



PRESENTATION ON THE FINDINGS OF COURT OBSERVATION ON ACJA IN FCT

(NOVEMBER 2017 – FEBRUARY 2018)

**BY BARBARA S. MAIGARI, PROGRAM MANAGER, RULE OF LAW AND EMPOWERMENT INITIATIVE
(ALSO KNOWN AS PARTNERS WEST AFRICA – NIGERIA)**

Introduction

The Enhancing Transparency and Accountability in the Judicial Sector project is a 3-year being implemented by the Rule of the Law and Empowerment Initiative (also known as Partners West Africa – Nigeria) with support from MacArthur Foundation. To ensure effective collaboration, Partners West Africa – Nigeria worked with the state High Courts in the Federal Capital Territory (FCT), Lagos & Ondo; Administration of Criminal Justice Monitoring Committee; the Nigerian Bar Association (Akure, Gwagwalada, Ikeja, Lagos Island, & Unity Branches), Nigeria Institute of Advance Legal Studies, civil society organizations & the media.

The goal of the project is to enhance integrity in the Nigerian Judicial system through court observation; promote implementation of the Administration of Criminal Justice Act/Law in the FCT, Lagos & Ondo states; enhance citizen’s participation in judicial processes and improve access to information on judicial proceedings with regards to compliance of the ACJA. We aim to achieve this through social accountability in the judicial sector.

A total of 65 court rooms is being observed in the three states (FCT -20, Lagos- 25 and Ondo – 20).

Methodology

Partners West Africa – Nigeria adapted 4 strategies to the observation process, namely:

- i. Expert methodology workshop
- ii. Court Observation
- iii. Case Monitoring
- iv. Criminal Justice actors’ Survey on the ACJA

Background of the Observation Process:

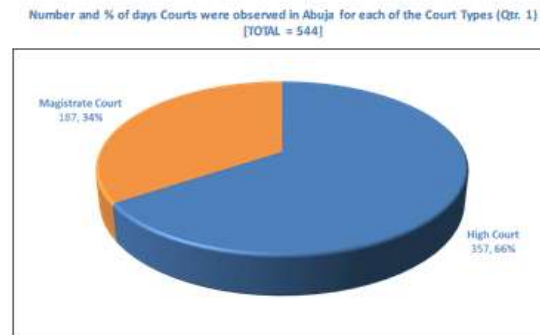
The project worked with the Chief Judges, Supervising Judges, Registrars of the courts that were open to collaboration and approved access for the observers to be placed in the courts. These findings are for observation in the FCT.

- A total of 20 observers were deployed across 20 courts in the Federal Capital Territory –Abuja (High & Magistrate Courts). The designated courts were in Apo, Maitama, Mpape, Jabi, & Wuse.

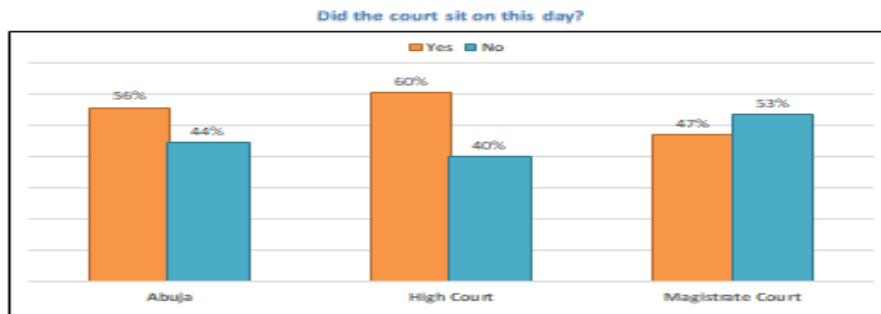
Presentation of findings

Court Observation

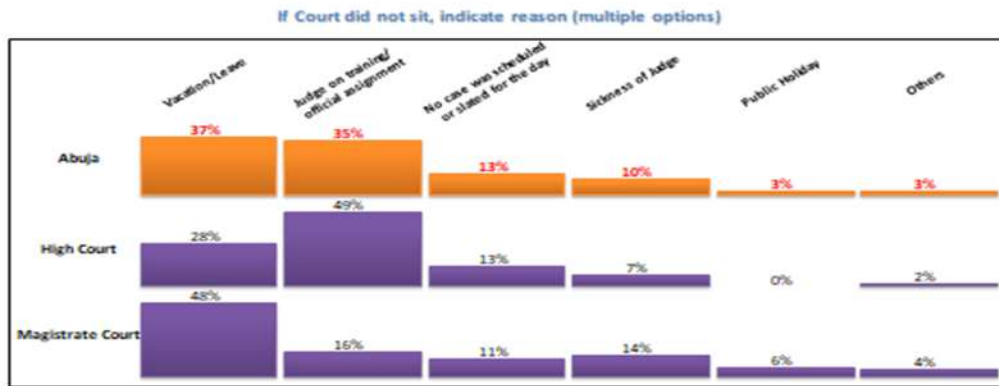
Court Observation commenced on 6th November 2017. The data being presented today is for November 2017 and February 2018. The observers were in court Mondays to Wednesdays every week from the date of commencement of the observation process. This means each observer was in court at least for 13 days within this period. Magistrate courts were observed for 187 days while High courts were observed for 357 days.



