



PRESENTATION ON THE FINDINGS OF COURT OBSERVATION ON ACJL IN LAGOS

(MARCH – MAY 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 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 & 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 ACJL. 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 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 Lagos State.

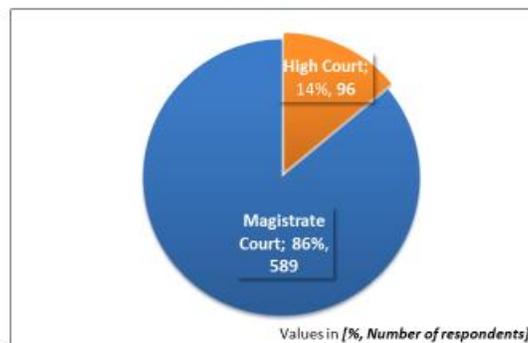
- A total of 25 observers were deployed across 25 High and Magistrate courts in the Lagos State. The designated courts were in Ikeja, Apapa, Badagry, Ejigbo, Igboosere, Ijede, Isolo, Surulere and Ogba.

Presentation of findings

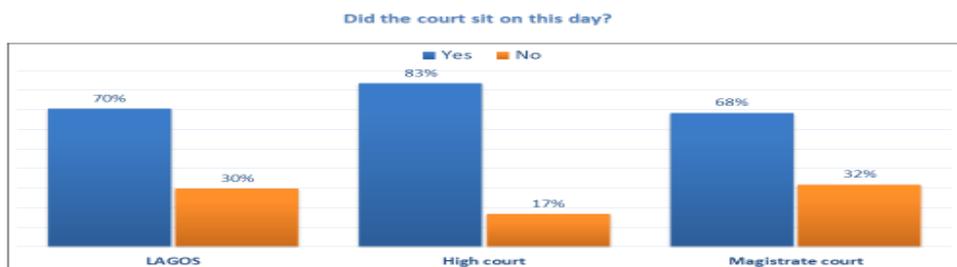
Court Observation

Court Observation commenced on 5th March 2018. The data being presented today is from March- May 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 25 days within this period. Magistrate courts were observed for 589 days while High courts were observed for 96 days.

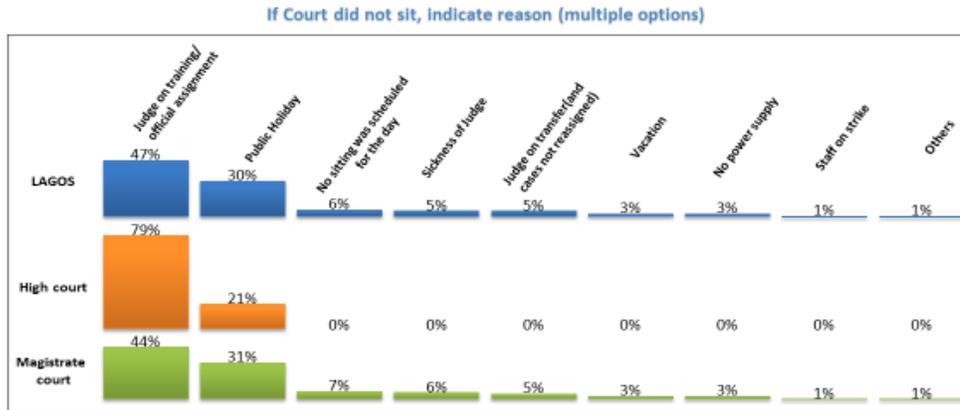
Number and % of days Courts were observed in LAGOS for each of the Court Types (Round 3 Analysis)
[TOTAL = 685]



1. **Court Sitings:**



83% and 68% of the time, the High and Magistrate courts observed sat. The reasons given for courts not sitting ranged from judge on training/official assignment, public holiday and no sitting was scheduled for the day, etc. – 79% for official assignment at High Courts and public holiday (31%) at Magistrates courts.



2. Average Time of Court Sittings:

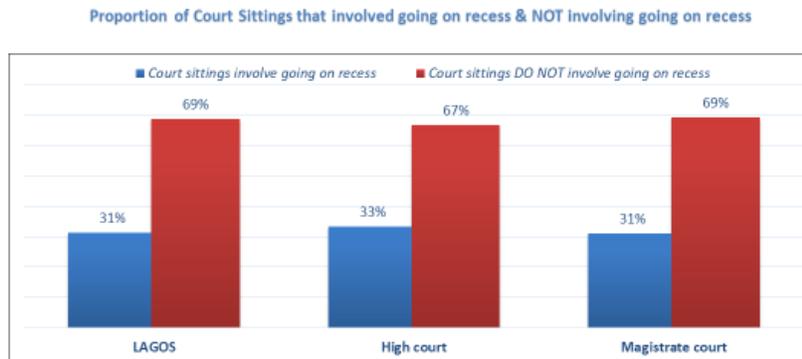
In the Magistrate court, the average time when the courts observed commenced sitting was 9:18am, they went on recess at 10:23am and resumed back from recess by 11:25am and closed for the day by 12:56pm. For the High courts, average time courts start sitting is 10:04am, average time for recess is 11:38am, resumption from recess 12:33pm and on average close for the day by 1:46pm. A comparison indicates that the courts that do not go on recess on average close by 11:35am while those that go on recess close by 1:05pm.

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			
	LAGOS	High Court	Magistrate Court
Average time court started sitting	9:27AM	10:04AM	9:18AM
Average time court went on recess	10:36AM	11:38AM	10:23AM
Average time of resumption from recess	11:37AM	12:33PM	11:25AM
Average time court closed for the day	1:05PM	1:46PM	12:56PM

COURT SITTINGS THAT DO NOT INVOLVE GOING ON RECESS			
	LAGOS	High Court	Magistrate Court
Average time court started sitting	9:32AM	9:54AM	9:28AM
Average time court closed for the day	11:35AM	12:31PM	11:24PM

The graph below shows the proportion of courts that go on recess and those that do not go on recess, 6% at High courts and 69% at the Magistrate courts observed do not go on recess.



