



Published by Partners West Africa Nigeria (PWAN)
Rule of Law and Empowerment Initiative

Edited by
Barbara S. Maigari
Program Manager
Partners West Africa-Nigeria
Rule of Law & Empowerment Initiative

No 46 Mike Akhigbe Way,
Jabi District, Abuja.
Tel. +2348091257245
www.partnersnigeria.org

ISBN-13: 978-978-55273-9-1

Copyright @2019 by Rule of Law and Empowerment Initiative

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior permission of PWAN.

Abridged Version of the Administration of Criminal Justice Law (ACJL) of Plateau State 2018

INTRODUCTION

The Administration of Criminal Justice Law (ACJL) of Plateau State was signed into law on 25th September, 2018 with the intention of introducing fundamental reforms envisioned by the Administration of Criminal Justice Act (ACJA) of 2015. The Plateau State law aims to deal with criminal justice issues such as delays in criminal trials, human rights abuse, abuse of power by law enforcement agents, etc.

The Administration of Criminal Justice Law of Plateau State introduces fundamental improvements with a view to promoting efficient management of criminal justice institutions, speedy justice dispensation, safeguarding of the society from crime, and protection of the rights and interests of the suspect and the victim within the State. It repeals the Criminal Procedure Code Law of Plateau State and is now the primary legislation used in conducting criminal cases in the State. This abridged version of the ACJL Plateau State aims to simplify and ease consistent understanding and interpretation of some relevant day-to-day provisions by providing an expressive summary of the key provisions of the Law.

This pamphlet is the outcome of a research carried out by the Rule of Law and Empowerment Initiative, also known as Partners West Africa Nigeria (PWAN), with influence from the work already done by the Centre for Socio-Legal Studies (CSLS)¹ towards implementing the ACJA nationwide. It is concise and recommended for every person who desires an apt overview and basic understanding of the relevant day-to-day provisions of the Plateau State law, so as to be able to take necessary actions. The need for this version arises from the recognition that the good people of Plateau State, justice and non-justice actors alike, have a role to play in the implementation of the Administration of Criminal Justice Law of the State.

¹Centre for Socio-Legal Studies (2017) Administration of Criminal Justice Act, 2015, Simplified



OVERVIEW OF THE ADMINISTRATION OF CRIMINAL JUSTICE LAW OF PLATEAU STATE

Q: What is the purpose of the Administration of Criminal Justice Law? Section 19

A: The purpose of the Law is to ensure:

1. That the system of administration of criminal justice in Plateau State promotes efficient management of criminal justice institutions
2. Speedy dispensation of justice
3. Protection of the society from crime
4. Protection of the rights and interest of the suspect, defendant, and victim

Q: What are the main provisions covered by the Law?

1. Arrest and Bail
2. Trial
3. Prevention of offences
4. Procedure of criminal trials
5. Protection of property and persons
6. Plea bargain
7. Remand proceedings
8. Costs and compensation
9. Sentencing, deportation, and non-custodial offences
10. Administration of Criminal Justice Monitoring Committee

ARREST

Q: What is Arrest?

A: An arrest is the act of apprehending a person and taking them into custody, usually because they have been suspected of committing or planning a crime.

Q: Who has the power to make an arrest?

A: An arrest can be made by a police officer, a private person, a judge, or a magistrate.

Q: Can a person be arrested for an act that was committed by another?

A: The law prohibits arrest of a person in place of a suspect (section 28).

Q: How can arrest be made? Section 25

A: The police officer or other persons making the arrest shall touch or confine the body of the suspect unless there is a submission to the custody by word or action. The officer or the person making the arrest is also required to inform the suspect of his right to remain silent, consult a legal practitioner of his choice, or seek free legal representation from the Legal Aid Council of Nigeria or Office of the Public Defender where applicable.

Q: Who shall search a suspect? Section 30

A: Where a suspect is arrested by a police officer or a private person, the officer making the arrest to whom the private person hands over the suspect:

- i. may search the suspect, using such force as may be reasonably necessary for the purpose; and
- ii. shall keep in safe custody all articles other than necessary wearing apparel found on the suspect.

The search shall be made decently and by a person of the same sex.

Q: What is a crime?

A: A crime is an act committed or omitted, in violation of a public law, either forbidding or commanding it; a breach or violation of some public right or duty due to a whole community.

Q: Can you be restrained when arrested? Section 26

A: A suspect or defendant shall not be handcuffed, bound, or be subjected to restraint except;

- a. There is reasonable apprehension of violence or an attempt to escape;
- b. The restraint is considered necessary for the safety of the suspect or defendant; or
- c. By Order of a court.

