

# *Training Manual on* Provisions of the Administration of Criminal Justice Act 2015

for Divisional Station Officers,  
Crime Inspectors and  
Investigating Police Officers

*Developed by*

**Rule of Law and Empowerment Initiative  
also known as  
Partners West Africa Nigeria (PWAN)**



## ABOUT PWAN

The Rule of Law and Empowerment Initiative is also known as Partners West Africa Nigeria (PWAN). We are a non-governmental organization dedicated to enhancing citizens' participation and improving security governance in Nigeria and West Africa broadly, which we achieve through our Rule of Law and Citizens Security Program Areas.

The organization does this through research, collaborative advocacy, capacity building, dissemination of information and integrating the implementation of government policies such as United Nations Resolution 1325, Women Peace and Security Second Generation National Action Plan (NAP 2), Prevention and Countering Violent Extremism National Action Plan (P/CVE NAP), Administration of Criminal Justice Act/Law (ACJA/L), UN Resolution 2250 amongst others which are complementary to our strategic objectives.

We are a member of the Partners Network which is a network of 22 like-minded national organizations around the world, united by common approaches including participatory decision making, collaborative advocacy, consensus building and social entrepreneurship for democratic governance.

PWAN is a part of the Nigeria Policing Program consortium (NPP) which aims to improve the Nigeria Police Force's contribution to the delivery of safety and security for Nigerians in target states; strengthen internal and external accountability mechanisms; and improve the coherence of security provision among and between formal and informal security actors.

As part of the consortium, PWAN has been working with the NPF, policing actors and criminal justice agencies in the FCT, Borno and Kano states to improve policing service delivery to the people, build trust between the public and security agencies, and promote accountability and transparency.

## ACKNOWLEDGEMENTS

PWAN wishes to express its gratitude to the Nigeria Policing Programme (NPP) for providing support to this project. Our appreciation also goes to the FCT Command of the Nigeria Police Force (NPF) for their partnership towards building the capacity of officers.

Finally, the organization wishes to thank Mr. Godwin Odo who worked tirelessly with PWAN to develop the training manual.

## PREFACE

The Nigeria Policing Programme (NPP) is implemented by Coffey International Development, in partnership with the British Council, The Rule of Law and Empowerment Initiative also known as Partners West Africa Nigeria (PWAN) and CLEEN Foundation, and funded by the British High Commission through the Conflict, Stabilisation and Security Fund (CSSF).

The programme aims to improve the Nigerian Police Force's contribution to the delivery of safety

and security for Nigerians in target states; strengthen internal and external accountability mechanisms; and improve the coherence of security provision among and between formal and informal security actors.

NPP will work to address the pertinent problems of a lack of accountability for professional standards, a lack of application of effective policing techniques (community policing); ineffective resource allocation; and disjointed and siloed responses to safety and security issues from across the policing spectrum.

## Theory of Change



Building capacity within the NPF and targeted policing accountability mechanisms



Providing technical assistance to key counterparts and institutions to improve their functioning;



Facilitate improved communication within and between security actors; and



Improve the effectiveness of public outreach and public advocacy.

Ultimately, NPP will seek to contribute to an outcome where the NPF and other policing providers in target areas, and targeted accountability mechanisms are, and are perceived to be more capable and responsive institutions with improved integrity

The development of this training manual on the ACJA for station officers, IPOs and crime

investigators of the NPF is in furtherance of PWAN's strategic objective of increasing technical and institutional support by 20%, to internal and external oversight agencies operating in the criminal justice/security sectors to improve their services delivery to the public.

# TABLE OF CONTENTS

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**01** | INTRODUCTION  
06

**03** | ROLES AND RESPONSIBILITIES OF  
THE POLICE UNDER THE ACJA  
26

**02** | ARREST, BAIL AND  
PREVENTIVE JUSTICE  
17

**04** | EVIDENCE OF WITNESSES  
UNDER ACJA  
35

**05** | ADMINISTRATION OF  
CRIMINAL JUSTICE  
MONITORING COMMITTEE  
37



## INTRODUCTION

The passing of the Administration of Criminal Justice Act by the National Assembly and the assent by President Goodluck Ebele Jonathan in May 2015, marked a turning point in criminal justice administration in Nigeria.

Prior to the passage of the Act, the system was characterised by delays, inefficiency, lack of respect for the rights of persons in conflict with the law and overcrowding in the holding facilities of correctional centres across the country.

The slow pace of criminal trials resulted in high number of awaiting trial inmates in the correctional centres. Consequently, this resulted in undue pressure on the facilities and personnel of the Nigerian Correctional Services.



While the passage of the Act has been celebrated across the country, its potential to transform the administration of criminal justice will not be realised unless the law is effectively implemented by all the agencies in the justice sector with responsibilities under the law.

From 2018 to 2019, PWAN conducted practitioner's surveys to understand the level of implementation of the ACJA by criminal justice practitioners in the FCT, Lagos and Ondo states. In the FCT, only 10% of police officers had read all provisions of the ACJA in 2019; 61% of officers had also not received any training on the ACJA. This shows therefore that there is a need for sustained awareness-creation and capacity-building for key actors in the administration of criminal justice. These include the Police and other law enforcement agencies, prosecutors, judicial officers, courts officials and correctional service providers. It is with a view to bridging the existing knowledge gap that this project has been developed.

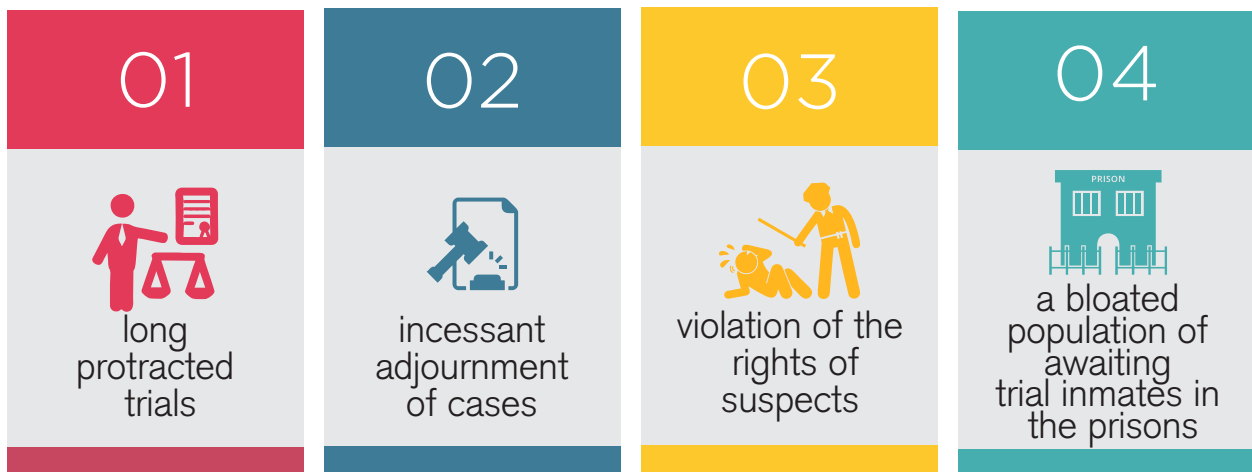
The Rule of Law and Empowerment Initiative, also known as Partners West Africa, a non-governmental women-led organisation, working towards enhancing citizens' participation and improving security governance in Nigeria and West Africa broadly in collaboration with the Nigerian Policing Program (NPP) seeks to build the capacity of FCT Command Division Station Officers, Inspector Crimes and Investigative Police Officers on the provisions of the Administration of Criminal Justice Act (ACJA).

We seek to build the capacity of police station officers, inspector crimes, and investigative police officers.



## Rationale for the ACJA

Over the years, **the criminal justice system in Nigeria has shown signs of inefficiency and ineffectiveness**, manifesting in long protracted trials, incessant adjournment of cases, violation of the rights of suspects and a bloated population of awaiting trial inmates in the prisons. The attendant overcrowding leads to break out of epidemics, overstretching of the detention facilities and personnel and sometimes in jailbreaks or attempted jailbreaks.



