

## **A Critical Review of the powers of the Nigeria Police under the Act**

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### **ABSTRACT**

The problem of the world all over is the issue of security. Security of life and property is indispensable in every human society that is why there is law. But the law cannot enforce itself: it is enforced through human instrument. The essence of setting up an agency to enforce and implement law is the need to prevent arbitrariness and to promote equity and fair play. The Nigerian police is an executive agency established by law to among others, ensure that the law as made by the Legislature are obeyed. A critical evaluation of the history of police in Nigeria, both pre and post colonial days reveal that corruption and inefficiency is the greatest challenge facing the Nigerian police. This could be as a result of the wide, unchecked and unregulated power vested in them. Suffice to say that Nigerian police is stocked with a bunch of uneducated personnel who only knows how to extort money from the publican of them serve as an engine for perpetrating fraud and fraudulent practices each day. In fact, the system is so corrupt that the synonym and the denotation for Nigeria police is corruption; even an infant knows this and grows with this notion. The government on its own part has failed in some respect. Insufficient and antiquated technologies are still being used by the Nigerian Police in the midst of the current global security challenges and insurgencies. This work recommends that the Nigerian Police should be restructured and totally overhauled to reflect the current global dynamics. Consequently, officers and men of the service should undergo proper training and retraining; there should be an accelerated improvement in the area of "infrastructure and technologies; a neutral investigative body should be set up to checkmate the anomie of corruption in the Nigerian Police, this is with the view of sorting out the bad eggs in the system. Anybody associated with bribery and corruption at whatever level should be properly dealt and severely punished to serve as a deterrent to prospective culprits. More so, there should be an improvement in the area of remuneration of police officers to reflect with the current economic realities. Above all the power vested in the Nigerian police is so wide and ambiguous hence should be properly checked and regulated. The public need to have confidence in the Nigerian Police; in fact the "police is your friend" conception should not be in theory only, but also in practical. There is no way this can be achieved save the system is properly and effectively revamped.

**KEYWORDS:** Critical Review, power, Nigeria, Police and Act

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### **I. INTRODUCTION**

The police commonly known as that body of civil officers, especially in a city, organized under authority to maintain order and enforce law; constabulary (Florida: Typhoon International corp, 2003). Policing is concerned with the maintenance and preservation of rules of external conduct of human beings in the society. In other words it concerns itself with rules and norms, which people are required to observe and obey.

It is erroneous to hold, as British colonial officials, would want to that the pre-colonial communities in what later became Nigeria laded "law and order" on the contrary, there were several ethnic groups which did maintain law and order in their respective domains "by the local Chiefs and their messengers by means of traditional institutions and age grades. On who and what served the role of "police" T.N, Tamuno posits that they include, human

<sup>1</sup> beings in their life time, ancestors, gods and goddesses, belief systems, or a combination of these among others (Tamuno, 1993). No wonder, for several centuries, British and other European traders had relied on the protection provided by the West African Chief who controlled the various pre-colonial law enforcement agencies. According to Tamuno:

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<sup>1</sup>Florida: Typhoon International corp, 2003

<sup>2</sup> Tamuno, 1993

*The new emphasis on legitimate commerce, the availability of such materials as palm produce and the desire for markets for European manufactured goods raised problems of law enforcement mainly because European aims increased points of contact as well as conflicts between foreign and African middlemen traders, first along coastal areas and later in the hinterland" (Ibid, 23).*

With the advent of European Christian Missionaries these arose another source of a serious clash of interest between African religions and Islam on the one hand Christianity on the other, and conflict which in turn raised serious police problems. These emerging problems were alien to the pre-colonial law enforcement agencies and in their wake exposed their weakness. The British, realizing the inadequacies of the African traditional police had no option but to establish their own brand of police. This new venture became shaped by the nature of European interests in the country and the reactions of indigenous people to their activities. The British brand police force were established in Nigeria basically, "at three different points namely, Lagos Calabar and Lokoja as their headquarters" (Membere, 1982). According to Membere;

*Following the annexation of Lagos on the 6<sup>th</sup> of August 1861, Mcosky who had become the first acting Governor of Lagos established a police force immediately that same year (Ibid, 23).*

That police force was known as "Consider Guard". The consular guard as subsequently inherited by the substantive Governor Mr. H.S. Freeman in January 1862. Tamuno is of the view that Mcosky's 'police force' began the first modern police force in the history of Lagos and indeed in the entire area later designated as Nigeria (Tamuno, *op. cit.* p. 15). The strength of the first police force in Lagos and later Nigeria was twenty-five constables (Ibid. 10). It is from this initial number that subsequent Government enlarged and administered the police force to such their circumstance.

There were two branches of the police force from 1863, namely, the civil police force and the Armed police force; the former had most its members confirmed as illiterates who were very inefficient due to poor recruitment and training (Tamuno, *op. cit.* p. 15) while the latter consisted of freed Hausa Slaves (Ibid, p.23). Peter Oluyede, commenting on this poor background wrote:

*Apart from the fact that most of the newly recruited policemen under the new Lagos/British administration were freed slaves, it was as alleged that with the exception of very few, 'the men were derived from the lowest off-scouring of people found about Lagos, chiefly inferior people and of the class known as ahrus sleeping in "market sheds and living the most precious life; some of the policemen were not only apathetic, timid and unfit but also co-operated with thieves (Oluyede, 1992).*

What a terrible foundation for a country's police force. Besides, this form of recruitment continued even after the country became independent and no effort has been made by successive government to give the nation a new police force with a befitting background.

Resulting from the doctrine of 'effective occupation' prevalent in the Berlin West African conference of 1884-5, Calabar was made the headquarters of the Oil Rivers Protectorate" which was declared in 1891.

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3 Ibid, 23

4 Tamuno, *op. cit.* p. 15

5 Ibid, p.23

6 Oluyede, 1992

However, in 1893, the Oil Rivers Protectorate was renamed the Niger Coast Protectorate, which comprised old Calabar. Bonu. Degerna, Opobo. Sapele, Benin City. Warri. Brass and Qua Ibo (Tamuno, *op. cit.* pp. 6 & 7). These places mentioned are in the present day states of Akwa-Ibom. Bayelsa, Cross River, Delta. Edo and Rivers (Constitution, 1990). Otherwise known as the core Niger Delta, or the South South geo-political zone in the present political dispensation in Nigeria.

About thirty years after acting Governor. Mcosky established the first police force in Lagos, Acting Consul. Annesley, raised the first police force of the Oil Rivers protectorate. In March, 1880 he described the new organization as a small force armed with shot guns and drilled 'as well as possible in such a short time (Tamuno, *op. cit.* p. 4). This police was called a "consular constabulary" (Ibid, 24). It comprised the sweepings of Sierra Leone and Lagos and the main complaint from the people against it, was brutal it} among others.