Q: Can a person be arrested without notifying him / her of the cause of arrest and the rights of suspect? Section 27

A: No, but there are exceptions where;

1. 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.

2. The police officer or the person making the arrest shall inform the suspect of his rights to;

a. remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice;

b. consult a legal practitioner of his choice before making, endorsing or writing any statement or answering any question put to him after arrest; and

c. free legal representation by the Legal Aid Council of Nigeria or Office of the Public Defender where applicable;

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

Q: Can a person be arrested in lieu of another? Section 28

A: No person shall be arrested in place of a suspect.

Q: Can a man police officer search a woman suspect? Section 30(3)

A: No, because where it is necessary to search a suspect, the search shall be made decently and by a person of the same sex.

Q: Can a private person make an arrest? Section 41

A: Yes.

1. A private person may arrest a suspect in the state who in his presence commits an offence, or whom he reasonably suspects of having committed an offence for which the police or any other officer is entitled to arrest without a warrant.
2. A suspect found committing an offence involving injury to property may be arrested without a warrant by the owner of the property or his servant, agent, or any other person.

3. A private person may arrest any suspect found damaging public property.

Q: Who are authorised to issue warrant? Section 52

A: Where under a Law, there is power to arrest a suspect without warrant, a warrant may, in appropriate cases be issued.

Q: What day and time can a warrant be issued, to whom is it directed and the duration? Section 55-56

A: A warrant of arrest may be issued on any day, including a Sunday or public holiday.

1. A warrant of arrest may be directed to a police officer or any other Agency by name or to all police officers or any other agency.
2. It is not necessary to make a warrant of arrest returnable at any particular time and a warrant shall remain in force until it is executed or until a judge or a magistrate cancels it.
3. Where a warrant of arrest has been executed and the suspect arrested has been released, the warrant shall no longer be valid authority for re-arresting the suspect.

Q: How can you execute warrant and the procedure involved? Section 59

A: Warrant of arrest can be executed through the following procedures;

1. A warrant of arrest may be executed on any day, including a Sunday or public holiday.
2. A warrant of arrest may be executed by any police officer or any other officer at any time and in any place other than within a court room in which a court is sitting.
3. The police officer or any other person executing a warrant of arrest shall, before making the arrest, inform the suspect to be arrested that there is a warrant for his arrest unless there is reasonable cause for abstaining from giving the information on the ground that it is likely to occasion escape, resistance or rescue.
4. A suspect arrested on a warrant of arrest shall be brought

before the court that issued the warrant.

Q: What is the procedure to arrest suspect outside Division? Section 62

A: The procedure to arrest suspect outside division are;

1. Where a warrant of arrest is executed in the state outside the Division or District of the court by which it was issued, the suspect shall, unless security is taken under section 61 of this Law, be taken before the court within the Division or District in which the arrest was made.
2. The court shall, if the suspect, on such inquiry as the court considers necessary, appears to be the suspect intended to be arrested by the court which issued the warrant, direct his removal in custody to that court, but if the suspect has been arrested in respect of any matter other than an offence punishable with death and;
 - a. Is ready and willing to give bail to the satisfaction of the court within the Division or District of which he was arrested; or
 - b. Where a direction has been endorsed under section 61 of this Law on the warrant and the suspect is ready and willing to give the security required by the direction, the court shall take bail or security, as the case may be, and shall forward the Recognizance, if such be entered into, to the court which issued the warrant.

Q: What is the procedure in respect of suspect to be present in court? Section 74

A: Where the suspect in respect of whom an order is made is present in court, it shall be read over to him or, if he so desires, the substance of the information shall be explained to him.

Q: Who has the right to make complaint? Section 104

A: A person may make a complaint against any other person alleged to have committed or to be committing an offence.

Notwithstanding anything to the contrary contained in any other Law, a police officer or any other officer may make a complaint in a

case of assault even though the party aggrieved declines or refuses to make a complaint.

Q: What are the methods of instituting criminal proceedings? Section 124

A: Subject to the provisions of any other Law, criminal proceedings may, in accordance with the provisions of this Law, be instituted;

- a. In a Magistrate Court, upper Area or Area Court, by a complaint whether or not on oath or upon receiving a First Information Report (herein referred to as ☐ FIR ☐);
- b. In the High Court, by a charge filed by or on behalf of the Attorney-General subject to section 119 of this Law;
- c. By a charge filed in the court after the defendant has been summarily committed for perjury by a court under the provisions of this Law;
- d. By a charge filed in the court by any other prosecuting authority;
- e. By a charge filed by a private prosecutor/complainant subject to the provisions of this Law.

