



A TWO DAY STEP-DOWN  
TRAINING WORKSHOP FOR  
**THE NIGERIA POLICE FORCE**  
ON PROVISIONS OF THE  
ADMINISTRATION OF  
CRIMINAL JUSTICE  
ACT 2015

**TRAINING MANUAL**

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## PREFACE

The Administration of Criminal Justice Act (ACJA 2015) came into force in 2015 to address several challenges in the criminal justice process in the country. The ACJA 2015 significantly alters the criminal justice process with a view to raising efficiency and effectiveness in the quality of justice delivery in Nigeria. Irrespective of the innovative provisions of the Act, implementation of the Act has remained slow and some of the challenges have been attributed to low level of awareness amongst criminal justice institutions including the police.

Considering the important role of the police in criminal justice system as gatekeepers and the need to ensure adequate awareness on the provisions of the law and their applicability in criminal proceedings by the police, CLEEN Foundation has developed a compendium of modules which aim addressing the knowledge gaps and the constraints of the Nigeria police in implementing the provisions of the ACJA 2015. The modules in this publication were developed by leading experts in the security and justice sectors to improve the capacity of the police and security officials in the implementation of the Administration of Criminal Justice Act (ACJA) 2015 in Nigeria.

## **WELCOME REMARKS BY DR. BENSON OLUGBUO, EXECUTIVE DIRECTOR CLEEN FOUNDATION**

### **Protocol**

Distinguished guests, with sincere pleasure and on behalf of the Board, Management and Staff of the CLEEN Foundation, I warmly welcome you all to the 2-day Training of Trainers' Workshop for Officers of the Nigeria Police Force on the provisions of the Administration of Criminal Justice Act (ACJA), 2015. CLEEN Foundation was established in January 1998 with the mission to promote public safety, security and accessible justice through the strategies of empirical research, legislative advocacy, demonstration programmes and publications, in partnership with government, civil society and the private sector. In our twenty-one (21) years of existence, the Nigeria Police has remained one of our closest partners in working to improve public safety and security in Nigeria.

The Police as gatekeepers to the criminal justice system require continued training and retraining to effectively deliver on their constitutional mandate to maintain law and order and protect lives and property in a professional manner and within the confines of the laws. This training workshop being organized by CLEEN Foundation is coming at a crucial time in our country in view of the escalating crime incidences, the multiplicity of reports on human rights violations, complaints about non-compliance to the laws by law enforcement agents, and the need for expeditious hearing of criminal cases in the country.

The ACJA 2015 as we know has brought fundamental reforms to our criminal justice system. The Act was designed to not only

preserve and strengthen existing legal frameworks but also enhance the efficiency of the institutions within the criminal justice system and the protection of human rights of citizens - suspects, defendants and victims.

The legislative purpose of the ACJA, 2015 is to have a nation-wide application, thus, to introduce a national criminal procedure law that will regulate the investigation and prosecution of offences throughout the federation. The Act, being an Act of the National Assembly is only applicable to the Federal Capital Territory and to Federal courts and other federal institutions including the Nigeria Police, however many states are beginning to adopt the Act. Presently, 26 states have already adopted the Act, including Lagos, Anambra and Ekiti States which enacted the Law before 2015. Other states that have adopted the Act include Enugu, Rivers, Delta, Kaduna, Cross River, Akwa Ibom, Ondo, Oyo, and Kogi, Ogun, Plateau, Bayelsa, Edo, Benue, Adamawa, Jigawa, Nassarawa, Bauchi, Kano, Yobe, Kwara, and Osun states.

Findings from public perceptions surveys CLEEN conducted in 2017 and 2018 respectively to monitor the Administration of Criminal Justice Reform Process indicate a low level of awareness amongst criminal justice institutions including the police and with the increase in the number of states adopting the law, it is expedient to ensure adequate awareness on the provisions of the law and their applicability in criminal proceedings.

It is against this background and in furtherance of our commitment to support the efforts of the Inspector General of Police (IGP) to improve police professionalism and service delivery, that CLEEN Foundation is implementing organizing series of training programs for police officers across the country beginning with this

Training of Trainers (ToT) workshop to improve the knowledge and capacity of officers and men of the Nigeria Police Force on the ACJA 2015 with a view to deepen their understanding of the dynamics and nuances involved in the application of the Act. This training workshop will draw from the experiences of senior police officers on the field, look at the role that law enforcement and security actors such as the Police are expected to play in promoting the implementation of the ACJA, the associated challenges they face and providing mitigating strategies. It is expected that at the end of the training, the trained personnel will be better equipped and positioned to handle criminal cases from an informed and enlightened perspective of the law.

Once again, I would like to extend our special appreciation to the Nigeria Police (NPF) for their consistent cooperation and valued partnership. I thank you all once again for responding to the call to build requisite capacity needed to provide greater protection for Nigerian citizens as well as professionally investigate and prosecute criminal cases judiciously. It is our hope that the outcome of this training will be visibly evident in the diligent investigation and prosecution of criminal cases.

I wish you all a successful and fruitful deliberation.

**Benson Olugbuo, PhD**  
**Executive Director**  
**CLEEN Foundation**



## **A POLICY BRIEF ON THE IMPLEMENTATION OF THE ADMINISTRATION OF CRIMINAL JUSTICE ACT, 2015**

### **INTRODUCTION**

The CLEEN Foundation (formerly known as Centre for Law Enforcement Education) is a non- governmental organization established in January 1998 with the mission of promoting public safety, security and accessible justice through the strategies of empirical research, legislative advocacy, demonstration programmes and publications, in partnership with government, civil society and the private sector. CLEEN in partnership with MacArthur Foundation is presently executing a project aimed at digitalizing courts proceedings in Nigeria with a view to promoting accountability and transparency in the fight against corruption.

The project also monitors cases of corruption vis-à-vis the implementation of the ACJA 2015 through a web based platform. The project's goals seek to make information on corruption and accountability easily accessible (online and offline) to legal practitioners, law enforcement agencies, Judges, Prosecutors,

Defendants, government agencies responsible for the administration of criminal justice and civil society organizations working for justice sector reforms, legal scholars and researchers. This project is being implemented in eight focal states in Nigeria (F.C.T, Lagos, Ondo, Ekiti, Oyo, Anambra, Enugu and Kaduna) with the working group committee drawn from the relevant criminal justice agencies as part of the group in the eight states. Quarterly meetings are held in the project states and critical issues or emerging trends and solutions arising from the application of ACJA/ACJL in the states are garnered & portrayed in this policy brief.

## **Executive Summary**

The Administration of Criminal Justice Act (ACJA) was enacted in 2015 by the government of former President Good-luck Jonathan. The ACJA proposed to significantly alter the criminal justice process with a view to enhancing efficiency and effectiveness in the justice delivery system in Nigeria. However, since the inception of the Act, its effective implantation into the criminal justice system has suffered a snail speed growth. Despite the passage of the Act which also serves to forestall corrupt tendencies of errant Political & judicial actors, the old problems that bedeviled the criminal justice system are yet to be completely surmounted ranging from poor and untimely justice delivery, poor case management, delays in the adjudicatory process, inadequacy of police and judicial personnel, corruption, human rights abuses, lack of modern information technology and weak coordination and cooperation amongst criminal justice institutions.

The general perception of the criminal justice system in Nigeria is not quite positive. Amnesty International tagged the criminal justice system in Nigeria a “conveyor belt of injustice, from beginning to end”. According to a perception survey carried out by CLEEN Foundation in some states around the federation, one of the major constraints affecting the administration of criminal justice in Nigeria is the lack of diligent/proper investigation and prosecution of cases by LEA. There is probably no instrument more potent than criminal justice administration for initiating change and restoring sanity to a society which has become degenerated. The poor state of our criminal justice system heavily demands judges and lawyers imbued with a clear sense of law as an instrument of social engineering to take the centre stage in the justice reform agenda. Hence, the development of this policy brief to guide critical policy changes.

## **The Impact of the ACJA, 2015 four years after inception**

The Administration of Criminal Justice Act, 2015 is a law that has gathered enough momentum for full implementation for some time now (4 years) owing to the several programs being undertaken by Civil Society Organizations to popularize its innovative provisions and human rights based approach. However, the impact of the law is yet to be substantially felt in the justice sector four years after its inception. While the ACJA 2015, has afforded the enabling environment for relevant stakeholders to engage substantially in the reform process and redefined the aims of the criminal justice system in Nigeria by making innovations in the areas of supervision of security services, arrest procedure, daily adjournments, rights of victims of crime, plea bargaining and remand practices, it is only the first step in a long line of processes and agencies long due for reform. The current practice of enacting revolutionary laws without an implementation plan or budget to ensure compliance is only attempts to compound the existing problem instead of solve it. It is therefore imperative to take a pragmatic approach towards breaching implementation gaps noticed in the law or developing implementation action plans which will have its ownership embedded within the institutions who are the major actors under the ACJA 2015.

