the entire period spent in pre-sentence custody ought to be discounted from the sentence that the trial judge arrives at, having taken into account the gravity of the offence, and mitigating and aggravating factors. The judge should state the appropriate sentence so arrived at, then deduct the time spent on remand awaiting trial for the offence, showing in a clear and transparent fashion how the sentence to be served is arrived at.

Aggravating Factors:
- The use of a weapon;
- There was a breach of trust;
- The appellant committed the offence for gain;
- There was a home invasion.

Mitigating Factors:
- The appellant was believed to be of good character;
- The age of the appellant at the time of the offence (sixteen (16) years old).

Current Maximum Penalty: Death.

Disposition:
Appeal allowed.
Sentence:
Seventeen (17) years and six (6) months imprisonment with hard labour reduced to thirteen (13) years imprisonment with hard labour after deducting time spent on remand.

Lyndon Ramah and Ray Oliverrie v The State
C.A.CRIM.34/2015 and C.A.CRIM.35/2015
Weekes JA, Soo Hon JA, Mohammed JA
July 28, 2015

The deceased was shot during a robbery at a shop and bar operated downstairs of the family home in Palo Seco on June 30, 2005. The invasion first started at the family’s business place downstairs and then proceeded into the family home upstairs. At some point during the robbery, Oliverrie threatened to kidnap the deceased’s sister and the deceased told him not to do so. The other assailant, Keffin Lawrence, tied the deceased’s hands and the deceased pleaded for his life, begging that the assailants not kill him. The deceased was first shot in his leg by Ramah. After being given a false assurance by one of the assailants that his life might be spared, Ramah placed a gun to the deceased’s ear and shot him in the head at close range. The two appellants and Lawrence pleaded guilty to murder upon the basis of the felony murder construct. The court imposed a sentence of seventeen (17) years and eleven (11) months imprisonment for both appellants.

The Court of Appeal, in calculating the sentence of the appellants, held that there was no evidence to suggest that the two appellants, both having attained the age of majority (eighteen (18) and twenty (20) years), were manipulated or influenced in even the slightest way in their involvement in the offence. The court found that the appellants appeared to have made some very deliberate decisions and to have carried out a concerted plan. The court also held that the involvement of any one appellant was not noticeably at a lower level than the other so as to justify a differentiation and reduction in sentence. The court noted the decision in Aguillera, Ballai, Ballai and Ayow v The State C.A.CRIM.5–8/2015, which referred to paragraph 42 of the decision in R v Taueki, Ridley and Roberts [2005] NZLR 372 where it was said that in sentencing, there is no need to draw “fine distinctions”.

Aggravating Factors:

• The offence was committed for gain;
• The involvement of multiple assailants;
• The use of a weapon;
• The use of gratuitous violence;
• The deceased pleaded for his life;
• The appellants threatened to kidnap the sister of the deceased.

Mitigating Factors:

• The age of the appellants at the time of the offence (twenty (20) and eighteen (18) years old).

Current Maximum Penalty: Death
Disposition:
Appeal allowed. Sentence varied.

Sentence:
Thirteen (13) years and three (3) months imprisonment.

Ryan Ramoutar, Pream Badree and Hassan Hosein v The State  
C.A.CRIM.28–30/2015
Weekes JA, Soo Hon JA, Mohammed JA
July 23, 2015

The three appellants devised a plan to take the deceased, a “PH” (private taxi) driver to an apartment in Calcutta Road No 1 in McBean Village, Couva and to rob and kill him. Pursuant to this plan, on November 26, 2004 the three appellants entered the deceased’s taxi. Ramoutar directed the deceased to his friend’s apartment at Calcutta No 1, in McBean Village, Couva. When they arrived at the apartment, and while in the deceased’s car, Hosein proceeded to strangle the deceased with a thin piece of marlin string while Badree kicked the deceased in his face. Ramoutar then got into the front seat of the car and attempted to break the neck of the deceased. The appellants then dragged the deceased out of the car and took him to the back shed of the apartment. Ramoutar ran inside the apartment, snatched three knives and distributed them to the other appellants. Hosein then proceeded to stab the deceased in his chest while Badree stabbed him in the face. Ramoutar pulled out a penknife, stuck it in the left side of the deceased’s neck, and pulled it across his throat. He also cut the deceased on his hand and continued to beat him some more, after which all three appellants dragged the deceased into some nearby bushes and left his body there. The three appellants pleaded guilty to murder upon the basis of the felony murder construct. The court imposed a sentence of fourteen (14) years and four (4) months imprisonment for each of the appellants.

