



PRESENTATION ON THE FINDINGS OF COURT OBSERVATION ON ACJL IN ONDO STATE

(NOVEMBER 2017 – MARCH 2018)

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Introduction

The Enhancing Transparency and Accountability in the Judicial Sector project is a 3-year project 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 Advanced 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 ACJL. We aim to achieve this through social accountability in the judicial sector.

A total of 65 courtrooms are 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 ACJ Act/Law.

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 Ondo State.

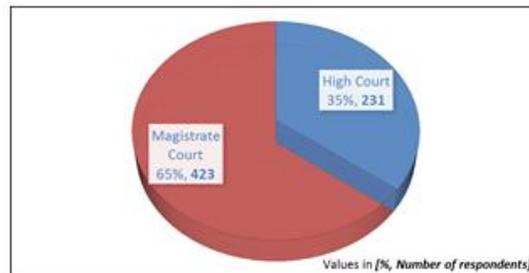
- A total of 20 observers were deployed across 20 High and Magistrate courts in the Ondo State. The designated courts were in Akure, Ikare, Ondo town & Olokuta town.

Presentation of findings

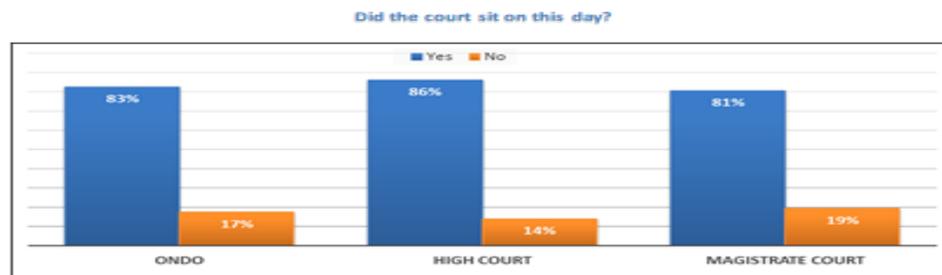
Court Observation

Court Observation commenced on 13th November 2017. The data being presented today is from November 2017 - March 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 423 days while High courts were observed for 231 days.

Number and % of days Courts observed in ONDO for each of the Court Types (Qtr. 2)
[TOTAL = 654]

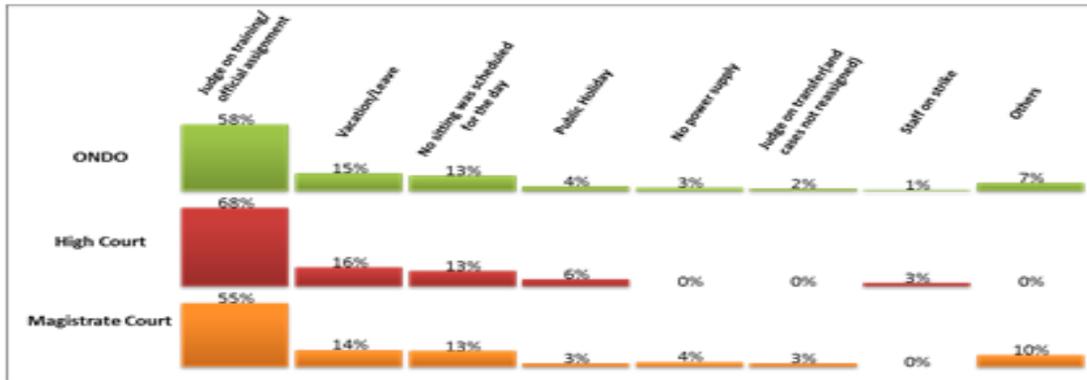


1. Court Sitzings:



86% and 81% of the time, the High and Magistrate courts observed sat. The reasons given for courts not sitting ranged from official assignment/training, vacation/leave and no sitting was scheduled for the day, etc – 68% for official assignment at High Courts and vacation/leave (55%) at Magistrates courts.

If Court did not sit, indicate reason (multiple options)



2. Average Time of Court Sittings:

In the High court, the average time when the courts observed commenced sitting was 9:12am, they went on recess at 11:24am and resumed back from recess by 11:24am and closed for the day by 14:00pm. For the Magistrate courts, average time courts start sitting is 9:24am, average time for recess is 10:52am, resumption from recess 11:08am and on average close for the day by 13:14pm.

