

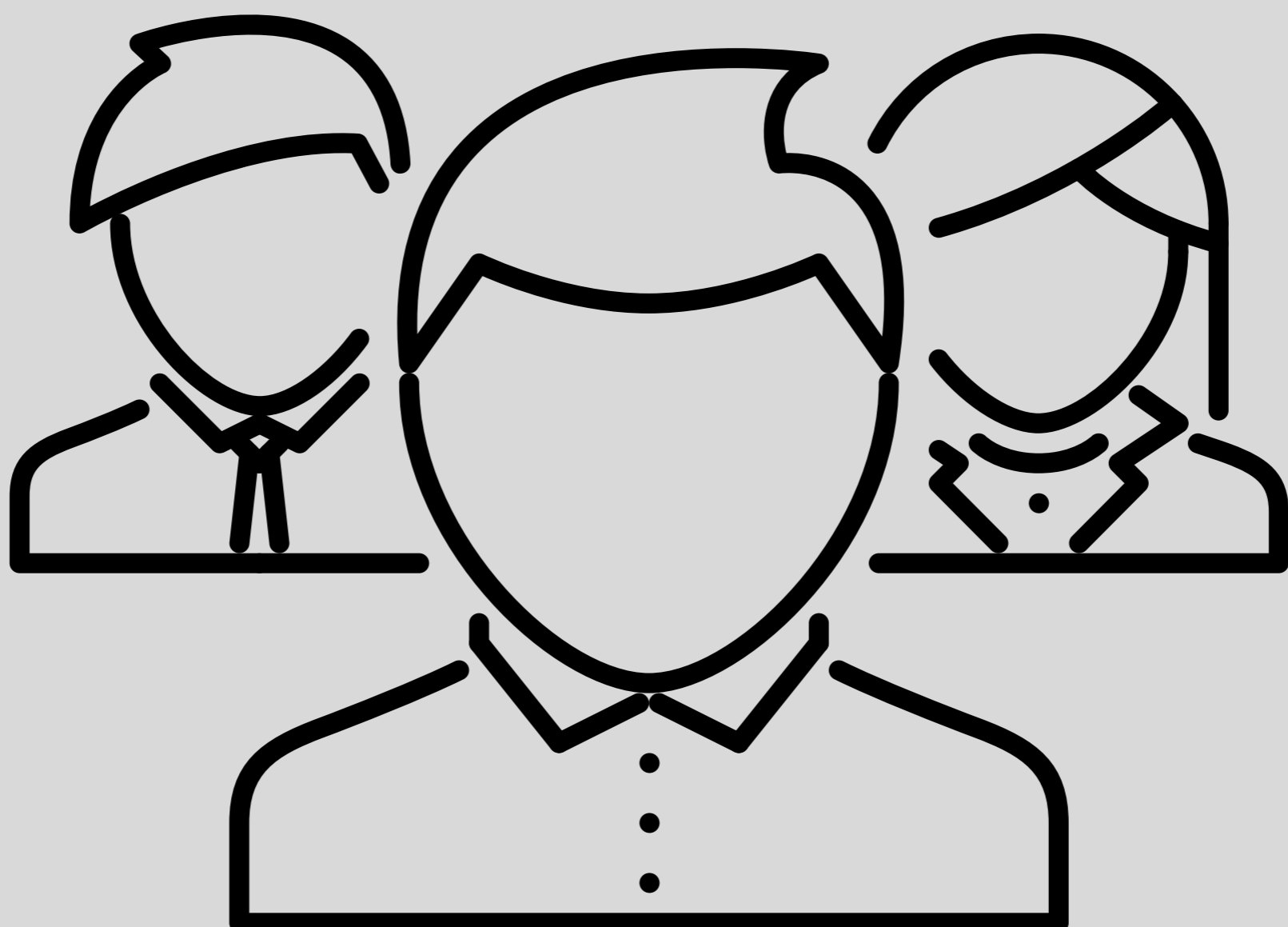


J-FLAG'S

REPORT ON

HUMAN RIGHTS VIOLATIONS

January 2011- March 2017



Introduction



This report is a compilation of the 261 reports received by the JFLAG Crisis Intervention and Support Services Unit (CISSU) between January 2011 and January 2017, inclusive. This report organizes the reports according to the rights that have been reportedly violated in each case, and as such there may be overlap in some cases given that one report may involve multiple rights violations. Given JFLAG's mandate and core functions, these reports remain unverified but serve a useful purpose in highlighting the kinds of realities that LGBT Jamaicans face. The commonality of certain types of violations suggest that there is more work to be done in addressing the ways in which homophobia and transphobia manifest themselves to the detriment of LGBT Jamaicans.