The Court of Appeal, in calculating the sentences of the appellants, considered in great detail the young age considerations. The court held that once the age of majority had been attained (ie 18 years) with the attendant conferral of important adult rights and privileges (such as the capacity to contract and to vote), youth by itself would not inevitably lead to a reduction in sentence. Adult offenders must be taken, where deliberate action is engaged in, to have courted the consequences of their behaviour and choices. The court held that if the age of majority was to be considered as meaningful, representing as it does both notionally and practically the portal into the world of adult decision-making and overall responsibility, then any offender of and over that age will have a severely uphill task in persuading a sentencing court that without more, comparative youth is a mitigating factor.

The court went on to say that if on the evidence, it could be seen that the youth of an offender had rendered him susceptible to more mature influence, this may be a factor which could, depending on the context, be taken into account and it might lead either to a minor reduction or to a more substantial reduction in the sentence.

In respect of offenders who had not yet attained the age of majority, the Court held that the courts might assume a certain level of immaturity in the absence of any evidence which might suggest otherwise, for example, where a minor was clearly a “ringleader” and involves others, even adults, in the subject wrongdoing. In the absence of such evidence, a nominal reduction may be given as a nod to youth.
The Court noted the decision in R v Mako [2000] NZCA 407, [2000] 2 NZLR 170 (CA) where Gault J opined at paragraph 65:

Youth and the prospects of rehabilitation may be mitigating factors. Offenders, and there seem a disturbing number, who have accumulated considerable lists of convictions while still in their teens cannot expect leniency in sentencing for serious aggravated robbery offences. As noted in the judgment of the Full Court of the High Court in Cooper a high proportion of aggravated robberies in this country are committed by teenagers. In some cases young offenders may have been directed by others who are older. It would only encourage that practice to impose lower sentences unless there are real prospects of rehabilitation and unlikelihood of re-offending.

**Aggravating Factors:**

- The offence was committed for gain;
- The involvement of multiple assailants;
- The use of a weapon;
- The use of gratuitous violence;
- The disposal of the body.

**Mitigating Factors:**

- The age of the appellants at the time of the offence (Ramoutar – seventeen (17) years old and Badree – fifteen (15) years old).

**Current Maximum Penalty:** Death

**Disposition:**

Appeal allowed. Sentences varied.

**Sentence:**

Eight (8) years and eight (8) months imprisonment for Ryan Ramoutar and Pream Badree.
Nine (9) years and four (4) months imprisonment for Hassan Hosein.

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Shelly Ann Anganoo v The State
C.A.CRIM. 39/2009
Weekes JA, Bereaux JA, Narine JA
April 20, 2011

The deceased went to a bar at Curepe where he met the appellant and her co-appellant Nadia Pooran. Having spent some time at the bar with both women, he left the bar. Shortly after, both women met him outside. They entered his car and were later joined by two other co-appellants. The deceased was then robbed of his money and placed in the back seat of his car. The car was driven to Blackdirt Trace, Barataria. The deceased’s hands and feet were bound, he was stabbed several times with a pair of scissors and struck repeatedly with a wheel spanner. The deceased was stripped of his clothing and thrown into a nearby waterway. The appellant and Pooran took off their clothes and dived into the water. They held the deceased under the water to ensure that he was dead. Later that night, Pooran attempted to use the deceased’s bank card without success. The deceased’s car was driven to Wallerfield by one of the male
co-appellants, where it was burnt together with his bank card and clothing. The appellant was subsequently arrested in Tobago and gave a statement admitting that she struck the deceased with a beer bottle, and hit him twice on his head with a spanner. She also admitted to stabbing the deceased on his hand with a scissors. The appellant pleaded not guilty. The appellant was jointly charged with three others for the murder of the deceased.

The court imposed a sentence of fifteen (15) years imprisonment with hard labour.

Aggravating Factors:
- The offence was committed for gain;
- The use of gratuitous violence;
- There was no evidence that the deceased attacked or provoked the appellant;
- The brutality and callousness involved;
- The appellant cut her hair and fled to Tobago to avoid being detected.