The Act, although very well drafted with quantum of laudable intentions and innovations is not entirely a perfect law. There are sections of the law that have being flawed by several legal scholars and luminaries. It is therefore ripe for the law which already is being subjected to test in states that have adopted the law to undergo a review process to make it the ideal law that meets the needs peculiar to the Criminal Justice System in Nigeria. The new law is very progressive, timely and in conformity with international best practices. It is therefore the sincere desire that the law will be well implemented to give a better justice reform package that the legislators have in mind for Nigeria

## **Context**

Incisively, the innovative provisions contained in the ACJA are not sufficient in themselves to create the change long desired within the justice sector. The law essentially is a procedural law and is to be applied in criminal proceedings at all levels. Without proper application and implementation of the innovative aspects of the law, the yearnings of citizens for speedy justice may never be attained. The key actors saddled with sensitive roles and responsibilities under the Act, must be held to account for the fulfilment of their roles as stipulated within the law. The judicial system has been plagued with incessant delays for years, while it is trite to applaud the drafters of the law for a job so excellently done; it is eminent and pertinent to interrogate the effectiveness of the law in curing the judicial malaise the criminal justice system has suffered for decades.

## Key issues emanating from implementation

### A. Irregularities in the taking of suspect's statements

One of the challenges currently being encountered in criminal trials in Nigeria is the fact that confessional statements are usually denied or disowned in court by the suspects. The main ground for this is the alleged involuntariness of such statements, as the suspects who make them often allege that they were forced to make them. Section 15 of the ACJA, guarantees the right of a suspect to have either his lawyer, an officer of the Legal Aid Council, a CSO representative or person of his choice in attendance during the taking of his statement. As soon as this issue arises, the trial Court is compelled to adjourn the case sine die. It will then go into a "trial within trial" to determine the voluntariness or otherwise of such statements. The trial within trial may take months to conclude before the main trial resumes. This has contributed in no small measure in prolonging criminal trials. In order to ensure that this no longer happens, the Administration of Criminal Justice Act, 2015 provides in Section 15(4) that "Where a suspect volunteers to make a confessional statement, the police officers 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 other audio visual means." By the latter part of this section as underlined, the Act makes electronic recording of confessional statements optional instead of compulsory or mandatory.

### B. Non-compliance to arrest protocols

- The ACJA has made copious & daring provisions for the lawful arrest of suspects (**Section 4-10**).
- Mode of arrest by confining the body of the suspect unless he submits willingly- **section 4**,

- The provisions Prohibit handcuffing of suspects unless there is reasonable apprehension of his escape- **section 5**,
- It also prohibits arrest in lieu- **Section 7**,
- Prohibition against Inhumane treatment of suspects- **Section 8**, Notification of the cause of arrest- **Section 5**.
- Mandatory inventory- **Section 10**,
- Decent searches by same sexes- Prohibition of arrest in civil cases- **Section 8(2)**.

Among the several issues with implementation of these provisions, prominent of them all, is the low level awareness of the existence of these provisions among the rank & file personnel.

### C. Ill-equipped Police stations and Law Courts

- Another daunting challenge that stultifies the implementation of the ACJA is the fact that the Courts and police stations are grossly under equipped. Government should therefore ensure that the judiciary and police are adequately funded otherwise the purpose of enacting the Act may not be fully realized.

### D. Prohibition of lay prosecutors

- Another interesting innovative aspect of the Act is Section 106 of the Act which makes the prosecution of cases the exclusive preserve of lawyers. In effect police personnel who are not lawyers have lost the right to prosecute. This innovative provision of the Act is commendable as experience has shown that the bulk of criminal cases pending in our Courts are lost to poor prosecution. But it equally means that more lawyers will need to be employed as the abolition of lay prosecution will engender a dearth of qualified manpower among the police. This will also cast a heavy burden on the

few state prosecuting counsel especially at the state Ministries of Justice. Failure to fill the gap as quickly as possible will definitely create problems that will ultimately defeat the aim of the Act.

#### E. Impracticability of Daily Adjournments

- Again, the Act makes elaborate provisions aimed at ensuring that criminal cases are expeditiously disposed of. To this end **Section 396** of the Act provides that criminal cases shall be tried on a daily basis. Where day to day trial is impracticable, the Act provides that parties shall be entitled to only five adjournments each. The interval between each adjournment, according to the Act, shall not exceed two weeks each. Where the trial is still not concluded, the interval for adjournments will be reduced to seven days each. The Impracticability of implementing this law given the current situation of our judiciary is not in doubt. Most judges are presently over laden with piles of cases to attend to. While it is important to abide by the law, provisions for exceptions should be made in cases where the matter cannot be concluded within the stipulated time frame. Some states in the process of adopting the law have expunged this section, while others have adapted it fully or partially while still struggling to implement.

#### F. Inadequate provisions on women's rights

- Furthermore, as it regards the rights of women, the ACJA expands the scope of persons who can stand as legitimate surety for an accused to include women. This innovative provision of the law is enshrined in **Section 167** and is being practiced in many courts across the federation. However it appears the law in this regard did not take into consideration the need to create an exception for pregnant women and Nursing mothers who may be women in every right but by

reason of their special condition should not be subjected to arrest and imprisonment in a situation where the accused decides to jump bail. More so, no qualification/definition was given to the word “woman”. This has led to some desperate litigants procuring young girls (teenagers) to stand as sureties. The gender sensitive nature of the ACJA can also be seen in the provision according women the right to buy and own property in her name- **Section 191**.

Reported by Ondo Ministry of Justice state counsel at a working group meeting organized by CLEEN Foundation.

#### G. Lack of uniformity in the Domestication of ACJA, 2015

- Since the inception of the Act, 26 out of the 36 states of Nigeria have domesticated the Act. Most state governors are no longer oblivious to the aims and import of the existence of such a law for their state judiciary. Hence the progressive move towards its adoption, especially among the northern states. It is paramount for the Chief Judges of the states that are yet to domesticate the law to take a united approach in embracing the gains of the ACJA by proactively moving for its adoption in their state.
- It is expected that the judiciary will take the lead in ensuring implementation and enforcement of the provisions of the Act, however this is not case. Reports abound of errant judicial officers who prefer the status quo and as such have resisted the innovation proffered by the advent of the ACJA. Some states that have adopted the ACJA, 2015; have also been found to have deviated to an extent from the spirit of the law by excluding some important innovatory aspects of the law.



## **I. Absence of Practice Directions/Guidelines**

- Some major stakeholders across the focal states of the CLEEN Project have decried the absence of Practice Direction/Guidelines as a challenge in the implementation of the Act/Law. As the ACJA, 2015 is not a perfect law in itself, it is absolutely pivotal that Chief Judges of the various states that have domesticated the ACJA take the lead in issuing Practice Directions and Guidelines to avoid abuse of weak sections of the law and aid the smooth implementation of the law within their jurisdiction.

## **J. Lack of funds resulting in Non-Functional or Non-existent Monitoring Committees at the state level**

Although the Monitoring Committee exist in some states of the Project, viz: F.C.T, Lagos, Kaduna, Ondo, Enugu and Oyo, some are not as effective or functional as is desired due to lack of funds/infrastructure or manpower. The Monitoring committee is yet to be set up in Ekiti and Anambra states of the Project. As a result of the paramount role played by the Monitoring Committee in driving the implementation of the law, it is pertinent for the government of the state to factor in the funding of the Monitoring Committee in the budget provision made for the Ministry of Justice. Adequate funding will enable the Monitoring Committee live up to its mandate as enshrined in the Act/Law

## **Recommendations/Way forward**

- A holistic review and possible amendment of some flawed sections of the Administration of Criminal Justice Act (ACJA) 2015.
- The Administration of Criminal Justice Monitoring Committee should have a structured budget that is included in the Budget for the Judiciary.
- Chief Judges of states that have successfully adopted the law should create practice directions or rules of court to guide the smooth implementation of the Act in the state.
- It may be helpful to develop a domestication of ACJA policy to guide states adopting the law so as to ensure that states in an attempt to tweak the law to suit their justice needs do not depart substantially from the spirit of the law nor import provisions that significantly contradict the substantive Act in aiding speedy dispensation of justice. (ACJA, 2015).
- There should be clearly spelt out disciplinary measures and oversight of Judges, lawyers and the Police who repeatedly default in compliance to the provisions of ACJA.
- The Nigeria Police stations and other detention facilities need to be adequately equipped and funded as obtainable in developed countries.
- There is need for judges to be proactive in exploring alternatives to imprisonment as proposed under the ACJA, 2015 (such as parole, community service) as obtainable in

other systems.

