

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-EAST ZONE

The following states are Abia, Anambra, Ebonyi, Enugu, and Imo

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-East zone of Nigeria.

ACJL in the Abia State:

1. Interrogation

- Abia ACJL (2017): Includes rights to legal representation and protections against undue pressure during interrogation. Family members may also be permitted at the suspect's request (similar to Section 6(2) ACJA).
- ACJA (2015): Section 15(4) emphasizes video recordings and mandates the presence of a legal practitioner during questioning to ensure fairness.

2. Arrest

- Abia ACJL (2017): Requires compliance with lawful warrant procedures and prohibits the arrest of individuals in lieu of others. The law prohibits indiscriminate arrest practices, aligning with ACJA's Section 7.
- ACJA (2015): Section 3 ensures no person is arrested without proper cause, and warrants must comply with legal requirements.

3. Use of Force

- Abia ACJL (2017): Use of force is permitted only when strictly necessary and must be proportional to the resistance faced.
- ACJA (2015): Section 4 emphasizes lawful, proportionate, and necessary force, with accountability measures for abuse.

4. Detention

- Abia ACJL (2017): Limits detention to a maximum of 24 hours without a court order, with provisions for longer detention if approved by the judiciary.
- ACJA (2015): Sections 32 emphasize prompt arraignment within 48 hours and judicial oversight for extended detention.

5. Search

- Abia ACJL (2017): Prohibits unauthorized searches and mandates gender-sensitive procedures for personal searches.
- ACJA (2015): Section 144 emphasizes procedural safeguards during searches, including warrants and respect for privacy.

6. Bail

- Abia ACJL (2017): Grants police authority to release on bail under reasonable conditions for minor offenses and requires judicial bail for serious crimes.
- ACJA (2015): Sections 30-32 establish clear guidelines for granting bail, ensuring suspects' rights and preventing unnecessary pretrial detention.

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

ACJL in Anambra State:

1. **Interrogation:** The right to have legal representation during interrogation is protected under Section 7, which states that an arrested person must be informed of their right to consult a legal practitioner.
2. **Arrest:** Section 7 requires that arrests are carried out based on a valid warrant unless the offense is one where the law permits warrantless arrests.
3. **Use of Force:** Section 9(2) states that force should only be used when necessary, and it must be proportional to the resistance encountered. Section 8 requires officers to justify their use of force and holds them accountable for excessive or unjustified actions.
4. **Detention:** Section 69 limits detention without a court order to 24 hours, aligning with constitutional guarantees under Section 35 of the 1999 Constitution.
5. **Search:** Section 10(2) mandates that searches respect gender considerations, requiring that female suspects be searched by female officers.
6. **Bail:** Section 68 states that suspects arrested for bailable offenses are entitled to bail and must be informed of this right. Section 68(1) specifies that bail conditions must be reasonable and ensure the appearance of the suspect in court.

ACJL in Enugu State:

1. Interrogation:

- Section 10: The right of the person arrested to consult with a legal practitioner of their choice. This includes being represented during interrogation.: Police officers must ensure that the rights of suspects, including access to legal representation, are respected.

2. Use of Force:

- Section 9: Use of force by law enforcement is permitted only when it is absolutely necessary and proportional to the resistance faced.
- Section 9: Officers must first attempt negotiation, discussion, and persuasion before resorting to force.
- Section 10(2): Humane Treatment

3. Arrest:

- Section 7: An arrest must be lawful and can only be carried out with a valid warrant, unless the offense is committed in the presence of the officer or is a serious offense.
- Section 19: Arrest without a warrant is allowed only under specific conditions, such as when a person is caught committing an offense.
- Section 8: Arresting others in lieu of the actual suspect is explicitly prohibited and is a violation of the law.

4. Detention:

- Section 33: A suspect must not be detained for more than 24 hours without being charged, unless an extension is obtained from a court.

5. Search:

- Section 11: A search warrant is required for searching premises or private property unless there are exigent circumstances.
- Section 11(1): Searches must be conducted with respect to privacy and dignity, and gender-sensitive protocols must be followed (e.g., female suspects should be searched by female officers).

6. Bail:

- Section 31: Police have the authority to grant bail for bailable offenses, and the terms must be reasonable and in accordance with the law.
- Section 34: Bail conditions must not be excessive and must ensure the individual's return for trial.
- Section 31(3): If bail is refused, the reasons must be recorded, and the individual has the right to seek a court's intervention.

ACJL in Ebonyi State:

1. Interrogation:

- ACJL Ebonyi: Statements from suspects must be recorded electronically or in writing in the presence of legal counsel or another chosen representative.
- ACJA (Section 17): Similarly, confessions must be video-recorded or made in the presence of legal counsel.

2. Arrest:

- ACJL Ebonyi: Focuses on humane treatment during arrest and prohibits arresting others in place of a suspect.
- ACJA (Section 7): Prevents the arrest of innocent persons in lieu of suspects and mandates the reading of rights at the time of arrest.

3. Use of Force:

- ACJL Ebonyi: Use of force is regulated, permissible only when necessary to prevent escape or resistance.
- ACJA (Section 8): Mandates proportional and legal use of force by law enforcement.

4. Detention

- ACJL Ebonyi: Limits detention without a court order to 24 hours. Further detention requires judicial approval.
- ACJA (Section 32 (1)): Stipulates that suspects must be brought before a court within 24 hours of arrest.

5. Bail:

- ACJL Ebonyi: Bail provisions aim to ensure that minor offenders or those with mitigating circumstances are granted bail.
- ACJA (Sections 30-32): Details conditions for granting bail, ensuring suspects are not unnecessarily detained.

6. Search:

- ACJL Ebonyi: Prohibits unlawful searches and enforces gender sensitivity during body searches.
- ACJA (Sections 9): Provides detailed procedures for conducting lawful searches and respecting privacy rights.

ACJL in Imo State:

1. Interrogation:

- Presence of Lawyers (Right to Counsel): Under Section 7, A person under arrest has the right to be informed of their rights, including access to legal counsel of their choice.

2. Use of Force:

- Proportional Use of Force: Under Section 9, Police officers must use reasonable force only when necessary and proportionate to the situation.
- Humane Treatment Section 10(2)

3. Arrest:

Under Section 7, Arrest must follow due process, and suspects must be informed of the reason for the arrest at the time of the arrest. Section 8 Prohibits arresting someone in place of the suspect. Officers doing so may face legal consequences.

4. Detention:

Under Section 33(1), A person cannot be detained for more than 24 hours without being charged before a court or granted bail. Section 33(2), Allows an extension of detention with a court order if further investigation is needed, provided the detention is not unnecessarily prolonged.

5. Search:

Under Section 11, Female suspects must be searched by female officers, respecting privacy and dignity.

6. Bail:

Under Section 31, Persons arrested for bailable offenses are entitled to be released on bail within 24 hours unless a valid reason is provided.

- Conditions for Bail:

Under Section 31 (2), Bail may require reasonable sureties or other conditions set by the police or court to ensure the individual's appearance.

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