Who commits these acts?

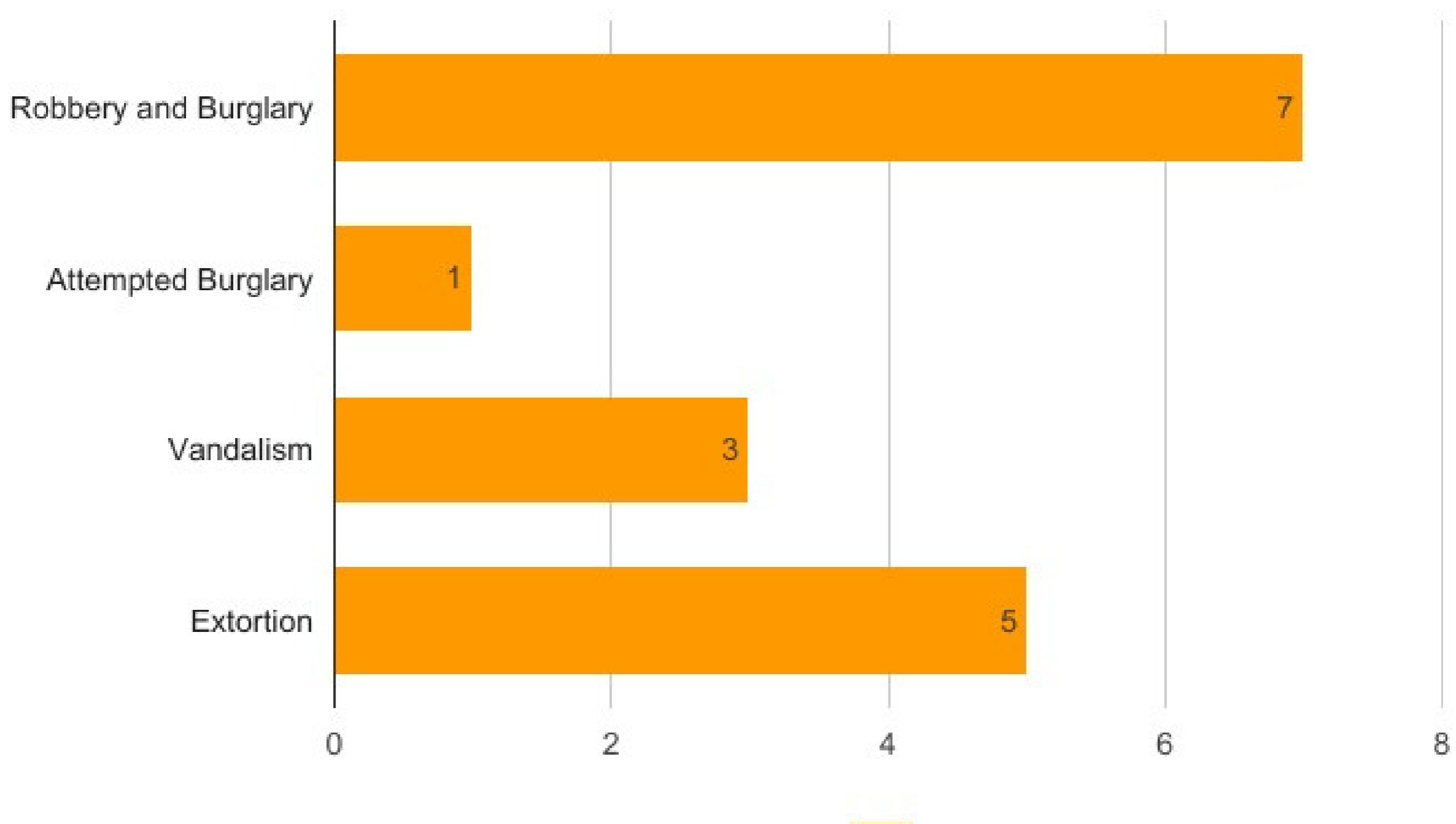
The violations reported here are committed by a wide cross section of persons both known and unknown to their victims. These include family members, friends, church members, community members, area leaders/dons, police officers, potential and actual employers, landlords, coworkers, security guards, public sector workers, classmates, mobs, small groups of unknown persons and individuals unknown to the victims. This demonstrates a need to address issues related to stigma and discrimination at various levels.