## Loss of confidence in the justice system

The inefficiencies in the justice system culminating in long delays in the trial of cases naturally breeds resentment of the system by members of the general public as their expectations are not met by the justice system.

This ultimately results in a total lack of confidence in the system to deliver justice promptly in a fair

and just manner. The consequences of this loss of confidence in the system include resort to jungle justice and self-help as highlighted in the two case studies below.



## Loss of confidence in the justice system

### Case study 1



#### Resort to Jungle justice & extrajudicial killing

*Mr. X is notorious in his neighbourhood for engaging in criminal activities. He has been arrested twice by members of the local vigilante group in the neighbourhood in the course of committing an offence and handed over to the police and on each occasion, he was seen walking free after a few weeks.*

*He was arrested a third time at about midnight by the group again, despite not being seen committing any offence as at the time of his third arrest. One of the members of the vigilante group suggested that they should just 'finish' him there and then to ensure that he is not released by the police again if he is handed over to them.*

*The others agree, so they procure petrol and used tyres and set him ablaze. His burnt corpse is seen in the morning and despite rumours about how he died and who killed him, nobody is brought to book and some members of the community hail the vigilante group for taking care of their 'problem' for them.*

*Little did the community know that despite the allegation against the police*

*of collecting bribe and releasing the suspect, he was charged to court by the police but the presiding Magistrate ordered his release based on the presumption of innocence principle, when the alleged nominal complainant failed to show up in court after several adjournments.*

*In the second instance, the Investigating Police Office (IPO) who conducted the investigation had been suddenly transferred to another state and despite his willingness to come and testify in the case, no arrangements were made to cover his travel expenses if he came to testify.*

*The suspect was therefore discharged for want of diligent prosecution as a key prosecution witness could not attend court to testify.*

***This case study shows how misinformation, misconception and loss of confidence in the justice system could lead to resort to jungle justice by the citizens, which in itself is unlawful***

## Loss of confidence in the justice system

### Case study 2



#### Resort to self-help and non-formal justice mechanisms

*Mr. A and Mr. B are two landlords whose respective tenants owe them over a year's rent. Mr. A as a law abiding citizen decides to go to court to recover his rent and premises from his tenant.*

*He briefs a lawyer to represent him in the case. As a retired civil servant he could no longer support his family because of his tenant's non-payment of rent. On the first day the matter was called up in court, it was stated that the case was only for mention and was adjourned to another day.*

*On the adjourned date, the Court did not sit as a result of the ill-health of the Magistrate. On the next adjourned date, the Court failed to sit again because the date falls into the law week period of the local branch of the Nigerian Bar Association (NBA).*

*The Court did not sit again on the next adjourned date as the defence lawyer wrote a letter to the Court that he had another case to attend to at the Court of Appeal.*

*So after four visits to the Court in six months without the case being called*

*up for hearing, Mr. A now questions his faith in the justice system.*

*On the other hand, Mr. B has seen the travails of Mr. A and decides to engage the local O'Odun Peoples' Congress in the neighbourhood to demand justice. He pays what he is asked to pay and was just told to point out the house to them by the OPC group.*

*Three days later, six rough men show up at the house with several Ghana-must-go bags and knocks on the door. When the owing tenant opens the door, the strangers inform him that because he has not been paying his rent, the landlord had leased the house to them and that they had come to move into the property.*

*The tenant acknowledges that he had not paid his rent for over a year now, but claims that the landlord had not given him any notice to quit yet. The visitors inform him that they will be coming to take possession of the property in two weeks and that if he was still in the house, he would have himself to blame.*

*After thinking about the bloodshot eyes of his visitors, and the smell of Indian Hemp that hovered around the house long after they had left, he packs out of the house in twelve days to avoid any confrontation with the strangers.*

*A bystander who observed the two landlords would agree that though Mr.*

*B's method was illegal, unethical and amounted to self-help, it was nonetheless more effective than the legal, but inefficient process adopted by Mr. A to recover his rent and premises from the tenant. These case studies aptly portray the effects of the loss of public confidence in the justice system.*

The diagnostic study embarked upon by the National Committee on the Reform of Criminal Justice Administration identified obsolete legal regimes, deficiencies in the capacities of the various agencies involved in criminal justice administration and crime archaic investigation techniques amongst others, as factors contributing to the challenges in the justice sector.

The Committee recommended the development of a new legal framework to replace the Criminal Procedure Act (CPA) in the South, and the Criminal Procedure Code (CPC) in the North in

order to bring our criminal procedure laws in line with modern trends and international best practices.

This paved the way for the eventual development and adoption of the Administration of Criminal Justice Act 2015 at the Federal level and the Administration of Criminal Justice Laws by the various states of the Federation.

## Objectives of the ACJA

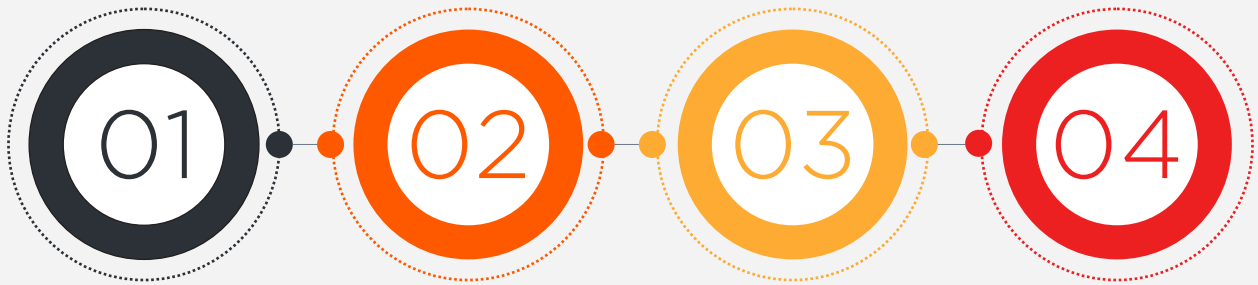
The objectives of the Administration of Criminal Justice Act 2015 which are aimed at remedying the inadequacies that resulted in the adoption of the law are set out in section 1(1) of the Act as follows:

- To promote efficient administration of criminal justice in Nigeria;
- To ensure the speedy dispensation of justice;
- To protect the society from crime; and
- To protect the rights and interests of the suspect, the defendant and the victim.

## Objectives of the ACJA

To promote efficient administration of criminal justice in Nigeria

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To ensure the speedy dispensation of justice

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### Compliance and Applicability of the ACJA

Section 1(2) of the ACJA provides that the courts, law enforcement agencies and other authorities or persons involved in criminal justice administration shall ensure compliance with the provisions of this Act or for the realisation of its purposes.

The provisions of ACJA shall apply to criminal trials for offences established by an Act of the National Assembly and other offences punishable in the Federal Capital Territory and to all courts in the Federal Capital Territory, Abuja and to all federal Courts with criminal jurisdiction, as well as federal agencies and institutions. (Section 2(1) of ACJA).

### Compliance and Applicability of the ACJA

The ACJA as enacted has introduced very far-reaching innovations that have the effect of revolutionising criminal justice administration in Nigeria to improve its efficiency and to ensure that criminal procedure conforms with international best practices as well as protect the rights of suspects, defendants and victims. The laudable innovations introduced by the ACJA are set out below:

## Respect for the rights of suspects, defendants and victims



Chapter IV of the Constitution of the Federal Republic of Nigeria provides for the fundamental rights which all citizens are entitled to.

Being a suspect, defendant or victim in the criminal justice system does not take away any of those rights. This is because everyone suspected or accused of committing an offence is presumed to be innocent until his/her guilt is proven after a fair trial process.

Besides the presumption of innocence, there are numerous other due process rights to which everyone is entitled from the point of arrest to the conclusion of trial. These constitutional rights are also reiterated in the ACJA and include the following: humane treatment of arrested persons (Sections 3-5); taking an inventory of the property of arrested persons (Section 10); to be informed of the reason for the arrest and what he/she is entitled to (Section 6) as well as the right to consult with a legal practitioner of his/her choice.