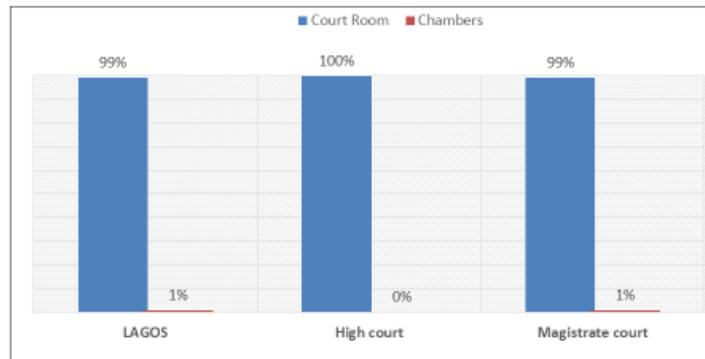
For the courts that go on recess, the average time spent in court is 3hours 38mins; average time spent on recess is 1hour and actual time spent in sitting on cases is 2hours 38mins. When disaggregated, the actual time spent by the High Courts in sitting on cases is 2hours 47mins, while the Magistrate Courts is 2hours 36mins. However, the courts that do not go on recess spend an average of 2hours 2mins in court.

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

		LAGOS	High Court	Magistrate Court
Court sittings that involved going on recess	Average time spent in court (HH:MM)	3:38	3:42	3:37
	Average time Spent in Recess (HH:MM)	1:00	0:55	1:01
	Average actual time spent in Sitting on Cases (HH:MM)	2:38	2:47	2:36
Court sittings that DO NOT involved going on recess	Average time spent in court (HH:MM)	2:02	2:37	1:56

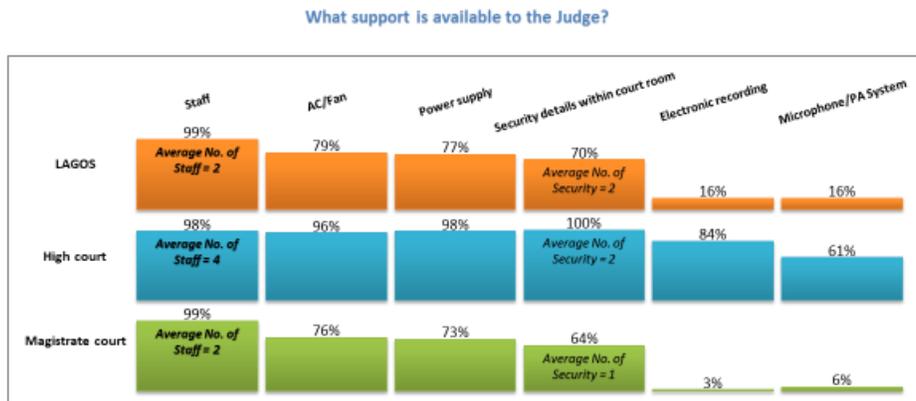
3. Locations of Court Sittings

Place of court sitting: (Where did the court sit?)



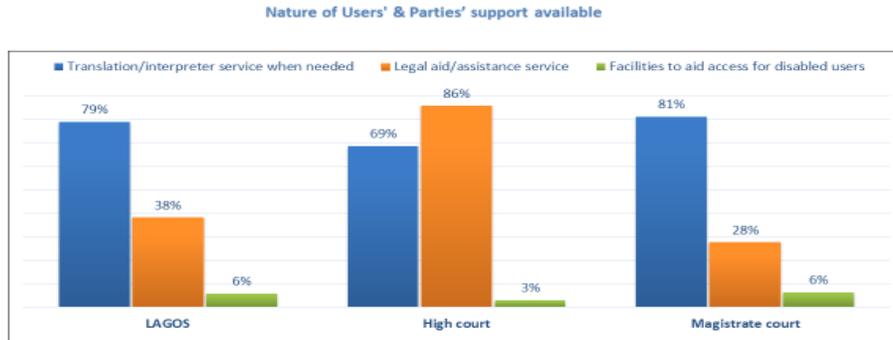
99% of the time the observers in Lagos were in court, the judges and magistrates sat in open courts and 1% in the chambers of the judge. This shows that the courts are in compliance with the provisions for free and fair trial as stated in Section 36 of the Constitution of the Federal Republic of Nigeria, 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% support was manpower; 76% AC/Fan; 73% power supply; and 64% security details within the court. For the High Courts have 98% manpower support; 96% AC/Fan; 98% power supply; 100% security details within court; 84% Electronic recording and PA system at 61%. For the Magistrate courts, electronic recording and PA system were at the lower end with 3% and 6% 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 (79%), legal aid /assistance services (38%) and facilities to aid access with disabilities, rather poor, is (6%). When disaggregated, legal aid services more at the High courts, while translation services were most visible at the Magistrate courts.

