

BAHAMAS¹

The Bahamas is a string of 700 islands (30 of them inhabited) and 2,400 islets. With the third highest per capita income in the Americas, surpassed only by the United States and Canada, per capita GDP in the Bahamas was US\$ 15,132 in 1999, almost five times the average of US\$ 3,600 estimated for the rest of Latin America and the Caribbean.² Close to 68% of its present population of about 300 thousand inhabitants (297,852, according to the 2000 census) live on New Providence Island, where the capital city of Nassau is located. The second most populated area is Grand Bahamas Island, where 16% of the population resides. Although independent from England since 1973, the Bahamas is a member of the British Commonwealth of Nations. A Governor General appointed by the Queen represents the British monarchy. The leader of the party holding a parliamentary majority becomes the Prime Minister, and the Governor General confirms Cabinet members upon the Prime Minister's recommendation.

Highlights of the Judicial System

- Based on the Anglo Saxon common law tradition, civil and criminal controversies are resolved in a predominantly oral manner through the adversarial debate of disputing parties.
- Unofficial reports state that on average 0.93% of the public budget was allocated to the judicial branch during the 1990's.³ For example, the courts received 0.99% of the fiscal budget in 1997, which is equivalent to 0.21% of GDP for that year.⁴
- There were approximately 10 judges, 195 attorneys, and 778 police officers per 100 thousand inhabitants in the year 2000.
- During the same year, civil suits took up to 12 months to be resolved in the Magistrates Court, and two to three years in the Supreme Court. The duration of criminal cases varied from one to six years in the higher courts to just 18 months in the Magistrates Courts.

1. Institutions

Judicial Branch

The judicial system of the Bahamas is composed fundamentally of the Supreme Court, the Court of Appeal, and the Magistrates Court, with justice being administered under the English common law tradition. The Governor General appoints Supreme Court justices, registrars, and magistrates in consul-

tation with the Legal and Judicial Services Commission, which is a five-member body directed by the Chief Justice. The Governor General also appoints the Chief Justice and the Court of Appeal judges upon the recommendation of the Prime Minister and consultation with the opposition leader. Once appointed, the terms and conditions of the appointment mechanism cannot be changed to any judge's disadvantage. Supreme Court justices may remain on the bench until age 65, or exceptionally until age 67. Court of Appeal judges may sit until age 68, or with an exceptional extension for two years more. The Supreme Court has 12 justices including the Chief Justice.

The legal system in the Bahamas is adversarial in nature for both civil and criminal charges, and operates under a case law system employing legal precedents. The highest jurisdictional authority is the Privy Council in the United Kingdom, which is composed of either five or seven judges (always an uneven number).

The highest authority of the Bahamas Court of Appeal is the Chief Justice, who may only sit in this court when invited by the President of the Court of Appeal. The number of⁵ appeal court judges is established by parliament.

The Magistrates Courts try civil and criminal cases without juries.

The Coroner's Court is presided over by a magistrate who, with a seven-member jury, investigates

¹ The Bahamian institutions consulted for this report did not provide information or data on the operation of the judicial system. Thus, the authors resorted particularly to the following sources in preparing this chapter: the two volumes of the series, CGCED, *Challenges of Capacity Development Towards Sustainable Reforms of Caribbean Justice Sectors*: Vol. I: Policy Document (especially the annex "The Indicative Caribbean Justice Sector Information"), and Vol. II: *A Diagnostic Assessment*, Inter-American Development Bank (2000).

the circumstances of any inexplicable deaths in the Bahamas. At the conclusion of the investigation, this court presents its findings to the Public Prosecutor.

Lastly, the system includes lay magistrates who are generally justices of the peace appointed to preside over minor claims.

At present there are 30 judges in Bahamian courts: 6 Court of Appeal judges,⁶ 8 Supreme Court Justices, and 16 Magistrates.

Attorney General and Minister of Education

Within the executive branch there is also an Attorney General who is appointed by the Governor General. The role of the Attorney General is to determine government justice policy, oversee and coordinate other government activities, and provide legal advice and representation for the State. The Office of the Attorney General includes the Department of Legal Affairs, the Director of Public Prosecutions, and the Department of Justice.

Director of Public Prosecutions

This department, which falls under the Attorney General's Office, is comprised of the Director of Public Prosecution (DPP) and 21 attorneys and legal advisors. This division is authorized by the Attorney General to assume the responsibilities set out in the Constitution to pursue or cease public prosecution of criminal acts in the Bahamas.

The most important responsibilities and activities of this institution are:

- To prosecute all criminal offenses before the Supreme Court and to supervise cases before magistrates.
- To file all petitions for appeal in criminal matters, which can include appeals from the Magistrates Court to the Supreme Court or the Court of Appeal, appeals from the Supreme Court to the Court of Appeal, and appeals from the Court of Appeal to the Privy Council.
- To participate in all proceedings for constitutional or judicial review of criminal matters, on behalf of the Crown
- To represent foreign governments in extradition proceedings based on treaties between the Bahamas and other nations.
- To supervise the investigation and prosecution of cases of money laundering, as provided for in the Criminal Procedure Act of 2000.