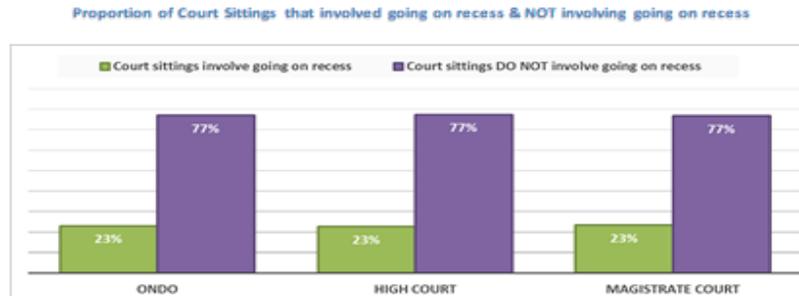
Average – time court started sitting, went on recess, resumption from recess & closed for the day
Time (Hour : Minute)

COURT SITTINGS THAT INVOLVE GOING ON RECESS

	ONDO	High Court	Magistrate Court
Average time court started sitting	9:20AM	9:12AM	9:24AM
Average time court went on recess	11:03AM	11:24AM	10:52AM
Average time of resumption from recess	11:24AM	11:53AM	11:08AM
Average time court closed for the day	13:30PM	14:00PM	13:14PM

COURT SITTINGS THAT DO NOT INVOLVE GOING ON RECESS

	ONDO	High Court	Magistrate Court
Average time court started sitting	9:24AM	9:20AM	9:26AM
Average time court closed for the day	12:01PM	11:19AM	12:26PM



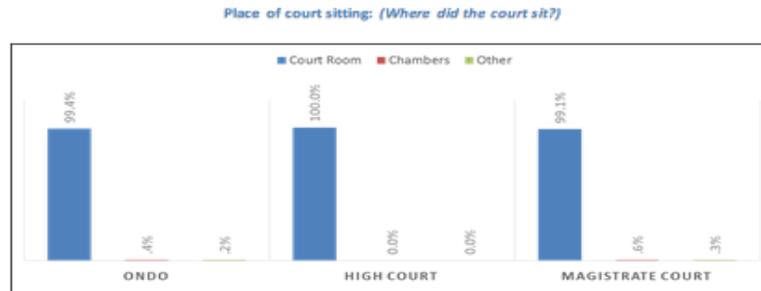
The graph above shows the proportion of courts that go on recess and those that do not go on recess. 77% of both Magistrate and High courts observed do not go on recess.

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

		ONDO	High Court	Magistrate Court
Court sittings that involved going on recess	Average time spent in court (HH:MM)	4:09	4:48	3:49
	Average time Spent in Recess (HH:MM)	0:22	0:32	0:17
	Average actual time spent in Sitting on Cases (HH:MM)	3:48	4:16	3:33
Court sittings that DO NOT involved going on recess	Average time spent in court (HH:MM)	2:37	1:59	3:00

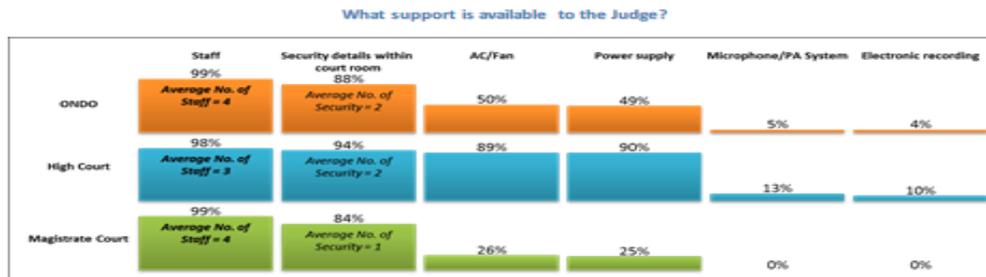
For the courts that go on recess, the average time spent in court is 4hours 09mins; average time spent on recess is 22mins and actual time spent in sitting on cases is 3hours 48mins. When disaggregated, the actual time spent by the High Courts in sitting on cases is 4hours 16mins, while the Magistrate Courts is 3hours 33mins. However, the courts that do not go on recess spend an average of 2hours 37mins in court.

3. Locations of Court Sitzings



99.4% of the time the observers in Ondo were in court, the judges and magistrates sat in open courts and 0.4% 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.

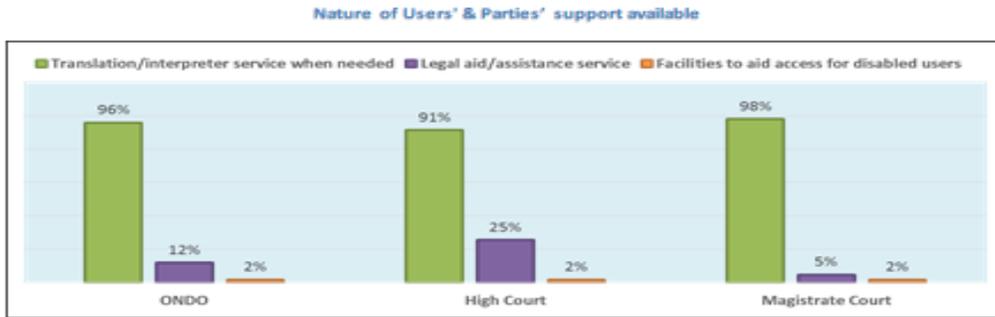
4. Supports Available to the Courts



From the slide above, we looked at the support(s) that are available in the courts to make the job of the judges/magistrates easier (i.e. make them more efficient). At the Magistrate courts, 99% of the support was manpower (which is 3 in average) while the High Courts have 98%. On the lower end is

13% for microphone/PS system and 10% for electronic recording at the High Courts. However in the Magistrate Courts no electronic recording device was available.

