

KNOW YOUR RIGHTS

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

(November 2024)

SOUTH-WEST ZONE

The following states are: Lagos, Ondo, Osun, Oyo, Ekiti and Ogun.

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 West zone of Nigeria.

ACJA in the Lagos State:

1. **Interrogation:** The Administration of Criminal Justice Act (ACJA) outlines critical protections and procedures for individuals involved in the criminal justice system. During interrogation, suspects have the right to remain silent and consult with a legal practitioner of their choice. Presence of a Lawyer of the Person's Choice (Section 3) Any person arrested shall be informed of their right to remain silent and the right to consult with a legal practitioner of their choice before making any statement.
2. **Arrest:** The Process of Arrest(Section 1) Arrests must be carried out with due regard to the dignity of the person and, where possible, without the use of force. Arresting Others in Lieu (Section 4) The ACJL Lagos explicitly prohibits arresting individuals in lieu of a suspect (Section 4) mandates that arrests must target the alleged offender.
3. **Use of Force:** Conditions for Use of Force (Section 2) Force can only be used when absolutely necessary to effect an arrest, and it must be proportional to the resistance encountered. Officers must prioritize persuasion, negotiation, and dialogue before resorting to physical measures. Accountability: Officers using excessive or unauthorized force can be held accountable under (Sections 287-296) of the Criminal Code Act (applied concurrently in Lagos State).
4. **Detention:** Detention Period (Section 18 (1)) A person in police custody must not be detained for more than 24 hours without being charged to court, except if a court order extends the detention period.
Court Order for Extended Detention: (Section 18(2)) Detention beyond 24 hours requires a court order obtained by the police.
5. **Search:** Gender-Sensitive Searches (Section 5(2)) Searches must respect gender sensitivity, requiring that females be searched by female officers.
6. **Bail: Condition for Bail : Section 17 (1) &(2)**

ACJL in Ondo State:

1. **Interrogation:** Access to legal representation during interrogation is required, and statements or confessions will be recorded in writing or electronically. This ensures transparency and protects against coercion. Relevant Sections refer to provisions that are similar to (Sections 15 and 17) of the ACJA, which Ondo's ACJL mirrors for legal representation and documentation of statements (Section 3(2)b) ACJL Ondo State
2. **Arrest:** (Section 3) The law requires that arrests be made with proper documentation, including the reason for arrest and rights communicated to the arrestee. Arrest in Lieu is Prohibited (Section 4)
3. **Use of Force:** Force is regulated, and it is allowed only after efforts at negotiation or persuasion have failed. The force applied must be proportional to the situation and documented. Relevant Sections: Provisions parallel to ACJA (Section 33) deal with accountability in law enforcement practices. Humane Treatment (Section 5).

4. **Detention:** Detention periods are strictly limited. A person cannot be detained for more than 24 hours without a court order unless exceptions for remote areas apply. Relevant Sections: Remand and detention provisions are outlined in parts resembling ACJA (Sections 293-294), emphasizing court oversight for extended detention periods.
5. **Search:** Searches must be conducted lawfully, respecting privacy and, where possible, gender-specific sensitivities during physical searches. Section 7(2). Relevant Sections: Ondo ACJL reflects similar principles to ACJA (Sections 148-150) regarding lawful searches.
6. **Bail:** (Section 146) 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: Similar to ACJA (Sections 158-165), focusing on bail rights and procedural requirements.

ACJL in Osun State:

1. **Interrogation:** Access to legal representation during interrogation is required, and statements or confessions are to be recorded either in writing or electronically. This ensures transparency and protects against coercion. Relevant Sections: provisions of ACJL, Osun on transparency of interrogation processes are replicas of (sections 15 and 17) of the ACJA.
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 for the same provisions on Arrest as contained in the ACJL, Osun State. Arrest in lieu is prohibited. ACJL, Osun State provides the same provisions contained in (section 7) of the ACJA in this respect.
3. **Use of Force:** Reasonable and justifiable force is allowed. 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 suspect is highly prohibited. (Section 8), ACJA domesticated by ACJL, Osun State.
4. **Detention:** Detention periods are strictly limited. A person cannot be detained for more than 24 hours without a court order subject to underlying circumstances. Relevant Sections: Remand and detention provisions are outlined in parts resembling ACJA (Sections 293-294), emphasizing court oversight for extended detention periods.
5. **Search:** Searches must be conducted lawfully, with regard to the right to privacy, gender sensitivity and overall procedural requirements as provided by law 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 offenses. Specific provisions address bail for offenses under the magistrate's jurisdiction and stipulate conditions for higher courts. Relevant sections: provisions on bail and recognizances generally contained in ACJL, Sokoto stems from the provisions of sections 158 - 188, ACJA.

