

KNOW YOUR RIGHTS

A concise version of the Nigeria Police ACT 2020 in accordance with the Administrative Criminal Justice Act/Law in the South-South zone of Nigeria.

(November 2024)

SOUTH-SOUTH ZONE

The following states are Edo, Delta, Rivers, Cross River, Akwa-Ibom and Bayelsa

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About

Partners West Africa Nigeria (PWAN)

The Rule of Law and Empowerment Initiative also known as Partners West Africa Nigeria (PWAN) is a women-led, non-governmental organization dedicated to enhancing citizens' participation and improving security governance in Nigeria and West Africa broadly, achieved through its Rule of Law, Citizens Security and CSO Strengthening program areas.

PWAN has operated in Nigeria since 2016 and currently employs 36 staff, including lawyers and 62 citizen observers. The head office is based in Abuja with two sub-offices in Kano and Borno states. The organization maintains a robust pool of 30 consultants and facilitators with expertise across various sectors including justice and security sector reform, gender mainstreaming, peacebuilding and conflict resolution, developing creative ways to prevent/counter violent extremism and research.



Vision:

Robust good governance & accountable institutions in Nigeria and West Africa.



Mission:

Enhances citizens' participation and improves security governance in Nigeria and West Africa.



Values:

Integrity, Trust, Inclusion, Humility, Accountable collaboration, Courage of Conviction, Innovation.

About the Project

Enhancing Police Governance: Deepening Understanding of the Police Act 2020 and Regulations Across Nigeria

PWAN with support from the Foreign Commonwealth and Development Office (FCDO) is implementing the project "Enhancing Police Governance: Deepening Understanding of the Police Act 2020 and Regulations Across Nigeria" 'Specifically across the 6 geopolitical zones, focusing on Kano, Plateau, Lagos, Edo, Enugu, Borno states and the FCT.

The project seeks to address critical gaps in the understanding and application of the Police Act 2020 and accompanying regulations within the Nigerian Police Force (NPF). The project uses a multifaceted approach to tackle these identified issues, including targeted workshops for police officers at various levels and public town hall meetings to raise awareness among citizens. These efforts will ensure that the principles of the Police Act 2020 are understood and integrated into daily policing practices, thereby promoting a culture of lawfulness and respect for human rights within the NPF.

This initiative is necessary due to the documented challenges in policing standards, practices, and community relations in Nigeria. The Police Act 2020 aims to reform these issues through enhanced legal frameworks and enforcement standards.

As part of the project, PWAN is conducting this **Media Townhall Meeting on Human Rights, The Police ACT 2020 and Regulations**. This town hall meeting aims to educate the media on mainstreaming the Police Act 2020 into their reporting and its impact on police-citizen interactions. This meeting is an essential step to strengthening trust, transparency, and accountability between law enforcement and the community.

Snapshot of the Nigeria Police ACT 2020

1. Interrogation

A) **The presence of lawyers regarding the person's choice [Sec. 35(2)(b)]:** Consult a legal practitioner of his own choice before making, endorsing, or writing any statement or answering any question put to him after the arrest.

B) **Video Recording [Section 60(1)]:** This requires that the police electronically record any confessions or statements made by a suspect during an interrogation. It includes both audio and video recording. It aims to maintain transparency and ensure that any statement given by a suspect is voluntary and free from coercion or undue influence.

C) **Possible presence of family members [Section 35]:** Protection of Vulnerable Persons: This section specifically addresses the treatment of vulnerable individuals, including children, women, and persons with disabilities. It requires that these individuals have access to support, which can include the presence of family members, guardians, or legal representatives, particularly during interrogation or detention.



2. Arrest

A) **Mode of Arrest [Section 33]:**

- Reason for Arrest: The police must tell the arrested person why they are being detained unless doing so would stop the arrest.

B) **Rights of a Person Being Arrested [Section 35]:**

- Right to Remain Silent: The arrested person can stay silent and not answer questions until they talk to a lawyer or someone they trust.
- Right to Inform Family or Legal Representative: The arrested person must be allowed to tell a family member, friend, or lawyer about their arrest.

C) **Recording of Arrests [Section 44]:**

- Recording Arrest Details: The police must record every arrest, including the reason, time, date, and details of the person arrested. They must also log it in the station diary when the person arrives at the station



D) Humane Treatment of Arrested Persons [Section 37]:

- Humane Treatment: People who are arrested must be treated with dignity and not be tortured or treated in a cruel or degrading way.