1. Court Sittings:



60% of the time the High court observed sat, compared to 47% sitting for Magistrate courts. The reasons given for courts not sitting ranged from official assignment/training, vacation/leave and no case was scheduled for the day, etc – 49% for official assignment at High Courts and vacation/leave (48%) at Magistrates courts.

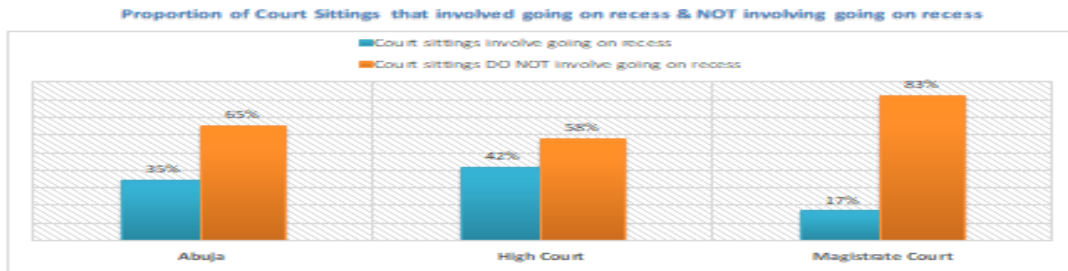


2. Average Time of Court Sittings:

In the High court, the average time when the courts observed commenced sitting was 9:35am, they went on recess at 11:54am and resumed back from recess by 12:27pm and closed for the day by 14:14. For the Magistrate courts, average time courts start sitting is 9:45am, average time for recess is 11:44am, resumption from recess 12:08pm and on average close for the day by 13:51pm.

Average – time court started sitting, went on recess, resumption from recess & closed for the day
Time (Hour : Minute)

	Abuja	High Court	Magistrate Court
Average time court started sitting	9:37AM	9:35AM	9:45AM
Average time court went on recess	11:52AM	11:54AM	11:44AM
Average time of resumption from recess	12:24PM	12:27PM	12:08PM
Average time court closed for the day	14:11PM	14:15PM	13:51PM



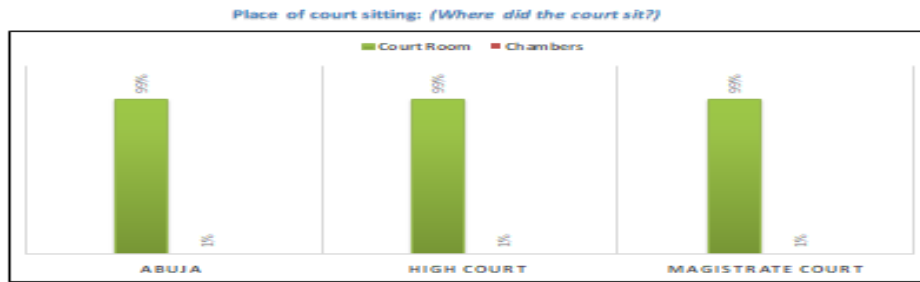
The graph above shows the proportion of courts that go on recess and those that do not go on recess. 83% of the Magistrate and 58% of the High courts observed do not go on recess.

Average – time spent in court, spent in recess, actual time spent in sitting on cases
Time presented in **"Hours : Minutes"**

		Abuja	High Court	Magistrate Court
Court sittings that involved going on recess	Average time spent in court (HH:MM)	4:32	4:36	4:05
	Average time Spent in Recess (HH:MM)	0:32	0:33	0:23
	Average actual time spent in Sitting on Cases (HH:MM)	4:03	4:07	3:41
Court sittings that DO NOT involve going on recess	Average time spent in court (HH:MM)	2:44	2:45	2:42
All cases observed	Average actual time spent in Sitting on all Cases (HH:MM)	3:21	3:31	2:57

For the courts that go on recess, the average time spent in court is 4hours 32mins; average time spent on recess is 32mins and actual time spent in sitting on cases is 4hours 3mins. However, the courts that do not go on recess spend an average of 2hours 44mins in court. When combined the average time spent in sitting on all cases for High courts is 3hours 31mins and for Magistrate courts 2hours 57mins.