- It is important to continue to promote and strengthen legal awareness to citizens on the provisions of ACJA, 2015.
- A victim's Trust fund needs to be set up to adequately cater to the needs of victims for compensation under provisions relating to restorative justice for victims of crime.
- The management and control of prisons should be removed from the exclusive legislative list to the concurrent legislative list in order that state governors and the Chief Judges of the states will have input in the entire criminal justice process in their states.

It is important to have avenues for periodic interface and engagement between the ACJMC and state monitoring committees which would help to encourage experience sharing, enhance understanding of their workings, challenges as well as provide mentorship and guidance for effective delivery of their mandate

## **MODULE 1:**

# **EVIDENCE COLLECTION, PROCESSING AND PRESENTATION BY THE POLICE**

**Module presented by  
AIG DAVID IGBODO (RTD)**

## **Introduction**

This module looks at the importance of evidence and evidence collection. Evidence is unarguably the most paramount element in solving a crime. Litigious matters are won and lost based on evidence present. Therefore, it is important that police personnel are adequately knowledgeable on the efficacies of evidence.

### **The Place of the NPF in the Criminal Justice Value Chain**

- ◆ Section 214 of the Constitution states that “there shall a Police Force for Nigeria which shall be called the Nigeria Police Force and subject to the provisions of this section; no other Police Force shall be established for the Federation or any part thereof.
- ◆ The Police is therefore the lead law enforcement agency in Nigeria

### **The Duties of the Police**

The primary responsibilities of the Police as provided in Section 4 of the Police Act are;

- ◆ The prevention and detection of crime,
- ◆ The apprehension and prosecution of offenders,
- ◆ The preservation of law and order,
- ◆ The protection of life and property
- ◆ The due enforcement of all laws and regulations.

## **POLICE AND THE ACJ ACT 2015**

The ACJ Act 2015 was enacted to promote efficient management of criminal justice institutions, speedy dispensation of justice, and protection of the society from crimes. It is also meant to provide for the protection of the rights and interest of suspects as well as that of the victims of crimes. The Police as the foremost security agency in the country have the responsibility to implement the ACJ Act and ensure the reforms in the Act. The success of the implementation of the Act therefore falls heavily on the Police and the other security agencies in the Criminal Justice Sector.

## **POLICE AND EVIDENCE COLLECTION**

### **What is evidence?**

Loosely, evidence means the testimony whether oral, documentary, or real, which may be legally received in order to prove or disprove some fact in dispute. It is therefore the responsibility of the Police to collect evidence to prove or disprove the allegations of crime.

### **Types of evidence:**

- ◆ Oral Evidence:
- ◆ Documentary evidence: primary or secondary
- ◆ Real evidence: Section 258 EA defines real evidence as anything other than testimony, hearsay or a document, to be examined by the court as a means of proof of such fact;
- ◆ Hear Say evidence

### **POWER TO COLLECT EVIDENCE:**

Section 29 of the Police Act Cap P19 2004 empowers a police officer to search and detain persons upon reasonably suspicion

The Act further empowers a police officer in section 30 to take

and record measurements, photographs and fingerprint impressions from time to time of all persons who in lawful custody for the purpose of identification.

Section 15(1) of the Administration of

Criminal Justice Act (ACJA) 2015 provides that with or without a warrant a police officer or the officer from another agency effecting arrest, upon such arrest and taken a suspect to the police station, shall record for the purpose of identification:

- I. his height,
- II. his photograph,
- III. his full fingerprint impressions, or
- IV. Such other means of his identification.

### **REFUSAL TO SUBMIT TO COLLECTION**

Section 30 (2) of the Police Act provides that upon refusal, the suspect shall be taken before a magistrate who, on being satisfied that such person is in lawful custody, shall make such order as he thinks fit authorizing a police officer to take the measurements, photographs and finger- print impressions of such person.

Section 9 ACJA empowers an arresting officer to use such force reasonably necessary during search of a suspect.

### **ELECTRONIC RETENTION OF EVIDENCE**

According to section 16(1, 2 &3) ACJA, there shall be established at the Nigeria Police

Force a Criminal Records Registry which shall keep and transmit all such records to the Central Criminal Records Registry and shall ensure that the decisions of the court in all criminal trials are

transmitted to the Central

Criminal Records Registry within 30 days of the judgement.

### **HANDLING OF EVIDENCE**

- ◆ scene of crime and handling of evidence
- ◆ Conducting of searches
- ◆ packaging of evidence, labelling and registration of exhibits
- ◆ Storing of evidence: exhibit rooms
- ◆ Documentary evidence: collection
- ◆ Computer generated evidence e.g. call log, text messages, chats,
- ◆ Lifting of finger print from scene of crime
- ◆ Forfeiture of evidence connected with crime.

### **COMPUTER GENERATED EVIDENCE**

Section 84 of the E.A provides that a document produced by a computer shall be admissible as evidence upon certain conditions that must be followed to ensure the generated document is certified as follows:

- ◆ The computer is regularly used to store information
- ◆ Over that period there was regularly supplied to the computer in the ordinary course of those activities information of the kind contained in the statement or of the kind from which the information so contained is derived etc.

### **DOCUMENTARY EVIDENCE**

Section 258 Evidence Act defines “document” to include



- ◆ Books, maps, plans, graphs, drawings, photographs, and also includes any matter expressed or described upon any substance by means of letters, figures or marks or by more than one of these means, intended to be used or which may be used for the purpose of recording that matter;
- ◆ any disc, tape, sound track or other device in which sounds or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it;
- ◆ any film, negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced from it; and;
- ◆ Any device by means of which information is recorded, stored or retrievable including computer output.

## **PRESENTATION OF EVIDENCE**

Section 15(4) ACJA provides for the Video/Electronic recording of confessional statement of a suspect. Section 6, EA; any fact is relevant which shows or constitutes a motive (mens rea) or/and conduct (actus reus) for any fact in issue or relevant fact) admissible and pleaded or even when not pleaded is properly tendered e.g. the original copy of primary evidence if not tendered, secondary evidence needs proper foundation to be laid.

Documentary evidence can be tendered through the maker. Private document also, must be in primary form – original.

Public documents must be certified (CTC) and can be tendered from the bar. Section 84 of the Evidence Act Cap E14, LFN 2011 provides for the admissibility of a computer generated document.

## **ORAL PRESENTATION**

- ◆ Examination in Chief, what, when, why, which, No leading question.
- ◆ Cross examination: Sky is his limit
- ◆ Re-examination: Leading question allowed
- ◆ sections 214 and 215 EA

## **MODULE 2:**

# **IMPLEMENTATION OF THE ACJA 2015: ARREST, DETENTION AND SEARCH REGIME.**

**Module presented by  
AIG DAVID IGBODO (RTD)**

## **Introduction**

This module encompasses the concepts of arrests, detention, treatment of arrested persons and search of arrested persons, according to the provisions of the law. In recent years, the stage of criminal procedure which ends with the arraignment of suspected persons has been an increasing concern to lawyers and others with the responsibility for criminal administration. Arrest, police interrogation, bail, search and seizure have all been subjects of great attention.

### **ADMINISTRATION OF CRIMINAL ACTS 2015.**

- ◆ On the 13th May, 2015, Dr Goodluck Ebele Jonathan, GCFR, assented to the ACJA to cover Federal Courts and the FCT Courts including Magistrate and Areas Courts.
- ◆ To promote efficient management of criminal justice institutions, speedy dispensation of justice, and protection of the society from crimes.
- ◆ Also meant to provide for the protection of the rights and interest of suspects as well as that of the victims of crimes.
- ◆ The Act in the true sense harmonises the Criminal Procedure Act (CPA) and the Criminal Procedure Code (CPC) the Criminal Procedural Laws in the Southern and Northern States and the Federal Capital Territory Courts.

With the harmonisation of the CPA and the CPC into the ACJA, it becomes the procedural law for all criminal trials in the Federal Courts and all the Courts of the Federal Capital Territory.

The ACJ Act makes sweeping changes and innovations, aimed at making Administration of Criminal Justice in Nigeria more efficient and human rights friendly.

The primary responsibilities of the Police as provided in Section 4 of the Police Act are;

## **THE GENERAL FUNCTIONS OF THE POLICE**

- ◆ The prevention and detection of crime,
- ◆ The apprehension and prosecution of offenders,
- ◆ The preservation of law and order,
- ◆ The protection of life and property
- ◆ The due enforcement of all laws and regulations.
- ◆ The Police as the foremost security agency in the country has the responsibility to implement the Act.
- ◆ The Police needs to have capacity to enable implementation.
- ◆ The success of the implementation of the Act falls heavily on the Police and the other security agencies in the Criminal Justice Sector.