On availability of electricity, security officials within court rooms and AC/Fan the High Courts had (90%), (94%), and (89%) respectively; while the Magistrate courts had (84%), (26%) and (25%) respectively. Noticeable is the proportion of availability of facility support at the High compared to Magistrate Courts.



Some of the key principles for access to justice, free and fair trial as provided in the Constitution of the Federal Republic of Nigeria 1999 (as amended) and promoted by the ACJL include, interpretation and translation services (96%), legal aid /assistance services (12%) and facilities to aid access with disabilities, rather poor, is (2%).

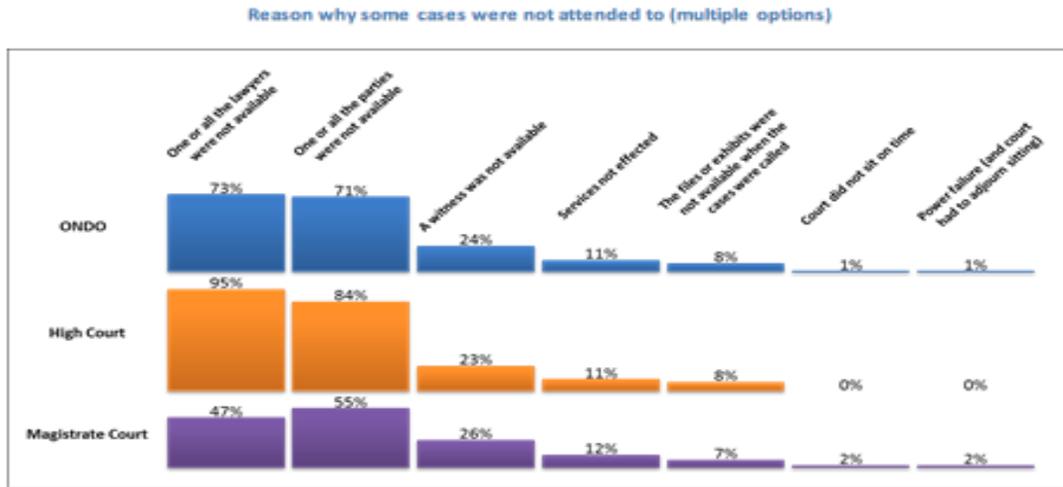
5. Attendance to Cause list

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

	ONDO	High Court	Magistrate Court
Average number of cases on the days cause list	6.9	7.1	6.8
Average number of criminal cases on the cause list	5.5	5.1	5.8
Average number of civil cases on the cause list	2.8	4.0	2.0
Average number of cases on the days cause list attended to	6.1	5.7	6.3
% of cases on the days causes list attended to Versus Cases on the days cause list	90%	81%	96%

The findings reveal that 6.9 cases are the average number on the day's cause list. On average 2.8 civil and 5.5 criminal cases are on the day's cause list. Of the number on the day's cause list, 6.1 are attended to amounting to 90% attendance to cases on day's cause list.

In situations where cases were not attended to, the graph below shows that the major reasons include *“one or all the lawyers were not available”* (95%) for High courts and (47%) for Magistrate courts; *“one or all the parties were not available”* (84%) Magistrate courts and (55%) High Courts. Noteworthy is the fact that service delivery and electricity supply were observed as minor reasons why cases were not attended to.



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. In Ondo, the absence is more at the Magistrate courts which handles most of the criminal cases.
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 rams for access into court premises and more legal aid to enhance access to justice.
3. There are judges / magistrates that are doing good-work 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 ACJL 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 Law.