Mitigating Factors:
- The offence did not appear to be premeditated;
- The appellant gave a voluntary statement and cooperated with the police;
- The appellant pleaded guilty before the commencement of the trial;
- The appellant showed remorse;
- The age of the appellant at the time of the offence (eighteen (18) years old);
- The appellant had no previous convictions.

Current Maximum Penalty: Death.

Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Fifteen (15) years imprisonment with hard labour.

Nimrod Miguel v The State  C5-8
C.A.CRIM.5/2008
Hamel-Smith JA, John JA, Weekes JA
January 30, 2008

The appellant, along with 3 other persons, participated in the robbery of the deceased’s car. The deceased’s hands and feet were bound with shoelaces and his mouth was tied with a piece of cloth. The deceased was also shot twice in his head. The appellant pleaded not guilty. He was charged with murder.

The court imposed a sentence of Death by hanging.

Aggravating Factors:
- The use of a weapon (gun);
- The offence was committed for gain;
- There were multiple assailants.

Mitigating Factors:
- The age of the appellant at the time (twenty (20) years old).
Disposition:
Appeal dismissed. Conviction and sentence affirmed.

Sentence:
Death by hanging.

Gerard Trevor Wilson v The State  
C.A.CRIM.31/2006  
Archie CJ, Mendonca JA, Weekes JA  
May 31, 2006

On the day in question, the appellant broke into the deceased’s premises in order to satisfy his hunger. While there, he went to the kitchen where he satisfied his hunger and then decided to look for money. He searched the deceased’s wardrobe and found $102.00 which he took. At some point during the incident, the appellant’s foot struck a pan on the floor and the noise awakened the deceased. On seeing the appellant, the deceased began to scream and the appellant grabbed her mouth in an effort to quiet her. A struggle ensued and the deceased continued to resist and raised an alarm. In an attempt to silence the deceased, the appellant gagged and bound her and also tied a bed sheet around her throat and hands. The appellant pleaded not guilty.

The court imposed a sentence of Death by hanging.

Aggravating Factors:
- The use of violence;
- The appellant invaded the deceased’s home;
- The appellant raped the victim.

Mitigating Factors:
- The appellant showed signs of remorse.

Disposition:
Appeal allowed. Conviction substituted with Manslaughter.

Sentence:
Twenty-five (25) years and nine (9) months imprisonment.
NOTES
NOTES
Section D

Withdrawn Appeals

OFFENCES AGAINST THE PERSON (D1)

AGGRAVATING FACTORS:
- The offence was committed with a weapon;
- The victim was struck on the head;
- The seriousness of the offence;
- The defendant acted out of a loss of temper;
- Previous convictions;
- The attack was unprovoked;
- The absence of remorse;
- The prevalence of the offence

MITIGATING FACTORS:
- The defendant had no companions when committing the offence;
- No injuries sustained during the commission of the offence;
- Guilty plea;
- No previous convictions;
- Genuine remorse.

Current Maximum Penalties for Manslaughter/Unlawful Killing

Manslaughter
Prescribed penalty:
Imprisonment for life/term of years/payment of a fine as the Court shall direct: Section 6 of the Offences Against the Person Act, Chapter 11:08.
Causing Death by Dangerous Driving

Prescribed Penalty:

Amendment (2000) – Section 71 of the Motor Vehicles and Road Traffic Act, Chapter 48:50:

1. Any person who causes the death of another person by driving a motor vehicle dangerously on a road, commits an offence and is liable on conviction on indictment to imprisonment for fifteen years.

2. A person convicted of an offence under this section shall, without prejudice to the power of the Court to order a longer period of disqualification, be disqualified for a period of fifteen years from the date of the conviction from holding or obtaining a driving permit, and on a second conviction for a like offence he shall be permanently disqualified from holding or obtaining a driving permit.

3. Any constable may arrest without warrant the driver of any motor vehicle who commits an offence under this section within his view, if he refuses to give his name and address, or if the constable has reason to believe that the name or address so given is false, or if the motor vehicle does not bear an identification plate.

Current Maximum Penalty for Attempted Murder

Attempted Murder

Prescribed penalty:

Imprisonment for life or for any term of years: Section 9 of the Offences Against the Person Act, Chapter 11:08.