3. Warrant

1. **Arrest Without Warrant [Section 43]:** Police may arrest a person without a warrant if the person is caught committing a crime, suspected of a recent offence, or believed to be about to commit one
2. **Arrest with Warrant [Section 44]:** For certain offences, police must obtain a warrant from a court to legally arrest a person, ensuring due process.
3. **Execution of Warrants [Section 45]:** Police executing a warrant must show it to the individual and explain its purpose, following proper procedure.
4. **Power to Search with Warrant [Section 46]:** Police may conduct searches with a court-issued warrant based on reasonable grounds for locating evidence.
5. **Procedure for Obtaining and Executing Warrants [Section 47]:** Police must follow clear guidelines to request and execute warrants, ensuring respect for rights and minimal disruption.

Arrest In Lieu : Section 7(3) - Prohibition of Arrest in Lieu: This section of the Nigeria Police Act 2020 clearly states that no person should be arrested in place of another person. This means the police are prohibited from detaining family members, friends, or associates of a suspect as substitutes or "hostages" when the actual suspect is not available.

4. Use of Force

1. Use of Force [Section 33]:

- Police can only use force when it's necessary.
- The amount of force must match the level of threat.
- Force is allowed to protect life or prevent injury.

2. Protection Against Abuse of Power [Section 34]:

- Police must not use excessive or unnecessary force.
- Torture or cruel treatment is prohibited.

3. De-Escalation and Non-Violent Methods[Section 35]:

- Police should try to calm situations without using force first.
- They must use communication or negotiation before violence.

4. Accountability and Reporting

- Any use of force must be reported and recorded.
- Officers must justify the use of force.



4. Detention

1. Powers of Detention [Section 35]:

- Police can detain someone if they have a good reason.
- The person must be told immediately why they are being arrested.

2. Period of Detention [Section 36]:

- After arrest, a person must be brought to court within 24 hours.
- They can only be detained longer if a court allows it.

3. Detention of Minors [Section 37]:

- Minors (under 18) should not be detained with adults.
- Minors should have a guardian or parent with them during the process.

4. Conditions of Detention [Section 38]:

- Detainees must be treated with respect and kept in safe, clean, and humane conditions.
- They should not face physical punishment or abuse.

5. Right to Inform a Relative or Legal Practitioner [Section 39]:

- Detainees can tell a family member or lawyer that they've been arrested.

6. Review of Detention [Section 41]

- If someone is detained for too long, the police must review the detention.
- If the detention is unlawful, the person must be released.

5. Search

1. Power to Search Without a Warrant [Section 41]: Police can search a person without a warrant if they believe a crime has been committed or if there's reasonable suspicion of criminal activity.

2. Search with a Warrant [Section 42]: Police can obtain a search warrant from a court if they have grounds to believe the evidence is in a specific location. The search must be conducted with proper documentation.

3. Search of Persons [Section 43]: Police can search people if they suspect they carry weapons or evidence of a crime. The search should respect privacy and be done by officers of the same sex.

4. Search of Premises [Section 44]: Police can search premises with a warrant or if they believe a crime is happening or evidence is being destroyed. The search must be conducted respectfully and with documentation.



6. BAIL

- 1. Right to Bail[Section 31]:** Arrested individuals have the right to apply for bail unless there are strong reasons to deny it, such as the seriousness of the offence.
- 2. Duty of Police to Grant Bail [Section 33]:** Police must grant bail for bailable offences, following the law.
- 3. Bail Conditions[Section 34]:** Bail may be granted with reasonable sureties or security to ensure the person's appearance in court.
- 4. Denial of Bail[Section 35]:** Bail may be denied if necessary for the investigation or if there's a risk of fleeing or re-offending, but reasons must be provided.
- 5. Appeal against Denial of Bail[Section 38]:** If bail is denied, the individual can challenge the decision in court.



The Administrative Criminal Justice Act/Law in accordance with the Nigeria Police ACT 2020 in the South South zone of Nigeria.

ACJL in the Akwa-Ibom State:

1. **Interrogation:** Access to legal representation during interrogation is required; confessional statements are to be recorded in writing or electronically. This protects the suspect from coercion and possible infringement of his/her human rights during interrogation. Relevant sections: the provisions of sections 15 & 17 of ACJA are adopted by ACJL, Akwa Ibom.
2. **Arrest:** The law requires that arrests be made with proper documentation and notification for the cause of arrest must be communicated to the suspect. Human rights of the suspect must also be protected in the course of the arrest. Relevant sections: Refer to sections 3, 4, 5 and 6 of the ACJA, being the provisions on Arrest domesticated ACJL, Akwa Ibom State. Arrest in lieu is prohibited. Refer to section 7, ACJA in this respect.
3. **Use of Force:** Reasonable force can be applied only where and when necessary. The force applied must be proportional to the situation and documented too. Relevant Sections: Provisions parallel to ACJA Section 33, dealing with accountability in law enforcement practices. Inhumane treatment of arrested suspects is highly prohibited. Section 8, ACJA domesticated by ACJL, Osun State.
4. **Detention:** Upon arrest, the detention period is expected to not exceed 24 hours before the suspect is arraigned before a court of competent jurisdiction. An exception to this is where it is impracticable to do so. This provision seeks to protect the human rights of the suspect. Refer to Section 18(1). Relevant Sections: Remand and detention provisions are outlined in ACJL, Akwa Ibom, as a replica of ACJA sections 293-294, emphasizing court oversight for extended detention periods. Remand and detention provisions outlined in ACJA's sections 293-294 are the same provisions envisioned by ACJL, Akwa Ibom.
5. **Searches:** Searches must be conducted lawfully, respecting privacy and, where possible, gender-specific sensitivity during physical searches. Relevant Sections: Osun's ACJL reflects similar principles to sections 148-150, ACJA, all sections regarding lawful searches.
6. **Bail:** Being a constitutional right, bail must not be unreasonably denied, especially for minor offences. Specific provisions address bail for offences under the magistrate's jurisdiction and stipulate conditions for higher courts. Relevant sections state that provisions on bail and recognitions generally contained in ACJL, Sokoto stem from the provisions of sections 158-188, ACJA.

The Administrative Criminal Justice Act/Law in accordance with the Nigeria Police ACT 2020 in the South-South zone of Nigeria.

ACJL in Bayelsa State:

1. **Interrogation:** The presence of a lawyer of the suspect's choice is supported under Section 35(2) of the Nigerian Constitution, which extends to the ACJL provisions for the right to counsel (Section 4(3)). The requirement for interrogation to be video-recorded is often referenced under Section 15 of the ACJA 2015 and adopted in similar state laws like Bayelsa's ACJL.
2. **Arrest:** Section 2- 17 of the ACJL Bayelsa emphasizes on the whole Arrest process such as the use of warrants for arrests unless in cases of immediate necessity (Section 21-28). Arresting someone in place of a suspect is explicitly prohibited to ensure fairness and due process (Section 5).
3. **Use of Force:** The use of force is regulated under Section 3 of the ACJL, permitting force only when necessary and proportionate and after negotiation fails. Officers are held accountable for misuse.
4. **Detention:** Section 35(4) of the Nigerian Constitution and aligned ACJL sections mandate that suspects should not be detained for more than 24 hours without court orders. Prolonged detention requires judicial approval under clear investigatory grounds. Section 19 of the ACJL of Bayelsa state provides for the remedy of a detained person in custody
5. **Search:** Section 6(1) of the ACJL Bayelsa allows for searches of persons and premises, requiring decency and ensuring gender-specific searches where feasible. The search warrant process is clearly outlined to prevent arbitrary actions.
6. **Bail:** Section 158-164 of the ACJA 2015, mirrored in state laws like Bayelsa's ACJL, provides for the conditions of bail, emphasizing it as a right unless specific exceptions apply. Section 111 of the ACJL of Bayelsa State provides for the Grant of Bail.

ACJL in Cross River State:

1. **Interrogation:** Access to legal representation during interrogation is required; confessional statements are to be recorded in writing or electronically. This protects the suspect from coercion and possible infringement of his/her human rights during interrogation. Refer to Section 17. An interpreter is to be provided where necessary, and endorsements by both the suspect and interpreter are required for the validity of such a statement (section 17).

2. **Arrest:** According to the ACJL, a suspect can be arrested and interrogated, and subsequently dealt with in accordance with the law's provisions (Section 6(1)). However, unnecessary restraint of a suspect is prohibited. Handcuffs may only be used when a suspect resists arrest (Section 25). The law also stipulates that arrests must be made with proper documentation and that the suspect must be notified of the reason for their arrest and informed of their rights (Section 6(2)(a) & (b)). Furthermore, arrests in lieu are strictly prohibited (Section 7).

3. **Use of Force:** The use of force is only justified when reasonably necessary. This is in line with provisions similar to Section 33 of the ACJA, which emphasizes accountability in law enforcement practices. Additionally, the law mandates that arrested suspects be treated humanely, as stipulated in Section 5.

4. **Detention:** The law stipulates that upon arrest, a suspect's detention period should not exceed 24 hours before being arraigned in a court of competent jurisdiction unless it is impracticable to do so. This provision aims to safeguard the human rights of the suspect, as outlined in Section 18(1). Furthermore, the provisions governing remand and detention in the ACJA (Sections 293-294) are mirrored in the ACJL, ensuring consistency and fairness in the administration of justice.

5. **Searches:** Lawful searches must be carried out with respect for privacy and, whenever feasible, consideration for gender-specific sensitivities during physical searches. For guidance on the validity and conduct of premises searches, refer to Sections 141, 142, 147, and 148.