3. Locations of Court Sittings

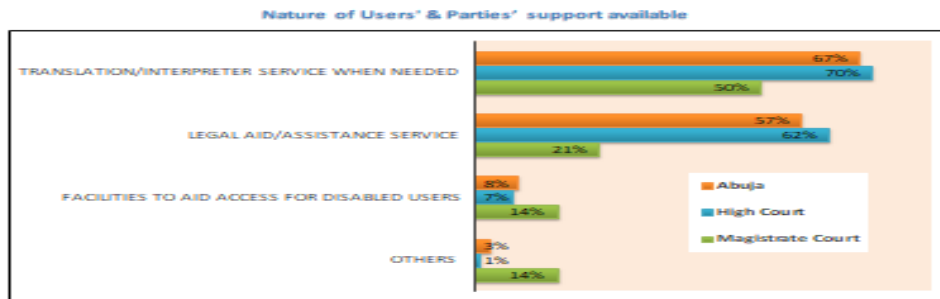


99% of the time the observers were in court in Abuja, the judges and magistrates sat in open courts and 1% in the chambers of the judge. This shows that the courts are largely in compliance with the provisions for free and fair trial as stated in Section 36 of the Constitution of the Federal Republic of Nigeria, which states that all trials must be held in public.

4. Supports Available to the Courts



From the slide above, we look at the support(s) that are available in the courts to make the job of the judges/magistrates easier (that is makes them more efficient). At the Magistrate courts, 100% of the support was manpower that is staff in the courts (3 in average) while the High Courts have 98% Availability of electricity (74%), A/C / Fan (74%), Security Officials (59%) within court rooms and at the lower end we have microphones/Public Address systems and electronic recordings at 19% and 17% respectively.



Some of the key principles for free and fair trial as stated in the Constitution of the Federal Republic of Nigeria 1999 and promoted by the ACJA include, interpretation and translation services (67%) and legal aid services / assistances (57%) and facilities to aid access with disabilities, rather poor, is (8%).

5. Attendance to Cause list

Number of cases on the day's cause list, cases attended to & percentage of cases attended to VERSUS cases on the day's cause list

	Abuja	High Court	Magistrate Court
Average number of cases on the days cause list	10	10	10
Average number of criminal cases on the cause list	3	3	3
Average number of civil cases on the cause list	7	7	7
Average number of cases on the days cause list attended to	8	8	8
% of cases on the days causes list attended to Versus Cases on the days cause list	85%	86%	84%

The findings reveal that 10 cases are the average number on the day's cause list. On average 7 civil and 3 criminal cases are on the day's cause list. Of the number on the day's cause list, 8 are attended to amounting to 85% attendance to cases on daily cause list.

In situations where cases were not attended to, the graph below shows that the major reasons include "one or all the parties were not available" (74%) Magistrate courts and (66%) High Courts; "one or all the lawyers were not available" (51%) for High courts while Magistrate courts is (56%). Noteworthy is the fact that service delivery and electricity supply were observed as minor reasons why cases were not attended to.

Reason why some cases were not attended to (multiple options)

	Abuja	High Court	Magistrate Court
One or all the parties were not available	68%	66%	74%
One or all the lawyers were not available	52%	51%	56%
A witness was not available	13%	7%	28%
Services not effected	10%	11%	5%
Court did not sit on time	6%	4%	14%
The cases were called out of turn (by senior lawyers)	3%	3%	5%
The files or exhibits were not available when the cases were called	3%	0%	9%
Power failure (and court had to adjourn sitting)	1%	2%	0%
Others	10%	12%	5%

Recommendation

1. Provision of working equipment: There is need for government to appropriate and provide equipment such as electronic recorders for effective discharge of duties by judges and magistrates.
2. Inclusiveness within the judicial system: The judiciary should ensure that facilities are provided to cater for all including persons with disability. This may include sliding ramps for access into court premises, sign language provision to aid interpretation.
3. There are judges / magistrates that are doing good-work, they work tirelessly to ensure that cases on cause list are attended to. These judges / magistrates should be encouraged.
4. Discharge of duties by parties/representatives: The courts should implore the intention of the ACJA on “speedy trial and effective dispensation of justice” to exercise their discretion on earring parties and their representatives in courts. The practice of persons with locus standi and their representative being the reasons for cases not attended to vitiates the intent of the ACJA.