Current Maximum Penalties for Wounding with Intent

Shooting/Wounding with Intent to do Grievous Bodily Harm

Prescribed penalty:

Fifteen (15) years imprisonment: Section 12 of the Offences Against the Person Act, Chapter 11:08.

Inflicting Injury with or without a Weapon

Prescribed penalty:

Five (5) years imprisonment: Section 14 of the Offences Against the Person Act, Chapter 11:08.
Current Maximum Penalties for Kidnapping

Kidnapping (for Ransom)

Prescribed penalty:

Imprisonment for not less than the remainder of natural life: Section 3 of the Kidnapping Act, Chapter 11:26.

Kidnapping (Common Law)

Prescribed Penalty:

Life imprisonment.
On November 4, 2003 the defendant shot at the first complainant with intent to do him grievous bodily harm and assaulted the second complainant. The defendant placed a gun to the back of the second complainant and ordered the second complainant into the first complainant's home where the second complainant was ordered to call out to the first complainant. As the first complainant entered, the defendant shot at him about 5 times and ran off. The first complainant sustained a gunshot wound to his right forearm. The defendant pleaded guilty.

Justice Henderson started with considering the maximum penalties for each offence contrary to the Offences Against the Person Act, Chapter 11:08. The court then considered the seriousness of the offence, particularly for the shooting with intent charge, and the aggravating and mitigating factors. The five objects of sentencing as set out in the case of Benjamin v R (1964) 77 WIR 459, considered and applied in Farfan v The State were considered: retribution, deterrence of other potential offenders, and deterrence of the appellant, prevention, and rehabilitation. The court then considered the aggravating factors, including all previous convictions of the defendant. The first mitigating factor considered was that the defendant pleaded guilty, which by law, discounts the sentence by one third. The court then considered the lengthy period which the defendant had already spent in custody between the time of arrest and date of trial, which amounted to five and a half (5 ½) years and the other mitigating factors. On looking at the authorities: Michael Mann v The State (offence – shooting at police officers, maximum sentence Fifteen (15) years), and Dale Richards v The State, the usual starting point is ten (10) years. A third of the sentence was deducted due to guilty plea and the five and a half (5 ½) years served considered.

The court imposed a sentence of fifteen (15) months imprisonment with hard labour for Shooting with Intent and one (1) year imprisonment with hard labour for Common Assault.

**Aggravating Factors:**
- The seriousness and prevalence of the offence;
- The act was deliberate and premeditated;
- The use of a weapon;
- The defendant had 4 previous convictions.

**Mitigating Factors:**
- Guilty plea;
- The defendant acted alone;
- The defendant was well thought of in his neighbourhood;
- The defendant was married.

**Current Maximum Penalty:** Fifteen (15) years imprisonment for Shooting with Intent. Fine of $4,000.00 and two (2) years imprisonment for Common Assault.
Disposition:
Appeal withdrawn.

Sentence:
Fifteen (15) months imprisonment with hard labour for Shooting with Intent.
One (1) year imprisonment with hard labour for Common Assault.

Roland Smith v The State
C.A.CRIM.22/2011
Justice Mark Mohammed
October 17, 2011

The complainant, a member of the Trinidad and Tobago Defence Force (TTDF), left his home in Sande Grande and was armed with his service pistol and 13 rounds of 9mm ammunition. He was walking south along Manic Street where he noticed someone looking like the defendant, a man he knew to be wanted by the Sande Grande Police. He recognised the defendant who he knew for the better part of fifteen (15) years. He identified himself by his TTDF ID card and told the defendant he was wanted by the police. The defendant replied “Soldier I will effing kill you,” and he pulled a knife. A struggle ensued and the complainant fell backwards. The defendant came at him, which caused the complainant to shoot the defendant twice. The defendant dropped the knife and then he fell to the ground. The complainant was then taken to the hospital and later arrested. The defendant pleaded guilty to Assault Occasioning Actual Bodily Harm.

On January 30, 2007 the complainant was in the kitchen of her farm and she was bending over a bucket in her kitchen when she felt someone pull her from behind. She turned and saw the defendant with a cutlass in his hand. He put the cutlass to her mouth and told her not to make a sound, do as he said and no harm would come to her. He led her a bedroom and the prisoner made her lie face down on the mattress and jammed his knee in her back of her knees and held her hands down. They then began struggling. The defendant told her that he had a knife in his pocket and would stab her. The defendant lunged at the complainant with the knife and around that same time her phone rang. The complainant was able to get hold of the cutlass, free her left hand and also got hold of the knife. She screamed for her neighbour. The defendant took the cutlass and knife away from the complainant and fled the scene. He was later arrested. The defendant pleaded guilty to Assault with Intent to Rob.