Consequently, Macdonald, Annesley's successor, disbanded the force comprising one sergent and twenty men, in August 1891. This was replaced by "a small force of Hausas" as the nucleus of a constabulary for Oil Rivers protectorate (Ibid, 23) with the assistance of one Ralph D. Moor who later succeeded Macdonald as commissioner and consul General

from February 1892 prior to his appointment as commissioner and consul General. Ralph Moor, had helped to establish and develop military and Police Force in the area, the former known as the Oil Rivers irregulars, and the latter a quasi police force called "court messengers" who were armed with snider rifles and performed the duties of a "military police" force. The "court messengers" comprised Yorubas and Hausas and had a total strength of one hundred and twenty between 1897 and 1898. The Niger coast protectorate became known as the protectorate of southern Nigeria and consequent upon that, consul Moor by police proclamation NO. 4 of 1902 renamed the force, southern Nigeria police with Calabar still as its headquarters. Regarding how the Nigeria Police Force started in Lokoja, a confluence town in Nigeria, it is arguable that the Royal charter that was granted to the Royal Niger Company also allowed the company in 1886 to raise a small-armed constabulary in Northern Nigeria. In 1888, the Royal Niger constabulary was established with its headquarters in Lokoja. This police force was armed with snider rifles and was deployed to perform military duties in Northern Nigeria the constabulary started with the strength of less than five hundred men and in 1898 it was increased to over one thousand men.

When in 1900 the Northern Nigeria protectorate was proclaimed by Sir Frederick Lugard, the Royal Niger constabulary was disbanded and a civil police known as the Northern Nigeria police was created with fifty men selected from the disbanded constabulary (member, *op. at*, p. 13). The above scenero show that three police forces existed in Nigeria namely, the colony and protectorate of Lagos police force; the protectorate of Southern Nigeria police Force and the protectorate of Northern Nigeria Police Force with their headquarters respectively at Lagos, calabar and Lokoja. However the number was reduced to two when in 1906, the police forces of the colony and protectorate of Lagos and the protectorate of Southern Nigeria were merged and named still, southern Nigeria police force with its headquarters relocated from Calabar to Lagos (*Ibid*, pp. 9-10) Consequent upon this Nigeria, the commissioner become known as the Inspector-General of police in May 1906,

In 1903 the Northern Nigeria Police was commanded by a commissioner, A recognition of this Police force in 1906 had its name changed to Northern Nigeria constabulary which name was further changed upon another re-organization in 1908 to the Northern Nigeria police but this time with the head of the police being an Inspector-General. From this period on, two police forces existed, the Northern Nigeria police for the protectorate of Northern Nigeria, and that for the colony of Lagos and the protectorate of Southern Nigeria each headed by an Inspector-General of police the amalgamation of Southern and

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7 Tamuno, *op. cit* pp. 6 & 7

8 Constitution, 1990

9 Ibid, 24

10 Ibid, 23

11 *op. at*, p. 13

12 *Ibid*, pp. 9-10

Northern protectorate in 1914 notwithstanding.

About sixteen years after the amalgamation of the Northern and Southern protectorates of Nigeria, the two police force (CFN member, *Ibid*, 14-15) were formally amalgamated on the i<sup>v</sup> day of April 1930 and the new force became known as the Nigeria police force with its headquarters in Lagos. The force was headed by an Inspector General of Police and assisted by a Deputy General, one in-charge of Northern provinces with headquarters in Kaduna, the other commanded the Southern provinces with headquarters at Enugu. The amalgamation was necessary because the Governor needed among other reasons a central authority to advise him on all aspects of police work throughout the country. This may also not be unconnected with the fact that the constitution of 1922 otherwise known as the Clifford constitution was a unitary constitution. It is instructive to note that in spite of the amalgamation of the, 1914, the 1922 constitution endorsed the division of the Northern and southern provinces of the protectorate (Ibadan: University Press, 1982) and to each of these two groups or provinces an Assistant Inspector-General was in charge.

The title of Inspector General was in 1937 charged to commissioner (CFN Member, *op. cit*. p. 15.) The country, Nigeria was divided into three distinct groups of provinces namely,, the Eastern, Northern and Western since 1939 and under the 1946 constitution each group of province became a region. Again under the 1951 constitution, the title Inspector General was restored and the police command in each region was headed by a commissioner at the regional headquarters which were at Enugu, Kaduna, and Ibadan respectively. It should be noted that under the republican constitution of Nigeria 1963. Mid-Western Region of Nigeria was created and accordingly a regional police command headed by a commissioner was established.

Upon military incursion into the political arena, twelve states were created" and consequently twelve police command emerged and it is the tradition to date that each state police command is headed by a commissioner of police.

The primary purpose of the colonial police was to protect British economic and political interests. The police accomplished this objective through the often brutal subjugation of indigenous communities that resisted colonial occupation (Human Rights watch, 2010). It would appear then, that the Nigeria police force had no defined functions. The performed conventional police functions and was responsible for internal security generally for supporting the prison, immigration and customs services and for performing military duties within or outside Nigeria as directed. The police were known to use violence, repression and excessive use of force in carrying out their assignment and no doubt this has characterized law enforcement in Nigeria ever since. Aside of use of violence and force, the colonial police were also known for their lawlessness and corrupt practices. In 1891, for instance, the consul general of the oil Rivers protectorate in what is presently Eastern states of Nigeria, expressed shock at the "numerous acts of lawlessness and pillage" by the police who were commonly referred to in the community as the "forty thieves" in police uniform (Ibid, 10). Similarly the governor of Lagos colon}' acknowledged in 1897 that the Hausa. Force "no doubt behaved verv badlv in the hinterland by looting, stealing and generally taking advantage of their positions" (Ibid, 23). And in 1952, members of parliament also criticized the Nigeria police force traffic division during this period for having "exposed itself to bribery and corruption and thus lowered the prestige of the force. The foregoing character and behavior of these early police forces seen to ha\|e lived with them to this date. It raised the question whether the Nigeria police force of the colonial era has transparently transformed itself to a modern, more disciplined and more efficient police force.

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13 New International Webster's

14 Ibadan: University Press, 1982

15 *op. cit.* p. 15

16 Human Rights watch, 2010

17 Ibid, 10

### **Statement of Problem**

Arising from the forgoing, the problem is that of undefined duties and is seem to be an importation of these obnoxious past of the Nigeria police into the present day policing in Nigeria hence the need to review the poucs of the Nigeria police under the constitution, statutes and the police Act to ascertain their actual duties. The general objective of this study is to critically review the powers of the Nigeria Police under the Act.