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

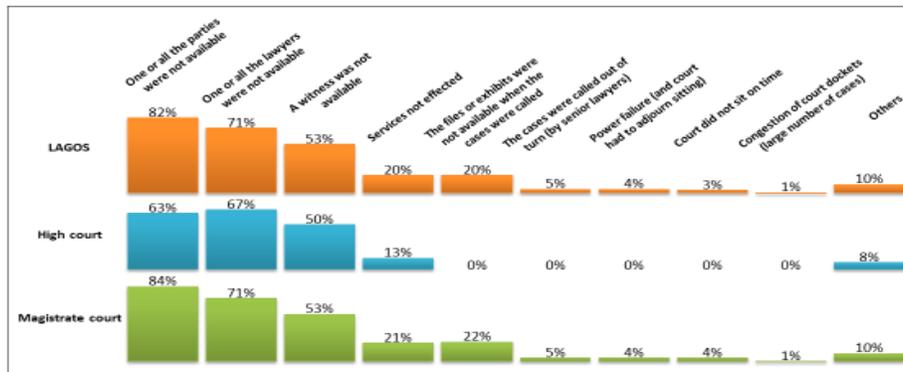
	LAGOS	High Court	Magistrate Court
Average number of cases on the days cause list	16	8	18
Average number of criminal cases on the cause list	10	6	10
Average number of civil cases on the cause list	11	2	12
Average number of cases on the days cause list attended to	8	5	9
% of cases on the days causes list attended to Versus Cases on the days cause list	53%	72%	50%

The findings reveal that 16 cases are the average number on the day's cause list. On average 11 civil and 10 criminal cases are on the day's cause list. Of the number on the day's cause list, 8 are attended to amounting to 53% attendance to cases on day's cause list.

In situations where cases were not attended to, the next graph shows that the major reasons include *"one or all the parties were not available"* (63%) for High courts and (84%) for Magistrate courts; *"one or all the lawyers were not available"* (71%) Magistrate courts and (67%) High Courts. Noteworthy is the

fact that service delivery and absence of files/exhibits were 20% of the reasons why cases were not attended to.

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



OTHERS: Judiciary Programme holding, Some cases were stuck out, Absence of legal representation, deferment, date of case was vacated, parties intend to settle, so case was adjourned, want of diligent prosecutor, some cases were for mention, so further dates were given for mention or trial.

Recommendation

The judiciary is the third arm of government. The need to invest in the judiciary is crucial because it strengthens the democratic and development process. Lagos State has a reputation of being the lead state on judicial reforms in the country. In view of the above, we would make the following recommendations:

1. The Lagos State government should increase its investments in the magistrate courts by providing electronic equipment such as electronic recorders because they handle most of the criminal cases.
2. The construction of new court buildings gives the court buildings a feel of professionalism however the continued exclusion of access by persons with disabilities to public buildings needs to be addressed. Lagos State government and/or judiciary should make its judicial system more inclusive by providing ramps for access into the court premises and more legal aid to enhance access to justice.
3. Acknowledgment of good practices should be encouraged, this should include identifying / celebrating magistrates/judges that are doing good work.
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 hearing 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

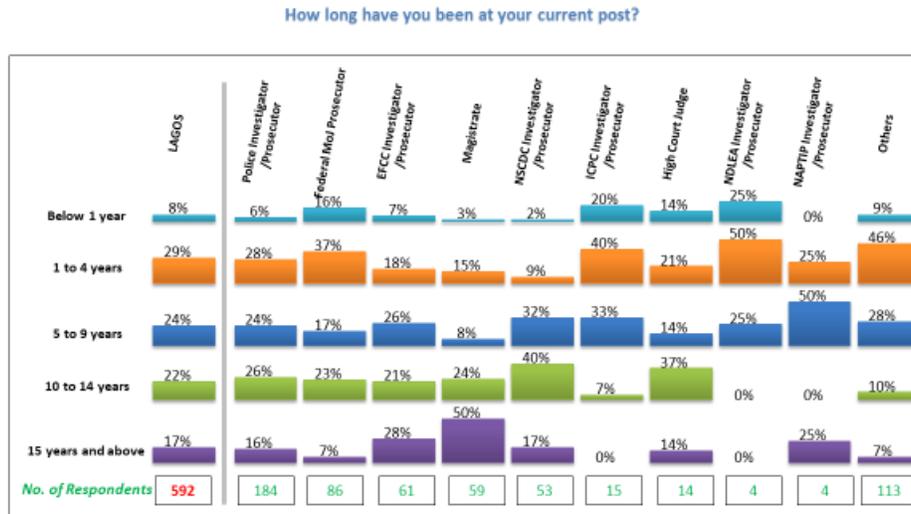
Background of respondents

A total of 598 criminal justice actors were surveyed over a period of three weeks across the courts being observed in Lagos state. One hundred eighty-six (31%) were Police Investigators/Prosecutors, eighty-six (14%) Ministry of Justice Prosecutors, sixty-two (10%) EFCC Investigators/Prosecutors, fifty-nine (10%) Magistrates, fifty-three (9%) NSCDC Investigator/Prosecutors, fifteen (3%) ICPC Investigators/Prosecutors, fourteen (2%) High court judges and four (making 1% each) were NDLEA & NAPTIP Investigators/Prosecutors.

Worthy of note is that 114 (making 19%) of the individuals surveyed were reluctant to indicate on the questionnaire which category they belong to. However data collectors indicated that some were prosecutors from the ministry of justice, and staff of LASTMA and FRSC.



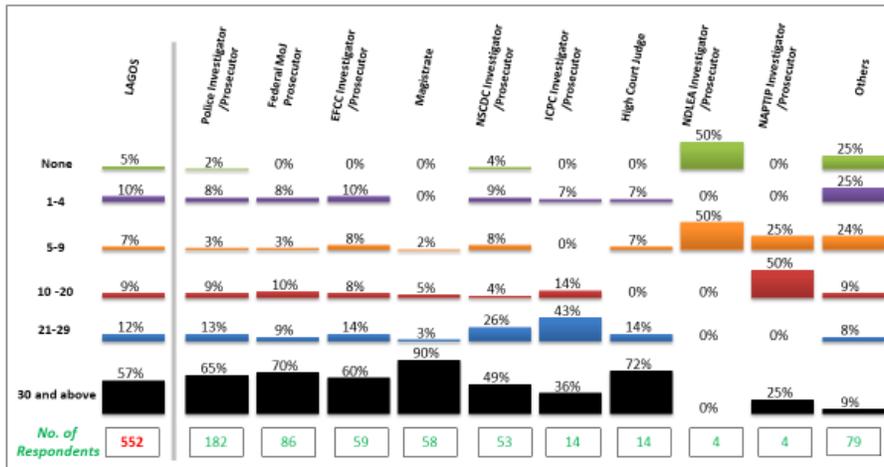
29% of the criminal justice actors had spent a period of 1-4 years in their current positions, 24% had spent 5 -9 years, 22% have worked for 10 – 14 years, while 17% have been at current post for 15years and above.