## Speedy trials with timelines for adjournments and conclusion of trial

One of the objectives of the ACJA is to reduce the delays that characterise the criminal justice system.

To achieve this objective, the Act provides for a day-to-day trial of cases after arraignment (Section 396 (3) and where this is not possible,

the prosecution and defence are entitled to a maximum of five adjournments and the intervals between these adjournments shall not exceed fourteen days (Section 396 (4)).

In addition, the law provides a timeframe within which trials must be commenced and concluded in the Magistrate courts.

Under section 110 (3) and (4), trials in magistrate courts must commence not later than 30 days from the filing of the charge, and where trial has commenced but has not been completed after 180 days of the arraignment, the Magistrate court shall forward to the Chief Judge of the State the particulars of the charge and reasons for failure to commence or complete the trial.

## Electronic recording of confessional statements

One of the challenges faced by investigators of crimes in Nigeria is the absence of technological capacity to aid investigation of crimes. Procedures like finger-print and DNA analysis which have become routine in developed countries are still not readily available.



One of the objectives of the ACJA is to reduce the delays that characterise the criminal justice system.

Most investigations rely on the testimony of witnesses or the confession of suspects to prove the commission of the crime.

In the past, when such confessional statements are sought to be admitted in evidence, the defence always raises objection to the admissibility of the confessional statement on the grounds that it was either not made by the defendant, or that it was obtained under duress or torture.

If such a situation arises, the Court is required by the Evidence Act to conduct a trial-within-a-trial in order to establish the voluntariness of the confessional statement sought to be tendered. This aggravates the delay in the trial process.

To obviate this problem, **the ACJA now provides in section 15(4) that where a suspect volunteers to make a confessional statement, the police officer shall ensure that the making and taking of the statement shall be in writing and may be recorded electronically on a retrievable video compact disc or such audio-visual means.**

Once this procedure is followed, it will assist the court to establish the voluntariness of otherwise of the confessional statement thereby saving time.



## Introduces the principle of universal jurisdiction

International crimes like Genocide, War Crimes and Crimes against humanity have been recognised under international law as crimes that all states have a duty to punish perpetrators or extradite them to countries with jurisdiction to punish such perpetrators under the principle of universal jurisdiction.

It has been observed that perpetrators of international crimes usually flee the countries where the crimes have been committed to seek refuge in other nations.

For national law enforcement agencies and courts to exercise the power to arrest, try and punish perpetrators of international crimes, they must be empowered by law to do so.

**Section 18(1) of ACJA now empowers a police officer in Nigeria to arrest without warrant or an order of court any person whom he suspects on reasonable grounds of having been involved in an act committed at a place outside of Nigeria which, if committed in Nigeria, would have been punished as an offence, and for which he is, under a law in force in Nigeria, liable to be apprehended and detained in Nigeria.**

...the Court is required by the Evidence Act to conduct a trial-within-a-trial in order to establish the voluntariness of the confessional statement sought to be tendered. This aggravates the delay in the trial process.

## Provides for a Central Criminal Records Registry

The absence of a central criminal record registry in Nigeria means that crime statistics and records of offenders are not captured.

Thus, it becomes difficult to identify persistent offenders either for the purposes of aggravation and mitigation of sentencing, or a searchable database against which fingerprints lifted from crime scenes may be cross matched.

**Section 16 of the ACJA provides for the establishment of a Central Criminal Records Registry at the Nigeria Police Force. This if implemented, will aid the management of crime statistics as well as the deployment of logistics for crime prevention.**

## No stay of proceedings for interlocutory appeals

A common strategy employed mostly by the defence in criminal trials in Nigeria was to appeal against any minor interlocutory ruling that goes against them in the course of the trial up to the Supreme Court, while staying proceedings in the court of trial.

By the time the interlocutory appeal goes all the way to the Supreme Court and back, witnesses may no longer be available or the presiding judge or magistrate may have been transferred or retired and the case will be required to start afresh.

This often results in undue delay and frustration of the trial. Section 306 of the ACJA now

provides that an application for stay of proceedings in respect of a criminal matter before the court shall not be entertained.

**As a result of this provision, interlocutory appeals can no longer be used as an excuse to stay proceedings in a trial court as such an application will not even be entertained.**

## No stay of proceedings for interlocutory appeals

Plea bargains refer to agreements entered into by a defendant with the prosecutor in which he pleads guilty and is convicted for a lesser offence or have a lighter punishment imposed on him in respect of the offences charged.

Prosecutors may adopt plea bargaining in order to save time and resources of the state, rather than go through a full trial without the certainty of a conviction.

Because plea bargains are susceptible to abuse, the ACJA in making provisions for plea bargaining in section 270 also provides guidelines to be adhered to in arriving at a plea bargain agreement. Some of the conditions for a plea bargain agreement include:

The evidence of the prosecution is insufficient to prove the offence charged beyond reasonable doubt; the defendant has agreed to return the proceeds of crime or make restitution; where the defendant has fully cooperated with the police during investigation; and where the prosecutor is of the view that it is in the interest of justice, public policy and the need to prevent abuse of legal process.

## Periodic reporting and Creation of oversight mechanisms

Some of the innovative provisions of the ACJA introduce the making of periodic returns to certain officials as a means of providing oversight to the institutions that are required to make the returns.

It is also a mechanism of accountability as the returns will show whether they have been in compliance with the provisions of the Act or not.

For instance, a magistrate shall conduct an inspection of police stations or other places of detention within his magisterial district on a monthly basis in accordance with section 34 of the ACJA and during the visit may call for and inspect the record of arrests, direct the arraignment of a suspect, and where bail has been refused, admit a suspect to bail.

**The Comptroller-General of the Nigerian Corrections Services is required to make returns every 90 days to the Chief Judge of the FCT and of states and the Attorney General all persons awaiting trial and held in correctional custody for a period beyond 180 days from the date of arraignment under section 111 of the ACJA.**



Under the ACJA, a police officer who intends to remand a suspect must justify to the court the reasons for the remand



## Remand proceedings and time protocols

The high number of awaiting trial inmates in Nigeria has been put down to the holding charge. The holding charge is a term used to describe the practice where a suspect is charged before a court that lacks the jurisdiction to try the offence, but nonetheless makes an order remanding the suspect in custody pending the advice of the Director of Public Prosecutions (DPP) and the preferment of charges in the appropriate court.

This practice started in order to avoid the detention of a suspect beyond the 48 hours' time limit set by the Constitution without bringing the person before a court. The process has been gravely abused as suspects have been charged remanded indefinitely, while their cases get forgotten in the system.

Under the ACJA, a police officer who intends to remand a suspect must justify to the court the reasons for the remand by bringing an application on oath in the prescribed form stating the reasons for the remand application. If the court is satisfied after due consideration, it may remand the suspect for a period not exceeding 14 days at the first instance.

If an application is brought for the extension of the remand order, the court after good cause is shown may extend the order for a period not exceeding 14 days.

At the expiration of this period, the court may cause hearing notices to be issued to the Attorney General and Commissioner of Police or any relevant authority in whose custody or at whose instance the suspect is remanded.



After an extension of the remand order for another final period of 14 days, the court shall with or without an application to that effect discharge the suspect and the suspect shall be immediately released from custody. The court is also empowered to grant a suspect bail in the course of a remand proceedings.

## Alternatives to custodial sentences

Most of the punishment contained in our penal laws require that convicts be imprisoned for a period of time or to pay a specified sum of money as fine or a combination of both. In some cases, where fines are imposed and convicts are unable to pay the fine, then they remain in correctional custody. This contributes to the overcrowding of the correctional centres.

As a means of decongesting the correctional centres, the ACJA contains novel provisions that allows the courts to impose alternatives to custodial sentences. These alternatives to imprisonment include: suspended sentence, community service, probation and parole.

They result in the reduction of the congestion in prisons, prevent persons convicted of minor offences from mixing up with hardened criminals and rehabilitate convicts by making them undertake productive work for the benefit of the community.