Presentation of Findings of Criminal Justice Actors' Survey

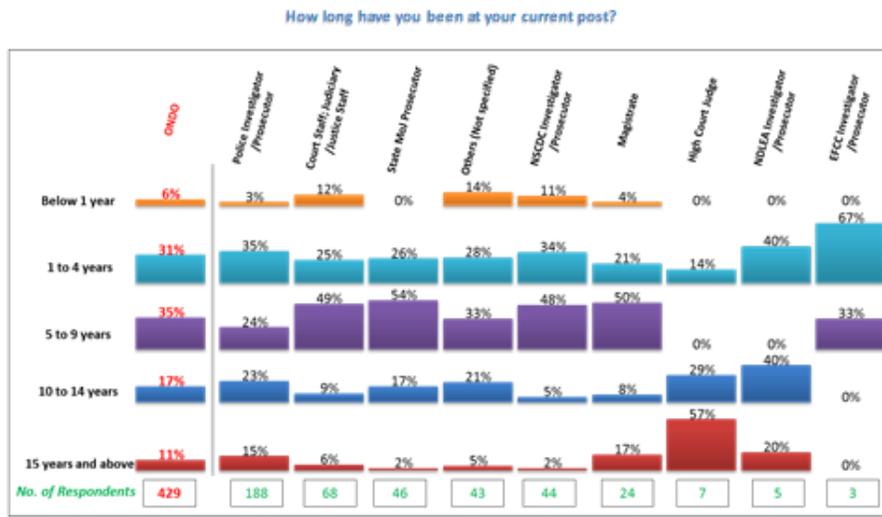
Background of respondents

A total of 437 criminal justice actors were surveyed over a period of three weeks across the courts being observed in Ondo state. One hundred eighty-eight (44%) were Police Investigators/Prosecutors, sixty-nine (16%) Court/Justice staff, ICPC, forty-seven (11%) Ministry of Justice Prosecutors, forty-five (10%) NSCDC Investigator/Prosecutor, seven (2%) High Court Judges while twenty-four (6%) surveyed were Magistrates. Five and three (making 1% each) were NDLEA & EFCC Investigators/Prosecutors.

Worthy of note is that forty-five (10%) 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.

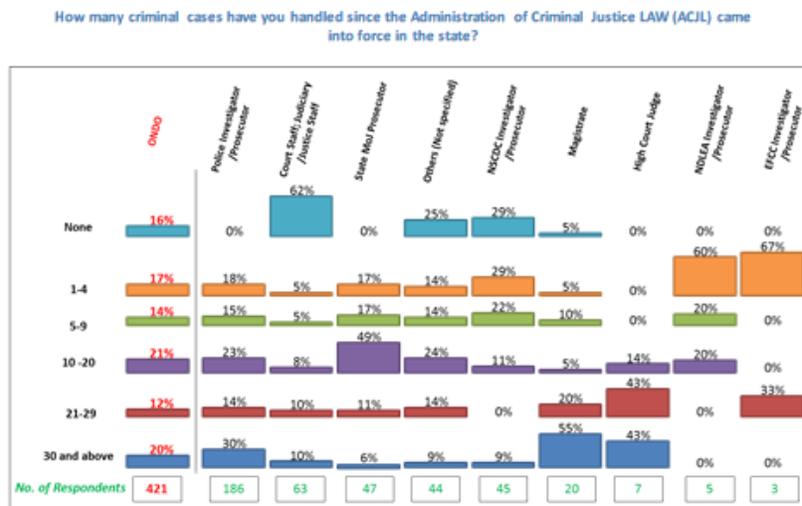


83% of the criminal justice actors had spent a period of 1-14 years in their current positions, while 11% have worked for 15 years and above in current positions.

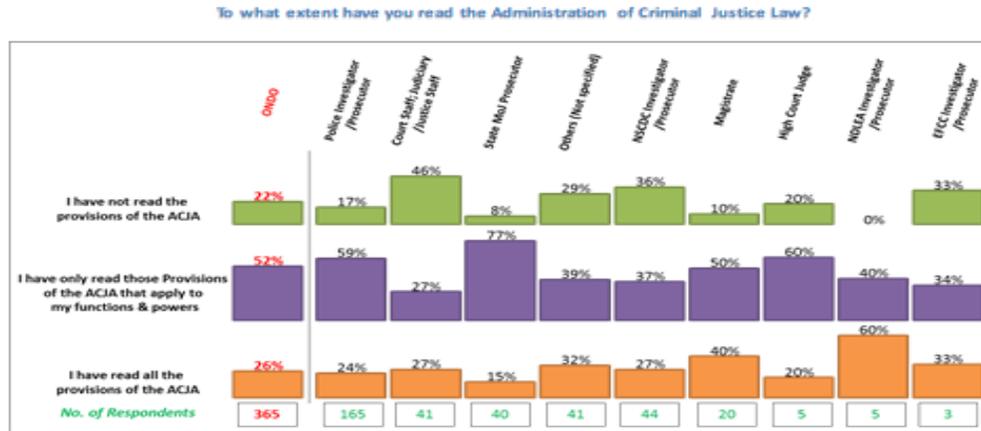


1. Management of cases since ACJL, 2015

Of the total surveyed 64% said they have handled 1-29 cases since the coming of the Administration of Criminal Justice Law (ACJL), 2015 of Ondo State. Fourteen (14%) made up of judges, NDLEA, Magistrates, and police indicated they have handled 30 cases and above since ACJL.