Arrest is a violation of personal liberty.

Section 35 of the Constitution: Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty.

Section 35(1)(c) for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence or to prevent him from committing a criminal offence.

Because the Police have the statutory power to prevent and detect crime, it has the power to arrest without warrant (section 18 ACJA)

*NOTE:* also, members of the public can also arrest (Section 20 ACJA) and hand over to the Police.

Section 35(4). Any person who is arrested should be brought before

## **ARREST: GENERAL**

a court within 24 or 48 hours or be granted bail except the offence is of capital in nature (Section 35(7))

## **WHAT CHANGED FROM THE OLD ORDERS?**

Prohibition of arrest in lieu and inhuman treatment:

Section 7: provides that a person shall not be arrested in place of another

Section 8 : provides that a suspect shall not be subjected to inhumane treatment or any form of torture, cruel, inhuman or degrading treatment or be arrested merely on a civil wrong or breach of contract.

## **RECORD OF ARREST**

- Section 15 and 16 of the act provides that
- A police officer making arrest shall cause to be taken, the full particulars of the arrested person
- the full particulars shall contain, the alleged offence, the date and circumstances of his arrest, the full name, occupation and residential address, his heights, his photograph, his full fingerprints or such other means of identification
- The recording of the information in (ii) above shall be concluded within a reasonable time but not exceeding 48 hours

## **ESTABLISHMENT OF CENTRAL CRIMINAL RECORD REGISTRY**

- ◆ The Nigeria Police Force shall establish a Central Criminal

### Record Registry.

- ◆ Every Police Command shall establish a Criminal Records Registry and shall keep and transmit all such records to the Central Criminal Records Registry.
- ◆ The State or Federal Capital Territory Police Commands shall ensure that the decisions of the courts in all criminal trials are transmitted to the Central Criminal Records Registry within thirty days of such judgment

### **STATEMENT OF ARRESTED PERSONS**

- ◆ Statement of arrested Persons should be recorded in the presence of a Legal practitioner of his choice, officer of Legal Aid Council, official of civil Society Organizations, a Justice of the Peace or any other person of his choice provided that the person will not interfere. (Section 17(2) ACJA
- ◆ Where a suspect arrested by the Police volunteers to make a confessional statement, it shall be in writing and may be recorded electronically on a retrievable video compact disc or such other visual means. (15(4) ACJA
- ◆ Where a suspect does not understand or speak or write English language, an interpreter shall record and read over the statement to the suspect to his understanding and the suspect shall endorse it while the interpreter attest to the recording by endorsing his name, address, occupation, designation and other particulars (section 17(3)

### **Quarterly report of arrest to the Attorney-General: SECTION 29**

- ◆ The Inspector-General of Police shall remit quarterly to the

Attorney-General of the Federation a record of all arrests made with or without warrant in relation to federal offences within Nigeria.

- ◆ The Commissioner of Police in a state shall remit to the Attorney-General of that State a record of all arrest made with or without warrant in relation to state offences or arrest within the state.
- ◆ The report shall contain the full particulars ie the alleged offence, the date and circumstances of his arrest, the full name, occupation and residential address, his heights, his photograph, his full fingerprints or such other means of identification.

### **Police to report arrest to supervising Magistrates monthly.**

#### **SECTION 33**

- ◆ The Officers in charge of a Police Station or an official in charge an agency authorised to make arrest, on the last working day of every month, shall report to the nearest Magistrates the cases of suspects arrested without warrant within the limit of his jurisdiction whether the suspects have been admitted to bail.
- ◆ The report shall contain the full particulars i.e. the alleged offence, the date and circumstances of his arrest, the full name, occupation and residential address, his heights, his photograph, his full fingerprints or such other means of identification.

### **Chief Magistrate to visit Police Station at least once monthly:**

#### **SECTION 34**

- ◆ The Chief Magistrates or where there is no Chief Magistrate within the Police Division, any Magistrate designated by



the Chief Judge for that purpose shall at least every month conduct an inspection of Police station or other places of detention within the territorial jurisdiction other than the prison.

- ◆ During the visit, the Magistrate may call for and inspect the records of arrest, 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.
- ◆ The Officer in charge of a Police Station shall make available to the visiting Magistrate, the full record of arrest and record of bail, applications and decision on bail made within the period and any other facility the Magistrate requires in exercising his powers

**Detention time limit and remand procedure ex-parte in cases Magistrates courts have no jurisdiction to try: Section 293 to 299**

- ◆ The Act provides in Section 293 that a suspect arrested for an offence which a Magistrate court has no jurisdiction to try
- ◆ Shall within a reasonable time be brought before a Magistrate court for remand on an application for remand made ex-parte.
- ◆ The purpose is to enable Police conduct investigation.
- ◆ Is this Constitutional?
- ◆ The Magistrate Court may remand the defendant on receipt

of the application for a period not exceeding 14 days in the first instance.

- ◆ The Police can do this on four different instances making a total of 56 days.
- ◆ After this the Magistrate shall discharge the defendant

## **SEARCH OF ARRESTED PERSONS**

- ◆ The Police has power of search,
- ◆ Section 9: Where a suspect is arrested by a police officer or a private person, the officer making the arrest or to whom the private person hands over the suspect:

(a) May search the suspect, using such force as may be reasonably necessary for the purpose; and,

(b) shall place in safe custody all articles other than necessary wearing apparel found on the suspect.

- ◆ Where it is necessary to search a suspect, the search shall be made decently and by a person of the same sex unless the urgency of the situation or the interest of due administration of justice makes it impracticable for the search to be carried out by a person of the same sex.

## **HINTS ON SEARCHES**

### **SECTION 13: POWER TO BREAK OUT OF A HOUSE OR PLACE FOR THE PURPOSE OF LIBERATION**

- A police officer or any other person authorized to make an arrest may break out of a house in order to liberate himself or any person who, having lawfully entered for the purpose of making an arrest, is detained in the house or place.

### **SECTION 147: SEARCH WARRANT TO WHOM DIRECTED**

- A search warrant may be directed to one or more persons and, where directed to more than one, it may be executed by all or by one or more of them.

### **SECTION 148: TIME WHEN SEARCH WARRANT MAY BE ISSUED AND EXECUTED**

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

### **SECTION 150: OCCUPANT OF PLACE SEARCHED MAY ATTEND**

The occupant of a place searched or some person on his behalf shall be permitted to be present at the search and shall, if he so requires, receive a copy of the list of things seized there, signed or sealed by the witnesses, if any.

### **CHALLENGES**

- ◆ Lack of funding to implement some sections in the Act eg establishment of data base, video recording
- ◆ Lack of transparency in the Police to implement the requirement of Chief Magistrate visiting Police Cells
- ◆ Abuse of section 293 by prosecuting agencies
- ◆ Lack of adequate information on the provisions of the ACJA
- ◆ Lack of capacity to effectively conduct investigation due to insufficient training
- ◆ Lack of Leadership commitment to implementation

## **MODULE 3:**

# **INTER-AGENCY COLLABORATION AND COORDINATION REQUIREMENT UNDER ACJA: THE ROLE OF THE POLICE AND THEIR INTERFACE WITH OTHER STAKEHOLDERS IN THE ADMINISTRATION OF CRIMINAL JUSTICE.**

**Module presented by:**

**OGECHI OGU, esq Deputy Director, PRAWA.**

## **Introduction**

A progressive nation makes security a top priority in its governance plans and strategies. In spite of security efforts of both individuals and the government, “crime” remains a major subject of private and public concern because no society is free of crime. Obviously, crime is not a phenomenon to be tolerated by any society because of its negative impact on the development and progress of a nation. Criminal laws are therefore codified for the prevention and control of crimes, while systems are put in place to manage criminal suspects. These systems comprise of different institutions and the independent functions of these institutions involve processing a criminal suspect from one stage to the other. There has been for some decades now a sustained public outcry and concern on the deteriorating state of the criminal justice system in Nigeria as a result of failure of the institutions involved to effectively deliver on their responsibilities. The Administration of Criminal Justice Act (2015) was enacted to address the challenges of the criminal justice system. The Act gave a lot of innovative and human rights focused roles to the Police. The NPF has been identified as the first point of contact and a very strong link in the chain of criminal justice delivery in Nigeria. However, four years after, the volume of the public outcry on the performance of the police in this respect seems to be higher.