## ARREST, BAIL AND PREVENTIVE JUSTICE

Provisions of the ACJA dealing with arrest, bail and preventive justice have been designed to address the numerous abuses and human rights violations that have characterised the justice system in the past. Some of the abuses include the following scenarios:

- 1** In developed countries, arrest is usually the last stage of investigation when the police are fairly certain that the available evidence points to the suspect as a person likely to have committed the offence under investigation. In our own case, arrest of suspects is usually the first step in the process of investigation, followed by interrogation before formal charges are brought before the court.
- 2** Arrest and detention of suspects without informing them the reason for their arrest and the rights available to them.
- 3** Arrest of friends and relations in lieu of the suspect, hoping that the suspect will submit himself/herself to the police station.
- 4** Arrest and detention of suspects for cases that are purely civil in nature or as a means to enforce debt recovery.
- 5** Unlawful arrest of suspects, who are then detained indefinitely and refused bail even when the alleged offences for which they have been arrested are bail-able offences.
- 6** Sometimes, the fact of arrest of a suspect and the suspects details may not be formally recorded at the police station. This makes it difficult to trace persons who have been declared missing by their families as well as victims of extrajudicial killings.
- 7** Demand for gratification before admitting a suspect to bail even when bail is free.

In the light of the above, the ACJA contains provisions that are aimed at ensuring respect and protection of the right of suspects during arrest, searches, interrogation and prosecution.

## Arrest



A suspect or defendant may be arrested, investigated, inquired into, tried or dealt with in accordance with the provisions of the law (Section 3).

## Mode of arrest



In making an arrest, the police officer or other persons making the arrest shall actually touch or confine the body of the suspect, unless there is a submission to the custody by word or action (Section 4).

## No unnecessary restraint



A suspect or defendant may not be handcuffed, bound or be subjected to restraint except: there is reasonable apprehension of violence or an attempt to escape; the restraint is considered necessary for the safety of the suspect or defendant; or by order of a court (Section 5).

The provision is in line with Section 3 (1) (a) of the Constitution which provides that every individual is entitled to respect for the dignity of his person, and accordingly, no one shall be subjected to torture or to inhuman or degrading treatment.



every person charged with a criminal offence shall be presumed to be innocent until he is proved guilty

## Notification of cause of arrest and rights of suspect



Under the ACJA, a police officer or any other person making an arrest shall inform the suspect immediately of the reason of his arrest except when the suspect is arrested while committing the offence or is pursued immediately after committing the offence or has escaped from lawful custody (Section 6).

The police officer or the person making the arrest or the police officer in charge of a police station shall inform the suspect of his/her rights to:

- remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice;
- consult a legal practitioner of his choice before making, endorsing or writing any statement or answering any question put to him after arrest; and
- free legal representation by the Legal Aid Council of Nigeria where applicable;

Provided the authority having custody of the suspect shall have the responsibility of notifying the next of kin or relative of the suspect of the arrest at no cost to the suspect.

**These provisions are not entirely new to the Nigerian legal jurisprudence as they are already contained in the fundamental rights provisions of the Constitution of the Federal Republic of Nigeria.**

Their inclusion in the ACJA is for emphasis sake, since many violations of these provisions occur in the process of arrest, detention, investigation and trial.

## Prohibition of arrest in lieu of suspect



The ACJA provides that a person shall not be arrested in lieu of a suspect (Section 7).

The arrest and detention of a person in lieu of the actual suspect amounts to a flagrant violation of the right to personal liberty of all citizens guaranteed under Section 35(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

## Humane treatment of arrested suspect



A suspect who has been arrested shall be accorded humane treatment, having regard to his right to the dignity of his person; and not be subjected to any form of torture, cruel, inhuman or degrading treatment (Section 8).

This provision of the ACJA reiterates the provisions of Section 34(1) (a) of the Constitution. In addition, the arraignment and trial of a suspect for a crime shall be in accordance with the provisions of this Act unless otherwise stated in this Act and the following rights shall also be accorded a suspect:

- A suspect shall not be arrested merely on a civil wrong or breach of contract.
- A suspect shall be brought before the court as prescribed by this Act or any other written law or otherwise released conditionally or unconditionally.

## Inventory of arrested persons



A police officer who arrests a suspect, or whom a suspect is handed over to, shall immediately record information about the arrested suspect and an inventory of all items or property recovered from the suspect.

The inventory shall be signed by both the police officer and the suspect and a copy of the inventory shall be handed over to the suspect, his legal practitioner or any other person as the suspect may direct (Section 10).

This provision of the ACJA is informed by the fact that sometimes when suspects are released from custody, there may arise a variation between the property he claims was in his possession as at the time of his arrest and what is being returned to him. It is to cure this mischief that this provision was introduced to enhance certainty of the items taken from a suspect as at the time of his arrest.

## Examination of arrested persons



Where a suspect is arrested and there are reasonable grounds to believe that an examination of his person will afford evidence as to the commission of the offence, a qualified medical practitioner or any certified professional with relevant skills may examine the suspect in order to ascertain the facts which may afford the evidence (Section 11).

Specifically, Section 36 (5) of the Constitution states that every person charged with a criminal offence shall be presumed to be innocent until he is proved guilty.

In addition to the above provision, the Constitution in Section 36 (6) provides that every person charged with a criminal offence shall be entitled to;

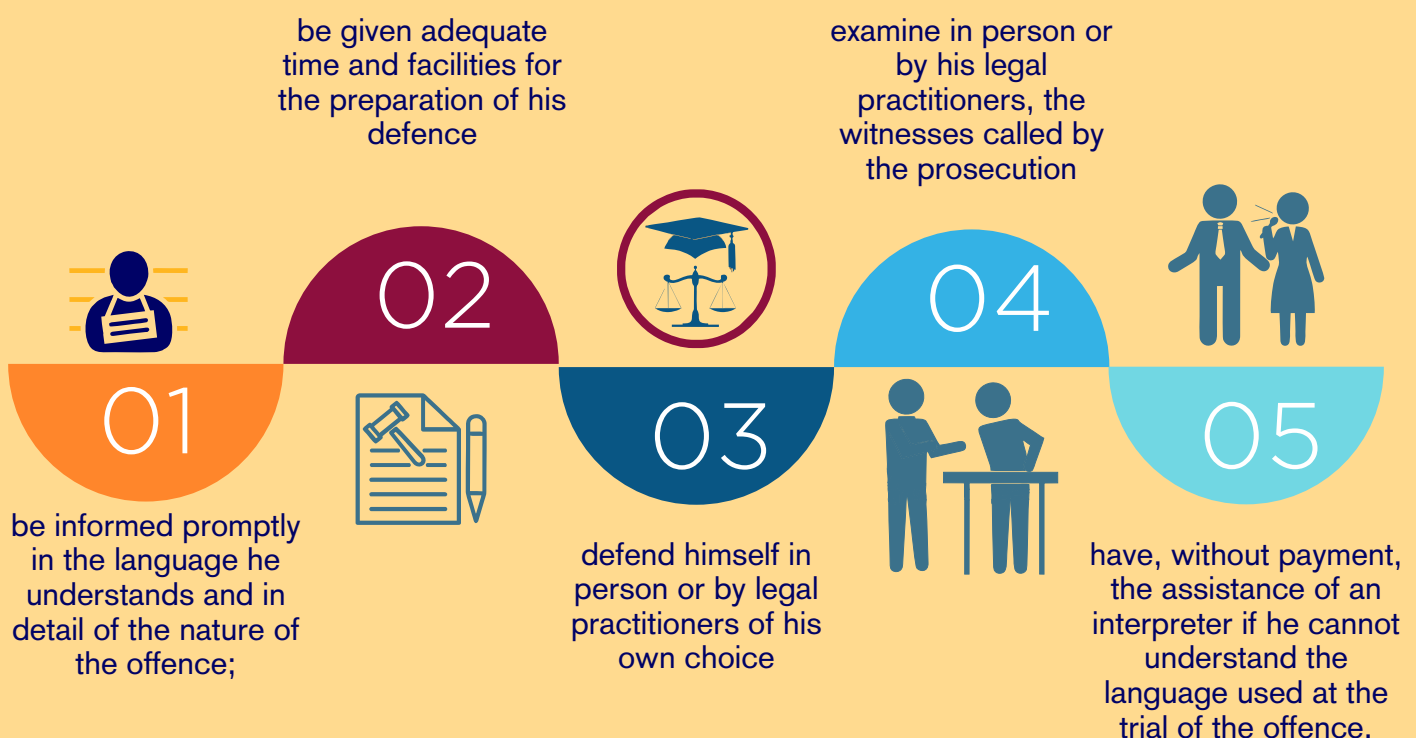
- (a) be informed promptly in the language he understands and in detail of the nature of the offence;
- (b) be given adequate time and facilities for the preparation of his defence;
- (c) defend himself in person or by legal practitioners of his own choice;
- (d) examine in person or by his legal practitioners, the witnesses called by the prosecution before any court or tribunal and obtain the attendance and carry out the examination of

witnesses to testify on his behalf before the court or tribunal on the same conditions as those applying to the witnesses called by the prosecution; and

- (e) have, without payment, the assistance of an interpreter if he cannot understand the language used at the trial of the offence.