Presentation of Findings of Criminal Justice Actors' Survey

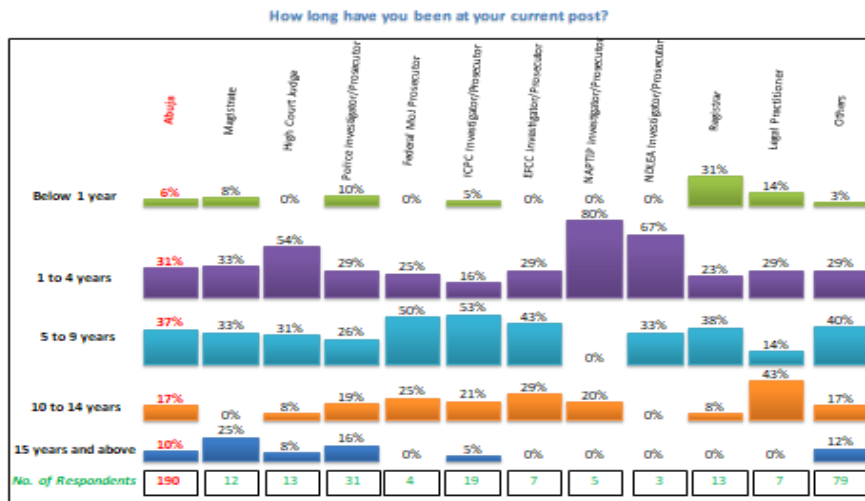
Background of respondents

A total of 190 criminal justice actors were surveyed over a period of two weeks across the courts being observed in the FCT. Sixteen (16%) were Police Investigators/Prosecutors, Ten (10%) ICPC Investigators/Prosecutors, High Court Judges & Registrars seven (7%) while six (6%) surveyed were Magistrates. Four (4%) of the total surveyed were Legal practitioners & EFCC Investigators/Prosecutors, while NAPTIP were three (3%) and Federal Ministry of Justice Prosecutors and NDLEA Investigators/Prosecutors two (2%).

Worthy of note is that forty-two (42%) of the individuals surveyed were reluctant to indicate on the questionnaire which category they belong to. However data collectors indicated that all were criminal justice actors.

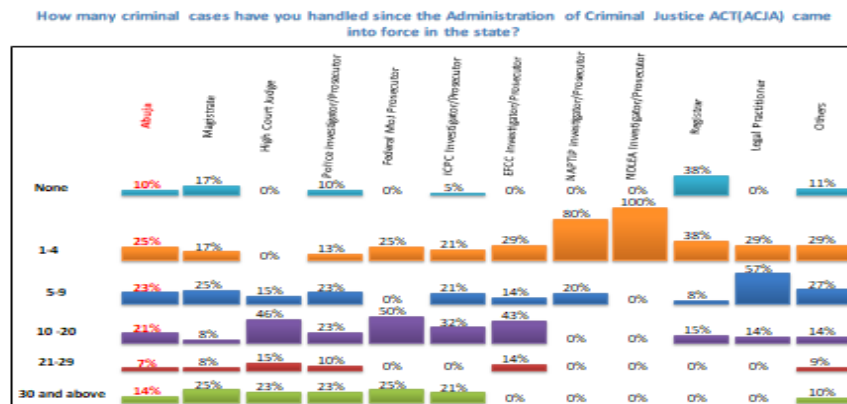


68% of the criminal justice actors had spent a period of 1-9 years in their current positions, while 17% had spent 10 -14 years and 10% have worked for 15years and above in current positions.

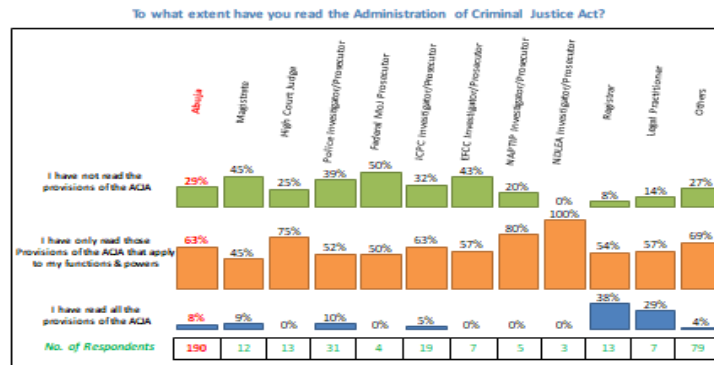


1. Management of cases since ACJA

Of the total surveyed 25% said they had handled 1-4 cases, 23% handled 5-9 cases and 21% - 10-20 cases since the coming of the ACJA, Fourteen (14%) made up of judges, magistrates, police, FMOJ & ICPC indicated they have handled 30 cases and above since ACJA.