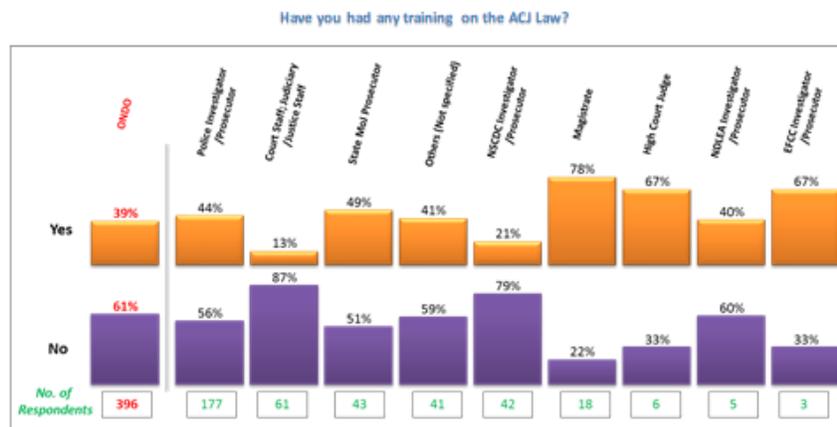


2. Capacity Building & knowledge of ACJL, 2015



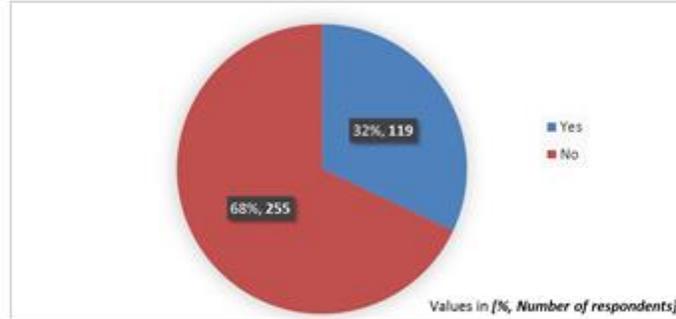
52% of criminal justice actors surveyed have “read some provisions of the ACJL 2015 that apply to their functions & powers.” Of the total, 22% have not read the provisions of the law.

154 respondents making up 39% of the total have been trained on the contents of the ACJL 2015 which was 49% or 41% of the time provided by their employers or another government agency respectively.



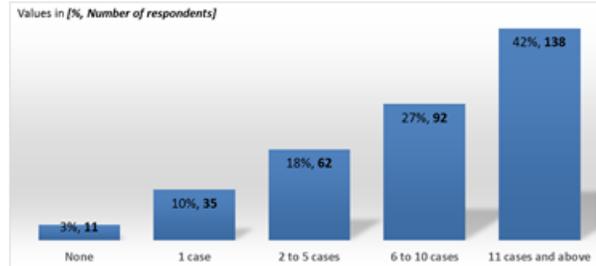
A total of 119 (32%) respondents say changes brought by the ACJL 2015 have been difficult to implement. (Qualitative information available).

Has any changes/reforms brought about by the ACJ Law been difficult to implement in your area of work?



3. Pre-trial & Trial requirements

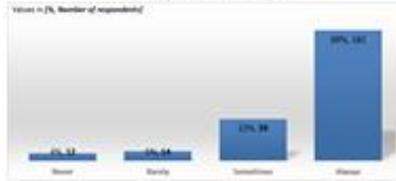
Since the coming into force of the ACJL how many criminal cases have you been involved in that led to the arrest and or prosecution of the suspects in the case?



154 (making 45%) surveyed prosecutors & investigators have been involved in 2-10 case and 138 (making 42%) involved in 11 and above cases leading to arrest and since the coming of ACJL 2015.

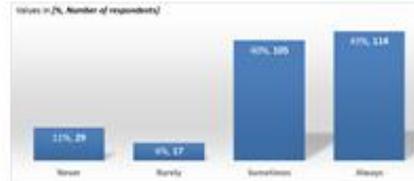
If you were involved in at least 2 cases that led to the arrest and or prosecution of suspects, how often did you...?

Inform the arrested persons the reason(s) for their arrest, whether orally or in writing?



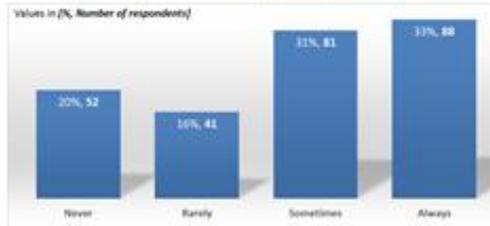
If you were involved in at least 2 cases that led to the arrest and or prosecution of suspects, how often did you...?

Allow the accused person's legal counsel to be present during interrogation?



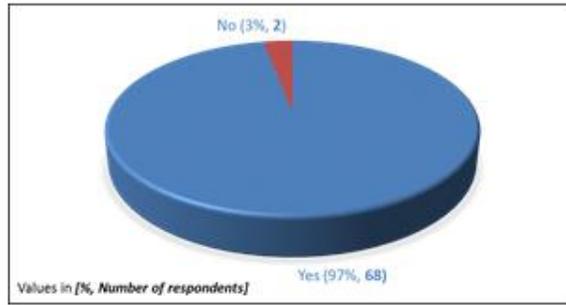
If you were involved in at least 2 cases that led to the arrest and or prosecution of suspects, how often did you...?

Make a video recording of the confessional or other statement of the suspects; or in the absence of a video recording, allow a legal practitioner to be present during the making of the statement?