**Rights
Violated**

RIGHT TO PROPERTY

The Universal Declaration of Human Rights guarantees the right of persons to own property and the right not to be arbitrarily deprived of property in Article 17. Section 15 of the Jamaica Charter of Fundamental Rights and Freedoms protects the rights of Jamaicans not to have their property compulsorily taken except by or under provisions of law. This right is violated by crimes such as theft, robbery, fraud, blackmail as well as malicious destruction of property or vandalism.

Between January 2011 and January 2017, JFLAG's CISSU has received the following reports:

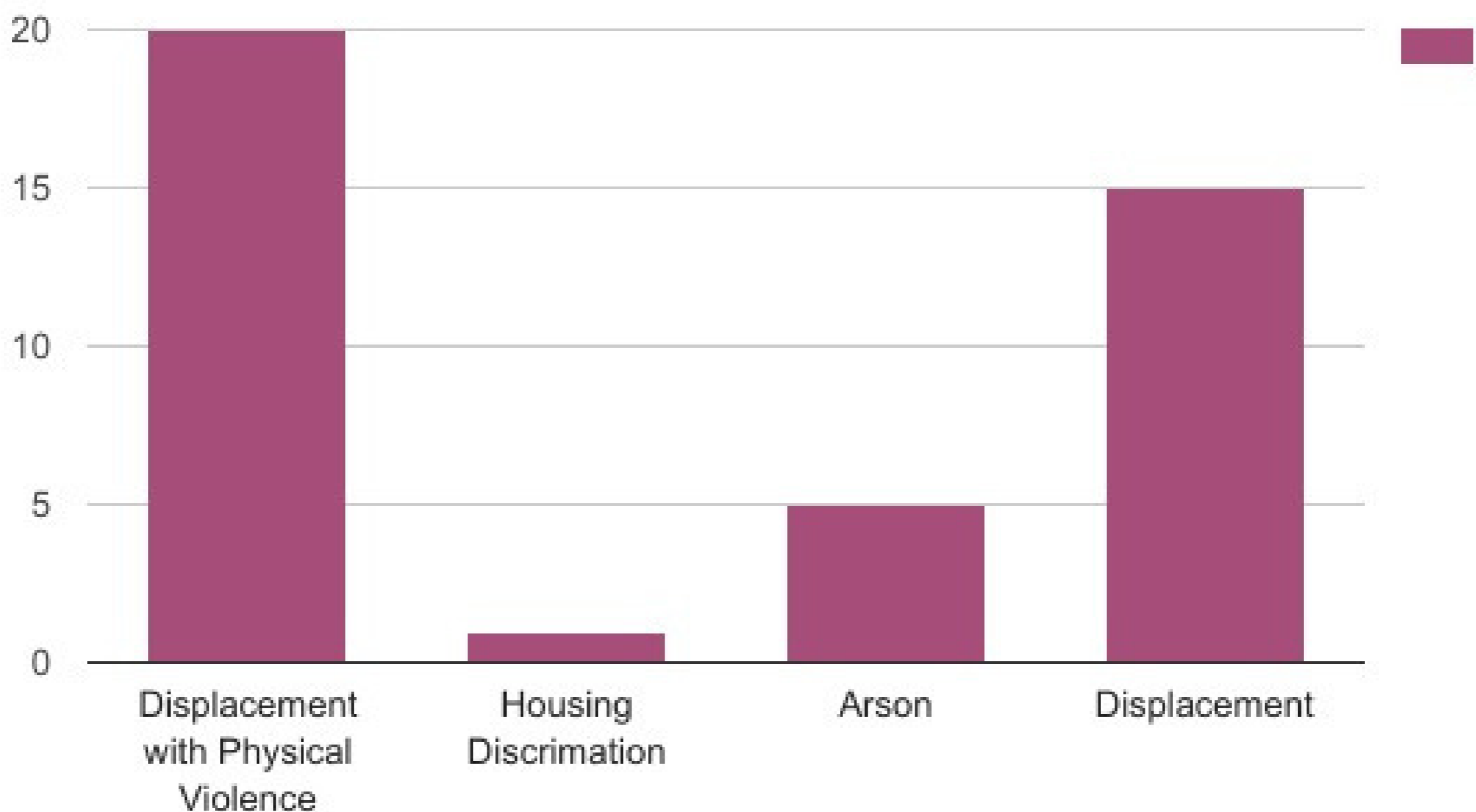


Seven (7) reports of robbery and burglary, few of which have included incidences of vandalism and one (1) case of attempted burglary. There have been five (5) reports of extortion and three (3) cases of vandalism only.