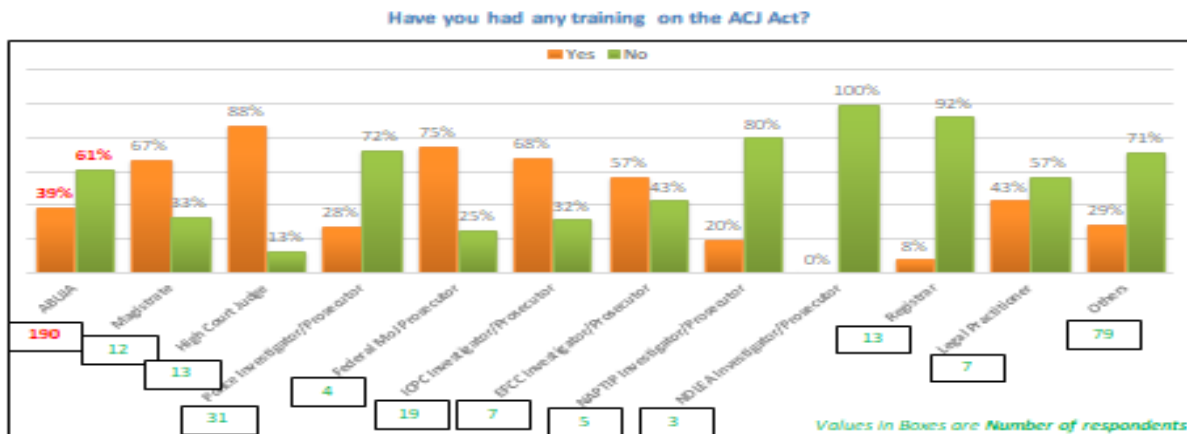


2. Capacity Building & knowledge of ACJA

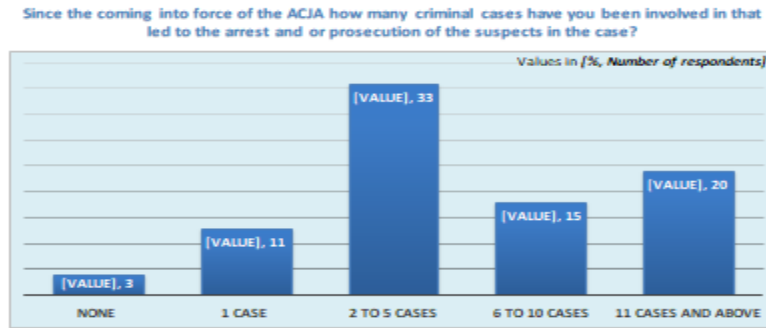


63% of criminal justice actors surveyed have “read some provisions of the ACJA that apply to their functions & powers.” Of the total, 29% have not read the provisions of the ACJA – “Others”, Police, ICPC, Magistrates. However (75%) amounting 9 judges have read some provisions while (92%) amounting to 11 court registrars have read some or all of the provisions of the ACJA.

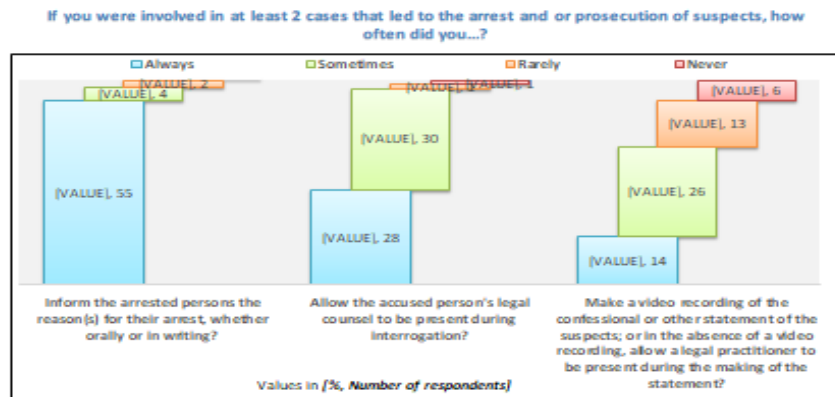
Only 72 respondents (39%) have been trained on the ACJA these are prosecutors of ICPC (12), judges (11) & magistrates (8); and the trainings were mainly provided by their employers & donor support program. Although 11 out of the 13 registrars surveyed have partly or fully read the ACJA only (8%) which is 1 person has been trained on the ACJA.



3. Pre-trial & Trial requirements

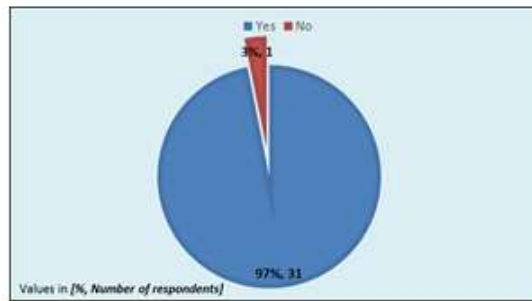


48 surveyed prosecutors & investigators have been involved in 2-10 cases that led to arrest & prosecution of suspects since ACJA, while 20 have been involved in over 11 cases leading to arrest & prosecution.