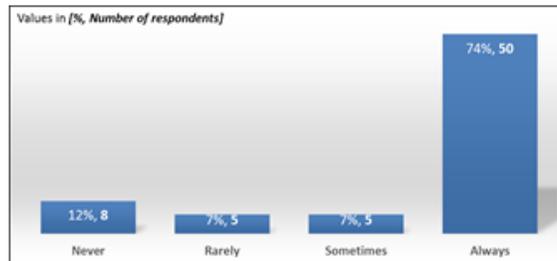
In line with the 2015 ACJL, 182 of the respondent investigators & prosecutors say they “always” inform the person(s) the reasons for their arrest either orally or in writing. 114 (43%) respondents “always” and 105 (40%) “sometimes” allow defendant’s legal counsel presence during interrogation. On the other hand, 52 (20%) respondents “never” and 41 (16%) rarely record statement of suspects nor allow legal counsel during the making of statement.

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

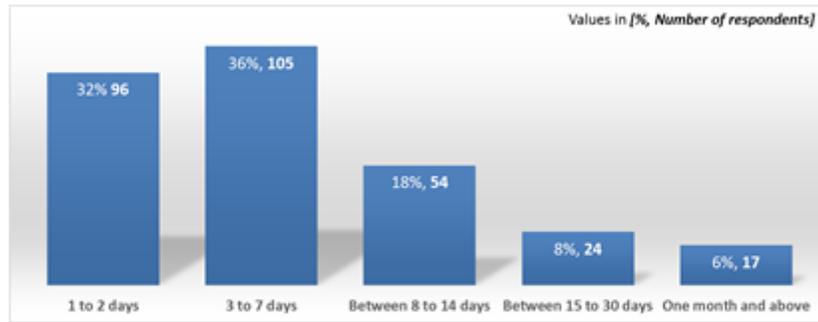


97% of judiciary surveyed said since ACJL, prosecutors/investigators have continued to present confessional statements of defendants in their courts. In doing so, prosecutors “awalys” (74%) present video recordings of the confessional statement or in absence thereof written statements of suspects endorsed by legal practitioners.

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?



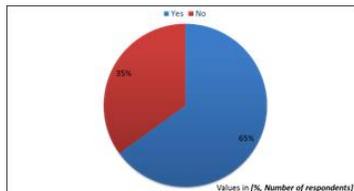
For the cases you were involved, on the average how long did it take from arrest of the suspects to the case being charged to court?



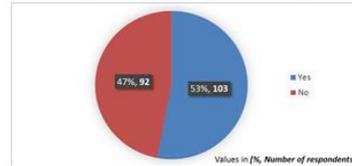
201 respondents making 68% of prosecutors/investigators say it takes an average of 1 – 7 days and from arrest of suspects to the case being charged in court; 18% say 1-2 days and 14% say it takes 15days and above.

65% of respondent prosecutors/investigators applied to the magistrate for remand of arrested suspect, out of which 53% have applied for extension of the remand order.

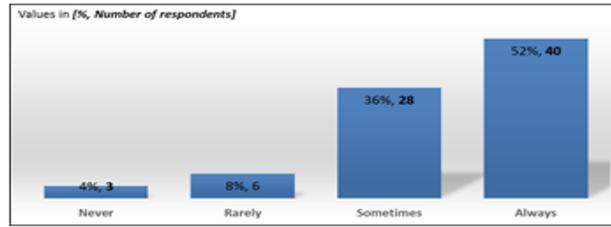
Did you have cause to apply to a Magistrate or Judge for an order to remand a suspect in any of the cases you were involved in?



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

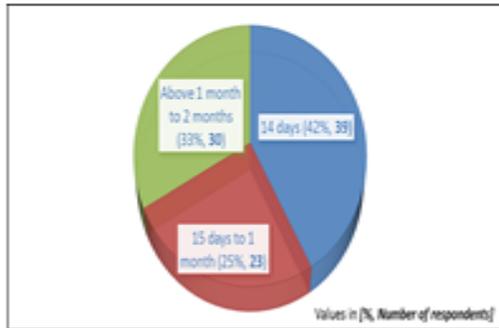


Since the coming into force of the ACJL how often do law enforcement or prosecutorial agencies apply for remand orders from your court?

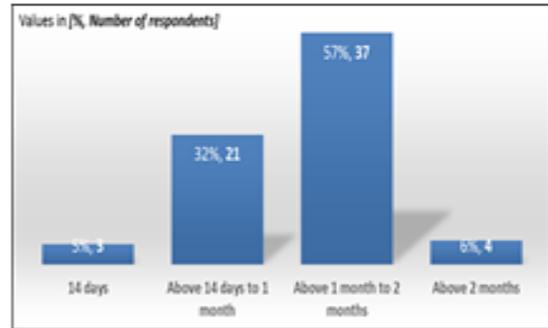


As required by S269 to 272 ACJL, 52% of the judiciary said “always” and 36% said “sometimes” law enforcement agents & prosecutors apply for remand orders.

On the average how long did it take between the original order for remand and the application for extension; or between an order for extension and a subsequent application for further extension?



On the average how long did it take between the original order for remand and the application for extension; or between an order for extension and a subsequent application for further extension?