1. Management of cases since ACJL, 2011

Of the total surveyed, 38% said they have handled 1-29 cases since the coming of the Administration of Criminal Justice Law (ACJL), 2011 of Lagos State. 57% made up of Magistrates, Judges, prosecutors from Ministry of Justice, Police, EFCC, NSCDC, ICPC indicated they have handled 30 cases and above since ACJL.

How many criminal cases have you handled since the Administration of Criminal Justice Law(ACJL) came into force in the state?



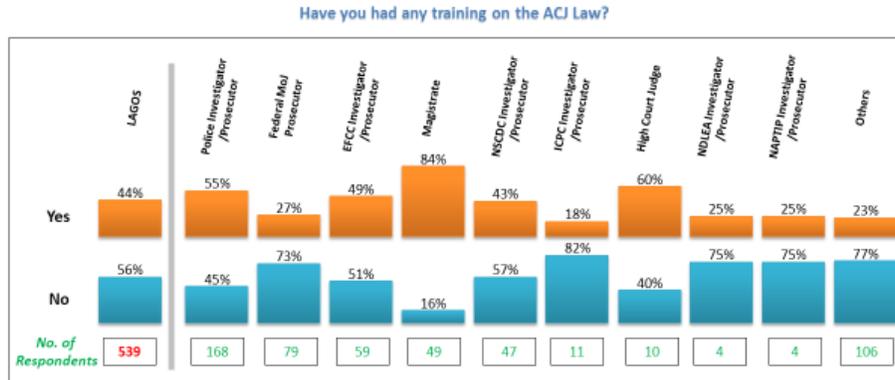
2. Capacity Building & knowledge of ACJL, 2011

To what extent have you read the Administration of Criminal Justice Law?

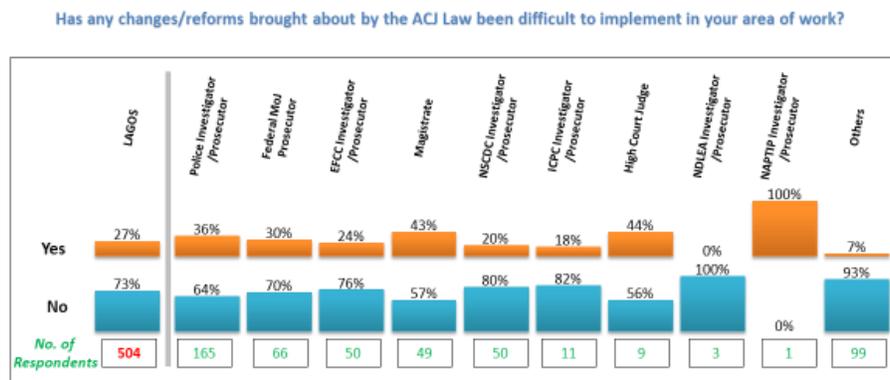


56% of criminal justice actors surveyed have “read some provisions of the ACJL 2011 that apply to their functions & powers”, while 35% have “read all the provisions of the ACJL 2011”.

237 respondents making up 44% of the total have been trained on the contents of the ACJL 2011, out of which 78% said the training was provided by their employers.

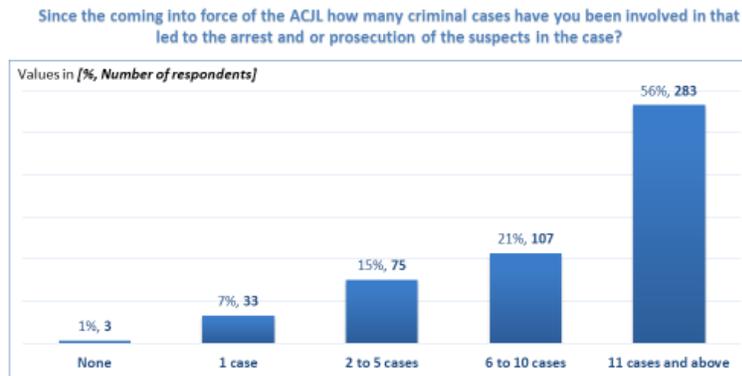


A total of 367 (73%) respondents say changes brought by the ACJL 2015 have **not** been difficult to implement. However 43% of Magistrates and 44% of Judges say some reforms of the ACJL have been difficult to implement.

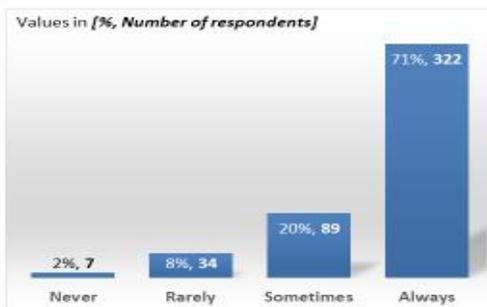


3. Pre-trial & Trial requirements

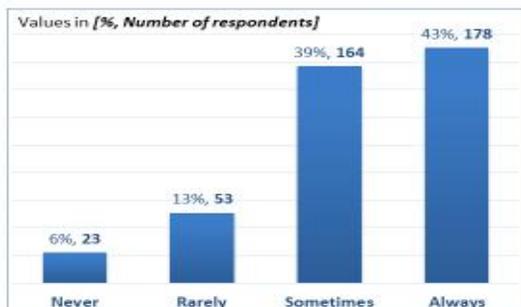
283 (making 56%) surveyed prosecutors and investigators have been involved in 11 and above cases, while 218 (making 44%) have been involved in 1 -10 cases leading to arrest and since the coming of ACJL 2011.