## **II. LITERATURE REVIEW**

### **Conceptual Framework**

#### **Police**

The police is that body of civil officers, especially in a city, organized under authority to maintain order and enforce law; constabulary (New International Webster's). It is further described as, the whole system of internal regulation of a state, or the local government of a city or town, that department of government that maintains and enforces law and order, and prevents, detects or deals with crime (Ibid, 25). Bittner contends that a police officer is any person who is principle concerned with law enforcement and crime control, and incidentally concerned with an infinite variety of other socio-political matters (Bittner, 1970). Supporting the second limb of Bittern's definition, south warm that, the imposition of duties and demands that are not related to crime control duties dilutes the effectiveness of the police (Smith,1960). Dempsey and Forst (Dempseyand L.S. Forst, 2005), however, assent that the word police comes from the Latin words *politia*, which means "civil administration". The word *polia* sees back to the Greek word *polls*, or "city" Etymologically therefore, the police can be seen as those involved in the administration of a city. Politia became the French word police. The English took it over and at first continued to use it meaning "civil administration". The specific application of police to the administration of public order emerged in French in the early 18<sup>th</sup> century. The first body of public order officers to be named police in England was the marine police, a force established in 1798 to protect merchandise in the port of London (Ibid, 10). In course of time, police became recognized as, those non military individuals or organizations who are given the general right by government to use coercive force to enforce the law and whose primary purpose is to respond to problems of individual and group conflict that involve illegal behavior (Roberg and Kuykendali, 1983). But Phelps definition of police is simple and clear. According to him, police are government officials who enforce the law and maintain order. Police officers, he says, works to prevent crime and to detect crime police are found throughout the world but they have different functions and loyalties depending on the country (Phelps, 2002). Likewise, Bohm and Helly (2002) categorically state that, the criminal justice response to crime begins when a crime is reported to the police or far less often, when the police themselves, discover that a crime has been committed. Statutorily police officer is defined as, "any

member of the force (CAP. P.19LFN 2010) Wroblewski and Hess, on the need for police, argue, that, " police are necessary when coercion is required to enforce the laws and it is the police who can demand conformity (Wroblewski and Hess, 2006). Dambazau in agreement with Wroblewski and Hess, writes:

*The police are the biggest most visible important sub-system of the criminal justice system. The police provide the entry point into the criminal justice system either through crime reports from the public or its own discovery (Dambazau, 2007).*

### **Police Functions, Powers and Duties**

Police perform a number of different functions in some of them more obvious than others. The key functions of police in most society are.

1. Dramatizing state power
2. Legitimizing state power
3. Maintaining order
4. Controlling crime
5. Labeling criminality (Michaiowski, 1985)

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18 New International Webster's

19 Dempsey and L.S. Forst, 2005

20 Smith, 1960

21 Ibid, 10

22 CAP. P.19LFN 2010

The Nigeria constitution (1999) provides that the members of the Nigeria police force shall have such powers and duties as may be conferred upon them by law (Ibid, 21). While the police Act states the duties thus:

The police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged and shall perform such military duties within and without Nigeria as may be required of them, by or under the authority of this or other Act (Ibid, 4).

According to Amadi (2000), these powers are quite expansive, but they must be exercised within the law, Amadi further asserts that there is fusion, of police powers and duties. Practically in our legal system, the primary purpose of the police is to deal with the criminal in an action through routine patrol of the community, detection of crime, apprehension of offenders, accumulation of evidence from investigation, and prosecution of suspect both at the lower and high courts, all recovery of stolen property (Gromweli, In: B.C. Okoro, 2013).

### **Theoretical Review**

#### **Classical Police Theory**

The early police management writers emphasized what is known as classical principles of organization, including a rigid hierarchical structure strong centralized control, and authoritarian leadership practices. These principles were thought to be universal in nature and applicable to all organizations. This theory attempted to create a more professional police organization. It aims at organizing the police along bureaucratic military lines and to insulate police administration from the influence of partisan politics (Ibid, p.94). Wilson and McLaren however, suggested that an effective crime control police department should be organized and management according to "fundamental" principles similar to those of military and industrial organizations. Major principles included:

1. Grouping of similar tasks according to function, time and place;
2. Hierarchy of authority;
3. Specialization based on need;
4. Chain of command
5. Unity command (i.e. employees must receive orders from only one supervisor);
6. Span of control (i.e.. a supervisor should be responsible for a limited number of employees); and
- 7- Common sense in using the principles (Ibid, p.95)

#### **Contemporary Police Theory**

In addition to the classical theory is the contemporary police theory. Due to the increased level of sophisticated and findings from behavioral science research led to the development of the systems and contingency approaches to police organizational behavior. These approaches led not only to improved managerial practices in many instances but also to improved police- community relationship (Ibid, p.97). Conceptually, systems theory means that all parts of a system (e.g. an organization) are interrelated and dependent on one another. The

importance of applying system theory to police organization is that it allows managers to understand that the activities of one unit affect the activities of other units as well. If there is a change in any one unit it will have a corresponding impact on other units. For example, if changes are made in how the police academy trains recruits in certain performance areas, those changes will have a direct impact on the patrol unit once the recruits report for field duty. Consequently, it is

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23 Ibid, 21

24 Ibid, pg 25

25 Gromweli, In: B.C. Okoro, 2013

26 Ibid, pg 97

important for these units to communicate with one another in order to co-ordinate the expected level of patrol officer performance (Ibid, p. 95).

#### **Summary of review and Gap in Knowledge**

The review has been able to look at the various definitions and concept of police: the purpose of establishing the police; police duties and their policing functions as portrayed by some selected writers on the subject. What is evident from the works of these authors is their failure to observe the static and absolute disposition of the powers of the Nigeria police under the Act, hence the need for a critical review

#### **Establishment and Structure of Nigeria Police Force**

The present Nigeria police force derives its legal existence from the 1999 constitution of the Federal Republic of Nigeria (as amended) and the police Act (1943). The constitution provides for the establishment, appointment of the officers and structure of the force. It enjoins the National Assembly to enact an Act to prescribe the organization, powers, functions and administration of the Nigeria Police Force.

Section 214(1) of the constitution provides that:

*There shall be a police force for Nigeria, which shall be known as the Nigeria police force, and subject to the provisions of this section no other police force shall be established for the Federation or any part thereof.*

Section 3 of the police Act re-enacted the provision of the constitution, "there shall be established for Nigeria a police force to be known as the Nigeria police force—"" The police Act is an Act of the National assembly made pursuant to section 214(2)(a-c) of the 1999 constitution, to make provision for the organization and administration of the police; to prescribe the duties and powers exercisable by the members of the Nigeria police force; and to make provision for branches of the Nigeria police force forming part of the armed forces of the Federation and for protection of labours, waterways, railways and air-fields.

#### **Structure and Organization of Nigeria Police Force.**

There exist three different structures in the Nigeria Police, thus; *a.* Command (Authority) structure

The command structure, also known as authority structure, of the police force is based on the regimental nature of the force and conducted along the force badges of ranks. Thus, section 215(2) of the constitution and section (1999 Constitution) 6 of the police Act state that the Nigeria police force shall be under the command of the Inspector-General of Police who shall subject to sub-section (1)(a) be appointed by the President on the advice of the Nigeria Police council from among serving members of the Nigeria Police Force, This means that orders, directives, and instructions to perform or carry out the suties with which the police is charged, must flow from the Inspector-General of Police through the chain of command, to any officer positioned to implement such order. Disobedience or failure to carry out such instruction, directive or order, attracts punitive sanctions in accordance with the applicable police orders and Regulations.

As at 2013, there have been twenty six Inspector-General of Police since inception of modern police organization in 1930. Next in rank to inspector-General of police is Deputy Inspector-General of police. Section 5 of the Police Act provides that "there shall be such number of Deputy Inspector-General as the Nigeria Police council considers appropriate" section 7 of the Act prescribes that a Deputy Inspector-General is the second in command of the force and shall act for the Inspector-General in his absence from force headquarters. Presently, the Nigeria Police Force has six Deputy inspector-General of Police. Through this rank is bet specifically mentioned in the constitution, it has legal backing because the police Act is a law made by the National Assembly in accordance with the constitution.