Justice Mohammed started with five (5) years imprisonment for Assault Occasioning Actual Bodily Harm but deducted a third for the guilty plea. The sentence would have been three (3) years and four (4) months imprisonment but due to time spent in remand, the sentence was considered served. For Assault with Intent to Rob, Justice Mohammed started with fifteen (15) years imprisonment with hard labour. A third was deducted for the guilty plea and a further four (4) years and eight (8) months for time spent in custody.

The court imposed a sentence of five (5) years and four (4) months imprisonment with hard labour for Assault with Intent to Rob.

Aggravating Factors:
- The defendant had sixteen (16) previous convictions.
Mitigating Factors:

- The defendant pleaded guilty.

Current Maximum Penalty: Five (5) years imprisonment for Assault Occasioning Actual Bodily Harm. Fifteen (15) years imprisonment for Assault with Intent to Rob.

Disposition:

Appeal withdrawn.

Sentence:

Five (5) years and four (4) months imprisonment with hard labour for Assault with Intent to Rob, to begin from date of guilty plea.
AGGRAVATING FACTORS:

- The victim was a young child and there were repeated incidents of sexual abuse;
- The defendant was related to or held a position of trust in relation to the victim or the victim’s parents, such as a teacher or neighbour;
- The offence was continued or repeated despite the victim’s protestations;
- The offence was accompanied by violence;
- The indecency involved in the act was of an obvious and gross character;
- Although the victim is not a child, there is still a significant disparity in age between the victim and the defendant.

MITIGATING FACTORS:

- The offender was young and immature.

Current Maximum Penalties for Sexual Offences

Rape

Prescribed penalty:
Imprisonment for life (or remainder of natural life): Section 4(2) of the Sexual Offences Act, Chapter 11:28.

Grievous Sexual Assault

Prescribed penalty:
Imprisonment for life (or remainder of natural life depending on the circumstances): Section 4A and 4(2) of the Sexual Offences Act, Chapter 11:28.

Sexual Penetration of a Child*

Prescribed penalty:
Life imprisonment: Section 18 of the Children Act, Chapter 46:01.

Indecent Assault*

Prescribed penalty:
Five (5) years imprisonment for the first offence and ten (10) years for a subsequent offence: Section 15(1) of the Sexual Offences Act, Chapter 11:28.
Serious Indecency*
Prescribed penalty:
Five (5) years imprisonment: Section 16(1) Sexual Offences Act, Chapter 11:28.

Buggery*
Prescribed penalty:
Twenty-five (25) years imprisonment: Section 13(1) Sexual Offences Act, Chapter 11:28.

* See Table of Maximum Penalties (Indictable Offences) at page XXXIX for History of and Changes to Offence and Penalty.
Noel Quinton v The State  
C.A.CRIM.101/2007  
Justice Hayden St Clair-Douglas  
October 30, 2013

The defendant pleaded guilty to an indictment containing 3 counts, each of sexual intercourse with a female between the ages fourteen (14) and sixteen (16). The complainant was a schoolgirl attending secondary school at the time and the defendant was thirty-six (36) years. Hey was a taxi driver at the time, with whom the victim usually travelled. The victim bore a child, who was ten (10) years old at the date of sentencing. The defendant pleaded not guilty and requested a paternity test be done. The test proved he was the father of the child, after which the defendant changed his plea to a guilty one.

Justice St Clair-Douglas started by considering the aggravating and mitigating factors. The defendant's guilty plea was recognised but diminished because the defendant had initially maintained a plea of not guilty until the receipt of the results of the DNA testing which identified him as the father of the child. Therefore, a discount of one fifth was given, rather than one third.

The court imposed a sentence of eight (8) years imprisonment with hard labour for each count.

**Aggravating Factors:**
- The seriousness and prevalence of the offence;
- The age disparity between the defendant and the victim (twenty-two (22) years)
- There was more than one incident of intercourse.