Police

According to a report from the year 2000, the Bahamas Royal Police Force had a total 2,391 active officers,⁷ or 778 per 100 thousand inhabitants.

2. Procedures

Criminal Cases

Criminal cases in the Bahamas employ oral, adversarial procedures based on the British common law tradition. Matters are brought before the Supreme Court in the name of Her Majesty the Queen, while those that are presented in Magistrates Court are presented on behalf of the Police Commissioner. The Magistrates Courts utilize summary procedures and consider indictable matters that may be treated summarily. Judges may impose sentences of up to 5 years and may conduct preliminary investigations to determine prima facie cause to proceed with an indictment. If prima facie cause exists, the defendant is tried before the Supreme Court.

A person who is tried and convicted in Magistrate's Court may appeal the sentence before the Supreme Court, and, in certain cases, directly to the Court of Appeal. A person convicted by the Supreme Court may request that the Court of Appeal review their case. The final court of appeal is the Privy Council in London.

Civil Suits

Civil cases are also handled using an oral and adversarial system based on the British legal tradition. A single civil judge generally tries such cases, although the parties may choose trial by jury. Civil cases heard by the Supreme Court may be appealed to the Court of Appeal. Magistrates Courts may try certain civil matters in which the damages do not exceed US\$ 5000.

3. Case Statistics

Length of Proceedings

A report published in 2000 states that 90% of all criminal cases and only 10% of civil cases reach trial in the Bahamas.⁸

The same report pointed out that civil cases can take up to twelve months to be resolved in the Mag-

Table 1
Crimes Committed in the Bahamas 1999
 Source: International Crime Statistics, Interpol

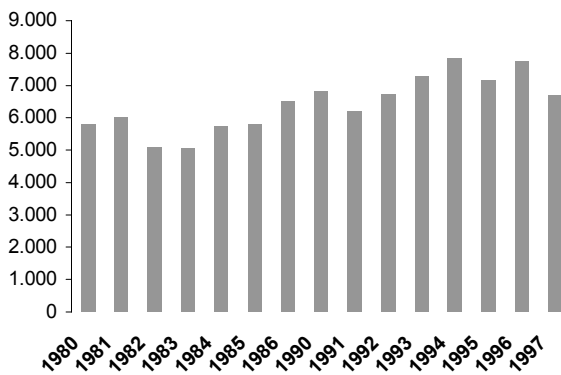
	Volume of crime				Persons responsible for offences		
	Number of cases known to the police	Attempted %	Cases solved %	Volume of crime per 100 thousand inhabitants	Offenders	Women %	Juveniles %
Murder	81	25.92	41	27.09	41	17.07	4.88
Sex offences (including rape)	380	10.93	39	127.09	83	1.2	3.61
Rape	167	32.53	36	55.85	38		
Serious assault	184		48.36	61.54	34	2.94	5.88
Theft (all kinds of theft)	4,668	1.35	30	1,561.20	536	7.65	3.92
Aggravated theft	1,367	4.59	21	457.19	183	6.56	5.46
Breaking and entering	4,665	5.76	12.24	1,560.20	300	5	7
Theft of motor cars	1,243	5.06	11	415.72	4	50	
Fraud	114		27	38.13	25	20	
Counterfeit currency offences	264		32	88.29	32	18.75	6.25
Drug offences	1,427		100	477.26	1,539	7.73	8.97
Total number of cases contained in national crime statistics	14,560	12.3	36.14	4,869.57	2,815	13.69	13.69

istrates Court, and two to three years when the case is brought before the Supreme Court.

Criminal cases generally last longer, from 18 months in the Magistrates Courts and one to six years in the high courts.

4. Crime Rates

Graph 1
Total number of crimes registered per 100,000 inhabitants (1980 - 1997)
 Source: Sixth United Nations Survey on Crime Trends



5. Prison Population

According to official statistics, there were a total of 1,280 people incarcerated in Fox Hill, the country's only prison in October 2002,¹⁰ or 417 inmates per 100 thousand inhabitants.¹¹ The institution also indicated that 22.7%

of the prison population was being held in preventive custody awaiting sentencing. In 1998 prison holding capacity was 1,084 inmates and the occupancy rate was 129.2% of this capacity.

The Bahamas Prison Service, which is part of the Ministry of National Security, is responsible for administering the country's prison system.

6. Related Areas

Alternative Dispute Resolution (ADR)

An Inter-American Development Bank study states that "There are recognized methods of ADR in the Bahamas and law practitioners recognize their value. One leading law firm has trained associates specializing in mediation techniques for resolving family law disputes. The Bahamas Bar Association is also promoting this technique in its annual agenda as a way of resolving cases."¹²

Another report from 2000 indicates that 10% of criminal cases and 90% of civil suits are resolved outside of the court system through alternative dispute resolution mechanisms.¹³

Legal Profession

There were approximately 17 law firms and 600 attorneys in the Bahamas in 2002.¹⁴

Law students must complete the first three years of their legal training at the University of the West Indies

in Barbados, and may then complete their studies at the Eugene Dupuch Law School in Nassau, Bahamas, which offers the last two years of the program.