It is therefore incumbent on the officers of all law enforcement agencies, particularly the Nigeria Police Force to observe these constitutional principles in the course of performing their constitutional and statutory duties in the course of investigations, arrest, detention and trial of suspects and defendants who are alleged to have committed any offences.

## Rights of every person charged with a criminal offence



## Taking of suspects to police stations



A suspect who is arrested shall be taken immediately to a police station and shall promptly be informed of the allegation against him in a language he understands (Section 14).

For this provision to be effectively implemented, it would require the provision of the relevant gadgets to enable the police deploy same for the recording of confessional statements in compliance with the provisions of the ACJA.

Most of the cases brought by the police to the courts for prosecution place heavy reliance of confessional statements.

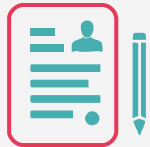
Thus, if the confessional statement is declared inadmissible on the basis of non-voluntariness of the confessional statement, the case is bound to fail without other corroborative evidence.

Most defendants either claim that they didn't make the statements sought to be tendered or that they were made under pain of torture or other forms of duress.

This novel provision of the ACJA rather than inhibit the work of the police, strengthens their case if implemented because the certainty of the voluntariness of the confessional statement is put beyond question.

An improvement in the technological capabilities of the police will reduce the over-reliance on confessional statements in the prosecution of cases. The use of torture to elicit confessional statements from suspects is clearly prohibited by the Anti-Torture Act passed in 2015. Torture is prohibited all over the world that even a mere threat to use torture on a suspect by a police officer can attract sanctions as we can see in the case study below.

## Recording of arrest



Where a suspect is arrested and taken to a police station, a police officer shall cause to be taken immediately, in the prescribed form, the following record of the person arrested: the alleged offence for which he was arrested; the date and circumstances of his arrest; his full name, occupation and residential address; and for the purpose of identification, his height, photograph, fingerprint impressions and any other means of identification (Section 15(1)).

## Recording of confessional statements



Whenever a suspect volunteers to make a confessional statement, the police officer shall ensure that the making and taking of the confessional statement shall be in writing and may be recorded electronically on a retrievable video compact disc or such other audio-visual means (Section 15(4)).

# 1. Arrest, Bail and preventive justice

## Case study 3



**- Threat to torture a suspect can attract sanctions**

*In 2002, Magnus Gaffen, a 28-year-old law student in Germany, kidnapped, demanded for ransom and later killed Jon Metler, an 11-year-old son of a Frankfurt Banking Family.*

*Deputy Police Chief Wolfgang Daschner was reprimanded for threatening to inflict 'unimaginable pain' on Magnus if he did not disclose to the police the whereabouts of the little boy. Out of the fear of the threat of torture, he finally disclosed the boy's location but when the police got there he was already dead.*

*During trial, the court rejected the confessional statement obtained from Magnus by threat of torture. He later made another confessional statement based on which he was convicted and sentenced to life imprisonment.*

*He filed a civil suit against the police based on the threat of torture and was awarded \$4250.00 dollars as damages.*

*Daschner the Deputy Police Chief was tried and convicted for threat of torture, but was given a caution and a suspended sentence. This case study goes to show that on no account should torture be used to elicit confessional statements from suspects.*

## Bail



A suspect, arrested on the allegation of committing an offence may be granted bail by the police or by the courts.

The essence of bail is to ensure that the suspect or defendant appears at the police station or court whenever he is required to do so in the course of investigation or trial.

A suitable surety is required to sign the bail bond and enter into a recognisance to produce the suspect or defendant anytime he is required by the police or court, on such terms and conditions as may be provided for.

Under the ACJA, the court may, while considering an *ex parte* application for the remand of a suspect, grant him bail (Section 295).

The police and courts are enjoined to ensure that bail conditions given to suspects and defendants are reasonable and may depend on the circumstances of the case.

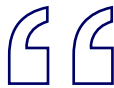
A suspect or defendant charged with an offence punishable with death may be granted bail only in “exceptional circumstances” by the Judge of a High Court.

By virtue of Section 162 of the ACJA, a defendant charged with an offence punishable with a term of imprisonment exceeding three years shall, on application to the court, be released on bail except in any of the following circumstances:

- Where there is reasonable ground to believe that the defendant will, where released on bail, commit another offence;

- Attempt to evade his trial;
- Attempt to influence, interfere with, intimidate witnesses, and or interfere in the investigation of the case;
- Attempt to conceal or destroy evidence;
- Prejudice the proper investigation of the offence; or
- Undermine or jeopardize the objectives or the purpose or the functioning of the criminal justice administration, including the bail system.

In all other cases a suspect or defendant is ordinarily entitled to bail. Bail is a constitutional right that recognises that the suspect or defendant are presumed innocent until their guilt is established by the court of law.



**The essence of bail is to ensure that the suspect or defendant appears at the police station or court whenever he is required to do so in the course of investigation or trial.**





## Police may release suspect on bail



Where a suspect is taken into custody for an offence other than that punishable with death, an officer in charge of a police station shall inquire into the case and release the suspect on bail on his entering into a recognisance with or without sureties for a reasonable sum of money to appear before the court or at the police station at the time and place named in the recognisance (Section 30).

## Women can stand as surety



A woman shall not be denied, prevented or restricted from entering into a cognisance or standing as surety for any defendant or applicant on the ground only that the person is a woman (Section 167(3)). It therefore contravenes the provisions of ACJA to prevent a woman from standing as surety to a suspect or defendant, either at the police station or in the courts.

## Remand and detention time protocols



A police officer who wants to remand a suspect may apply to a magistrate court in the prescribed form and must contain the reasons for the remand request and be verified on oath. The time protocols for the remand of suspect are as follows:

- The court may order the remand of the suspect for a period not exceeding 14 days at the first instance and returnable within the period.
- Where an application in writing is made, and good cause is shown, the court may make an order for further remand of the suspect for a period not exceeding 14 days at the second instance.
- At the expiration of this period, the court may, on application of the suspect grant him bail. If however the suspect is still in custody at the expiration of the second 14 days period, and his trial has not commenced, or no charge has been filed at the court having jurisdiction to try the offence, the court shall issue a hearing notice on the Inspector General of Police and the Attorney General of the Federation, or the Commissioner of Police of the FCT or Attorney General of the Federation as the case may be, or any person in whose custody the suspect is, and adjourn for another period not exceeding 14 days. The essence of the hearing notice is to inquire into the position of the case and to show cause why the remanded suspect shall not be released unconditionally.
- Where good cause is not shown, and the suspect is still in custody, the court shall with, or without an application, discharge the suspect and the suspect shall be released immediately from custody.
- Where good cause is shown by the Inspector General of Police, Commissioner of Police or the Attorney General of the Federation, the court may again extend the remand order for a final period not exceeding 14 days and made returnable within the period. If at the expiration of this final period and the suspect still remains in custody, the court shall with, or without an application, discharge the suspect

and the suspect shall be released immediately from custody and no further application for remand shall be entertained by any court (Section 296).