Q: What is summons?

A: A summons is an officially issued document that is released by any Court on an individual or an entity who may be involved in a legal proceeding.

Q: How is the suspect searched? Section 30

A: 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 may search the suspect, using such force as may be reasonably necessary for the purpose.

Q: What should be done with the items found on the suspect during search? Section 30

A: The items found on the suspect shall be kept in safe custody other than the necessary wearing apparel found on the suspect.

Q: Does a police officer have the right to search the suspect? Section 30

A: Yes. The police officer making the arrest or to whom the private person hands over the suspect may search the suspect, using such force as may be reasonably necessary for the purpose and shall keep in safe custody all articles other than necessary wearing apparel found on the suspect.

Q: How should an arrested person be treated? Section 29

A: A suspect shall be accorded humane treatment, having regard to his right to the dignity of his person and not be subjected to any form of torture, cruel, inhuman, or degrading treatment. A person shall not be arrested merely on a civil wrong or breach of contract. The arraignment and trial of a suspect shall be in accordance with the provisions of this law unless otherwise stated.

Q: How do you compel the appearance of a suspect? Section 128

A: The court may issue a summon or warrant as provided in the law to compel the appearance of a suspect accused of having committed an offence in any place. It could be within the state or outside the State, but it has to be triable in the State.

Q: How to make complaint and issue of process Section 130

A: A person who believes from a reasonable or probable cause that an offence has been committed by another person whose appearance a magistrate or judge has power to compel may make a complaint of the commission of the offence to a magistrate or judge. The magistrate or judge shall not refuse to issue a summons or warrant only because the alleged offence the suspect may be arrested is without a warrant. The magistrate or judge shall consider the allegation of the complainant and may:

- i. In his discretion refuse to issue process and shall record his reasons for such refusal; or
- ii. Issue a summons or warrant as he shall deem fit to compel the attendance of the defendant before a magistrate court, upper area court or area court in the district.

Q: How can a witness take an oath or affirmation? Section 263

A: A witness who has appeared in any criminal trial shall take an oath or make a solemn affirmation in such a manner as the court considers binding on his conscience.

Q: How do a suspect plea to a charge? Section 285

A: The court shall inform the defendant of his right under the provision of section 281 and 285 (2) of the law. The defendant shall be brought before the court unfettered unless the court sees otherwise.

- a. The charge shall be read over to him to the satisfaction of the court by the registrar or other officer of the court.
- b. The defendant shall be called upon to plead instantly unless where the person is entitled to service of the charge, he objects to the non-service, and where the court finds that he has not been duly served.
- c. The court shall record the fact that it is satisfied that the defendant understands the charge read over and explained to him in the language he understands and shall record the plea of the defendant to the charge as nearly as possible in the words used by him.

BAIL

Q: Meaning of Bail

A: Bail is written permission from a court, allowing a person charged with a criminal [offence](#) to be out of jail while they wait for their [trial](#), or some other result in their case (such as a guilty plea or a withdrawal of their charges).

Q: Purpose of Bail

A: The purpose of bail is to ensure that a defendant returns for future court appearances.

Q: What are the conditions for Bail? Section 180

A: The condition to be considered for bail in any cases is at the direction of the court but the court will have regards to the circumstances of the case and it shall not be excessive. The court requires that a deposit of a sum of money or other security as the

court may specify or his surety is provided before the bail is approved.

Q: What is the general entitlement of a suspect to bail?
Section 173

A: Once a person who is suspected to have committed an offence or accused of committing an offence is detained, or appears before a court, he is entitled to bail but subject to the provisions of the Law. But a suspect detained or charged with the offence punishable with death shall not be released on bail. The judge of the high court can only admit him to bail only under exceptional circumstances.

Q: Who conducts the inspection of police station and what is the purpose of the visit? Section 51

A: The Chief Magistrate is expected to conduct an inspection of the police station or other places of detention quarterly within his territorial jurisdiction other than the prison. The Chief Judge shall designate a magistrate for that purpose where there is no Chief Magistrate. For the visit, the Chief Magistrate may invite the Legal Aid Council of Nigeria, the National Human Rights Commission or any civil society organization involved in access to justice and human rights.

The officer in charge of a police station or an agency authorised to make an arrest shall make available to the visiting magistrate or designated magistrate exercising his powers:

- a. The full record of arrest and record of bail;
- b. Applications and decisions on bail made within the period; and
- c. Any other facility the magistrate requires to exercise his powers.

Q: What happens to a suspect who fails to appear in court?
Section 199

A: Where a defendant who is bound by a recognizance or bond to appear before a court, police station or other agency does not so appear, the court may issue a warrant for his arrest.