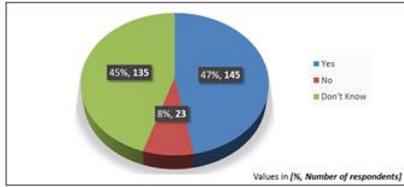


57% of the judiciary say it mostly takes “Above 1 month – 2months” while 42% of prosecutors said it takes 14 days from original order for remand and application for extension order.

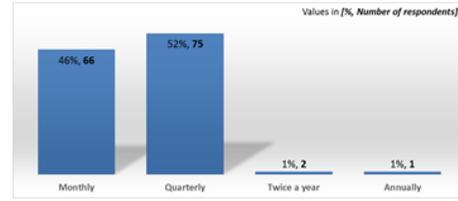
4. Oversight powers (FMOJ, Police & Judiciary)

To ensure accountability and for oversight purposes, the 2015 ACJL Sec. S.23 mandates the Commissioner of Police or head of agency authorized by law to make arrest, to remit quarterly report to Ondo State Attorney General of all arrest made with or without warrant. 47% said COP or head of agency sent the reports out of which 50% said he/she does monthly while 42% said quarterly.

Since the coming into force of the ACIL has the Commissioner of Police; or head of your agency sent records of arrests /detention to the Attorney General of the State?

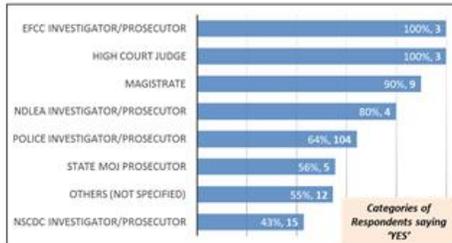
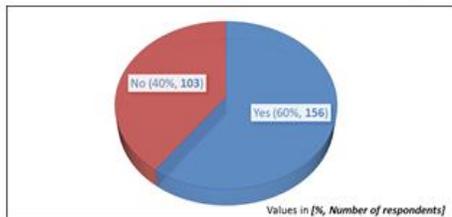


If yes, how often?

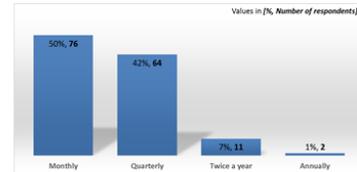


Again 60% of respondent prosecutors said since ACIL their police stations or units of agency have sent reports of arrest made without warrant to a Magistrate or Judge.

Since the coming into force of the ACIL, has your police station (or unit of your agency) sent reports of persons arrested without warrant to a Magistrate or Judge?

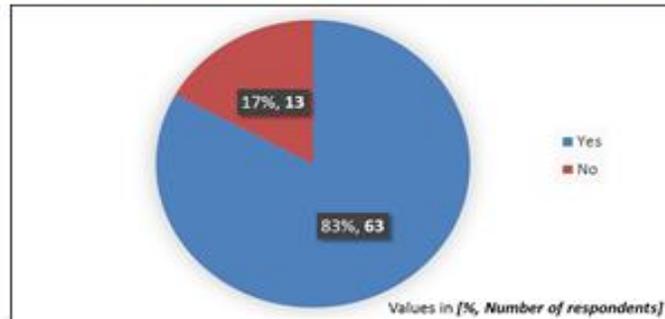


If yes, how often?



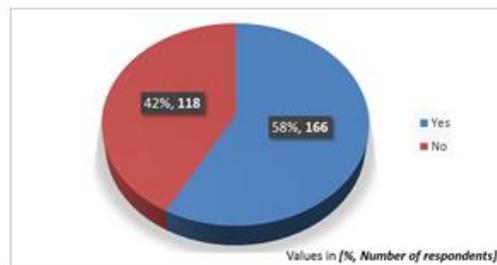
However, when interviewed, the Attorney General of Ondo State said no law enforcement agency has ever remitted quarterly reports of arrests/detention to the Ministry.

Since the coming into force of the ACJL, 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; where commenced within 30 days are not concluded/disposed of after 180 days from arraignment?



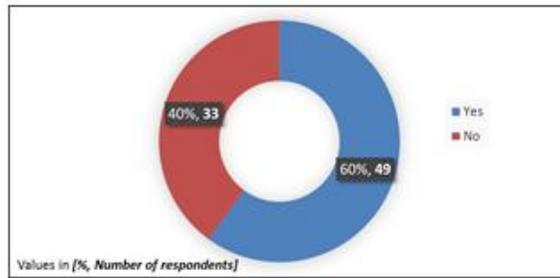
With regards to oversight by the Chief Judge, 63% of respondent judiciary members said they, mostly on quarterly basis, report to the Chief Judge criminal cases that have not commenced in their courts after arraignment.

Since the coming into force of the ACJL, has a Magistrate/Judge carried out an inspection of your agency's place of detention?



While 58% prosecutors said since the ACJL in 2015, 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.