Assistant Inspector-General of police is next in hierarchy in the Nigeria Police force command structure.

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27 Ibid, p. 95

28 1999 Constitution

Section 8 of the police Act provides that "an Assistant Inspector-General shall be subordinate in rank to the Deputy Inspector-General but shall be senior to all commissioners of police" sub-section 2 of this section mandates an Assistant Inspector-General to act for the Inspector-General and when so acting, he shall, as in the case of the Deputy Inspector-General be guided by section 7 of the Act. Under the Act, an Assistant Inspector-General can promote and discipline officers under his command from the rank of constable to Inspector.

Following in the order of this command hierarchy is the commissioner of police section 215(2) of the constitution specifies that there shall be "a commissioner of Police for each state of the Federal who shall be appointed by the police service commission" any contingent of the force stationed in a state in which a commissioner of police appointed shall be under his command subject to the authority of the Inspector-General of police. There are currently thirty seven states commissioners of police, including the Federal Capital Territory Abuja. A commissioner of Police can promote and discipline officers under his command from the rank of constable to sergeant. A summary of the command order is as follows: The Inspector-General of Police; The Deputy Inspector-General of Police; The Assistant Inspector-General of Police; The Commissioner of Police; The Deputy Commissioner of Police; The Assistant Commissioner of Police; Chief Superintendent of Police; The Superintendent of Police; The Deputy Superintendent of Police; The Assistant Superintendent of Police; The Inspector of Police; Sergeant Majors; Sergeant; Corporals; and Constables.

### **Administrative Structure**

By Regulation 33 of the Police Regulation the Inspector-General has power to establish departments within the framework of force Headquarters currently, the Nigeria police is administratively structured and divided into six departments: 'A'-F\* with each department charged with peculiar duties. The command of each of these departments was formerly assigned to staff officer of the rank of commissioner or Assistant Commissioner of police by the Inspector-General of police (Police Regulation, 1968). But this command arrangement has changed since 2000. Each of the six departments is now headed by an Assistant Inspector-General of Police (AIG). The same arrangement applies to police staff collage. Jos and Police Academy Kano each of which is also placed under the command of an Assistant Inspector-General of Police.

Take note also that in the year 2000, the existing eight zonal commanded by Assistant Inspector-General of Police (Nigeria Tribune, 2005).

The office of the Force secretary which is also headed by an Assistant Inspector-General of police is charged with promotion and appointment of superior police officers; deployment of superior police officers; records of superior police officers; discipline of superior police officers; police council meeting; inter-ministerial matters and promotion

Currently the Nigeria police is administratively structured and divided into (6) department; 'A' - 'F' with each department charged with peculiar duties through their duties are inter-woven. They are distinguishable as follows:

- a. Direction, supervision and co-ordination of various department with directorate.
- b. Standardization of polices and procedure of administration and finance of the
- c. Periodical review of all standing force orders, regulations and other relevant instruments;
- d. Maintenance of force discipline by directing and reviewing relevant polices and instructions.
- e. Convening of conference of the Directors, zonal police commanders (2. P.c) and the command commissioner of police with the inspector-General of Police.

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29 Police Regulation, 1968

30 Nigeria Tribune, 2005

- a. planning and organizing internal security measure and monitoring the execution of such security measures in time of emergency.
- b. direction and co-ordination offeree polices of crime prevention. ,
- c. utilization force Animals.
- d. formulation of force policies on traffic control.
- e. Planning, co-ordinating and monitoring of the force communication network
- f. Reviewing and formulating policies on tactical operation schemes for crime control and prevention.
- g. periodical inspection of various units for effective implementation of operational policies of the police.
- h. Nanning and coordinating joint operation;
- i. Formulating polices, planning and management of incidents such as disturbance, riots, national disasters, elections, suppression of insurrections and trade union disputes or conjuncts.
- j. Formulation and implementation of policies on anti-terrorism,

- k. Liason, coordination and interaction with other Directorates of the Nigeria police force,
- I. Preparation of Annual budget for the Directorate,
- C Department logistics and supply**
- a. Purchase of stores, clothing and Accoutrement
- b. Narming of Building progammes
- c. Construction and maintenance of police Buildings and quarterd
- d. Arrangement of Board of survey and Disposal of unserviceable/Board vehicles equipment etc.
- e. Determination of costs of all equipment e.g. vehicles. Nanes, helicopters, wireless equipment, Bomb Disposal equipment, force Animals, Arms and Ammunition and other riot equipment. Boats medical stationery, spare parts, printing equipment;
- f. Responsibility for the procurement of ail technical equipment. Aircraft, wireless, medical. Armaments, transport etc clothing and accoutrements, stationary and office equipment.
- g. Responsibility for the allocation-and office equipment of the equipment procured for the various police commands and Directorates;
- h. Organization and direction of board of surely for the Manning and execution of building projects and
- j. Erection and supervision of the maintenance of barracks, quarters, office buildings and equipment.
- k. Preparation of annual budget for the Directorates
- 1. liason, coordination and interaction with other Directors of the Nigeria police force.

**D. Department; Investigation and intelligence**

This department is the highest investigation arm of the Nigeria police force. Its primary functions include investigation and prosecution of serious and complex criminal cases within and outside the country. The department also coordinates crime investigation throughout the Nigeria police force. It is divided into sections with most of them headed by commissioner of police little variation from time to time, the section include:

- a. Criminal investigations
- b. Interpol
- a. Antiquities
- d. Crime prevention police
- h. Prosecution and criminal intelligence
- i. Homicide
- j. Anti-Human trafficking unit.
- k. Special Branch CIB/SIB

**Department; training and command**

- a. formulation and implementation of supervision force training policy
- b. Supervision and coordination of the activities of the police and police staff collages.
- c. Liason with police and civilian institutions of higher learning at home and abroad for effective interchange of ideas
- d. Establishment of effective staff development programme.
- e. Organizing training and conducting research to keep pace with modern standard in the field of training, staff development and equipment.

**Department**

- a. Promotion and appointment of superior police officers: tax Deployment of superior police officers
- c. records of superior police officers
- d. Dispelling of superior police officers,
- e. police council, council meeting
- f. Inter-ministerial matter and

No. 34 of police regulation, stipulation that the organization of subordinate police formations shall follow the pattern of organization established in force headquarters with necessary modifications of police (Police Regulation 1968) by the Inspector-General of Police. But this command arrangement has charged since 2000. Each of the six departments is now headed by an Assistant Inspector-General of Police (AIG). The same arrangement applies to police Staff College, Jos and police Academy, Kano each of which also placed under the command of an Assistant Inspector-General of Police. It also instructive to note that in the year 2000, the existing eight zonal commands were expanded to twelve zones each commanded by Assistant Inspector-General of police (Nigeria tribune, 2005).



### **Organizational Structure**

The Nigeria police force is further structured in line with the geo-political structure of the country, with provisions for supervisory formations (Okoro, 2013). The formation is structured to enable police operate effectively throughout the country. The organizational structure of the police force is as follows:

Force headquarters Zonal Headquarters; State Command Headquarters; Area Command Headquarters; Divisional Police Headquarters; Police Station; Police Post.