The rationale behind the setting out of time protocols for remand is to ensure that there is a periodic review of the cases of suspects on remand to avoid their being forgotten in the system and leading to overcrowding of the correctional centres.



## ROLES AND RESPONSIBILITIES OF THE POLICE UNDER THE ACJA

The Nigeria Police Force was established by virtue of section 214 of the Constitution of the Federal Republic of Nigeria 1999 and shall have powers and duties as may be conferred upon them by law. Pursuant to this, the Police Act sets out the general duties of the Nigeria Police Force in section 4 as follows:

- The prevention and detection of crime
- The apprehension of offenders
- The preservation of law and order
- The protection of life and property
- Enforcement of all laws and regulations
- Any such military duties as may be required of them

From the above, it can be seen that the police have an important and critical role to play in the criminal justice system and these roles have been outlined in the provisions of sections 35 – 40 of the ACJA.

### Duties of The Police under ACJA



## Arrest warrants

### *Form and content of a warrant*

A warrant of arrest shall be in the prescribed form and contain the following information as well as characteristics:

- The date of issue
- All necessary particulars
- Signature of the judge or Magistrate who issued it
- The offence or matter for which it is issued
- Name or otherwise describe the suspect to be arrested
- Order the police officer or officers to whom it is directed to arrest the suspect and bring him before the court
- Shall not be issued unless the complaint or statement is on oath
- May be issued any day including a Sunday or public holiday
- May be executed any day including a Sunday or public holidays
- May be directed to a particular police officer or to all police officers
- Once executed, shall no longer be valid authority for re-arresting the suspect

## Public summons

Where a court has reason to believe that a suspect against whom a warrant of arrest has been issued, has absconded or is concealing himself in order to avoid the execution of the warrant, the court may publish a public summons in writing, requiring that person to appear at a specific place and time, not less than 30 days from the date of publishing the public summons.

### Mode of publication of public summons

A public summons may be published in any one of the following ways:



In a newspaper that enjoys wide circulation or circulated in any other appropriate medium



By affixing it to a conspicuous part of the house, premises, town or village in which the person ordinarily resides



By affixing a copy to some conspicuous part of the High Court or Magistrate's court building



## 30 days

the court may publish a public summons in writing, requiring that person to appear at a specific place and time, not less than 30 days from the date of publishing the public summons.



## Search warrants

A police officer who is conducting an investigation may apply to a court of the Justice of the Peace within the local limits of jurisdiction for the issue of a search warrant under section 143 of the ACJA. Where the court or Justice of the Peace is satisfied, by an information on oath and in writing, and that there is reasonable ground for believing that there is in any building, ship, carriage, receptacle, motor vehicle aircraft or place:

- Anything upon or in respect of which an offence has been or is suspected to have been committed;
- Anything which there is reasonable ground for believing will provide evidence as to the commission of an offence; or
- Anything which there is reasonable ground for believing is intended to be used for the purpose of committing an offence,

The court or Justice of the Peace may issue a warrant authorising an officer of the court, a police officer or any other person named to search the building, ship, carriage, receptacle, motor vehicle aircraft or place: to seize any such thing or arrest the occupier of the house or place where the thing was found (Section 144).

Just like in the case of arrest warrants, a search warrant possesses the following characteristics:

- It shall be signed by the judge or magistrate issuing it
- It shall remain in force until it is executed or cancelled by the court which issued it
- It may be directed to one or more persons, and where directed to more than one, it may be executed by all or by any one or more of them

- A search warrant may be executed at any time on any day, including a Sunday or a public holiday.

A person who resides or is in charge of a building sought to be searched, shall on demand of the police officer or other person executing the search warrant, allow him free and unhindered access to it and afford all reasonable facilities for its search (Section 149).

A person executing a search warrant shall draw up a list of all things recovered in the course of the search, and a copy of the list shall be forwarded to the Judge, Magistrate or Justice of the Peace who issued the warrant (Section 153(2)).

Where a thing seized under a search warrant is of a perishable and noxious nature or is gunpowder, arms, ammunition, or any other explosive, it may be disposed of in such a manner as the court may direct (Sections 154 & 155).

Where a place to be searched is physically occupied by a woman, who according to custom or religion does not appear in public, the person making the search shall, before entering the building give notice to the woman to withdraw and shall afford her every reasonable facility for withdrawing, and may then enter the building (Section 149(6)).

## Prevention of offences and security for good behaviour



### *Preventing the commission of a crime*

In line with the duties of the police to prevent the commission of crimes, the ACJA contains provisions that advance this responsibility. Thus, a police officer may intervene for the purpose of preventing, and shall to the best of his ability, prevent the commission of an offence.

A police officer may of his authority intervene to prevent an injury attempted to be committed in his presence to any public property, whether movable or immovable, or the removal of or injury to any public landmark, buoy or other mark used for navigation (Section 50).

### *Arrest to prevent the commission of an offence*

A police officer upon a reasonable suspicion of a design to commit an offence may arrest, without orders from a magistrate and without warrant, a suspect where it appears to the officer that the commission of the offence cannot otherwise be prevented (Section 51).



A police officer may of his authority intervene to prevent an injury attempted to be committed in his presence to any public property



## *Recognisance for keeping the peace*

Where a magistrate is informed on oath that a suspect is likely to commit a breach of the peace or disturb the public tranquillity, or do any wrongful act that may probably occasion a breach of the peace or disturb public tranquillity, the magistrate may require the suspect to show cause why he should not be ordered to enter into a recognisance, with or without sureties, for keeping the peace for such period not exceeding one year, as the magistrate may deem fit (Section 54).

## *Security for good behaviour*

Similarly, where a magistrate is informed on oath that a suspect is taking precautions to conceal his presence within the magistrate's jurisdiction, and there is reason to believe that the suspect is taking the precautions with a view to committing an offence, the magistrate may require the suspect to show cause why he should not be ordered to enter into a recognisance, with sureties, for his good behaviour for such period not exceeding one year, as the magistrate deems fit (Section 55).

## *Security for good behaviour for habitual offenders*

Where a Magistrate is informed on oath that a suspect within the local limits of his jurisdiction: is by habit an armed robber, a housebreaker, or a thief; is by habit a receiver of stolen property, knowing the same to have been stolen; habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property; habitually commits or attempts to commit, or aids or abets the commission of any offence relating to property; habitually commits or attempts to

commit, or aids or abets in the commission of, offence involving a breach of the peace; or is so desperate or dangerous as to render his being at large without security hazardous to the community, such magistrate may require the suspect to show cause why he should not be ordered to enter into a recognisance, with sureties, for his good behaviour for such period not exceeding one year, as the magistrate deems fit (Section 56).

It must be stated that while the order to be bound over or to enter into recognisance is the responsibility of the magistrate, the police has the responsibility of identifying such would-be or habitual offenders and informing the magistrate on oath accordingly.

## First Information Report



The first information report is a procedure through which the complaints of a complainant is received and brought before a magistrate court by a police officer for the purpose of prosecution.

A step-by-step guide for the receipt of a complaint from a complainant and the preparation of the First Information Report are set out below:

- Where a complaint is brought before a police officer in charge of a police station concerning the commission of an offence, and it is one which the police are authorised to arrest without warrant, and triable by a magistrate court within which jurisdiction the police station is situated, the police shall if the complaint is made orally, reduce the complaint or cause it to be reduced in writing in the Police Diary (Section 112).

- The complaint so reduced into writing into the Police Diary shall be read over to the complainant and every such complaint shall be signed by the officer receiving the complaint. Where the officer in charge of a police station has reason to suspect the commission of an offence, he shall enter or cause to be entered the grounds of his suspicion.

- On the other hand, where the officer is satisfied that no public interest may be served by prosecuting, he may refuse to accept the complaint provided he notifies the complainant of his right to complain to a court under this law.