ACJL in Oyo State:

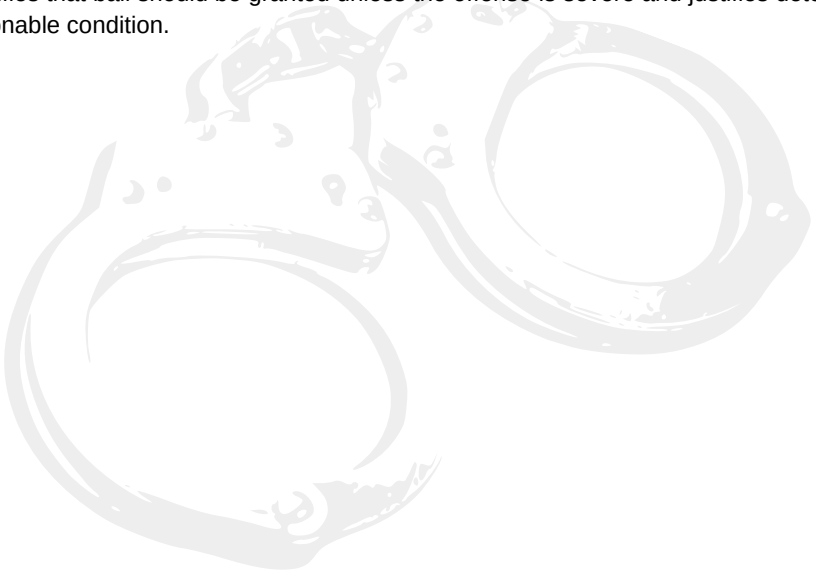
1. **Interrogation:** (Section 8) The arrested person has the right to consult with a lawyer of their choice and avoid answering questions without legal advice. The police are also mandated to notify the next of kin at no cost to the arrested person
2. **Arrest:** (Section 5 & 6) Arrests must involve physical touch or submission to custody unless an offense is being actively committed. (Section 9) Arresting someone in lieu of the actual suspect is prohibited.
3. **Use of Force:** While specific references to force weren't detailed in the ACJL Oyo State documentation, general provisions require humane treatment during arrest (Section 10). The use of force must align with legal necessities and avoid inhumane treatment
4. **Detention:** (Section 33) Detention beyond 24 hours requires a court order. Arrested persons should either be charged to court or released unconditionally/conditionally.
5. **Search:** (Section 11(3)) Searches must respect decency and be conducted by someone of the same gender unless impractical. Items recovered during searches must be inventoried and signed by both the officer and the arrested individual.
6. **Bail:** (Section 31) A person arrested for an offense other than a capital offense must be granted bail if it is impracticable to bring them before a court within 24 hours. (Section 32) When granting bail, police officers must ensure it is reasonable and adhere to conditions stipulated under the law, particularly for minor offenses

ACJL in Ogun State:

1. **Interrogation:** (Section 13) Presence of Lawyers, ACJL Ogun State mandates the presence of a legal practitioner during the recording of statements from suspects. The lawyer's role is limited to providing legal counsel without interfering in the statement process. Recording of Statements: Statements must be recorded, ensuring transparency and protecting the suspect's rights.
2. **Arrest:** Arrest Procedures: Section 5 emphasizes that arrests must be made in accordance with due process. Section 9 prohibits arresting a person in lieu of another individual suspected of an offense.
3. **Use of Force:** Humane Treatment of Suspects (Section 10) This section mandates the humane treatment of suspects during arrest and detention. It prohibits torture, inhumane, or degrading treatment, aligning with constitutional provisions on human dignity. Arrested persons must be treated with dignity and not subjected to any form of inhumane treatment while in custody.
4. **Detention:** (Section 34) Duration of Detention: states that suspects must not be detained beyond 24 hours without being charged in court unless a court order extends this period.
5. **Search:** Searches must be conducted with a warrant, except in cases of immediate necessity (Section 11). Gender considerations and respect for personal dignity during searches.
6. **Bail:** Sections 32 and 33 outline the conditions for granting bail to persons arrested without a warrant. It specifies that bail should be granted unless the offense is severe and justifies detention, subject to reasonable condition.

ACJL in Ekiti State:

1. **Interrogation:** (Section 13) Presence of Lawyers, ACJL Ekiti State mandates the presence of a legal practitioner during the recording of statements from suspects. The lawyer's role is limited to providing legal counsel without interfering in the statement process. Recording of Statements: Statements must be recorded, ensuring transparency and protecting the suspect's rights.
2. **Arrest:** Arrest Procedures: Section 5 emphasizes that arrests must be made in accordance with due process. Section 9 prohibits arresting a person in lieu of another individual suspected of an offense.
3. **Use of Force:** Humane Treatment of Suspects (Section 10) This section mandates the humane treatment of suspects during arrest and detention. It prohibits torture, inhumane, or degrading treatment, aligning with constitutional provisions on human dignity. Arrested persons must be treated with dignity and not subjected to any form of inhumane treatment while in custody.
4. **Detention:** (Section 34) Duration of Detention: states that suspects must not be detained beyond 24 hours without being charged in court unless a court order extends this period.
5. **Search:** Searches must be conducted with a warrant, except in cases of immediate necessity (Section 11). Gender considerations and respect for personal dignity during searches.
6. **Bail:** Sections 32 and 33 outline the conditions for granting bail to persons arrested without a warrant. It specifies that bail should be granted unless the offense is severe and justifies detention, subject to reasonable condition.



CONTACT US



Phone
(+234)8091257245



Email Address
Info@partnersnigeria.org



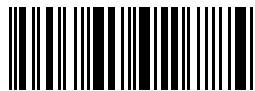
Website
www.partnersnigeria.org



Head Office Address
**66, Newark Street, Suncity
Estate, Galadimawa, Abuja.**



Social Media Platforms (LinkedIn, Facebook, X, Instagram, TikTok, and YouTube)
@Partnersnigeria



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