The relevance of this structure of the police can be appreciated by the totality of police role in internal security. Consequently, the whole weight of the powers and duties of the police are spread on the balance of these structures. However, a periodic assessment and review of these structures to determine their relevance in the scheme of the nation's defence mechanism has become compelling in order to catch-up with current global policing strategies as prescribed in international defense polices. It also provides avenue for getting along with other national security out-fits.

### **Police Service Commission**

The police service commission (PSC) is the civilian oversight body of the police it is responsible for appointment, promotion, and discipline of police officers except the Inspector-General of police. It shall collaborate, cooperate and work with the entire stakeholders, namely, the police council, which has the president of the states of Nigeria, the minister of interior, the chairman, police service commission and the Inspector-General of police as members. The council has the numerous tasks of formulating policies and giving directions so as to turn the police around and reposition it in line with prevailing circumstances to meet the challenges of the 21<sup>st</sup> century.

### **General Policing Functions**

Police in Nigeria, as in most parts of the world, perform a number of different functions, some of them more obvious than others.

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31 Police Regulation 1968

32 Nigeria tribune, 2005

33 Okoro, 2013

The chief functions of police in Nigeria are:

1. Dramatizing state power
2. Legitimizing state power;
3. Maintaining order;
4. Controlling crime and
5. Labeling criminality.

At times these various functions are complementary and at other times they place conflicting demands upon police (Michalowski, 1985).

### **Dramatizing State Power.**

Police dramatize the power of the state. For most people police provide their most common source of contact with state authority. Whenever, we call on police to perform some service, are directed in traffic, are questioned as suspects or witnesses, we interact with representative of state power. This dramatization of power takes two forms. Symbolic and real The police officers' uniform, badge, and weapons are symbols of state power. They represent that portion of state power delegated to police. This ever present image of the authority of the state over our lives helps us take for granted that the state should exercise this power.

In addition to symbolic displays, the dramatization of state power also takes a more tangible form. As police officers actually exercise the power delegated to them, they reveal that power to us. When we allow ourselves to be directed in traffic by someone wearing "police uniform or allows a stranger into our home because we are shown a police badge, we experience firsthand the real power of the state to command our lives. When we read or hear about someone's being arrested by the police or perhaps injured or killed by the police in the process of arrest, we are presented with the very real and extraordinary power- including the exclusive right to use deadly force- delegated to police by the political state. Like the symbolic displays of state power these authoritative actions by police occur with such frequency that we come to take them and the power they represent for granted.

### **Legitimizing State Power**

Police not only dramatise the power of the state, they also serve to legitimize that power in several ways. First by controlling or appearing to control crime, police represent the power of the state to be a benevolent force used to preserve social peace and protect

- citizens from harm. In addition to controlling crime, the unquestioned power of the police is frequently used to deal with a variety of other problems of daily life. Egon Bittner contends that the common practice of "calling the cops" to deal with such things as domestic disputes, rowdy teenagers, neglected children, or even the undesirable behaviour of maids has developed precisely because police can employ their non negotiable authority to force a resolution to the situation (Bittner,1970). Both by responding to crime and helping individuals deal with other problems police tend to legitimize the view that the centralization of power in a political state that can then authorize its use by representatives such as police ultimately provides greater security for everyone.

### **Maintaining Order**

In Nigeria police are expected to maintain order; that is. insure that disruptions to normal patterns of interaction are brought under control. Maintaining order often requires that police do something about or "put a stop to" some immediate problem situation. This need to provide immediate solutions to trouble of one sort or another distinguishes police from other element of the justice system. Courts and correctional agencies are seldom involved in immediate problem situations. They normally act only after the troublesome event, such as a crime, has long since ended.

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34 Michalowsk, 1985

The expectations that police *do* something now has several important implications for police behavior. First it increases the likelihood that police will be involved in a variety of problem situations that are only slightly related or not related at all to matters

of law, as the agency charged with handling disturbances to normal patterns of social order, police are called upon to find lost children, block off areas where there might be some immediate hazard such as a gas - main leak or downed power lines, aid the injured, speed women in labour to the hospital and offer assistance in a multitude of other situations unrelated to the enforcement of the law.

Second the need to respond to an immediate problem situation increases the likelihood that police will rely on extra-legal remedies in situations that involve the personal violation of law. confronted with a person drunkenly staggering through heavy traffic a police officer may choose to simply see that the person arrives home safely by driving him there rather than resorting to the legal remedy of arrest. By doing so the police officer fulfilling the order maintenance aspect of his or her job, this ability of police to perform at least part of their job through the use of extra-legal remedies gives them greater discretion than most other justice system personnel. It also can create conflicts between the order maintenance and the crime control aspects of policing.

### **Controlling Crime**

The control of crime is the most dramatic and obvious function of policing. To most people crime control means investigating crimes and apprehending criminals, In actually these activities comprise only a small portion of what police do. It is estimated that the actual amount of time police officers spend on traditional crime control activities varies between about 20 and 30 percent of their time on the job (Joseph, 1971). However, the crime control function of modern police extends well beyond those activities related to conducting investigations and making arrests related to specific crimes. The crime control function of modern police is as much to act as a deterrent to potential lawbreakers as to identify and bring to justice actual offenders. To fulfill this function police need not arrest all lawbreakers or even a majority of them.

### **Labeling Criminality**

As the first officials to respond to crime situations, police play an important role in determining the effective limits of the law and deciding who will and will not be labeled as criminal. In the normal course of police activity, however, the task of labeling criminality is highly selective. Police department generally exercise jurisdiction only over those crimes most likely to lead to the arrest of working class citizens, particularly those who are poor, and artisans. Nigeria police most often focus on common crimes involving interpersonal violence; robbery, burglary and theft and public order offences such as intoxication, disorderly conduct, prostitution and narcotic violations.

This tends to produce a body of arrested and convicted offenders who are more often poor, undereducated and unemployed than the population at large.

The kind of crimes most likely to be committed by middle-class or elite citizens

such as fraud bribery and corruption,-price fixing, stock manipulation, false advertising deceptive marketing practices are generally beyond the jurisdiction of the local police. **POWERS AND DUTIES OF THE NIGERIA POLICE**

**POWERS AND DUTIES OF THE NIGERIA POLICE**

Section 214(2)(b) of the 1999 constitution (as amended) provides that the members of that Nigeria police force shall have such power and duties as may be conferred upon them by the law. The police Act and the criminal procedure Act (Criminal Justice Act, 2015), have made adequate provision in this regard. Section 4 of the police Act provides that:

*The police shall be employed for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations with which they are directly charged, and shall perform such military duties within or without Nigeria as may be required of them by or under the authority of this or any other Act.*

This section aptly captures the duties performed by the police in modern so societies. As for police powers, section 23 of the Act grants the police the power to conduct prosecution in any court subject to the powers of the Attorney-General as provided under section 174 and 211 of the 1999 constitution. A police officer has power under section 18(1) of the Administration of criminal justice Act (2015) to arrest without warrant. Under section 50 and 52 (Administration of *Criminal Justice Act*, 2015), he has power also to interpose for the purpose of preventing the commission of any offence or arresting such offender if the commission of the offence cannot otherwise be prevented section 108(1) (Ibid) also provides that in any trial or inquiry before a magistrate's court any prosecutor with the consent of the court, many, or on the instruction of the Attorney-General of the state in the case of any offence against a law of the state, at any time before judgment is pronounced or an order of committal is made, without from the prosecution of any person either generally or respect of one or more of the offences with which such a person is charged.