- After complying with the provisions set out above, the officer in charge of the police formation shall act as follows:

- He shall forthwith proceed to the scene and investigate the case and if the suspect is not in custody, take such steps as may be necessary for the discovery and arrest of the suspect or he may direct a police officer subordinate to him to do so and report to him;

- In cases involving death or serious injury to any person, the officer in charge of the police station shall arrange, if possible, for the person to be taken to the nearest hospital for such further examination as may be necessary;

- Where the complaint is given against a person by name and the alleged offence is not of a serious nature, the officer in charge of a police formation need not make or direct investigation on the spot;

- In the cases mentioned the officer in charge of the police station shall record in the book and in the First Information Report to the court his reason for not entering on an investigation or for not making or directing investigation on the spot or not investigating the case;

- Where after the investigation, it appears that the complaints against the suspect are unfounded, the investigation shall be terminated and this fact shall be recorded in the Police Diary mentioned; and

- Where the officer considers that the prosecution of the alleged offence will serve the public interest, the officer shall reduce the complaint into the prescribed form called the First Information Report and the officer shall take the alleged suspect with the First Information Report before a Magistrate within whose jurisdiction the police station is situated.

- Where the suspect appears or is brought before the Magistrate court, the particulars of the offence of which he is accused shall be read to him and he shall be asked if he has any cause to show why he should not be tried by the Magistrate.

- Where upon hearing the information, the alleged suspect admits the commission of the offence contained in the First Information Report, his admission shall be recorded as near as possible in the words used by him and if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly and in that case it shall not be necessary to frame a formal charge.

- Where the suspect denies the allegation against him and states that he intends to show cause why he should not be convicted, the Magistrate shall proceed to hear the complainant and take

such evidence as may be produced in support of the prosecution and the suspect shall be at liberty to cross-examine the witnesses for the prosecution and if he so does, the prosecutor may re-examine the witnesses where necessary.

- Where the evidence referred to has been taken or at any stage of the case, the Magistrate is of the opinion that there is ground that the suspect has committed an offence triable under this part, which such Magistrate court is competent to try and which, in the opinion of the Magistrate, could be adequately punished, the Magistrate shall frame a charge stating the offence for which the suspect will either be tried by the court or direct that the suspect be tried in another Magistrate court.
- Where in the proceedings before a Magistrate court, the court at any stage before judgment, is of the opinion that the case is one which ought to be tried by the High Court, he shall transfer the case along with the suspect to a High Court for trial upon a charge or information in accordance with the provisions of this Act.



**Where the suspect denies the allegation against him and states that he intends to show cause why he should not be convicted, the Magistrate shall proceed to hear the complainant and take such evidence as may be produced...**



## Charges Generally and amendment of charges



### *Form of a charge*

A charge is prepared in the prescribed form and sets out the case that the defendant is called upon to answer to during the trial.

Where the law creating the offence gives it a specific name, it shall be described in the charge by that name only; if it does not give it a specific name, so much of the definition of the offence shall be stated as to give the defendant notice of the facts of the offence with which he is charged.

The section of the law and the punishment section of the law against which the offence is said to have been committed shall be set out in the charge (Section 194).

### *Particulars of a charge*

A charge shall contain such particulars as to the time and place of the alleged offence and the defendant, if any, against whom or the thing, if any, in respect of which it was committed as are reasonably sufficient to give the defendant notice of the offence with which he is charged (Section 196).



## *Where defendants may be charged jointly*

The ACJA in section 208 spells out the circumstances under which two or more defendants, may be charged jointly. The following defendants may be charged and tried together, defendants accused of:

- The same offence committed in the course of the same transaction;
- An offence and another of abetting or being accessory to or attempting to commit the same offence;
- More than one offence of the same or similar character, committed by them jointly;
- Different offences committed in the course of the same transaction;
- Offences which include theft, extortion or criminal misappropriation and another accused of receiving or retaining or assisting in the disposal or concealment of property, the possession of which has been transferred by offences committed by the first named persons, or of abetment of or attempting to commit any of the last named offences; and
- Dishonestly receiving stolen property or assisting in concealment of stolen property, or in respect of stolen property the possession of which has been transferred by one offence, and another accused of offences
- Committed during a fight or series of fights arising out of another fight, and persons accused of abetting any of these offences

## Alteration and amendment of charges



A court may permit an alteration or amendment to a charge or framing of a new charge at any time before judgment is pronounced (Section 216) and where a new charge is framed or alteration made to a charge under this law, the court shall call on the defendant to plead to the new or altered charge as if he has been arraigned for the first time (Section 217).

## Recall of witnesses when charge is revised



When a charge is altered, amended or substituted after the commencement of the trial, the prosecutor and the defendant shall be allowed to recall or re-summon and examine any witness who may have been examined and to call any further witness, provided that such examination shall be limited to the alteration, amendment or substitution made (Section 219).

## Court oversight of police stations



A Chief Magistrate and where there is none, any Magistrate designated by the Chief Judge for that purpose shall every month, conduct an inspection of police stations or other places of detention within his territorial jurisdiction other than the correctional centres.

### During the visit, the Magistrate may:

- **call for, and inspect, the record of arrests;**
- **direct the arraignment of a suspect;**
- Where bail has been refused, grant bail to any suspect where appropriate if the offence for which the suspect is held is within the jurisdiction of the Magistrate.
- An officer in charge of a police station or official in charge of an agency authorised to make an arrest shall make available to the visiting Chief Magistrate or designated Magistrate exercising his powers under subsection (1) of this section:
  - The full record of arrest and record of bail;
  - Applications and decisions on bail made within the period; and
  - Any other facility the Magistrate requires to exercise his powers under that subsection.
- High Court to visit detention facilities of federal agencies
- With respect to other Federal Government agencies authorised to make an arrests, the High Court having jurisdiction shall visit such detention facilities for the purpose provided in this section.

## Court oversight of police stations



Where there is default by an officer in charge of a police station or official in-charge of an agency authorised to make arrest to comply with the provisions of subsection of this section, the default shall be treated as a misconduct and shall be dealt with in accordance with the relevant Police Regulation under the Police Act, or pursuant to any other disciplinary procedure prescribed by any provision regulating the conduct of the officer or official of the agency (Section 34(5)).

## Police to submit reports to supervising Magistrates



In addition to the monthly visit of Magistrates to police stations, the ACJA requires an officer in charge of a police station or an official of any agency authorised to make arrest shall, on the last working day of every month, report to the nearest Magistrate the cases of all suspects arrested without warrant within the limits of their respective stations or agencies whether the suspects have been admitted to bail or not.

The report shall contain the particulars of the suspects arrested and the Magistrate shall on receipt of the report, forward them to the Criminal Justice Monitoring Committee, which shall analyse the reports and advice the Attorney General of the Federation on the trends of arrests, bail and related matters.

The Attorney General of the Federation shall, upon request by the National Human Rights Commission, the Legal Aid Council of Nigeria or a Non-Governmental Organisation, make the report available to them.

Where no report is made as required above, the Magistrate shall forward a report to the Chief Judge of the State and the Attorney General of the State for appropriate remedial action.

“

the ACJA requires an officer in charge of a police station report to the nearest Magistrate the cases of all suspects arrested without warrant within the limits of their respective stations or agencies whether the suspects have been admitted to bail or not.

”





## EVIDENCE BY WITNESSES UNDER THE ACJA

The role of witnesses in the conduct of trials and determination of cases before the courts cannot be over-emphasized. They assist the presiding judicial officer in arriving at the truth of the matter before the court.

However, it is not all smooth sailing as there are numerous challenges faced by the court, the prosecution and the defence in trying to ensure the attendance and giving evidence of the witnesses in the cases that come before the courts.

### Issue of summons for witnesses



The court may, on the application of the prosecution or the defence, issue a summons or writ of subpoena on a witness requiring him to attend court to give evidence in respect of the case, and to bring with him any specified documents or things relating to them which may be in his possession or power or under his control.

Where the prosecutor is not a public servant, the person to whom the summons is addressed is not bound to attend unless his travelling expenses are paid to him (Section 241).