### **SO WHAT ARE THE ISSUES?**

Poor coordination and collaboration of the different institutions that make up the criminal justice system has been identified as a critical factor negating the effective and efficient functioning of the criminal justice system in Nigeria. There is need then to examine the roles of the Police in the ACJA vis-à-vis their interaction with other institutions in the criminal justice system.

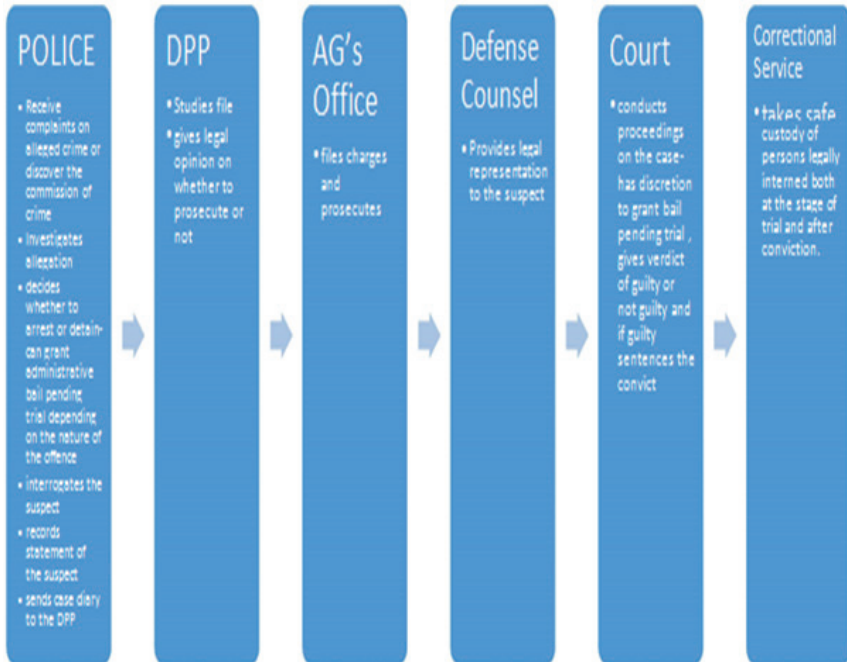
## **NIGERIAN CRIMINAL JUSTICE SYSTEM (CJS)**

The major components of the criminal justice system include the police (security agencies), the courts and the Nigerian Correctional Service. These institutions are charged with the responsibility of implementing the policies and processes of the criminal justice administration. Broadly speaking, in the administration of criminal justice, the activities of the police, investigators, prosecutors, Department of Public Prosecution(DPP), the Attorney General, Magistrates / Judges, other Judicial Officers, Defence lawyers and the Correctional Service officers and in some cases NGOs (those that provide legal, paralegal and other social and psychological support services) are critical to the delivery of justice. The respective activities/ functions of the institutions within the criminal justice system are linked through a process in which one agency's output forms the foundation for the next agency's input.

It is therefore worthy to note that:

- The different institutions / agencies of the CJS form a sort of chain that links one to the other.
- The act or omission of one institution affects the other.
- The Police is very important in the chain because it is the first point of entry into the criminal justice system (usually through criminal complaint from the general public or discovery of crime through intelligence)

## GRAPHIC PRESENTATION OF THE CRIMINAL JUSTICE SYSTEM



## **THE NIGERIA POLICE FORCE (NPF)**

The police man is the gatekeeper of the criminal justice system as he exercises discretion regarding who goes into the system and his decision on a case kick starts the follow-up activities of the other system components (That is how important the role of the police is in criminal justice delivery).

The Nigeria Police is established by the constitution (s.214) and its responsibilities provided for by statute ( Police Act)

The Nigeria Police therefore perform several constitutional and statutory functions which include;

- Prevention and detection of crime
- Protection of law and order
- Apprehension of offenders
- Protection of life and property
- Participating in court proceedings
- Due enforcement of law
- Investigation of crime.

The way the police handle a case can make or mar the progress of that case. There are concerns that the police is not delivering on its mandate effectively leading up to the poor performance of the CJS.

Generally speaking, there is concern that the criminal justice system is not functioning as expected and lacks capacity to respond quickly to the needs of the society leading up to rise in crime wave ; slow delivery of criminal justice and congestion of places of detention.

Ultimately these challenges raise fundamental human rights issues such as arbitrary arrest and detention; torture, cruel inhuman and



degrading treatment and there has been calls from concerned persons for the reform of the criminal justice system.

There are allegations of abuse of human rights against the police (e.g. arbitrary arrest and detention; torture, cruel inhuman and degrading treatment).

The identified negative activities of the police form just part of the challenges of the CJS.

- The other component institutions in the criminal justice system contribute one way or the other to the challenges of the criminal justice administration.
- The laws governing the administration of crime in Nigeria have their own issues.
- Issues of capacity and funding also add to the general problems of CJS.

## **THE ADMINISTRATION OF CRIMINAL JUSTICE ACT (2015)**

The ACJA (2015) was enacted in response to many of the challenges of the criminal justice administration in Nigeria. The Act has a lot of innovative provisions which assigned roles and responsibilities to the different components of the criminal justice system and these roles are reflective of the identified setbacks of the institutions. The police has a fair share of these roles given its strategic position in the administration of criminal justice in Nigeria.

- ◆ Section 1 of the ACJ Act provides that the objective of the Act is to ensure that the system of administration of criminal justice in Nigeria promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant, and

the victim.

- ◆ The Administration of Criminal Justice Law therefore, responds to the need for a new legislation that will transform the criminal justice system to reflect the true intents of the Constitution and the demands of a democratic society eliminate unacceptable delays in disposing of criminal cases and improve the efficiency of criminal justice administration in the country.

### **ROLES/RESPONSIBILITIES OF THE POLICE UNDER THE ACJA (2015): WHAT HAS CHANGED?**

The ACJA provisions on the police tried to reflect areas they have not done so well in criminal justice delivery and public complaints against them. The areas of interest include:

- Unlawful arrest;
- Arrest in lieu of the suspect;
- Recording of statements,
- Bail etc.

Practically speaking, the police cannot deliver on most of the new roles without a healthy relationship, collaboration and interface with other agencies of the criminal justice system.

### **ON ARREST, BAIL AND PREVENTIVE JUSTICE (Ss. 3-49)**

- ◆ Unlawful arrest is one of the major problems of our criminal process and it is one of the reasons why police stations and prisons are overcrowded.
- ◆ Arrests are sometimes made on allegation that are purely civil in nature or on frivolous grounds. By section 10(1) of the CPA, the police could arrest without a warrant, any person who has no ostensible means of sustenance and who

cannot give a satisfactory account of himself.

- ◆ This particular provision has been greatly abused by the police who use it as a ground to arrest people indiscriminately. The ACJ Act has deleted this provision.
- ◆ Similarly, long gone is the era in which police dabble into civil matters or even simple contracts and use their power of arrest as a weapon to intimidate and oppress a lot of innocent Nigerians. By virtue of the ACJ Act, it is now illegal for the police to arrest persons over civil wrongs and contracts (Sec. 8(2) of the ACJA)

Now, police cannot arrest persons in lieu of suspects (S. 7 ACJA), where actual arrest is carried out; a suspect is entitled to notification of cause of Arrest (S.6 ACJA) and shall be accorded humane treatment, having regard to dignity of his person (S. 8 (1) (a & b) ACJA)

*NOTE:*

These provisions can be source of friction between defence counsel, and the police and because they speak to mainstreaming human rights principles and standards in the processing of suspects, human rights based NGOs may also come in conflict with the police.

Now, police cannot arrest persons in lieu of suspects (S. 7 ACJA), where actual arrest is carried out; a suspect is entitled to notification of cause of Arrest (S.6 ACJA) and shall be accorded humane treatment, having regard to dignity of his person (S. 8 (1) (a & b) ACJA)

*NOTE:*

Without proper coordination and collaboration between the police and the Judiciary, the aim of this provision would be defeated

## **RECORD OF ARREST AND ELECTRONIC RECORDING OF CONFESSIONAL STATEMENT**

- ◆ Recording of Arrest – The Act provides for mandatory recording of personal data of an arrested person in Section 15 of the ACJ Act.
- ◆ Establishment of a Police Central Criminal Record Registry (CCRR) – Section 16 (1) of the ACJ Act. The state commands and the FCT Command shall establish a criminal records registry which shall keep and transmit all such records to the central Criminal Records Registry (S.16(2) ACJA) and ensure that the decisions of the court in all criminal trials are transmitted to the CCRR within 30 days of the judgment.
- ◆ Electronic Recording of Confessional Statements – Section 15(4) ACJ Act. This sub-section provides that where a person arrested with or without a warrant volunteers a Confessional Statement, an electronic recording in a retrievable video compact disc or such other audio visual means may be made. Statement of a suspect to be taken in the presence of a Legal Practitioner of his choice, or other credible person of his choice. Section 17(2) ACJA; Provision of an interpreter for a suspect who does not understand, speak or write in English language.