From sect 23 (Police, Act), it would appear that a police officer's capacity to institute criminal proceedings in any court is not fettered by any statutory provisions even though in practice the police tend to prosecute the bulk of their criminal cases in the court of summary jurisdiction, that is magistrate courts, thereby raising speculation as to whether they are prohibited from instituting prosecution in the High Court, It is submitted here that since there is no law yet prohibiting police from instituting criminal prosecution at the High Court, the police can as well conduct prosecution before the High Court, however subject to the power of the Attorney-General under the constitution.

Finally, the police have power to search the body of any person arrested or reasonable suspected of having in his possession a stolen property in accordance with section 9(1) and (2) of the Administration of criminal justice Act. They are also authorized by law to conduct a search of a thing such as vehicles and premises. The details of police power of arrest and search will be discussed in the preceding pages. But first let us examine fusion of police powers and duties.

**Fusion of Police Powers and Duties**

In the opinion of Amadi (2000), "it hardly requires a closer look to see that terms and it should be seen as such." The police has a variety of role in the society which through are not apparent from the duties outlined above but could be read into them. Though not explicitly stated, the police control traffic, act in an advisory capacity to disputants and even offenders, and render assistance in emergencies, such as engaging in fire-fighting and ambulance services, among other services rendered by the police. Indeed, the duty to preserve law and order or protect life and property or prevent and detect crime can be stretched to any lawful functions (such as stopping a citizen and enquiring from him about a recent commission of crime) as to encompass the so many roles the police play in society (Ibid).

It is observable from these powers and duties, that which duties involves work which a police officer is employed to do; powers is the instrument with which he carries out the work. Their complementary characteristics make it rather difficult to say which one-power or duty takes precedence over the other in the mind of a police officer. Bui one certainly guards a police officer to exercise his powers; the call of duty- In other words, the exercise of his powers entails a response to call of duty. That is to say that police

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35 Administration of *Criminal Justice Act*, 2015

36 Police, Act

37 Amadi (2000)

38 Ibid

powers and duties cannot be separated from each other. Both power and duty vest the police officer with a privileged status he enjoys under the constitution. It follows therefore, that a police officer cannot to all intents and purposes exercise his powers without simultaneously performing his duties or purpose or *versa*. Consequently, it was argued, and rightly so, that "any police officer properly acting in accordance with a power conferred upon him by law is acting in the execution of his duty (Madarikan and Agudu, 1974)"

The emphasis here is no "properly" if, therefore, a police, he may be doing his duties, but he' is certainly doing so in an unlawful manner (Amadi), An improper or unlawful exercise of power puts a police officer outside the protection of the law (Quinn, (1944)), in this regard there is no fusion of power and duty because the former is exercised of power to the detriment of the performance of duty. But this should not be the case, power must exist in symbiosis with duty in order to produce a good police officer, In other words, power and duty are supposed to attract equal consideration to a police officer while fulfilling his role under constitution.

### **Arrest Generally.**

Section 3 of the Administration of criminal justice Act, provides that, a suspected or defendant alleged or charge with committing an offence established by an act of the National Assemble shall be arrested, investigated, inquired into, tried or dealt with according to the provisions of this Act, except otherwise provided under this Act. Section 35(1) of the constitution, however provides that every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save, *infer alia*, upon reasonable suspicion of his having committed a criminal offence or to such extent as may be c reasonable necessary to prevent his committing a criminal offence. This implies that no man should be punished or be made to suffer in body except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land.

### **Mode of Arrest**

In making an arrest, the police officer or other persons making the arrest shall actually touch or confine the body of the suspect, unless there is a submission to the custody by word or action. In the leading case of *Fisher v. Oldham Corporation*, the court held that:

*The police force is a servant of the state, a ministerial officer of the central power, though subject, in some respects to local supervision and regulations; therefore, the police, in effecting an arrest and detention were not acting as the servants or agents of the defendants or complainants. They were fulfilling their duties as public servants and officers of the crown (state) sworn to preserve the peace by day and night, to prevent robberies and other felonies and misdemeanor and to apprehend offenders against the peace*

Against this background, it will be wrong and unlawful for any police officer to treat any arrest based only on the dictates of either the complainant or the suspect. The brief of an investigating police officer at all time is to determine to the best of his ability, based on the evidence available, whether or not a crime has been committed or about to be committed. He does not have to create one where there is none. The law provides for no unnecessary restraint. In that wise, a suspect or defendant may 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.

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39 Madarikan and Agudu, 1974)"

40 Quinn, (1944)

It is the duty of a police officer to notify a person of the cause of his arrest and his rights therein; except when the suspect is in the actual course of the commission of an offence or is pursued immediately after the commission of an offence 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 or the police officer in charge of a police station shall inform the suspect of his right 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 where applicable provided 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.

In the same vein it is prohibited to arrest a person in place of a suspect arrest may be fair or unlawful depending on the circumstances of each case. In *Christie v. Leachinsky*\* the court held that for an arrest to be lawful, the police must adequately respect the rights of the individual to liberty by ensuring that:

- i. They have some evidence to justify the arrest before it takes place.
- ii. They disclose to the person under arrest the reasons for his arrest or offence;
- iii. They release the person as soon as possible (within 48 hours) or where the need so justifies; iv. Bring him before the court within the specific period.

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Arrest may be made by a private person,' a police officer and a judge or magistrate. Arrest without warrant. Arrest is the first step in the process for bringing someone to trial for an offence and an arrested person can be held in police custody. The police can arrest a person if they have a valid arrest warrant. A warrant will state the grounds for the arrest, They also have power to arrest a person without a warrant if the person is:

- i. In the act of committing a crime or
- ii. Accused by an apparently credible without of being seen committing a crime or
- iii. Seen running away from the scene of a crime pursued by others
- iv. Threatening danger to the public or individual or
- v. Causing an offence to public decency

A police officer also has the power to arrest a person without a warrant on reasonable suspicion of commission of offence.

At common law a police officer may, without a warrant, arrest a person if

- a. The person is in the act of committing an offence under any Act or statutory instrument, or
  - b. The person has just committed any such offence, or
  - c. The person has committed a serious indictable offence, for which the person has not been tried,
- A police officer can therefore not arrest any person at common law unless the arrest is made on reasonable grounds for the purpose of achieving one or more of the following:
- a. To ensure the appearance of the person before a court in respect of the offence.
  - b. To prevent a repetition or continuation of the offence or the commission of the offence or the commission of another offence;
  - c. To prevent the concealment, loss or destruction of evidence relating to the offence;
  - d. To prevent harassment of, or interference with, a person who may be required to give evidence in proceeding in respect of the offence;
  - e. To prevent the fabrication of evidence in respect of the offence;
  - f. To preserve the safety or welfare of the person,

The police also enjoy the common law power to arrest or restrain during an occurrence or imminent breach of the peace. A breach of the peace occurs where harm is done or likely to be done to a person or in his presence to his property or where a person is in fear of being so harmed through an assault, riot, unlawful assemble or other disturbances.