TRIAL

Q: Who is a defendant? Section 1

A: A defendant means any person against whom a complaint or charge is made.

Q: Where should trials be commenced? Section 361

Trials shall be held in the high court of the state if a charged is filed by:

- a. the Attorney-General or a law officer in his office;
- b. by a legal officer of any prosecuting agency;
- c. by a private prosecutor duly authorised by the Attorney-General; or
- d. summarily, in accordance with the provisions of the law.

Nevertheless, trials shall be held in the magistrate court or any other court exercising criminal jurisdictions of this law relating to summary trials.

Q: Can a husband and wife be a witness in court? Section 207

A: The husband and wife shall be a competent and compellable witness in accordance with the provisions of the Evidence Act.

Q: What are the contents of a charge? Section 209

A: A charge shall state the offence with which the defendant is charged and where the defendant committed the offence

- a. Gives it a specific name, the offence shall be described in the charge by that name only and
- b. Does not give it a specific name, so long as the definition of the offence shall be stated as to give the defendant notice of the facts of the offence with which he is charged.

Q: What are the particulars in a charge? Section 211

A: The charge shall contain such particulars as to time and place of alleged offence and the victim, if any, against whom or the thing, if any, in respect of which it was committed as are reasonably sufficient to give the defendant notice of the offence with which he is charged. A charge sheet may be filed with the photograph of the defendant and his fingerprint impression. However, where the

photograph and fingerprint impression are not available, it shall not invalidate the charges.

Q: Can a charge be altered? Section 232

A: Where a new charge is framed or alteration made to charge under the provisions of section 231 of the law, the court shall call on the defendant to plead to the new or altered charge as if he has been arraigned for the first time.

Q: Can a party raise an objection to a charge? Section 236

A: objections shall not be taken or entertained during proceeding or trial on the ground of an imperfect or erroneous charge, provided it does not occasion any miscarriage of justice.

Q: How can an accused person plea to a charge, guilty or not guilty? Section 285 □ 288

A: Before a defendant makes his plea, the court shall inform him of his rights under the provisions of section 281 and 285 (2) of this law.

- i. A defendant who pleads not guilty shall be deemed to have put himself to trial.
- ii. Where a defendant pleads guilty to an offence with which he is charged, the court shall:
 - a. Record his plea as nearly as possible;
 - b. Invite the prosecution to state the facts of the case; and
 - c. Enquire from the defendant whether his plea of guilty is to the fact as stated by the prosecution.
- iii. Where the court is satisfied that the defendant intends to admit the truth of all the essential elements of the offence for which he has pleaded guilty, the court shall convict and sentence him or make such order as may be necessary, unless there shall appear sufficient reason to the contrary.
- iv. Where the defendant pleads guilty to a capital offence, a plea of not guilty shall be recorded for him.

Q: When can summary trial be held? Section 363

A: The trial shall be held summarily in:

- a. The high court in respect of perjury;
- b. Respect of an offence which by a law made by the house of assembly is triable summarily; and
- c. Respect of a trial for an offence punishable with less than 3

years imprisonment in the magistrate court or area court. The prosecution shall provide the defendant all materials that the prosecution intends to rely on at the trial, before or at the commencement of the trial.

Q: Can a pregnant woman be convicted to death for a capital offence? Section 424

Where a woman convicted of an offence punishable with death alleges that she is pregnant, the court shall, before sentence is passed on her, determine the question whether or not she is pregnant. The question as to if she is pregnant or not shall be determined by the court on such evidence as may be presented to the court by the woman or on her behalf or by the prosecutors.

The test to confirm the pregnancy shall be carried out in a Government Hospital. If the court finds out that she is not pregnant, the court shall pronounce sentence of death upon her and the sentence shall be in accordance to Section 413 of the Law .

Q: Can a child face trial under the Administration of Criminal Justice Act? Section 384

A: Yes. Where a child is proceeded against before a court for an offence, the court shall have regards to the provisions of the Child Rights Law. The provision of the Child Rights Law relating to bail shall be used in cases relating to bail proceedings.

COSTS AND COMPENSATION

Q: Can convicts be required to pay compensation or damages to victims of crime? Section 314

A: A court may within the proceedings or while passing judgement order the defendant or convicts to pay a sum of money

- i. As compensation to any person injured by the offence, irrespective of any other fine or other punishment that may be imposed or that is imposed on the defendant or convict, where substantial compensation is in the opinion of the court recoverable by civil suit.
- ii. In compensating a bon fide purchaser for value without notice of the defect of the title in any property in respect of

which the offence was committed and has been compelled to give it up; and

iii. In defraying expenses incurred on medical treatment of a victim injured by the convict in connection with the offence.