7. Judicial Reform Projects Underway

The body charged with coordinating justice system reforms in the Bahamas is the Reform and Revision Commission, which operates within the Legal Affairs Department of the Public Prosecutor's Office. The Commission is responsible for reforming, revising, and drafting legislative bills for justice reform before these are sent to parliament for its consideration.

The government of the Bahamas approved a set of anti-drug legislation that was implemented in 1996. The nation is also a member of the Caribbean Financial Action Task Force, a commission of the Organization of Eastern Caribbean States that has agreed to implement common measures against money laundering, the prevention and elimination of which is the subject of the Commission's regular meetings. The Bahamas government completed a project in 1998 that was aimed at shortening the duration of procedures for drug related offences.

8. Websites

Official Site of the Bahamas

<http://www.bahamas.gov.bs>

Provides general information about the country and each of its islands, including sections on the functions, structure, and organization of the executive, judicial, and legislative branches of the government. The Website also offers a directory, a list of businesses and financial institutions, news, publications, and links. English-language only.

Government of the Bahamas

<http://www.bahamasnet.com/government>

This Website contains the full text of the Bahamas Constitution and a list of the current government ministers, senators, and members of the House of Assembly. It also includes links to sites on tourism and information about the islands of the Bahamas. English-language only.

Office of the Primer Minister

<http://www.opm.gov.bs>

This Website provides information the Prime Minister's activities and responsibilities, as well as news, speeches, laws, links, and directories, including a listing of law firms. English-language only.

Royal Bahamas Police Force

<http://www.rbpf.org>

9. Basic Directory

The Judicial and Legal Services Commission Judicial Department

Address: Parliament Street & Bank Lane
P.O. Box N 8167
Nassau
Phone: (242) 322-3315
Fax: (242) 326-6463

Deputy Prime Minister

Minister of National Security

Address: Churchill Building, Bay Street
P.O. Box N-3217, Nassau, N.P.
Phone: (242) 356-6792
Fax: (242) 356-6087

Office of the Attorney General and Ministry of Education

Address: Shirley Street, P.O. Box N-3913, Nassau, N.P.
Phone: (242) 502-0400
Fax: (242) 322-8491

Office of the Attorney General Supreme Court Registry

Address: East Hill Street, 3rd Floor, Post Office Building,
P.O. Box N-3007, Nassau, N.P.
Phone: (242) 322-4348
Fax: (242) 356-4179

Office of the Attorney General and Ministry of Education Permanent Secretary

Address: East Hill Street, 3rd Floor, Post Office Building,
P.O. Box N-3007, Nassau, N.P.
Phone: (242) 322-1141
Fax: (242) 356-4179

Office of the Prime Minister

Constitutional Review Commission

Phone: (242) 327-5826
Fax: (242) 327-5806.

Royal Bahamas Police Force**Address: P.O. Box N-458 East Street, Nassau**

Phone: (242) 322-4444

Fax: (242) 356-4084

Email: info@rbpf.org

Website: <http://www.rbpf.org>**Bahamas Prison Service**

Ministry of National Security

Address: Her Majesty's Prison, Fox Hill

PO Box N-504, Nassau

Phone: (242) 364 4573

Fax: (242) 324 4941

Notes

² IDB, *Bahamas, Country Document 2001- 2002*, (April 2001). <http://www.iadb.org/regions/re3/bh/cpbhesp.pdf>

³ 1996 - 1997. IDB, *Judicial Reform in the Caribbean*, (1999), p. 2. Calculated using annual averages (0.87 in 1996 and 0.99 in 1997).

⁴ The estimated national budget in 1997 was US\$ 846.4 mil-

lion. Estimated budget for the courts: US\$ 8.4 million. Both figures cf. IDB (1999), *op. cit.* GDP for the same year: US\$ 3.940 Billion (current rates, Atlas method). World Bank, *World Development Indicators*. The Bahamas dollar has maintained a constant parity with the United States dollar.

⁵ Article 98 of the Constitution of the Bahamas.

⁶ See <http://www.bahamas.gov.bs/bahamasweb/home.nsf>.

⁷ "The Indicative Caribbean Justice Sector Information," in IDB/CGCED, *Op. Cit.*, Vol. I.

⁸ "The Indicative Caribbean Justice Sector Information," in IDB-CGCED, *Op. cit.* Vol. I.

⁹ *Idem.*

¹⁰ International Centre for Prison Studies, *World Prison Brief*, King's College, University of London: <http://www.prisonstudies.org>

¹¹ Figures based on the UN estimated national population for 2001.

¹² IDB-CGCED, *Challenges of Capacity Development...* Vol. II: A Diagnostic Assessment, *Op. cit.*, p. 36.

¹³ "The Indicative Caribbean Justice Sector Information," in IDB, *Op. cit.*, Vol. I.

¹⁴ Financial Services Board of The Bahamas: <http://www.bfsb-bahamas.com/member.lasso?category=Law>.