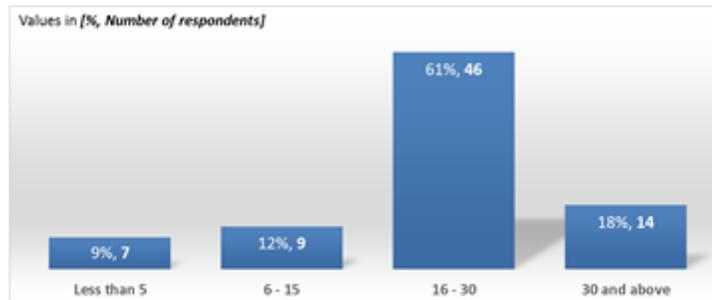
Since the coming into force of the ACJL, have you carried out an inspection of a place of detention (other than the prison)?



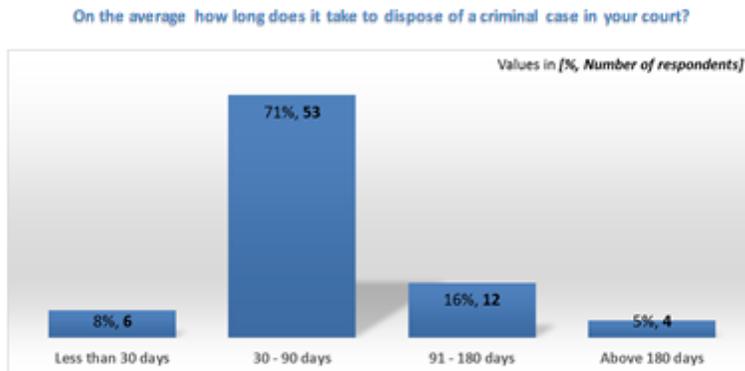
5. Speedy trial

One of the fundamental intentions of the drafters of the ACJL, 2015 is to ensure speedy trials and dispensation of justice. Of the total of members of judiciary 61% said since ACJL they have disposed of 16-30 cases; 12% have disposed of less than 6-15 cases, while only 18 persons have disposed of over 30 and above.

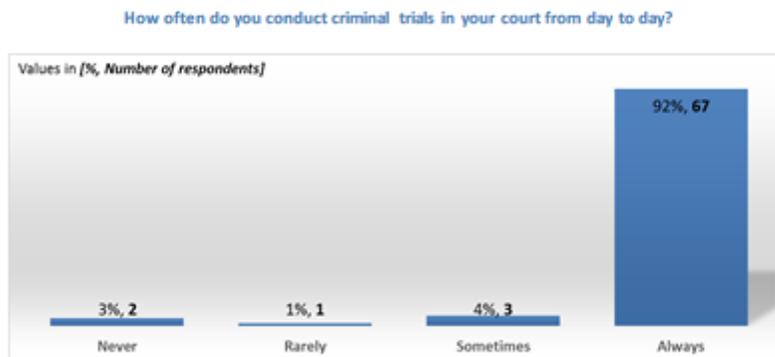
Since the coming into force of the ACJL, how many criminal cases have you disposed of in your court?



87% of members of the judiciary said it takes them 30-180 days to dispose of criminal cases in their courts.

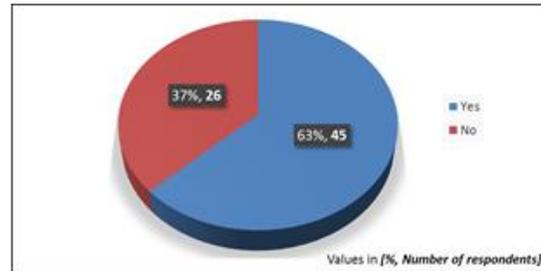


67 respondents in the judiciary said on day to day basis, they conduct criminal trials in their courts. This corroborates the observers reports that there more criminal cases in the Ondo judiciary than are civil.



6. Management of witness expenses

Since the coming into force of the ACJL, have you ever ordered for witness expenses (whether for cost, expense or compensation for lost of time) to be paid to any witness in a criminal case before you?



In accordance with S228-230 ACJL, 63% respondent judicial members said since 2015, they have ordered for payment of witness expenses such as cost or compensation for lost of time. Key informant interview with the Ministry of Justice reveals that ministry is the agency that currently pays witnesses expenses in Ondo state. The law requires the Chief Judge to appropriate for witness expenses and for the judiciary to manage payment therein.

Recommendations

1. There is need for employers of criminal justice actors and with support from donor funded programs, to provide capacity building on the ACJL for actors in the sector to increase its implementation.
2. There executive and legislature should endeavor 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 defeats in the intent of the innovative criminal justice laws. Investigative and Prosecutorial agencies when provided with tools for effective discharge of duties should use them with duty of care.
3. The Ondo State Administration of Criminal Justice Monitoring Committee should endeavor to commence its functions as provided by the ACJL. For the committee to function, it should be empowered resource-wise (by the three arms of government) to ensure effective coordination of criminal justice agencies and monitor implementation of the law.
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 willingness of the Ondo State Judiciary and Ministry of Justice on information disclosure to understand level of implementation of the ACJL, 2015 by both is a clear example others should emulate that will enhance access to justice.

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 ACJL, 2015. This will allow for more information on what witness are entitled to.