Q: What is the power of the court when the convict is sentenced to a fine? section 340

A: Where a convict has been ordered by the court to pay a fine with or without a sentence of imprisonment in default of payment of the fine, the court is authorised by Section 339 of this law to issue a warrant which may exercise any of the following powers:

- a. Allow time for payment of the fine.
- b. Direct that the fine be paid by instalments;
- c. Postpone the issue of a warrant under section 339 of the law;
- d. Without postponing the issue of a warrant under section 339 of this law, postpone the sale of any property seized under the warrant; or
- e. Postpone the execution of the sentence of imprisonment in default of payment of the fine.

CONVICTION AND SENTENCING

Q: What is the punishment relating to sentencing? Sections 410

A: Imprisonment, death sentence, payment of fine and fees.

Q: Can a defendant who has being convicted or acquitted be tried again for same or kindred offence?

A: No. He can't be tried again for the same offence in accordance to section 252.

Q: what date does sentence commence? Section 427

A: A sentence of imprisonment takes effect from and includes the whole of the day of the date on which it was pronounced.

Q: how can a prisoner be released before completion of sentence? Section 463

A: When the controller of prisons is of the opinion that a prisoner sentenced and serving his sentence in prison is of good behaviour and has served at least one third of his prison term, where he is

sentenced to imprisonment for a term of at least 15 years or where he is sentenced to life imprisonment he may make a recommendation to the State Advisory Council on Prerogative of Mercy for his consideration.

A prisoner released under this section shall undergo a rehabilitation programme in a government facility where available or any other appropriate facility to enable him to be reintegrated into the society.

REMAND

Q: What is the procedure for remanding a suspect before trial? Section 307

A: A suspect arrested for an offence which a magistrate court, upper area court or area court has no jurisdiction to try may take cognizance of the offence brought before a magistrate or judge within a reasonable time of the arrest and the magistrate or judge upon taking cognizance of the offence, may order the remand of the suspect in custody.

Q: Where will a suspect be remanded? Section 308

A: The court may remand the suspect in custody if after examining the reason for the arrest and the request for remand is made in accordance with the provision of section 307 is satisfied. The condition of arrest is that there is probable cause to remand the suspect pending the receipt of the copy of the legal advice from the Attorney-General and arraignment of the suspect before the appropriate court.

Q: In what instance can the court grant bail? Section 309

A: The court may grant bail in considering the application for remand grant bail to the suspect but has to take into consideration the provisions of section 173 to 203.

Q: Where is the place of remand? Section 313

A: A suspect who has been committed to prison under the law shall be remanded in the prison custody or other place of safe custody.

Q: What is the time frame for the protocol? Section 310

A: The time frame for remand order includes:

- i. Where an order of remand is made subject to section 307 of the law, the order shall be for a period not exceeding 21 days in the first instance and the case shall be returnable within the same period.
- ii. Where on application in writing, good cause is shown why there should be an extension of the remand period, the court may grant the order for a period not exceeding 14 days and make the proceeding returnable within the same period.
However, where the suspect is in custody beyond the period stated in (i) & (ii) above, the court may on the application of the suspect grant bail in accordance with section 173 to 203 of the law.

Q: Can a suspect be transferred to another facility when on remand order for medical treatment?

A: Yes, Section 312 (2) provides that the court may order the suspect remanded to be transferred to a hospital, asylum or any suitable place for the purpose of giving him medical treatment or may make any order it considers necessary.

TRIAL OF CORPORATION

Q: Who is a Corporation under the law? Section 472

A: Corporation means a corporate body incorporated in Nigeria or elsewhere.

Q: Can a charge be preferred against a Corporation and who takes that plea for the Corporation? Section 473 & 474

A: According to the law, a charge may be preferred against a Corporation after the preparation of the proofs of evidence relating to the charge. The Corporation can take a plea through its representative. The plea can be taken in writing by the representative but where the Corporation fails to enter a plea, the court shall order a plea of not guilty to be entered. The trial shall proceed as though the Corporation had entered a plea of not guilty.

Q: What are the powers of the representative of a Corporation? Section 476

A: The representative may on behalf of a Corporation state whether the Corporation is ready to be tried on a charge or altered charge that the plea has been taken, and the representative's consent to the hearing, determination of a complaint before the return date of a summons. Lastly, the representative express assent to the trial of the Corporation on a charge when notice of trial has not been served on the Corporation three days or more before the date on which the corporation is to be tried.