Right to Housing

The Universal Declaration of Human Rights guarantees the right of all persons to a standard of living adequate for their health and well-being in Article 25. This includes the right to adequate housing protected in article 11 of the International Covenant on Economic, Social and Cultural Rights. Forced evictions violate the right to adequate housing and so cases of violent evictions and evictions otherwise against the will of the person violate the right to housing.

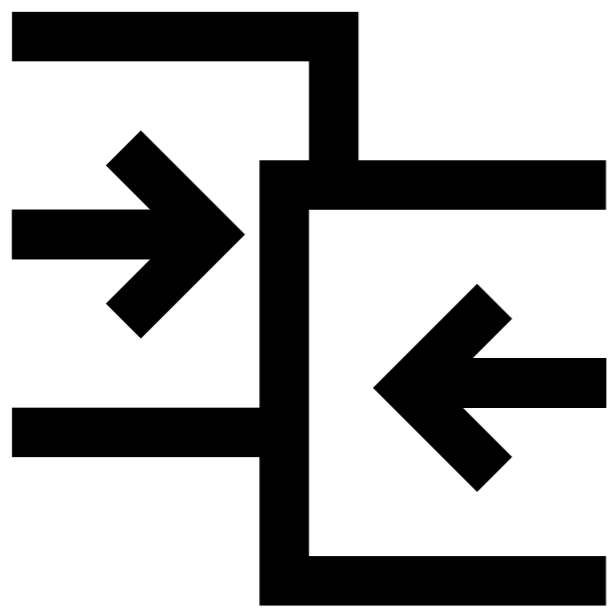
Housing discrimination in this instance refers to the denial of housing or continued residence by homeowner in a non-familial scenario. Between January 2011 and January 2017, JFLAG's CISSU has received thirty-five (35) reports of displacement from home. The following chart is a breakdown of these reports:



Between January 2011 and January 2017, JFLAG's CISSU has received thirty-five (35) reports of displacement from home, twenty (20) of these reports noted physical violence against the victim. There is one (1) case of housing discrimination and five (5) cases of arson.

Right to work

The Universal Declaration of Human Rights guarantees the right of all persons to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment in Article 23. Articles 6 and 7 of the International Covenant on Economic, Social and Cultural Rights require governments to protect these rights from being violated. These rights are violated by discrimination in the work place whether through the actions of employers, prospective employers or fellow employees.



Between January 2011 and January 2017, JFLAG's CISSU has received sixteen (16) reports involving employment discrimination.

Right to Health

The Universal Declaration of Human Rights guarantees the right of all persons to a standard of living adequate for their health and well-being in Article 25. This includes the right of everyone to enjoy the highest attainable standard of physical and mental health protected in article 12 of the International Covenant on Economic, Social and Cultural Rights. This right is violated where persons are arbitrarily denied healthcare or experience discrimination when seeking to access healthcare, among other things.

Between January 2011 and January 2017, JFLAG's CISSU has received:



One report of discrimination when accessing healthcare



One report of a decline in mental health following long term harassment.

Right to Education

The Universal Declaration of Human Rights guarantees the right of all persons to education. Article 13 of the International Covenant on Economic, Social and Cultural Rights guarantees the right to free education at the primary level and that education at higher levels should be equally accessible by all. This right is violated where persons are arbitrarily denied education or experience discrimination when seeking to access education, among other things. This violation may be the result of the actions of students, teachers, parents or school administrators.