**Mitigating Factors:**
- The defendant had no previous convictions;
- No force was used.

**Current Maximum Penalty:** Fifteen (15) years imprisonment.

**Disposition:**
Appeal withdrawn.

**Sentence:**
Eight (8) years imprisonment with hard labour for each count.
Jamoi John v The State  
C.A.CRIM.16/2013  
Justice Devan Rampersad  
March 26, 2013

The complainant was five (5) years old at the time of the incident. The defendant is her uncle. The complainant and her brother had left to go to a neighbour’s house. The defendant was in the porch of the complainant’s grandmother’s house when he called out to her brother to collect some money. The complainant’s brother in turn sent her to collect the money. The complainant walked to the house and followed the defendant inside the house as he went to collect the money. The defendant pulled the complainant behind the front door and asked her for a “bull”. She grabbed the money and ran and the defendant pursued her and again asked her for a “bull” and to go to the middle room in the house. The complainant went to the room and the defendant closed the door. He then pulled down her pants and underwear, pushed her onto the bed and pushed his finger into her vagina. She pushed his hand away, pulled her pants and ran out the house and ran towards her brother. The following day, the complainant’s mother took her to the Health Centre where she was examined and the doctor found that the opening was very red and inflamed.

Justice Rampersad started with ten (10) years imprisonment with hard labour and deducted one (1) month for time spent in custody.

The court imposed a sentence of nine (9) years and eleven (11) months imprisonment with hard labour.

Aggravating Factors:
- The seriousness and prevalence of the offence;
- The breach of position of trust as the defendant was the victim’s uncle.

Mitigating Factors:
- The defendant had no previous convictions;
- The age of the defendant (nineteen (19) years old);
- He was gainfully employed as a labourer.

Current Maximum Penalty: Life imprisonment.

Disposition:

Appeal withdrawn.

Sentence:

Nine (9) years and eleven (11) months imprisonment with hard labour.

Calvin Gunness and Rishi Gunness v The State  
Justice Carla Browne-Antoine  
July 27, 2011

The complainant was a relative of the defendants. The complainant was seen outside of her home when the defendants went to the complainant and the first defendant dragged the complainant into her house with the assistance of the second defendant. The complainant was choked by the first defendant. The second defendant was the primary offender.
The complainant’s clothes were removed. The second defendant put his finger into the complainant’s vagina and sexually assaulted her. The defendants meant to take turns. The complainant fought off the defendants and ran away. The defendants pleaded guilty.

Justice Browne-Antoine first considered the maximum sentence for the offence laid down by sections 2–4 of the Sexual Offences Act, Chapter 11:28 as being the same as the maximum sentence for rape ie life imprisonment. The court then considered the aims of sentencing: individual deterrence, general deterrence, retribution, rehabilitation. The court then looked at the aggravating and mitigating factors with respect to each defendant individually and also considered the Probation Officer’s report for each.

The court imposed a sentence of three (3) years imprisonment with hard labour for Calvin Gunness and seven (7) years imprisonment with hard labour for Rishi Gunness.

**Aggravating Factors:**
- The seriousness and prevalence of the offence;
- The age disparity between the defendant and the victim (twenty-two (22) years);
- The act was done in join enterprise;
- The victim was fifteen (15) years old at the time;
- The was a breach of trust as the defendants and the victim were related to each other;
- Rishi Gunness had a previous conviction and was the primary offender.

**Mitigating Factors:**
- Calvin Gunness had no previous convictions;
- He was sixteen (16) years old at the time of the crime;
- The Probation Officer recommended a non-custodial sentence.

**Current Maximum Penalty:** Life imprisonment.

**Disposition:**
Appeal withdrawn.

**Sentence:**
Three (3) years imprisonment with hard labour for Calvin Gunness.
Seven (7) years imprisonment with hard labour for Rishi Gunness.
forced her skirt up, pulled off her underwear and forced open her legs. He then proceeded to perform oral sex on the complainant for about a minute without her consent. The complainant tried to fight back but the defendant tightened the cord around her neck. This caused her to stop breathing and she passed out on a second occasion. When she regained consciousness, the defendant had sexual intercourse with her for a period of 10–15 minutes without her consent. During the course of the ordeal, the defendant threatened to kill the complainant. After this, he demanded the keys for her car and then left. The defendant admitted to officers that he was “real high” that day because he took cocaine.