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?



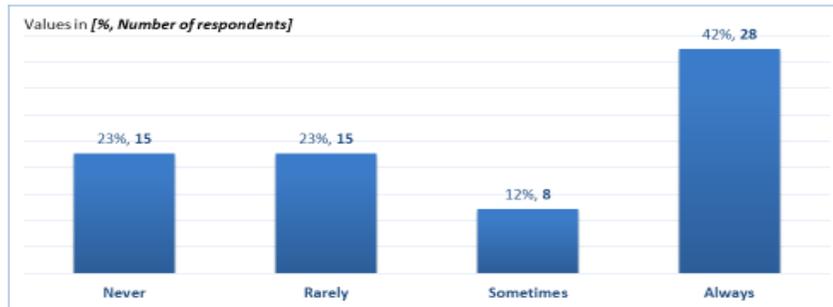
In line with the 2011 ACJL, 71% of the respondent investigators & prosecutors say they “always” inform the person(s) the reasons for their arrest, either orally or in writing. 178 (43%) respondents “always” and 164 (40%) “sometimes” allow defendant’s legal counsel present during interrogation. With respect

to video recording of statement, 233 (55%) respondents “sometimes” and 76 (18%) always record statement of suspects and allow legal counsel during the making of statement.

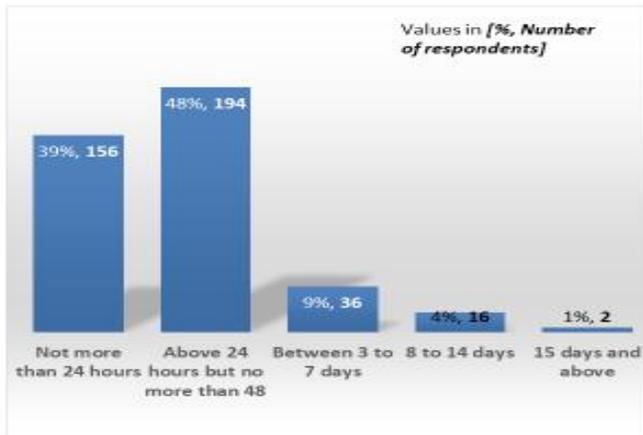


96% of judiciary surveyed said since ACJL, prosecutors/investigators have continued to present confessional statements of defendants in their courts. In doing so, 42% prosecutors say they “always” present video recordings of the confessional statement or in absence thereof written statements of suspects endorsed by legal practitioners, whereas 15% of them “rarely” or “never” do so.

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?



On the average, how long did it take for the suspects to be granted bail by your agency (police or other law enforcement agency), from the time of their arrests?



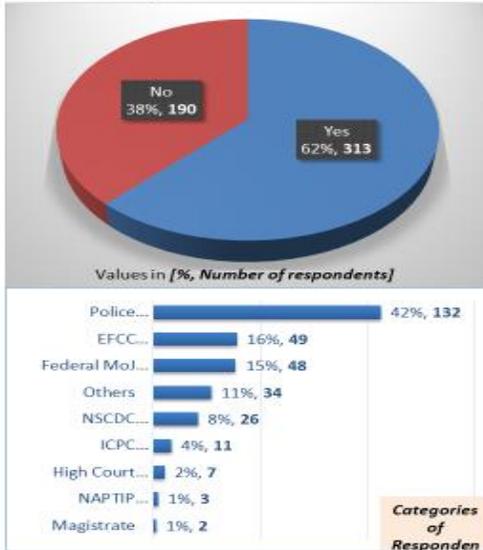
For the cases you were involved, on the average how long did it take from arrest of the suspects to the case being charged to court?



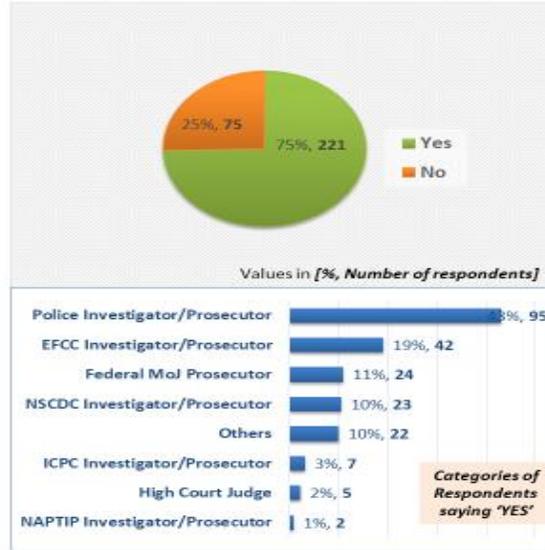
To determine adherence to pre-trial rights, respondents were asked length of time in detention before bail is granted. One hundred and ninety-four (48%) of prosecutors and investigators said it takes “above 24 hours but not more than 48 hours” while one hundred and fifty-six (39%) said it takes “not more than 24 hours” for defendants to be granted bail.

According to 43% respondents, it takes 3 -7days “from arrest of defendant to case being charged in court”. 31% said it takes 1-2 days, while 11% said it takes 1 month and above “from arrest to case being charged in court.”

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?