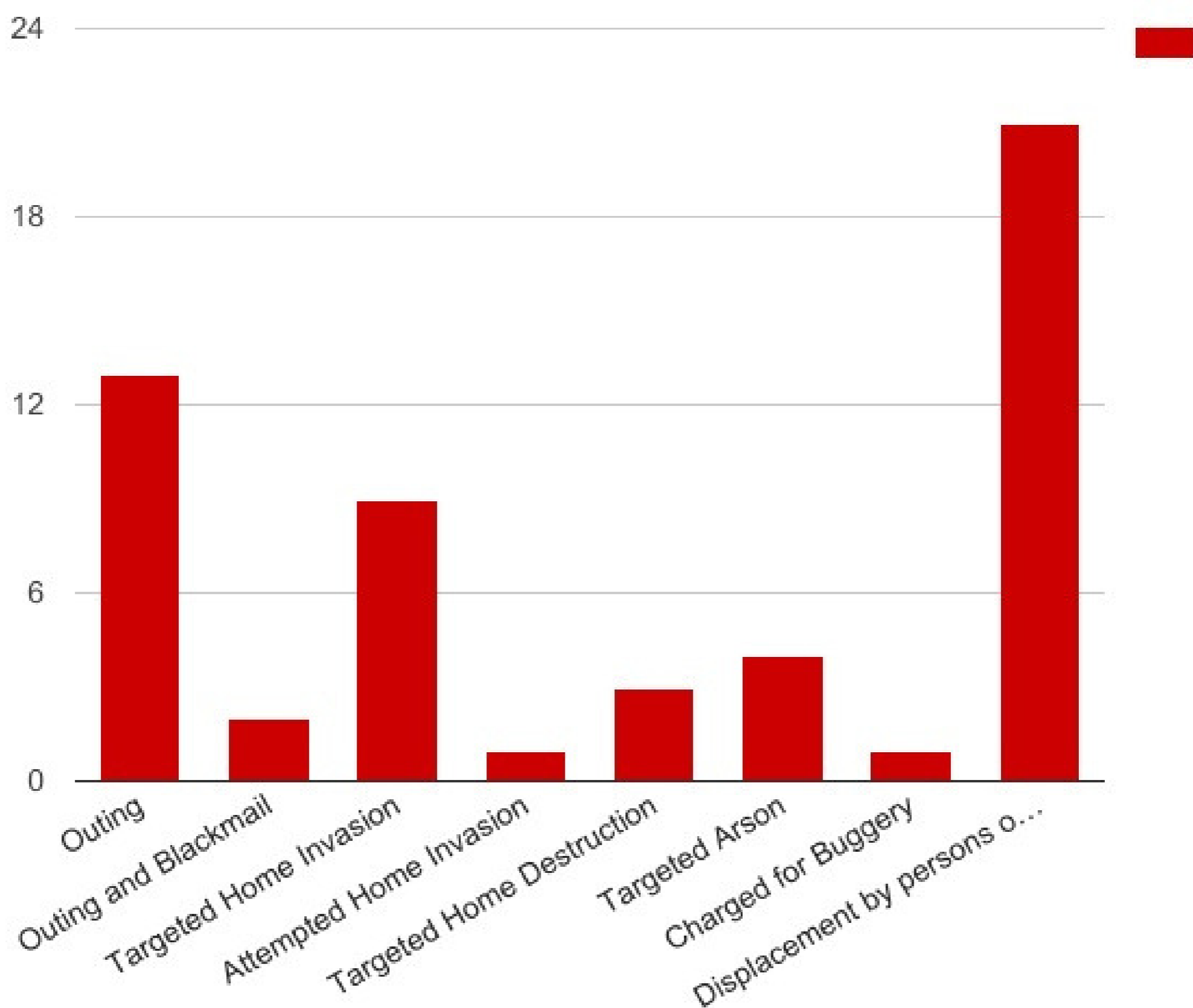


Between January 2011 and January 2017, JFLAG's CISSU has received two (2) reports of discrimination in education - one dealing with access and the other dealing with discriminatory treatment in school.

Right to Privacy

The Universal Declaration of Human Rights guarantees the right to privacy to all persons in Article 12. Article 17 of the International Covenant on Civil and Political Rights requires that a person's privacy, family, home, reputation and correspondence not be unlawfully interfered with. Section 13(3)(j) of the Jamaica Charter of Fundamental Rights and Freedoms guarantees the right to protection of private and family life, privacy of the home and privacy of communication.