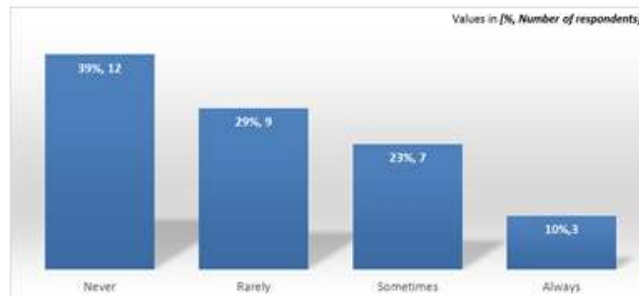
In line with Section 6(1) of the ACJA, 55 of the respondent investigators & prosecutors say they “always” inform the person(s) the reasons for their arrest either orally or in writing. 47% respondents always and 49% sometimes allow defendant’s legal counsel presence during interrogation. On the other hand, only 14 respondents “always” record statement of suspects and in the absence of video recording allow legal counsel during the making of statement.

Since the coming into force of the ACJA, have prosecutors/investigators presented confessional or other statements of defendants in cases in your court?

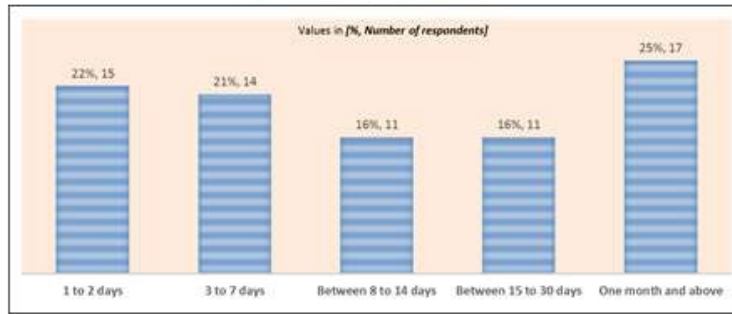


97% of judiciary surveyed said since ACJA, prosecutors/investigatrors have continued to present confessional statements of defendants in their courts. However 39% of the time, they do not present videorecordings of the confessional statement or in absence thereof written statements of suspects endorsed by legal practitioners. This is intendam with the position of prosecutors who say they seldom record interrogation processes.

If yes, how often do they present video recording of the confessional or other statement of the suspects; or in the absence of a video recording, present written statements or confessions of suspects endorsed by legal practitioners of the suspects?



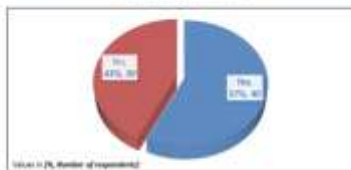
For the cases you were involved, on the average how long did it take from arrest of the suspects to the case being charged to court?



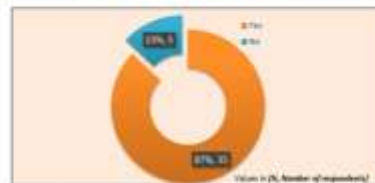
25% respondents prosecutors say it takes an average of 1month and above from arrest of suspects to the case being charged in court; 22% say it takes 1-2 days.

In line with section 293(1) ACJA, 57% of respondent prosecutors/investigators applied to the magistrate for remand of arrested suspect, out of which 87% have applied for extension of the remand order, however it is not so often that they apply for the extension.

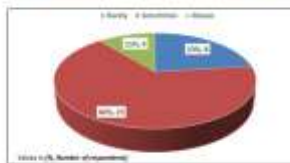
Did you have cause to apply to a Magistrate or Judge for an order to remand a suspect in any of the cases you were involved in?



Did you have cause to apply to a Magistrate or Judge for an extension of the remand order?



How often did you apply for an extension of a remand order?

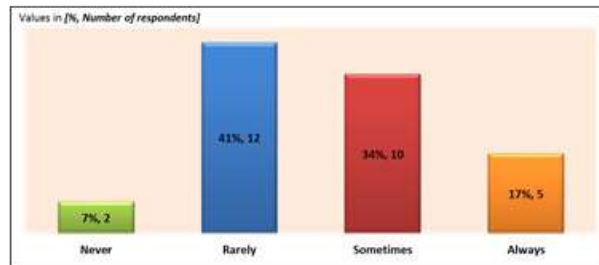


On the average, how long did it take from the original order for remand (not the application for extension) of a suspect to an order for a probation and a subsequent application for further extension?



When compared with responses from the judiciary, 41% said “rarely” and 34% said “sometimes” law enforcement agents & prosecutors apply for remand orders. Both groups of respondent however agree that it mostly (60% for judiciary) & (68% for prosecutors) takes 14 days from original order for remand and application for extension order.

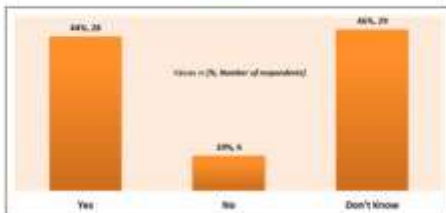
Since the coming into force of the ACJA how often do law enforcement or prosecutorial agencies apply for remand orders from your court?