### *NOTE:*

- ◆ This section borders on fair hearing and is usually a cause for friction between defence lawyers and the police. Non-compliance with the provision can also affect the quick dispensation of the case against a suspect and infringe on his constitutional right to be presumed innocent until proven guilty by a court of competent jurisdiction.

- ◆ Quarterly report by the IGP to the AGF and the Commissioner of Police in a state and head of every agency authorized by law to make arrests of record of all arrests made with or without warrant in relation to both federal and state offences, with particulars of arrested suspects as prescribed by s. 15 of the act and keeping of register of all arrests made ( S. 29 (1-5) ACJA)

*NOTE:*

This comes with challenges that may border on inter-agency rivalry and in some cases integrity of the data provided. There may also be outright refusal to provide such data and the frustration of the entire process.

**WOMEN SURETIES.**

Section 167 (3) provides that “no person shall be denied, prevented or restricted from entering into any recognition or Standing as surety for any defendant or application on the ground only that the person is a woman”

*NOTE:*

This remains a big issue today and a source of conflict between officers and the general public especially NGOs focusing on the rights of women and provision of legal and other support services to persons in detention.

**DAY-TO-DAY TRIAL.**

- ◆ Upon arraignment, the trial of the defendant shall proceed from day-to- day until the conclusion of the trial. Where day-to-day trial is impracticable, the Act provides that parties shall be entitled to only five adjournments each. The interval between each adjournment, according to the Act, shall not exceed two weeks each. Where the trial is still not

concluded, the interval for adjournments will be reduced to seven days each.

Assignment of information and issuance of notice of trial

- ◆ By virtue of this section, information filed are to be assigned to courts by the Chief Judge within fifteen days and the Judge in turn, is to issue notice of trial within ten working days of the assignment of the information to his court

### **PROSECUTION OF OFFENCES**

- ◆ Another interesting feature of the Act is Section 106 of the Act which makes the prosecution of cases the exclusive preserve of lawyers. In effect, police personnel who are not lawyers have lost the right to prosecute. This provision has been said to impliedly suspend section 23 of the Police Act which empowers police officers to prosecute matters in court. This section also by extension, overrules the Supreme Court decision in *FRN v Osahon* (2006) 5 NWLR (Pt. 973). To a very large extent, this is a welcomed development because a lot of cases are being mismanaged in court by the police officers due to lack of diligent prosecution.

### **REMAND TIME LIMIT**

Our prison cells are jam-packed today not just because of the number of convicts serving actual jail terms, but largely because of a huge number of suspects been remanded in those prisons. Suspects are being remanded at will and sometimes indefinitely. However, by the provision of ACJA, a suspect shall not be remanded for more than 14 days at first instance and renewable for a time not exceeding fourteen days where “good cause” is shown. At the expiration of the remand order, if Legal Advice is still not issued, the court shall issue hearing notice to the Inspector General of Police and Attorney General of the Federation or the

Commissioner of Police or any other authority in whose custody the suspect is remanded to inquire into the position of things and adjourn for another period not exceeding fourteen days for the above mentioned officials to come and explain why the suspect should not be released unconditionally.

*NOTE:*

There are serious indications of abuse of this section by the different components of the CJS involved in the process, engendering the need for all concerned to understand more the essence of criminal trials, fair hearing, suspect being innocent until proven guilty by a court of competent jurisdiction and the fact that trial is about prosecution and not persecution.

- ◆ With respect to the rights of suspects arrested by the police, Section 6 of the Act provides that except where the suspect is in the actual course of the commission of an offence or is pursued immediately after the commission of an offence or has escaped from lawful custody, the police officer or other persons making the arrest shall inform the suspect immediately of the reason for the arrest and the rights to remain silent or avoid answering questions until after consultation with a legal practitioner or any other person of his/her own choice.
- ◆ In line with section 34 of the 1999 Constitution (as amended) which guarantees the fundamental rights of every person to dignity of their person, the Act under Section 5 has prohibited the torture of suspects by law enforcement officials. A suspect 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.
- ◆ Any default by an officer in charge of a detention facility to comply with the provisions of the Act shall be treated as misconduct and shall be dealt with in accordance with the Police Act.

For Record of arrest under section 28, an officer in charge of a police station or any other detention facility shall on the last working day of every month, report to the nearest magistrate the cases of all suspects arrested without warrant, whether the suspects have been admitted to bail or not. The magistrate shall forward them to the criminal justice monitoring committee which shall analyse the reports and advise the Attorney General of the Federation as to the trends of arrests, bail and related matters.

### **WHAT ARE THE CONCERNS?**

In spite of the innovative provisions, four years after , the complaints are still there regarding the poor delivery of criminal justice. There are several allegations against the police regarding the non-effective implementation of the ACJA as it concerns their roles and responsibilities. Some of these complaints show activities of the police that negate the intendment of the ACJA especially as it concerns human rights standards and principles and border on:

- ◆ Lack of capacity of the officers to deliver in terms of intelligence gathering, investigation, interrogation and treatment of suspects
- ◆ Wide and abusive exercise of discretionary powers
- ◆ arbitrary arrest and detention- cases of mass arrest and raids



- ◆ Torture, Cruel, inhuman and degrading treatment of the vulnerable in the society – the poor, needy, old children, women, disabled etc.
- ◆ Excessive use of force and firearms and extra judicial killing
- ◆ Allegations of corruption , extortion
- ◆ Failure to notify the next of kin or relative of the suspect of his/her arrest.
- ◆ Arrest of innocent persons in lieu of suspects or on civil wrongs or breach of contract are prohibited impunity and lack of accountability leading up to human rights abuse and the loss of trust and confidence from the general public that are strong assets in intelligence gathering

### **INTERFACE WITH OTHER INSTITUTIONS.**

- A critical issue of importance in the assessment of performance of the roles of police in the ACJA is that of collaboration and coordination of the different agencies in the criminal justice system. The process of justice delivery can never be effective and efficient in situations where agencies that should be working cohesively in a kind of chain fail to collaborate and coordinate their activities.
- Concerns have been expressed regarding the different components of the criminal justice system running a rat race and failing to see them as working towards a common goal –justice delivery.

There exists:

- ◆ Inter-agency rivalry and unnecessary suspicion
- ◆ Lack of intelligence sharing and excessive keeping of secrets
- ◆ Absence of some mechanisms established to facilitate easy

work relationship example is the Police liaison officer to the DPP- for the transfer and monitor of case diaries to and from the DPP.

- ◆ Frivolous applications in court to delay proceedings
- ◆ Unnecessary challenge of bail applications
- ◆ Introduction of ploys to defeat the innovation on the Chief Magistrates visit of police stations.
- ◆ Upgrading of age of children to make sure they admitted into detention facilities
- ◆ Compliance with the provisions of section 106 of ACJA.
- ◆ Bottlenecks in the implementation of the provision of the 14 days remand of suspects and genuineness of such applications in some circumstances.
- ◆ Squabbles arising from statement of a suspect being taken in the presence of a legal practitioner of his choice, in the presence of an officer of the Legal Aid Council, official of a civil society organization, justice of the peace or any other person mentioned in this provision
- ◆ Allegations of lawyers interfering while the suspect is making his statement.
- ◆ Compliance with the provision on suspect being entitled to consult a lawyer of his/her choice or free legal representation by the Legal Aid Council of Nigeria where applicable especially regarding informing the suspect and allowing him access to his legal representative.
- ◆ The controversy around production warrant- where an order to produce would be made by the court and the warrant

would not be served on the correctional service

- ◆ Failure of communication between the different agencies especially that of adjournment dates.
- ◆ So many cases on the cause list of a court occasioning delay and in some cases outright loss of prosecution witnesses.

### **COLLABORATION/CORDINATION OF AGENCIES IN THE CRIMINAL JUSTICE ADMINISTRATION**

To collaborate is to work together for a common goal or purpose. Interagency collaboration refers to working with other agencies to accomplish a goal or goals. Interagency collaboration, no matter the agency, is very important because it allows different people from different professions and backgrounds to exchange ideas, share information, and work together to solve important issues.

Interagency collaboration allows for broader, more diverse perspectives on policy planning, which come from getting different opinions from individuals with a different knowledge base. It's about networking with others in order to find alternative ways of addressing an issue. It's about coming together with various solutions and ideas for achieving a common goal.