Justice Mohammed set out the four major aims of sentencing: Reformation and Rehabilitation – the aim of which is to allow the defendant an opportunity to come to terms with character flaws; Retribution – putting the defendant in a position where he has to make amends; Individual Deterrence – to deter the individual from committing offences, especially if he had a history of same; General Deterrence – sending a message to the society at large that certain crimes would not be tolerated lightly. The defendant suffered from polysubstance dependence, that is cocaine, marijuana and alcohol dependence. He was also treated on more than one occasion for psychosis but did not follow up on anti-psychotic medication. Dr Othello recommended the need for the prisoner to be in a structured substance abuse rehabilitation programme. The judge also looked at the report of the Probation Officer who spoke to a brother and ex-girlfriend of the defendant. They spoke of the positive caring qualities of the prisoner when he is not on drugs. Also considered from the probation report was the childhood of the prisoner. The judge found that the prisoner’s situation does not fall under the Mental Health Act and he would not be sent to St Ann’s Hospital.

Justice Mohammed started at twenty-five (25) years imprisonment for Rape. He deducted a third for the guilty plea and three (3) years for time spent in custody.

The court imposed a sentence of thirteen (13) years and (8) months imprisonment for Rape, seven (7) years imprisonment for Grievous Sexual Assault, and ten (10) years imprisonment for Robbery with Aggravation.

Aggravating Factors:
- The use of physical violence;
- The prevalence of the offence;
- The defendant had 6 previous convictions;
- The defendant threatened to kill the victim;
- The defendant had a weapon with a blade.

Mitigating Factors:
- The time spent in remand;
- Guilty plea.

Current Maximum Penalty: Life imprisonment for Rape. Life imprisonment for Grievous Sexual Assault. Fifteen (15) years imprisonment for Robbery with Aggravation.

Disposition:
Appeal withdrawn.
Sentence:
Thirteen (13) years and (8) months imprisonment for Rape.
Seven (7) years imprisonment for Grievous Sexual Assault.
Ten (10) years imprisonment for Robbery with Aggravation.
To run concurrently.
MURDER AND FELONY MURDER (D3)

AGGRAVATING FACTORS:

- The extent of planning and premeditation;
- The offence was committed for gain;
- The involvement of multiple attackers;
- The use of a weapon;
- The use of gratuitous violence;
- The concealment of the body.

MITIGATING FACTORS:

- The defendant was believed to be of good character;
- The age of the defendant at the time of the offence;
- The defendant expressed remorse.

Current Maximum Penalties for Murder and Felony Murder

Murder

Prescribed penalty:
Death: Section 4 of the Offences Against the Person Act, Chapter 11:08.

Felony Murder

Prescribed penalty:
Life imprisonment: Criminal Law Act, Chapter 10:04/Case Law.
Sheldon Walker, Sherwin Walker, and Kirth Alexander v The State
C.A.CRIM.2–4/2014
Justice Hayden St Clair Douglas
March 13, 2014

In the early morning hours of Carnival Tuesday, the defendants and others were participating in carnival activities. A sister and female cousin of the third defendant reported that they went to the bathroom and were propositioned and/or molested by a man. The defendants accompanied the females to the bathroom area where they pointed out the man, who was the deceased. There was a confrontation between the defendants, who had armed themselves with bottles and missiles, and the deceased who later fled the scene, but was pursued by the defendants. The Post Mortem Report indicated there was extensive bleeding over the surface of the brain and concluded that the deceased died from blunt force head injury. The defendants pleaded not guilty to Murder but guilty to Manslaughter.

Justice St Clair-Douglas started with fifteen (15) years imprisonment and deducted a third for the guilty plea. Eight (8) years and nine (9) months were then deducted for time spent in custody. The court imposed a sentence of one (1) year and three (3) months imprisonment.

Aggravating Factors:
- The seriousness and prevalence of the offence;
- The deceased was outnumbered.

Mitigating Factors:
- The offence was not premeditated. Offence committed in hot blood and prisoners used items at hand.
- Guilty plea;
- Prisoners had no previous convictions;
- Prisoners conducted themselves admirably during time spent in custody in the prison.

Current Maximum Penalty: Death.

Disposition:
Appeal withdrawn.

Sentence:
One (1) year and three (3) months imprisonment.