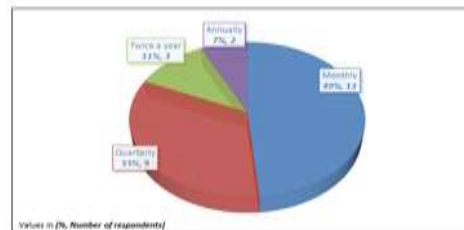
4. Oversight powers (FMOJ, Police & Judiciary)

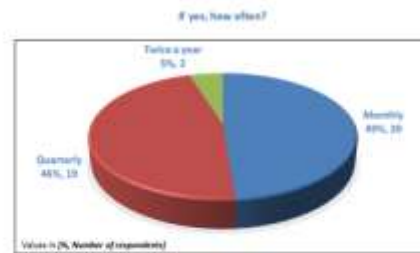
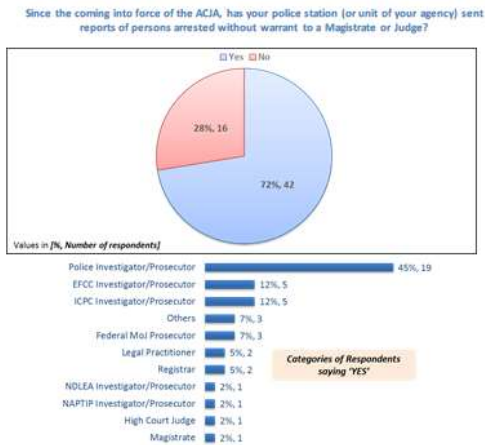
To ensure accountability and for oversight purposes, the ACJA Sec. 29 (1) mandates the Inspector General of Police or head of agency authorized by law to make arrest to remit quarterly report to the Attorney General of all arrest made with or without warrant. 44% said IGP or head of agency sent the reports out of which 49% said he/she does monthly while 33% said he/she does quarterly.

Since the coming into force of the ACJA has the Inspector General of Police, or the Commissioner of Police, or head of your agency sent records of arrests /detentions to the Attorney General of the Federation?



If yes, how often?





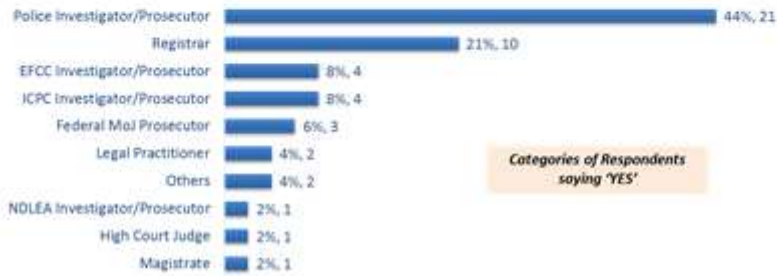
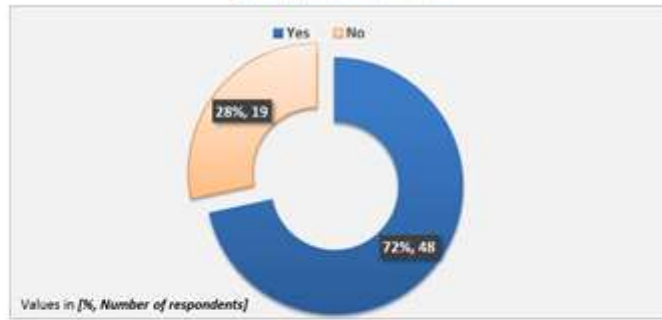
42 respondents said their police stations/agency responsible for arrest, monthly or quarterly send reports of persons arrested without warrant to the Magistrate or Judge.

Since the coming into force of the ACJA, do you send to your head of court (CJ) reports of criminal cases in your court whose trial do not commence after 30 days of arraignment or; when commenced within 30 days are not concluded/disposed of after 180 days from arraignment?



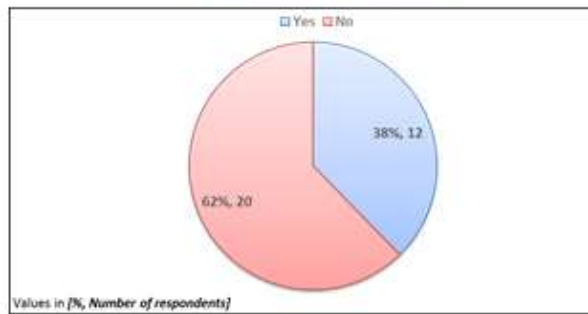
With regards to oversight of Chief Judge on Magistrates & Judges, 44% of respondent judiciary members said they, mostly on quarterly basis, report to the Chief Judge criminal cases that have not commenced in their courts after arraignment.