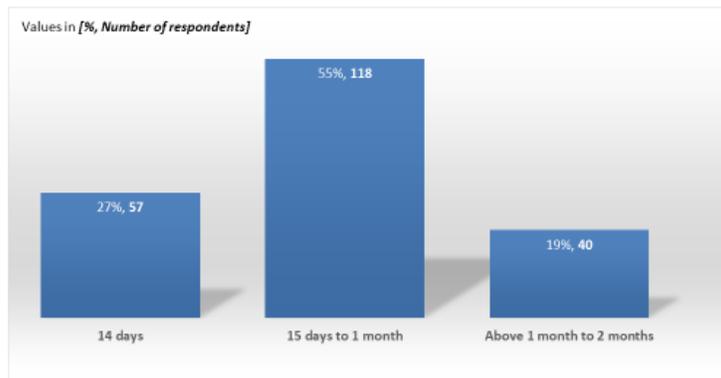


Did you have cause to apply to a Magistrate or Judge for an extension of the remand order?



313 of respondent prosecutors/investigators applied to the magistrate for remand of arrested suspect, out of which 221 had to apply for extension of the remand order.

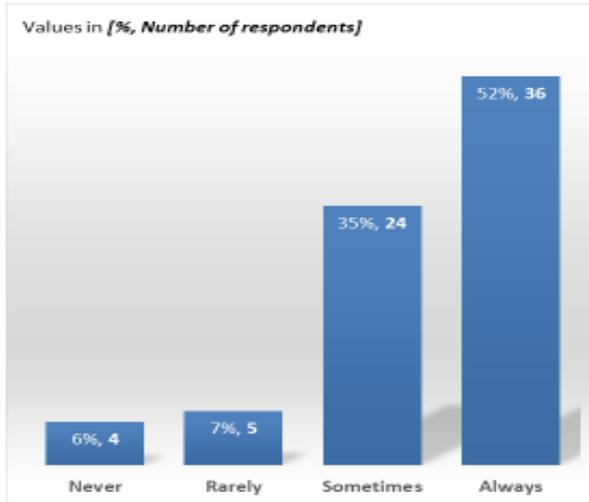
On the average how long did it take between the original order for remand and the application for extension; or between an order for extension and a subsequent application for further extension?



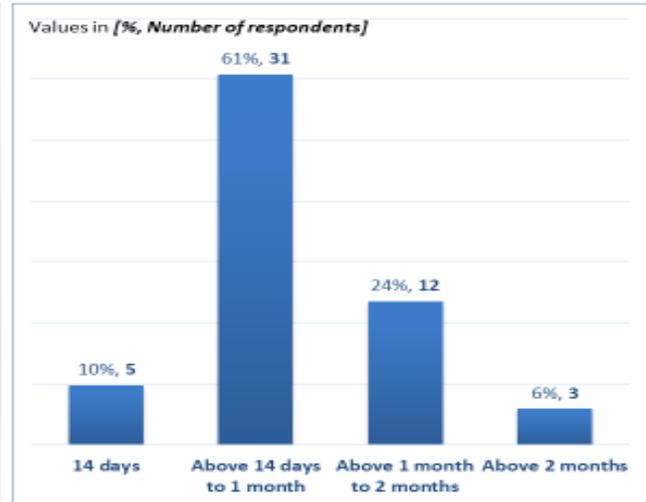
118 (55%) surveyed investigators and prosecutors said it takes 15 days to 1 month between the original order for remand and the application of extension.

As required by S264 to 266 ACJL, 52% of the judiciary said “always” and 36% said “sometimes” law enforcement agents & prosecutors apply for remand orders.

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



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?

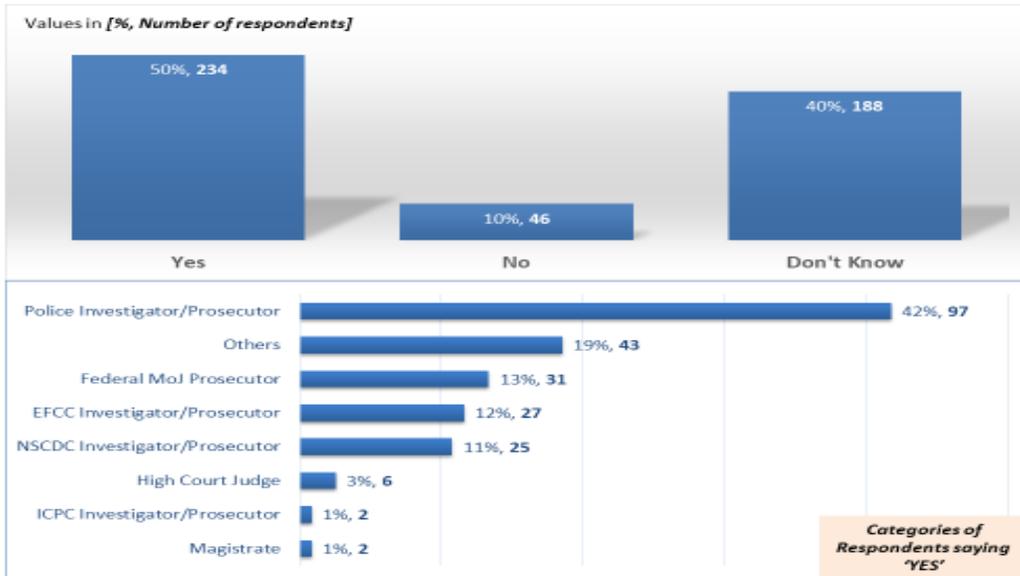


61% of the judiciary say it mostly takes “above 14 days to 1 month” while 24% of investigators and prosecutors said it takes 1- 2 months from original order for remand and application for extension of order.