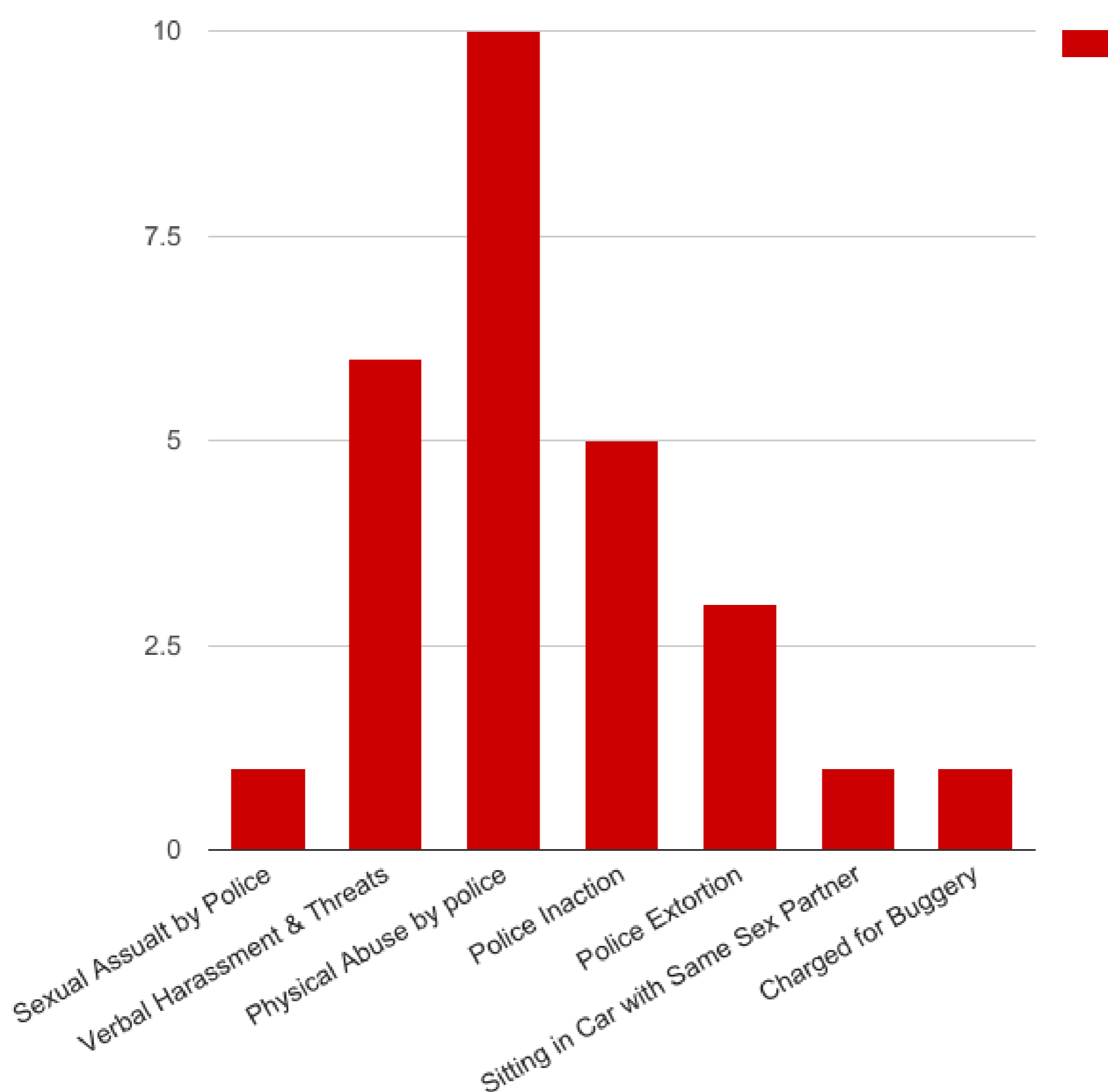
The right to privacy is generally implicated when homophobia and transphobia leads to the violation of other rights. The lack of respect for the bodily autonomy and private life of the individual forms a part of most violations of the rights of LGBT persons. This section is concerned with specific violations related to interferences with the home and outing by any means.



Between January 2011 and January 2017, JFLAG's CISSU has received thirteen (13) reports of outing, two (2) reports of threats of outing and blackmail, nine (9) reports of targeted home invasion, one (1) report of attempted home invasion, three (3) reports of targeted home destruction, four (4) reports of targeted arson and twenty-one (21) reports of displacement by persons outside the home. There is one (1) report of someone being arrested and charged for buggery.

Right to Equality Before the Law & Equal Protection of the Law

The Universal Declaration of Human Rights guarantees that all persons are equal before the law and are entitled without discrimination to equal protection of the law in Article 7. Article 26 of the International Covenant on Civil & Political Rights creates an obligation on states to protect this right. Section 13(3)(g) of the Jamaica Charter of Fundamental Rights and Freedoms protects the rights of Jamaicans to equality before the law and section 13(3)(h) guarantees that all persons will be treated equitably and humanely by public authorities in the exercise of their function. The rights protected are violated where laws themselves are discriminatory or where they are implemented in a discriminatory fashion. Police inaction and discrimination by public officials are classic examples of this right violation.