A police officer relying on common law power to arrest with respect to breach of peace must reasonable anticipate an imminent breach of the peace. Keep in mind that a police officer who arrests a person under the common law must, as soon as is reasonably practicable, take the person so arrested and any property found on him before an authorized officer to be dealt with according to law. A police officer can only exercise this power of arrest lawfully where the offence is committed in his presence or where he suspects on reasonable grounds that an indictable offence has been committed. The law emphasizes that this power conferred on the police cannot be exercised without reasonable suspicion. In the case of *Chukwura vs. COP*, the court observed that, to justify an arrest on reasonable suspicion, evidence of the ground for that suspicion must exist and must be adduced and the test as to what is reasonable suspicion is an objective one. Interpreting this phrase, "reasonable ground" in the South African case of *Minister of safety and security v. Johannesburg Francois Swart*. The supreme court said that the arresting officer had no reasonable ground to arrest a person without warrant for driving under the influence of intoxicating liquor (or alcohol) if the only evidence for the arrest was the fact that he smelt alcohol and that his vehicle had left the road and landed on a ditch. The court therefore observed that:

- i. The reasonableness of the suspicious of any arresting officer must be approached objectively.
- ii. To conclude that the respondent was under the influence of alcohol based on the mere fact that he smelt highly alcohol, is more of a quantum leap in logic
- ii. It follows that the arresting officer suspicions was not based on reasonable
- iii. ground and therefore his arrest and detention were unlawful (Swart No. 194/11).

Section 10(1) of CPA (section 26 CPC) provides that a police officer can arrest without warrant any person whom he reasonably suspects of having committed an Indictable offence. He can also arrest a person who commits any offence in his presence or obstructs a police officer while in execution of his duty or escapes or attempts to escape from lawful custody. He is authorized under the same section to

- i. any person in whose possession suspected stolen property is found,
- ii. Any person suspected to be a deserter from any of the armed forces of Nigeria
- iii. Any person he suspects to be implicated in any act committed outside Nigeria which act is also punishable as an offence in Nigeria
- iv. Any person is possession of any implement of house breaking without lawfulexcuse
- v. A person against whom he believes a warrant of arrest has been issued by a court of competent jurisdiction ministry of safety and security
- v. Johannes Francors
- vi. Any person who has no ostensible means- of subsistence and cannot give satisfactory account of himself.

When a crime is committed the police may arrest and charge the following person as having taken part in the commission of the crime.

- a. Every person who actually does the act or makes the omission which constitutes the offence
- b. Every person who does or omits to do or act for the purpose of enabling or another person to commit the offence
- c. Every person who aids another in committing the offence
- d. Any person who counsels or procures any other person to commit the offence.

Article 5.1 of the European convention on Human Rights provides that;

*Arrest and detention are lawful whereat is effected to bring a person before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonable considered necessary to prevent his committing an offence or fleeing after having done so (European convention on Human Rights, 1950).*

In Nigeria the police normally make arrest either in response to a complaint lodged in the police station, or on tip-off about commission of offence. The police also make arrest during raids on person suspected to be engaged on illegal activities such as protests, demonstration riots, affray and traffic offences. These are the common occasions the police arrest. These are of course, occasions when a policeman effects arrest, on his own prompting by reason of suspicion of a person having committed an offence, but this is rare. The average police officer in Nigeria is yet to come to terms with this state of initiative. This notwithstanding, there are widespread cases of arbitrary arrests, sometimes, in substitution of the real offenders who might either be at large or escaped from jail.

### **Search**

The word search literally means looking or seeking out that which is otherwise concealed from the searcher. Search as a trial procedure is intended to obtain evidence with which to prosecute a person suspected of having committed offence. Thus, whenever a person is arrested by the police there is the tendency to search him so as to discover from him incriminating materials.

Section a (1) (Administration of Criminai Justice Act, 2015) provides that, 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

- a. May search the suspect, using such force as may be reasonable necessary for the
  - b. Shall place in safe custody all articles other than necessary warning apparel found on the suspect.
2. Where an arrested suspect is admitted to bail and bail is furnished he shall not subject to the provisions of section 11 of this Act, be searched unless there are reasonable ground for believing that he has on his person any:
- (a) Stolen article;
  - (b) Instrument of violence or poisonous substance;
  - (c) Tools connected with the kind of offence which he is alleged to have committed, or
  - (d) Other articles which may furnish evidence against him in regard to the offence which he is alleged to have committed',
3. Where it is necessary to search a suspect, the search shall be made decently and by a person of the same sex unless the urgency of the situation or the interest of due administration of justice makes it impracticable for the search to be carried out by a person of the same sex,
4. Notwithstanding the provisions of this section, a police officer or any other person making an arrest may in any case take from the suspect any instrument of violence or poisonous substance which he has on his person.

### **Inventory of Property of Arrested Suspect**

It is also the law, that a police officer making an arrest or to whom a private person hands over the suspect, shall immediately record information about the arrested suspect and on inventory of all items or properties recovered from the suspect. An inventory recorded shall be duly signed by the police officer and the arrested suspect, provided that the failure of the arrested suspect to sign the inventory shall not invalidate it. The arrested suspect, his legal practitioner, or such other person as the arrested suspect may direct, shall be given a copy of the inventory. Where any property has been taken from an arrested suspect a police officer may upon request by either the owner of the property or parties having interest in the property release such property\* on bond pending the arrangement of the arrested suspect before a court. And where a police officer refuses to release the property to the owner or any person having interest in the property, the police officer shall make a report to the court of the fact of the property taken from the arrested suspect and the particulars of the property. Subsequently, the court to which this report is made, may if of the opinion that the property or any portion of it can be retimed in the interest of justice to the safe custody of the owner or person having interest in the property, direct that the property or any portion of it be returned to the owner or to such person(s) having interest in the property. Where any property has

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41 Administration of Criminal Justice Act, 2015

been taken from a suspect, and the suspect is not charged before a court but is leased on" the ground that there is no sufficient reason to believe that he has committed an offence, any property so taken from the suspect shall be returned to him, provided the property is neither connected to nor a proceed of offence (ACJ Act, 2015). Search of place entered by suspect sought to be arrested.

Where a person or police officer acting under a warrant of arrest or otherwise having authority to arrest, has reason to believe that the suspect to be arrested has entered into or is within any house or place, the person residing in or being in charge of the house or place shall, on demand by the police officer or person acting for the police officer, allow him free access to the house or place and afford all reasonable facilities to search the house or place for the suspect sought to be arrested. Secondly where access to a house or place cannot be obtained, the person or police officer may enter the house or place and search it for the suspect to be arrested, and in order to effect an entrance into the house or place, may break open any outer or inner door or window of any house or place, whether that of the suspect to be arrested or of any other person or otherwise effect entry into such house or place, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance. Where the suspect to be arrested enters a house or place in the actual occupancy of another person being a woman who by custom or religious practice does not appear in public; the person making the

- a. Before entering the house or place, give notice to the woman that she is at liberty to withdraw; and
- b. Afford her every reasonable opportunity and facility for withdrawing, and may then enter facility for withdrawing, and may then enter the house or place, but the notice shall not be necessary where the person making the arrest is a woman (ACJ Act 2015).