4. Oversight powers (FMOJ, Police & Judiciary)

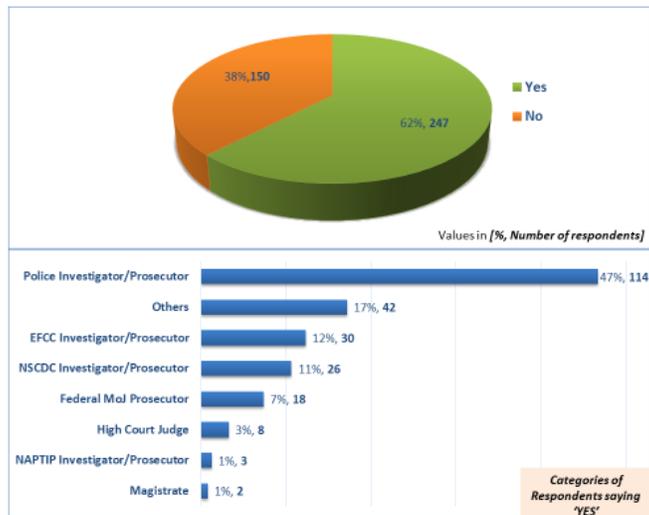
To ensure accountability and for oversight purposes, the 2011 ACJL Sec. 10 sub-sec.3 mandates the Commissioner of Police or head of agency authorized by law to make arrest, to remit quarterly report to Lagos State Attorney General of all arrest made with or without warrant. 50% said COP or head of agency sent the reports out of which 62% said he/she does monthly while 32% said quarterly. However, 40% do not know if the reports are sent by the arresting agency to the AG.

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

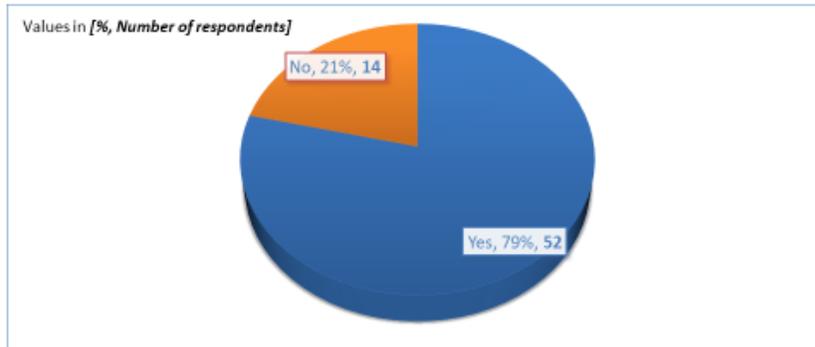


Again 247 respondent prosecutors making 62% said since ACJL, their police stations or units of agency have sent reports of arrest made without warrant to a Magistrate or Judge.

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

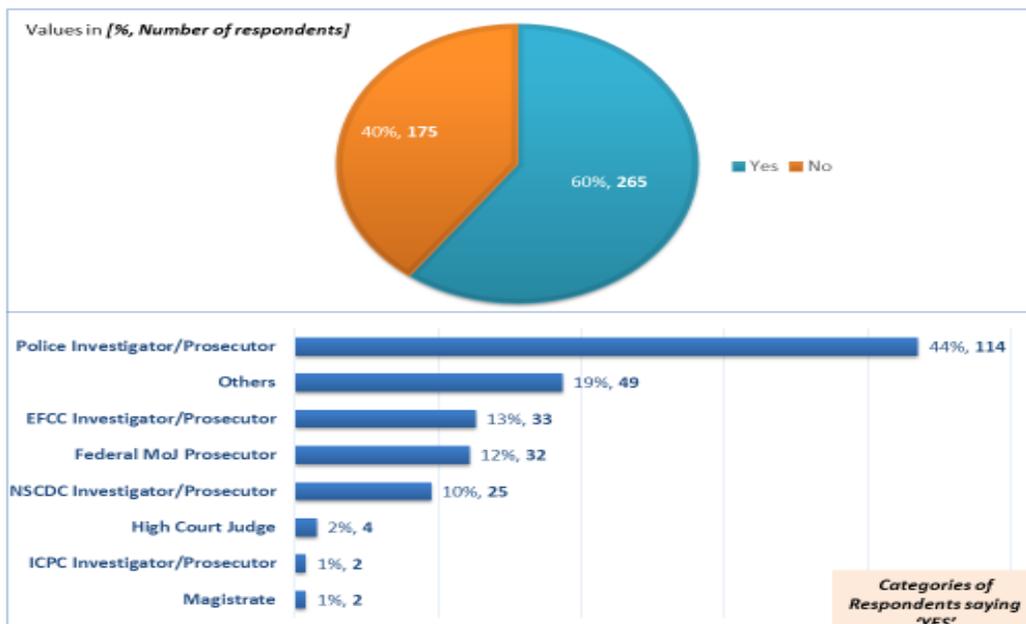


Since the coming into force of the ACJL, do you send to your head of court (CJ) reports of criminal cases in your court whose trial do not commence after 30 days of arraignment or; where commenced within 30 days are not concluded/disposed of after 180 days from arraignment?