Interagency collaboration:

- ◆ Allows for broader, more diverse perspectives on policy planning, which come from getting different opinions from individuals with a different knowledge base.
- ◆ It's about networking with others in order to find alternative ways of addressing an issue.
- ◆ It's about coming together with various solutions and ideas for achieving a common goal.
- ◆ Collaboration makes for the exchange of information for

mutual benefit;

- ◆ coordination enables the exchange of information for mutual benefit and to achieve a shared goal;
- ◆ cooperation makes the exchange of information, the changing of activities, and the dividing of resources for mutual benefit and to achieve a common goal;
- ◆ Generally collaboration represents an appropriate and effective approach to problem-solving whenever the preferred goal is beyond the reach of any single entity and is highly recommended for the police and other agencies of the Criminal Justice system.

## **CONCLUSION**

It is in the best interest of justice delivery that all the components of the CJS collaborate and coordinate their activities and amicably interface to enable effectiveness, efficiency and quick dispensation of cases. It is equally good for them to step outside of their circle to work with other agencies when planning future policy. Example it would be in the best interest of the agencies to collaborate with the Ministry of Budget and Fiscal Planning to facilitate budget approvals and necessary financing of their activities.

The NPF would better more effectively and efficiently deliver on its roles as provided by the ACJA thereby engendering the trust and confidence of the citizens by exploring opportunities of collaboration with other institutions in the CJS and seeing them as their 'Partners in Progress'.

## **MODULE FOUR:**

# **CONTEXTUAL AND ENVIRONMENTAL LIMITATIONS TO THE IMPLEMENTATION OF THE ACJA AND STRATEGIES FOR MITIGATION.**

**Module presented by:**

**OGECHE OGU ESQ, Deputy Director, PRAWA.**

## **INTRODUCTION**

It is common knowledge that the Administration of Criminal Justice Act (2015) came on a rescue mission of the Nigerian Criminal Justice System whose administration became a cause for serious concern to all. The malfunctioning of the system and the poor delivery of criminal justice manifested especially in the delay in the delivery of criminal justice, the high number of awaiting trial persons in prisons occasioning congestion of detention facilities and attendant human rights abuses, several cases of arrest and detention before investigation and the extortion and corruption that denied access to justice to especially the poor and needy in the society. The operation of the Criminal Justice System then, negated the key constitutional provisions regarding the trial of crime suspects especially as it concerns the innocence of an accused person until proven guilty by a court of competent jurisdiction. Institutional, governance and legal challenges were identified as causes of the failure of the CJS before the enactment of the ACJA. However the critical question worthy of appraisal is whether the identified challenges were automatically removed by mere enactment of the ACJA and what the situation is four years after.

### **IDENTIFIED ILLS OF THE SYSTEM**

- Arrest, remand before investigation
- Excessive time taken to conclude crime investigation
- Remand of suspects awaiting conclusion of such investigations or trials
- Incessant application for stay of proceedings
- ‘Graduation’ of crime from minor to capital offence
- Civil matters treated as criminal matters.

- A lot of cases stalled and suspects languishing in prison without trial
- Torture to extract confessional statement as against diligent investigation of cases
- Lack of diligent prosecution of cases
- Bail system and the high number of persons granted bail but still in prison
- Arbitrary arrest and detention
- Frivolous applications for adjournment

### **GOALS OF THE ACJA**

- Efficient management of criminal justice institutions
- Speedy dispensation of justice
- Protection of the society from crime
- Protection of the Rights and Interests of the suspect, defendant and the victim

The Act put in place mechanisms to achieve these goals such as the establishment of the Administration of Criminal Justice Monitoring Committee. However there remains a fundamental challenge that must be addressed to ensure the effective and efficient implementation of the Act especially as it concerns the Roles of the Nigerian Police Force.

Diligent investigation is at the heart of delivery of criminal justice to all the parties concerned. Investigation targets obtaining evidence that would help prove the case against a suspect. Offence has elements and evidence enables the proof of the elements of a particular offence. It simply means that the way and manner an investigation is carried out can make or mar a particular trial. We

therefore do not lose sight of the fact that core promise of ACJA of quick dispensation of cases can only be achieved with thorough and diligent investigation of cases.

## **THE ISSUES**

To understand the limitations of investigation at both the divisional and command level of the police,

- The level at which crime originates should be put into consideration. Obviously every crime has locality and the closest to every locality is the division.
- Every crime has its own peculiar circumstances and investigation demands, some may require specialist attention example in the case of forensics etc. and delicate issues of crime scene areas. This means that the capacity of the first investigator to handle a particular matter is critical to obtaining the required evidence for the quick prosecution of the case.
- The big question is who are the investigators at these levels of the structure of the Nigerian Police force and has anything changed since the enactment of the ACJA to properly position investigators to serve the desired purpose.
- There is change in the laws, we agree, however, what efforts are made to change the attitude and behaviour of the officers. Legal reforms without requisite attitudinal change, likelihood of success in the implementation of the law would be very low

## **IDENTIFIED LIMITATIONS**

### **• CAPACITY GAP:**

Generally speaking there are issues of capacity gap in law enforcement generally. There is limited requisite capacity to meet up with the new regime of crimes the nation is faced with presently example Cyber-crime, kidnapping, banditry etc.



Mostly the trained investigators in these specialized areas of crime are few and normally at the command headquarters-the CID, while the crime takes place at the local levels. In some cases before the arrival of the specialized investigators, some of the sensitive evidence is already lost due to mismanagement by the initial responders to the crime. Good example is mismanagement of finger prints

- **INADEQUACY OF APPROPRIATE CRIME INVESTIGATION FACILITIES:**

- There is huge deficit in terms of equipment required for proper and quick investigation of cases. This can be exemplified in the fact that four years after, there remain constraints in the implementation of the provision of the ACJA on electronic recording of confessions. In some cases where the equipment is available, handling and maintaining these become another level of problem.
- Threat is increasing and criminals are sophisticated these days. Expectedly, there should also be gradual increment in the sophistication of law enforcement equipment in the spirit of proportionality
- Example in the case of kidnapping, we can deploy drones but that is not the case because we do not have any. In fact, the police being able to crack some cases is simply a miracle
- Inadequacy of requisite equipment frustrates intelligence gathering. We all know how important intelligence gathering is to preventing and cracking this new regime of sophisticated crimes bedevilling our nation today.

- **TRAINING GAP:**

Training investigators should be regular and cover the different components of investigation. There is a Police Detective College

in Enugu, but how regular do trainings go on in the college and the crop of officers that access the training is another thing. Example, a well-trained photographer and video recorder can make a huge difference in investigation now that photography has gone digital and can be used to detect crime. Photographer should know what the law says example in the case of electronic recording of confessional statement. Photographer and video recorder should know the important thing to capture.

Unfortunately, there is also the challenge of non-professionalism in the police Good investigators are usually transferred out to other units and whatever knowledge they have go with them. In some cases, officers receive specialized training only to be transferred out of the department the training would be of service immediately they come back.

- **WITNESS SUPPORT AND PROTECTION:**

Witnesses are important in the investigation of cases and what we have today is the situation where persons find it difficult to give information to the police and are not willing to come up as eye witnesses in cases and provide evidence. We all know the problem of loss of trust and confidence in the police. Some decline being witnesses because of absence of witness support and protection. Poor coordination and collaboration between investigators and prosecutors.

Effective investigation can only happen when an investigator knows what he is looking for. This means that the investigator should work hand in hand with the prosecutor right from the beginning of the case. They have meetings, decide what evidence to look out for in line with the elements of the case and continue meeting and reviewing of evidence until they achieve their aim.

## **CORRUPTION AND REPUTATIONAL ISSUES**

Corruption remains a big institutional and systemic challenge to the delivery of services within the CJS in Nigeria. There is consistent allegation of corruption against the police and this has been identified as a factor that hampers thorough and quick investigation of cases. Corruption has been linked to many of the other challenges faced by the police in the effective and efficient delivery on their mandate and often accusing fingers has been pointed at the unreadiness of the government to see that laws are enforced by the police and unfortunately they resort to alternative means of raising funds to keep the work going.

However convincing this argument on poor funding may sound, we must not lose sight of the damaging effect it is having on the reputation and status of the police among the civilian populace.

Important point that must not be lost is that allegations of corruption has dealt a very dirty blow on the reputation of the police and has led to loss of trust and confidence in the institution by the people. Poor accountability mechanisms have been fuelling the monster of corruption. Individual officers would always engage in corruption as long as they are assured nothing would happen.

Impunity and disobedience to the rule of law should not be encouraged in anyway within the police and both the IG and Command monitoring units should rise up to their responsibilities.