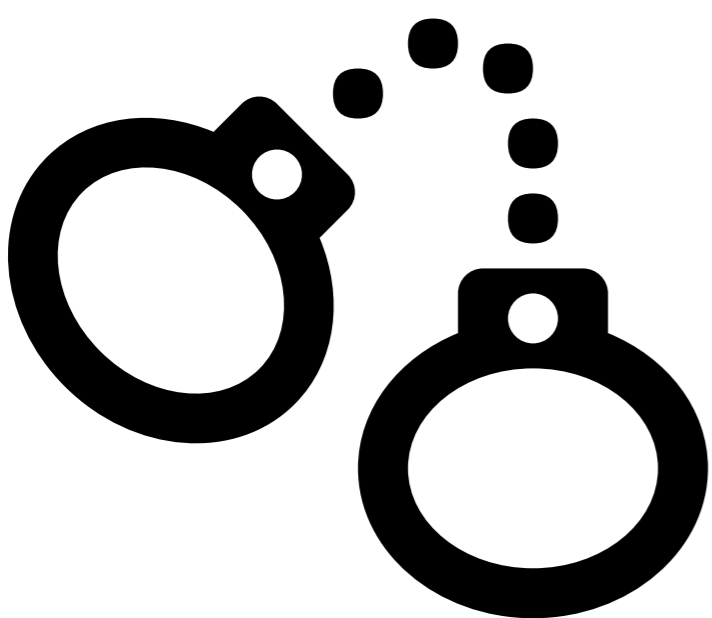


Between January 2011 and January 2017, JFLAG's CISSU has received one (1) report of sexual assault by police, six (6) reports of verbal harassment and threats by police, ten (10) reports of physical abuse by police, five (5) reports of police inaction when a victim reported a crime that was committed against them, three (3) reports of police extortion on the basis of a threat to charge the victims with buggery and one (1) report of being arrested for sitting in the car with same-sex partner. There is also one (1) report of someone being arrested and charged for buggery.

Right to freedom of the person

The Universal Declaration of Human Rights guarantees that no person shall be subjected to arbitrary arrest, detention or exile in Article 9. Article 9 of the International Covenant on Civil & Political Rights outlines that everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

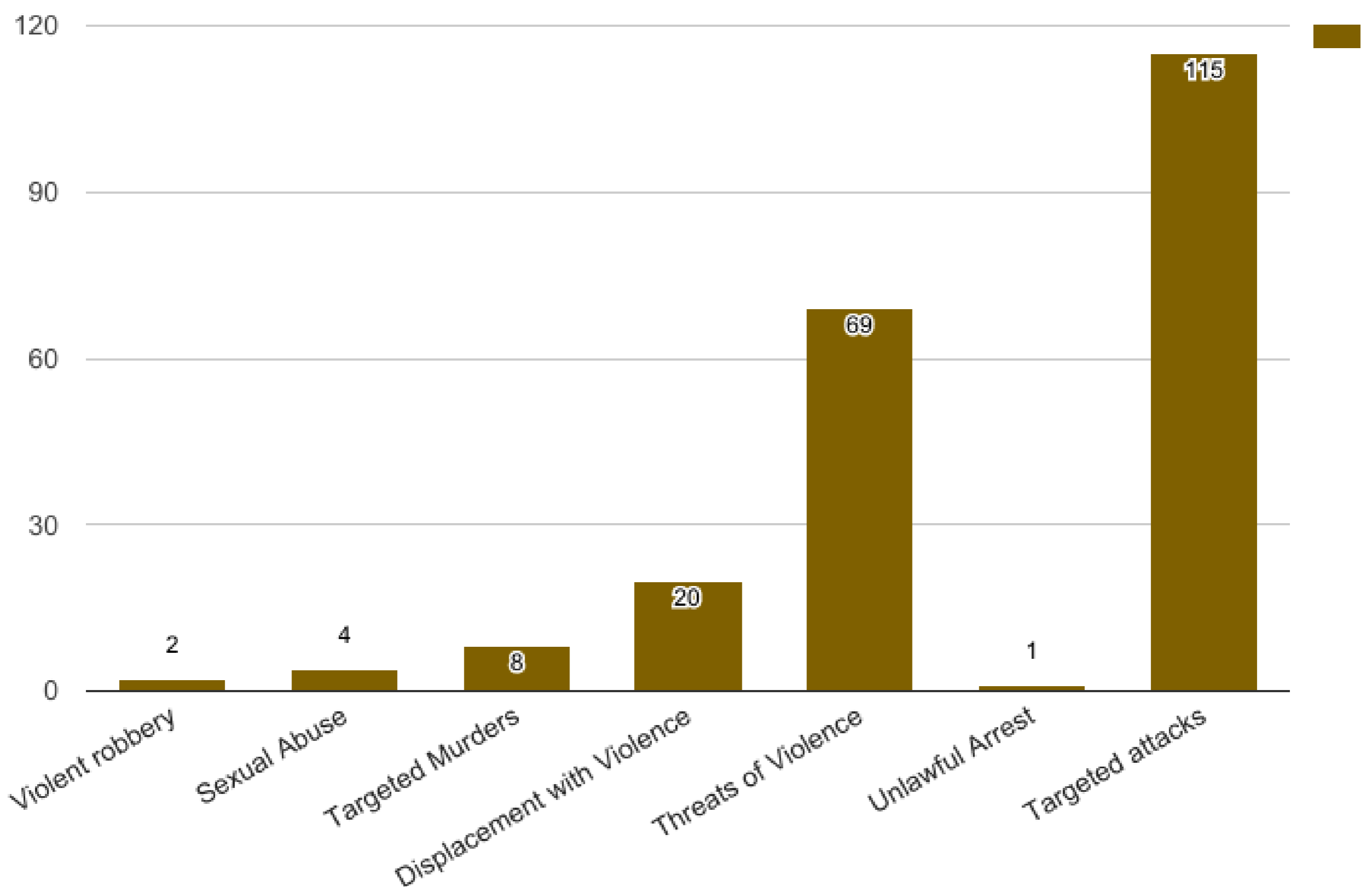
Section 14 of the Jamaica Charter of Fundamental Rights and Freedoms stipulates that no person shall be deprived of his liberty except on reasonable grounds and in accordance with fair procedures established by law in limited circumstances. Persons detained should be treated humanely and with respect for their inherent dignity. This right is violated by unlawful arrests, whether by police or private citizens.