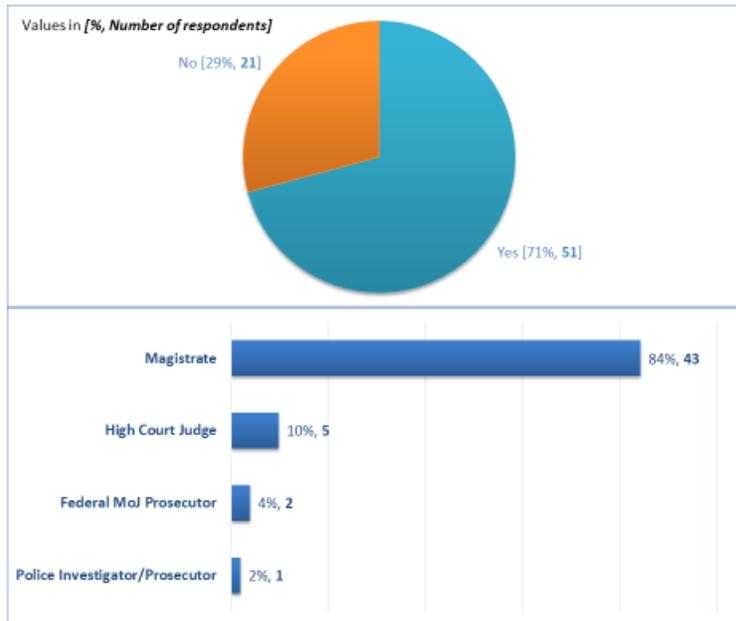
With regards to oversight by the Chief Judge, 79% of respondent members of the judiciary said they mostly report to the Chief Judge on criminal cases that have not commenced in their courts after arraignment on a monthly or quarterly basis

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



60% prosecutors said since the ACJL in 2011, on monthly or quarterly basis magistrates/judges have carried out inspection of their detention centers; again 7% of judges & magistrates surveyed said they visited places of detention and though they have done so only on quarterly basis.

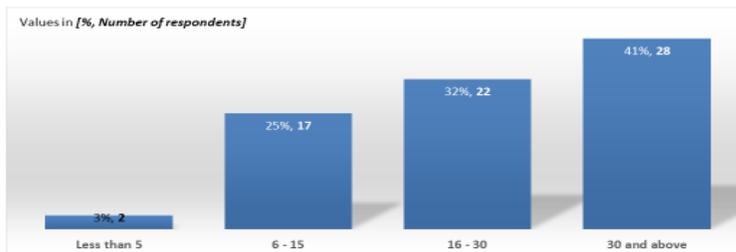
Since the coming into force of the ACJL, have you carried out an inspection of a place of detention (other than the prison)?



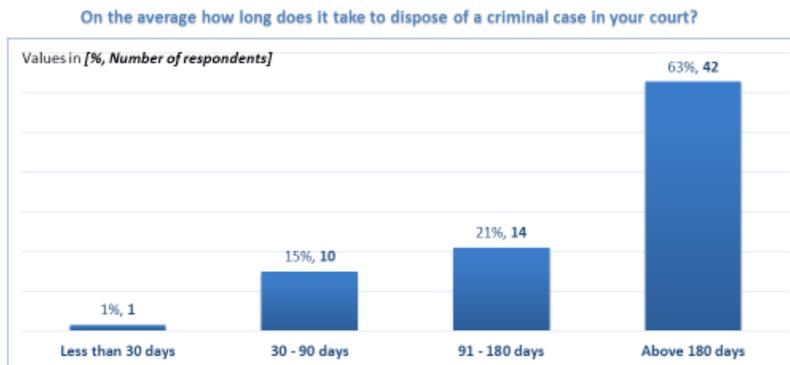
5. Speedy trial

One of the fundamental intentions of the drafters of the ACJL, 2011 is to ensure speedy trials and dispensation of justice. Of the total of members of judiciary surveyed, 41% said since ACJL they have disposed of 30 and above cases, 32% have disposed of less than 16-30 cases, and 25% of disposed of 6-15 cases.

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



63% of members of the judiciary said it takes them above 180 days to dispose of criminal cases in their courts.



55 respondents in the judiciary said on day to day basis, they conduct criminal trials in their courts.



Six (making 75%) of members of the judiciary surveyed said the average duration of adjournment in their court is 15 days – 1 month.

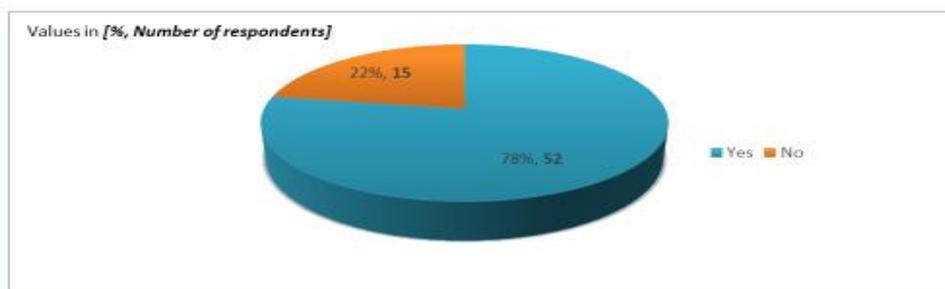
What is the average duration of adjournments in criminal cases in your court?



6. Management of witness expenses

In accordance with S.191 - 194 ACJL, 78% respondent judges and magistrates said since 2011, they have ordered for payment of witness expenses such as cost or compensation for lost of time. The law requires the Chief Judge to appropriate for witness expenses and for the judiciary to manage payment therein.

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?



Recommendations

1. Lagos State was the first State in Nigeria to pass the Administration of Criminal Justice Law; this made it a trail blazer in criminal justice reform sector. In order to continue to blaze the trail, it needs to invest in building the capacity of the ACJL actors in the state particularly in relation to implementation of the Law.
2. One of the unique manifestations of the ACJL is the opportunity for setting up a coordinating framework /platform. In view of this, Lagos State should establish its own Administration of Criminal Justice Monitoring Committee to ensure effective monitoring of implementation of the law. This can be achieved by collaborating or partnering with CSOs that could provide such support. PWAN is open to discussions that will foster the functioning of the committee.
3. If established, to ensure functionality of the committee, 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. The 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 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.
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.
6. 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 Lagos State Judiciary on information disclosure to understand level of implementation of the ACJL, 2011 is a clear example other should emulate that will enhance access to justice.