### Service of court processes in criminal cases



The service of processes shall be undertaken by a process server specifically assigned to the court whose responsibility it is to serve all witness summons, defendants production orders, writs and all other processes issued in the court in respect of all criminal matters. Service of court processes may also be effected by registered reputable courier companies, recognised and authorised by the Chief Judge in accordance with the provisions of this Act (Section 242).

### Issue of warrant for arrest of witness after summons



Where a witness who has been summoned to give evidence does not attend court at the time and place indicated on the summons, and provide any reasonable excuse for his non-attendance, the court, after proof that the summons was duly served on him, or that the person to be served wilfully avoids service, may issue a warrant of arrest and bring him before the court (Section 243).

## Penalty for witness refusing to attend pursuant to summons



Where a witness refuses, or neglects, without reasonable cause, to attend court in compliance with the requirements of a summons duly served on him, or departs from the premises of the court without leave of the Judge or Magistrate hearing the case, he shall be liable on summary conviction to a fine not exceeding N10,000.00 or to imprisonment to a term not exceeding two months (Section 246).

## Manner of taking oath or affirmation



A witness shall take an oath or make a solemn affirmation in such a manner as the court considers binding on his conscience (Section 249).

## Witness expenses

Where a person attends court as a state witness, the witness shall be entitled to the payment of such reasonable expenses as may be prescribed (Section 251).

On the other hand, where a witness attends court to give evidence for the defence, the court may in its discretion on application, order payment by the Registrar to such witness of court such sums of money, as it may deem reasonable and sufficient to compensate the witness for the expenses he reasonably incurred in attending court (Section 252).





## ADMINISTRATION OF CRIMINAL JUSTICE MONITORING COMMITTEE (ACJMC)

One of the greatest challenges facing the administration of criminal justice in Nigeria is the absence of coordination among the various institutions that make it up.

In the past, a coming together by the various agencies had resulted in blame games as to which institution was most culpable for the sorry state of affairs in the justice sector. The establishment of Justice Sector Reform Teams (JSRTs) at both Federal and state levels began to bring the agencies together to work collaboratively towards addressing the challenges of the sector.

### Establishment of the ACJMC

In recognition of the important role of a monitoring and coordinating mechanism for the implementation of the Act, the ACJA created the Administration of Criminal Justice Monitoring Committee (ACJMC). Section 469 of the ACJA provides that there is established the Administration of his Act referred to as “the Committee”).

### Composition of the Committee

The Committee shall consist of:

- representative not below the rank of a Director in the Ministry;
  - A Judge of the Federal High Court;
  - The Inspector-General of Police or his representative not below the rank of Commissioner of Police;
  - The Comptroller-General of the Nigeria Prisons Service or his representative not below the rank of Comptroller of Prisons;
  - The Executive Secretary of the National Human Rights Commission or representative not below the rank of Director;
  - The Chairman of any of the local branch of the Nigeria Bar Association in the FCT to serve for two years only;
  - The Director-General of the Legal Aid Council of Nigeria or representative not below the rank of Director; and
  - A representative of the Civil Society working on human rights and access to justice or women rights to be appointed by the Committee to serve for a period of two years only.
- The Chief Judge of the FCT who shall be the Chairman;
  - Attorney-General of the Federation or his

## Functions of the committee

The Committee shall be charged with the responsibility of ensuring effective and efficient application of this Act by the relevant agencies and without prejudice to the generality of subsection (1) of this section, the Committee shall ensure that:

01

Criminal matters are speedily dealt with;

02

Congestion of criminal cases in courts is drastically reduced;

03

Congestion in prisons is reduced to the barest minimum;

04

Persons awaiting trial are, as far as possible, not detained in prison custody;

05

The relationship between the organs charged with the responsibility for all aspects of the administration of justice is cordial.

06

collate, analyse and publish information in relation to the administration of criminal justice sector in Nigeria

07

Submit quarterly report to the Chief Justice of Nigeria to keep him abreast of developments towards improved criminal justice delivery and for necessary action

08

Carry out such other activities as are necessary for the effective and efficient administration of criminal justice.

- Criminal matters are speedily dealt with;
- Congestion of criminal cases in courts is drastically reduced;
- Congestion in prisons is reduced to the barest minimum;
- Persons awaiting trial are, as far as possible, not detained in prison custody;
- The relationship between the organs charged with the responsibility for
- All aspects of the administration of justice is cordial and there exists maximum co-operation amongst the organs in the administration of justice in Nigeria
- Collate, analyse and publish information in relation to the administration of criminal justice sector in Nigeria; and
- Submit quarterly report to the Chief Justice of Nigeria to keep him abreast of developments towards improved criminal justice delivery and for necessary action; and
- Carry out such other activities as are necessary for the effective and efficient administration of criminal justice.

## Secretariat of the ACJMC

The Committee shall establish and maintain a secretariat with such number of staff as it considers necessary for the efficient running of its affairs.

The Secretariat shall be headed by a Secretary who shall be appointed by the Attorney-General of the Federation on the recommendation of the Committee.

The Secretary shall be a legal practitioner of not less than 10 years post call experience and shall possess sound knowledge of the practical functioning of the criminal justice system and adequate experience in justice system administration. The Secretary shall be responsible for the execution of the policy of the Committee and the day-to-day running of the affairs of the Committee.

**The Secretary shall hold office for a term of 4 years and may, subject to satisfactory performance of his functions, be re-appointed for another term of 4 years and no more (Section 471).**

## Secretariat of the ACJMC

The successful implementation of the provisions of this Act and the monitoring of the compliance with the provisions of the Act requires a lot of funds and resources.

The Act in section 472 establishes for the Committee a fund into which shall be paid:

- Budgetary allocation to it through the Office of the Attorney-General of the Federation;
- Such monies as may, from time to time, may be provided to the Committee by any public, private or international organisation by way of grant, support or assistance on such terms as

consistent with its functions; and

- Such monies as may be received by the Committee in relation to the exercise of its functions under this Act.

## Annual Report

The ACJMC shall prepare and publish an annual report of its activities (Section 474). The publication of its annual report will help the government and other stakeholders hold the Committee accountable while providing a framework for assessing the activities of the Committee.

## Power to obtain information

The Committee shall for the purposes of carrying out the functions conferred on it by the Act, have the right to access all the records of any of the organs in the administration of justice sector to which this Act applies; and may by notice in writing served on any person in charge of any organs require the person to furnish information on such matters as may be specified in the notice.

A person required to furnish such information shall comply with the notice within a reasonable time (Section 475).





## CONCLUSION

From the outset, the rationale that informed the development of this manual was to develop a handy resource and toolkit for police officers, particularly Station Officers, Crime Inspectors and Investigating Police Officers to guide them in the performance of their duties under the Administration of Criminal Justice Act. No doubt, enormous resources must be invested in the justice sector by the if the vision and ideals of those who championed the development and passage of the ACJA 2015.

Beyond resource constraints, it is important for all agencies involved in criminal justice administration to embark on a massive re-orientation and behavioural change campaign within their respective institutions. The development and

publication of this manual represents a modest contribution of the Rule of Law and Empowerment Initiative with the support of the Nigeria Policing Programme (NPP) in that direction.

Attitudinal change requires a genuine and concerted effort by a critical mass of stakeholders committed to ownership of the reform process. Gradually, but steadily, we shall collectively steer the reform ship of the justice sector in the right direction. It is hoped that the restoration of confidence in the justice sector institutions by members of the Nigerian public will represent a manifestation of the gains of these collective efforts.



## **This Manual was developed by Partners West Africa Nigeria and Supported by the Nigerian Policing program**

Rule of Law and Empowerment Initiative known as Partners West Africa Nigeria (PWAN) is a non-governmental organization working towards enhancing citizens' participation and improving security governance in Nigeria and West Africa broadly.

We are located in Abuja, Nigeria's capital and have field offices in the North East-Borno and North-West-Kano and other with national and regional reach.

**MISSION:** Our organization is dedicated to enhancing citizens participation and improving governance and security in Nigeria and West Africa.

**VISION:** Robust good governance and accountable institutions in Nigeria and West Africa.

**VALUES:** Integrity, Inclusiveness, Impact and Professionalism.



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