*NOTE:* Strategic and immediate actions should be taken by the leadership of police regarding corruption. Policing work cannot be done by the police alone and loss of the confidence of the people in voluntarily giving information to the police is a huge challenge in investigation and evidence gathering

## **INDIFFERENCE OF GOVERNANCE INSTITUTIONS**

The Nigeria Police Force requires adequate funding and other human and material resources to deliver on its responsibilities generally and in respect of investigation of cases. However, there are several indications that the police is not properly funded both in terms of resources for the performance of its functions and the welfare of the personnel. Lack of funding as we know is usually a huge challenge and already the negative effects are there to be seen in terms of poor delivery on diligent investigation of cases. The challenge of the police has been attributed to the indifference of the governance institutions. The failure of the police to receive adequate support has been attributed by some to the reluctance of the National Assembly, Ministry of Budget and Fiscal Planning, Police service Commission to do the needful by the police.

Some of the challenges that the police face in the course of investigation of cases include:

- Lack of funds to travel to scene of crime, payment for autopsy, taking care of wounded suspects etc.
- Cultural and religious barriers example in cases of suicide
- Challenge in obtaining order of the court to continue investigation after expiration of initial order of remand
- The Nigerian Police has a centralized management command and control structure in which the Inspector-General of Police singlehandedly determines both policy and operational matters
- For many, this is equally a big issue as it the system affects the distribution of the little available funds. Sometimes the important needs of the police are not given the attention they require. We can see this also manifesting in the funding and support for investigation activities.

## **OBSOLETE LEGISLATIVE INSTRUMENTS**

Obsolete legislative instruments could also be a challenge to the investigation of cases. Often we see new laws made changing the position of things in already existing ones without steps being taken to amend the already existing laws. This could affect and confuse an officer in the course of investigation of cases.

### **STRATEGIES FOR MITIGATION:**

1. Low hanging fruits- example initiating meetings between investigators and prosecutors
2. Tailored capacity building for:
  - a. Police prosecutors
  - b. Station officers
  - c. Divisional investigation officers

Focus on the type of training they should receive, example:

- i. Prosecutors- Law and Procedure
- ii. Station officers- Documentation and data collection, Administrative procedures, Knowledge of the law and human rights, difference between civil and criminal matters and referral services

## **MODULE FIVE:**

# **DEVELOPING TAILORED STRATEGIES FOR CASCADING TRAINING AND CAPACITY**

**Module presented by:**

**ACP EHIEDE, Legal Department, NPF**

## **Introduction**

This module gives an innovative insight of strategies for training and capacity to improve service delivery. This module tends to the improvement of knowledge and likewise, improves compliance.

### **OBJECTIVES**

- To develop tailored strategies for Cascading Training and Capacity
- This module introduces you to a common-sense, systematic approach to strategy development for cascading training and capacity to Police Personnel on the Provisions of ACJA, 2015.

### **Strategy creation follows a three-stage process:**

- Analysing the context in which you are operating.
- Identifying strategic options.
- Evaluating and selecting the best options

## **STAGE 1: ANALYSING YOUR CONTEXT AND ENVIRONMENT**

### **Analyse Your Organization:**

Firstly, examine your resources, liabilities, capabilities, strengths, and weaknesses. A SWOT Analysis is a great tool for uncovering what you do well and where you have weaknesses, providing that you use it rigorously. It is much easier to achieve your objectives when your strategy uses your strengths without exposing your weaknesses. Its application in training is limited only by the imagination of the trainer. Facilitators usually use a 2 X 2 grid to show the Strengths, Weaknesses, Opportunities and Threats identified by trainees. From this analysis, the trainer can elicit potential actions that could be used to correct problems or leverage identified strengths.

Strengths: Build, Maintain and Leverage

Strengths are assessed by analysing fundamental issues that include competitive advantages, organizational capabilities, significant areas of experience or expertise, and advantages in price, value and quality

Weaknesses: Remedy or Exit

This part of the analysis identifies weaknesses so that ways can be found to eliminate or minimize them. Typical analysis focuses on issues, such as weaknesses in the organization's value proposition, gaps in capabilities, lack of financial strength or problems with cash flow, the supply chain, morale, commitment or leadership.

Opportunities: Prioritize and Optimize

Opportunities analysis addresses where priorities should be set or how efforts might be redirected. Issues typically analysed in this phase include market developments, competitor vulnerabilities, global influences, technological advance and potential partnerships

Threats: Counter

The objective of the threats analysis is to identify and find ways to mitigate potential.

Topics might include pending legislation, environmental issues, competitor intentions, market demand, technologies, obstacles to current plans, insurmountable weaknesses and economic issues

Analyse Your Environment:

PEST Analysis, Porter's Diamond and Porter's Five Forces are great starting points for analysing your environment. They show where you have a strong position within the larger environment, and where you may have issues

PEST is an acronym for political, economic, social and technological. It is a way of understanding how external force



impacts your Organisation. Porter's 5 Forces identifies competition, new entrants into the industry, supplier power, buyer power, and the threat of substitute products and services in the market

As you prepare to create your strategy, make sure that you are working in a way that is aligned with changes in your operating environment, rather than working against them.

*Tip:*

- A TOWS matrix can help you with your internal and external analysis. This framework combines everything you learned in your SWOT Analysis (TOWS is SWOT in reverse), and then applies it to developing a strategy that either maximizes strengths and opportunities, or minimizes weaknesses and threats

### **Analyse Your Clientele and Stakeholders:**

- Stakeholder Analysis
- Organization segmented
- Marketing Mix
- Analyse Your Competitors:

## **STAGE 2: IDENTIFYING STRATEGIC OPTIONS**

### **Brainstorm Options**

Use creativity tools like Brainstorming, reverse brainstorming and Star bursting to explore projects. Brainstorming is a method for generating ideas to solve a design problem. It usually involves a group, under the direction of a facilitator. The method can influence the human mind to create better ideas and solutions. Instead of asking how to solve the problem, reverse brainstorming focuses on the idea of what causes the problem or how to achieve an opposite result of what is expected. Star bursting is a form of brainstorming that focuses on generating questions rather than answers

### Examine Opportunities and Threats:

- Your SWOT Analysis identified some of the main opportunities and threats you face.
- Solve Problems
- A problem-solving approach can also help at this stage. If your problem is that you're not achieving your goals, ask yourself how you can ensure that you do.

### **STAGE 3: EVALUATING AND SELECTING STRATEGIC OPTIONS:**

**The final stage is to evaluate strategic options in detail, and select the ones that you want to pursue**

- Evaluate Options:

Techniques like Risk Analysis, Failure Modes and Effects Analysis and Impact Analysis can help you spot the possible negative consequences of each option, which can be very easy to miss

- Choose the Best Way Forward

Check your ideas for consistency with your organization's Vision, Mission and Values, and update these if necessary what you want to "achieve" (training officers of the Nigeria Police Force on the Administration of Criminal Justice (ACJ) Act 2015 to sensitize them on their roles and responsibilities with a view to not only improving their knowledge of the law, but also their compliance with provisions of the Act) is something that contributes towards the organization's overall purpose.

### **The Three Cs of Implementing Strategy**

The Three Cs of Implementing Strategy – Clarify, Communicate and Cascade – that were identified by business consultant Scott Edinger in his 2012 Forbes article

- **Clarify Your Strategy:**

Your strategy needs to be understood by people at all levels of your organization, not just in the boardroom. Make sure that you can express it in terms that are easy to connect with, and be sure to avoid business jargon and “corporate speak.”

- **Communicate Your Strategy:**

Use every means at your disposal to communicate your strategy to your organization, both electronically and face-to-face. Your strategy will affect everyone, so it is vital that they understand your new focus and direction, and how it will inform their own work

- **Cascade Your Strategy:**

Work out the “nuts and bolts” of implementing your strategy throughout the organization. Consult with managers and task them with the practicalities of applying it to their own departments, including any training requirements or process improvements that need to be made. This is how your strategy becomes reality

## **KEY POINTS**

- Your strategy tells you how you will achieve success, no matter how that success is defined. And whether you are developing a strategy at the personal, team or organizational level, the process is as important as the outcome.
- Identify your unique capabilities, and understand how to use these to your advantage while minimizing threats. The process and tools identified above will help you identify a variety of potential strategies for success, so that you can ultimately choose the one that is right for you

## **Conclusion**

Against these backdrops, developing tailored strategies for Cascading Training and Capacity is essential to enhance optimal service delivery. Therefore, the aim of Cascading Training and Capacity of officers of the Nigeria Police Force on the Administration of Criminal Justice(ACJ) Act 2015 will sensitize them on their roles and responsibilities with a view to not only improving their knowledge of the law, but also their compliance with provisions of the Act.