Between January 2011 and January 2017, JFLAG's CISSU has received one (1) report of unlawful arrest. There are two (2) reported cases of arrests pursuant to the buggery law and offending public decency. Though not unlawful, these amount to rights violation insomuch they are done pursuant to laws which violate the rights to privacy and equality.

Right to Life, Liberty and Security of the Person.

The Universal Declaration of Human Rights guarantees the right to life, liberty and security of the person in Article 3. Articles 6 and 9 of the International Covenant on Civil & Political Rights secure these rights and place an obligation on the state not have them violated. Section 13(3)(a) of the Jamaica Charter of Fundamental Rights and Freedoms guarantees this right to all Jamaicans, placing a limit on it where a court imposes a sentence on a person for the commission of a criminal offence. This right is violated by subjecting a person to physical, mental or sexual abuse. It is also violated by unlawful detainment, unlawful killings and wanton neglect that results in harm to a person.



Between January 2011 and January 2017, JFLAG's CISSU has received one-hundred and fifteen (115) reports of targeted attacks, two (2) reports of violent robbery, four (4) reports of sexual abuse, eight (8) reports referring to targeted murders, twenty (20) reports of displacement involving violence, sixty-nine (69) reports of threats of violence, including death threats and one report of an unlawful arrest.

Right to Freedom from Discrimination

The Universal Declaration of Human Rights guarantees that all persons are equal before the law and are entitled without discrimination to equal protection of the law in Article 7. Article 26 of the International Covenant on Civil & Political Rights places an obligation on the state to create laws which prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The case of *Toonen v Australia* has established that “sexual orientation” discrimination is prohibited by this list. By analogy, so is gender identity discrimination. The obligation on the State includes providing a remedy for instances of discrimination at the hands of private citizens.

The right is not only violated by the instance of discrimination itself but also by the state’s failure to provide an adequate remedy to it. Jamaica has no legal provisions providing redress from sexual orientation or gender identity based discrimination. The right is violated in every instance in which unfair treatment is motivated by status-based prejudice (in this case homophobia and transphobia) and therefore almost all cases discussed above involve a violation of the right to freedom from discrimination. This list will consider those forms of discrimination not already captured.



Between January 2011 and January 2017, JFLAG’s CISSU has received fourteen (14) reports of verbal harassment, not involving explicit threats of violence.

Crisis Intervention and Support Services Unit (CISSU)

JFLAG'S Crisis Intervention and Support Services Unit (CISSU)

The Crisis Intervention and Support Services Unit offer immediate, short-term help to members of the LGBTQ community who have experienced an event that produces emotional, mental, physical, and behavioural distress or problems. This arm of JFLAG offers counselling services, referrals to necessary services and empowerment to our clients. We facilitate the rebuilding process, helping our clients to reach a state of stability where they are able to cope and operate as a functioning member of society. We also plan and execute projects deemed to address key issues based on the findings from our database. These projects aim to spread awareness, education and in the long term garner more support for members of the LGBTQ community.

If you feel your rights have been violated or are in need of any of the services that we offer call us at 631-8654 or 946-2113.

You may also contact us here:



@EqualityJA



@EqualityJA



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