Since the coming into force of the ACJA, has a magistrate/judge carried out an inspection of your agency's place of detention?



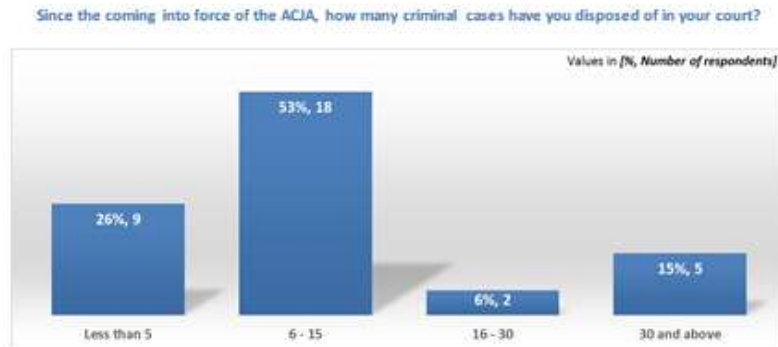
While 72% prosecutors said since the ACJA, on monthly or quarterly basis magistrates/judges have carried out inspection of their detention centers; however on comparison, 62% of judges & magistrates said they did not visit places of detention and even those who visited (32%), did so quarterly.

Since the coming into force of the ACJA, have you carried out an inspection of a place of detention (other than the prison)?

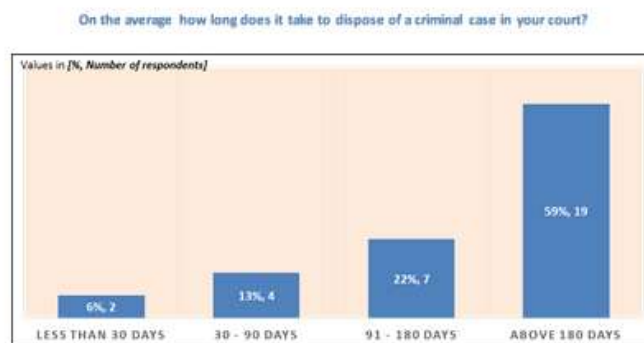


5. Speedy trial

One of the fundamental intentions of the drafters of the ACJA is to ensure speedy trials and dispensation of justice. Of the total of judges & magistrates, 18 said since ACJA they have disposed of 6-15 cases; 9 have disposed of less than 5 cases, while only 5 persons have disposed of over 30 and above.



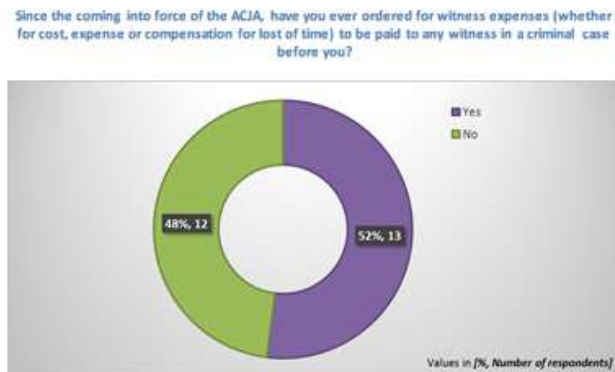
22% of members of the judiciary said it takes them 91-180 days to dispose of criminal cases in their courts, while 59% said it takes them above 180 days to do same.



The average duration of adjournments in criminal cases in the courts vary. For 34% respondents it takes 14 days, for 33% respondents' 1-3months & for another 33% respondents – 15days to 1month.



13 respondents of judiciary members surveyed said since ACJA, they have ordered for witness expenses such as cost or compensation for lost of time. It was however unclear in this research whether these expenses were paid for.



Recommendations

1. There is need for employers of criminal justice actors and support from donor funded programs to provide capacity building on the ACJA for actors in the sector as way of ensuring its effective implementation.
2. There is need for the executive to appropriate and provide the necessary wherewithal for procurement of equipment for interrogation processes for investigative agencies. The practice

of non-presentation of video-recording of interrogation processes to courts is in violation of the ACJA. Investigative and Prosecutorial agencies when provided with tools for effective discharge of duties should use them with duty of care.

3. The Administration of Criminal Justice Monitoring Committee should be empowered resource-wise to ensure effective coordination of criminal justice agencies. This report reveals a gap in inter-agency coordination and collaboration on administration of criminal justice.
4. Criminal Justice agencies should allow access to information in promotion of the Freedom of Information Act which does not categorize most of the information in their custody as classified. The unwillingness of some staff of the Federal Ministry of Justice to disclose information on level of implementation of the ACJA by the ministry is a clear example.
5. The Executive & Legislature should appropriate for witness expenses in the budget to the judiciary. When this is done, the Judiciary should provide a schedule for witness expenses in line with the requirements of the ACJA. This will allow for more information on what witness are entitled to.