6. **Bail:** Except in cases of capital offences, all minor offenders are entitled to bail unless specific conditions prevent it. (Sections 157 and 158). However, in exceptional circumstances, capital offenders may also be granted bail. (Section 159). Both oral and written bail applications are acceptable, depending on the court's nature. The ACJL, Cross River, outlines the procedural requirements for bail rights, similar to the ACJA, in Sections 163-172.

ACJL in Delta State:

1 Interrogation: Section 11 of the ACJL guarantees a suspect's right to be interrogated in the presence of their legal representative and, where possible, a family member. Additionally, video recording of interrogations is recommended to promote transparency. These provisions safeguard suspects' rights and prevent coercive tactics during interrogation.

2. Arrest: Section 4-21 of the ACJL stipulates that arrests must adhere to due process, generally requiring a warrant, unless the crime is directly witnessed. Furthermore, the law prohibits substitute arrests, also known as "arrest in lieu," where an individual is detained in place of the actual suspect. These provisions safeguard individuals against arbitrary detention.

3. Use of Force: Force is only permitted when negotiation, persuasion, or discussion has failed and there is evidence of violent resistance. Such force must comply with principles of legality, necessity, and proportionality, ensuring accountability for any excessive use

4. Detention: According to Section 32, detention periods must not exceed 24 hours without a court order. The ACJL stresses the importance of prompt arraignment to minimize unnecessary pretrial detention, thereby upholding constitutional safeguards and protecting individual rights.

5. Search: Searches must be conducted lawfully, respecting gender sensitivity and avoiding arbitrary actions based on appearance or stereotypes. Profiling individuals, such as labelling them as "yahoo boys," is not permitted.

6. Bail: Bail is recognized as a right rather than a privilege. For minor offences, bail should be granted promptly. Clear conditions for granting bail are established to ensure fairness, transparency, and the suspect's return for trial without imposing unnecessary restrictions.

ACJL in Edo State:

1. **Interrogation:** Section 11

- A suspect has the right to be interrogated in the presence of their legal representative, and where practicable, their family member. Video recording of interrogation is also encouraged to ensure transparency. These provisions aim to protect suspects' rights and prevent coercion during interrogation

2. **Arrest:** Section 4 - 21

- Arrests must follow due process, typically requiring a warrant, except in situations where a crime is witnessed directly. The law prohibits arresting someone in place of the actual suspect (commonly called arrest "in lieu"). These rules protect individuals from arbitrary detention Edo State Judiciary

3. **Use of Force:** Force is only permitted when negotiation, persuasion, or discussion has failed, and there is evidence of violent resistance. Such force must comply with principles of legality, necessity, and proportionality, ensuring accountability for any excessive use

4. **Detention:** Section 32

- Detention must not exceed 24 hours without a court order. The ACJL emphasizes prompt arraignment to reduce unnecessary pre-trial detention, in line with constitutional safeguards.

5. **Search:** Section 9 of the ACJL states that Searches must respect gender sensitivity and be conducted lawfully. Arbitrary searches based on appearance or stereotypes, such as profiling individuals as cybercriminals ("yahoo boys"), are not permitted by Edo State Judiciary.

6. **Bail:** Bail is a right, not a privilege, and should be granted promptly for minor offenses. Conditions for granting bail are clearly laid out to ensure fairness and transparency, focusing on ensuring the suspect's return for trial without imposing unnecessary restrictions

ACJL in Rivers State:

1. **Interrogation:** The presence of a lawyer of the suspect's choice is a right during interrogation. Family members' presence and video recording are tied to ensuring transparency and protection of rights. While these rights may be inferred from general provisions for fair treatment, specific mention of family presence was not found Section 6(3).
2. **Arrest:** Section 3 outlines procedures for lawful arrest, including the necessity of a warrant for most non-emergency cases. Arresting in lieu of real suspects is prohibited, aligning with provisions discouraging abuse of power - Section 7.
3. **Use of Force:** Sections 5 stipulate that force must only be applied after all non-violent means have failed. Use must be proportional to the threat and accounted for to prevent misuse.
 - Humane Treatment - Section 8
4. **Detention:** Section 32 (1) restricts detention to no more than 24 hours unless extended with a court order. Magistrates must review detentions monthly to ensure legality and prevent abuse.
5. **Search:** Section provides for search warrants to ensure lawful searches. Arbitrary searches based on stereotypes are not permitted. Section 9(3) Gender-sensitive searches are required under international human rights standards but may not be explicitly detailed in this law.
6. **Bail:** Section 30 (1) allows magistrates to grant bail, balancing the suspect's right to liberty with public safety. Higher courts handle cases of severe crimes like capital offenses.

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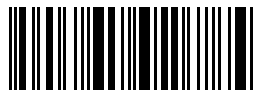
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