### **Power of Police to Conduct Prosecutions.**

The police derives its power of prosecution under section 23 of the police Act which states:

*Subject to the provision of section 160 and 191 (174 and 21 i) of the constitution of the Federal Republic of Nigeria which relate to the power of the Attorney General of the Federal and of the State to institute and undertake, to take over and continue or discontinue criminal proceedings against any person before any court of law in Nigeria., any police officer may conduct in person all prosecutions before any court whether or not the information or complaint is laid in his name,*

This section gives the police officer wide powers subject only to the power of the Attorney General to institute and prosecute cases in any court whether or not the complaint is laid in his name, in practice, however, the police only institute and prosecute cases in the magistrate courts. Matters institute at the High court by police is normally taken over by the Attorney General In *Olusemo vs. CPO* ((1998) 2 NWLR) the information was filed by a police officer and the defendant argued that the police officer cannot file a case in the High court. The High Court held that the police can file a case in the High Court subject to the overriding power of the Attorney General who can take over the matter.

The authority of a police officer to prosecute a case also came up in the case of *FRN v. Osahon* in this case, the defendants/respondents were charged before the federal High Court for certain offences under the miscellaneous offences Act. 1984 by the prosecution/appellant police officers. The respondents filed a motion to

quash the charges on the ground that the prosecuting appellant police officers were not officers of the department of the Attorney general of the Federation who was the appropriate authority to prosecute. In his ruling Nwodo, J. of the Federal High Court, Lagos, dismissed the application and holding that the appellants were competent to institute the criminal proceedings. On appeal, the court of Appeal reversed the judgment and quashed the charges. On further appeal to the Supreme Court by the appellants, the Supreme Court by

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42 ACJ Act, 2015

43 *Olusemo vs. CPO* ((1998) 2 NWLR

a majority of five to two, allowed the appeal. Delivering its judgment by S.M.S. Belgore, JSC, and the court held:

That the appellant police officers were covered by the words "any other authority or Person" contained in section 174(1) of the 1999 constitution, they were competent to institute the criminal proceedings against the respondents (*FRN v. Osahon*, 2006).

### **III. SUMMARY**

By way of resume, this work, "criminal review of the duties of the-Nigeria Police" began with an introduction detailing the background to the study, statement of the problem; research questions; objectives of the study; method applied; relevance of the study; scope of the study and limitation of the study. This was followed by a review of related literature under sub-themes; summary of the review and a highlight of the observed gap in knowledge. Thereafter the paper looked at the established and structure of Nigeria police force; policing functions; duties and powers of the police such as arrest, search and prosecuting offenders. Finally the paper made some recommendations and conclusion.

### **IV. RECOMMENDATIONS.**

For Nigeria police to perform effectively it is recommended as follows.

1. Equipment:- the police force must be adequately equipped to perform the function effectively. The weapons must be modern, sophisticated enough to surpass that of the criminals. It must also include vehicles, computers, phones, CCTV camera, bomb detectors, among others.
2. Training:- Nigeria police should be subjected to regular training and retraining to acquaint themselves with modern weapons and strategies in crime fighting. At the moment the twelve month training course for a police cadet is not enough while the curriculum/police Manuel is inadequate as it does not cover a wide range of modern police techniques. It is suggested that a new police curricula should take care of terrorism and trained personnel to handle issues of terror and terrorists.
3. Prompt and adequate payment:- To minimize corruption, seen in the manner police demand money from road users, there is need to promptly and adequate pay members of the Nigeria police low pay and poor condition of service will cumulatively bring down the moral of the members of the Nigeria police force,
4. Finding:- To meet its needs to live up to expectation in crime detection and prevention, especially in this era of terrorism, the force's budget must double. Reforming the police requires considerable government commitment in funding. Government should support growth and development in the Nigeria police by investing heavily in the force. Police work is driven by intelligence, and therefore requires large funds for training equipment and improved conditions of work,
5. The police must be oriented to respect the due process of law. This will require a form of political education of the police, especially of the superior officers.
6. Discipline:- police Regulation (e.g. Regulation 326 and 359) concerning discipline of corrupt and eggs within the police should be strictly- monitored and applied
7. Maintaining synergy among other security Agencies. The police must endeavour to co-operate with other security agencies in the land to make their work more effective and to meet the best of global practices.

### **V. CONCLUSION**

Since the principle duty of police is to fight crime and prevent it. There is every need to take the above recommendations seriously. What we have reviewed here is just a small fraction of envious problems that lie in the way "of the effective operation of the Nigeria police force.

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44 *FRN v. Osahon*, 2006



**REFERENCE**

- [1]. Amadi, G.O.S., *Public Powers in Nigeria* (Nsukka: Afro-orbis Publication Ltd., 2000)
- [2]. Bohm, R. M., and Haley, K. N., *Introduction to Criminal Justice* (California: Glancee Graw Hill, 2002)
- [3]. C.F.L Members Standard Police Studies Manual Vol. 1, *Police and Law Enforcement*, 2nd edition (Benin: Koda Publishers, 1982)
- [4]. Dambazau A. B., *Criminology and Criminal Justice*, (Ibadan, Spectrum Books, 2007)
- [5]. Dempsey, J. S. And Forst L.S., *An Introduction to Policing* third ed. (Australia: Thomson Wadsworth, 2005)
- [6]. Francis A., *Essentials of Government for West Africa* (Ibadan University Press, 1982)
- [7]. Michalowsk, R. J., *Order, Law and Crime: An Introduction to Criminology*, (New York: Randoms House, 1985)
- [8]. Okoro B. C., *The Public, Law and Your Rights* (Lagos, Town Publishing Co., 2013) Oluyede P., *Constitutional Law in Nigeria*, (Lagos: Evans Brothers, 1992)
- [9]. Phelps S. (Ed.) *World of Criminal Justice Vol. 2 NO 2* (Detroit: Sale Group Thompson Learning, 2002)
- [10]. Smith E., *Public Systems in the United States* (New York: Harper and Row, 1960)
- [11]. *The New International Webster's Comprehensive Dictionary of the English Language*, Enciclopedia edition, (Florida: Typhoon International Corp., 2003)
- [12]. Wrobleski, H. M., and Hess K. M., *Introduction to Law Enforcement and Criminal Justice*. 8th ed, (Australia: Thomson Wardsworth, 2006)
- [13]. Bittner, E., *The Functions of the Police in Modern Society* (Washington D.C.: National Institute of Mental Health, 1970)
- [14]. Bittner E., *The Functions of the Public in Modern Society; A Review of Background Factors, Current Practices and Possible Role Models* (Rock Ville: National Institute of Mental Health, 1970)
- [15]. Gromwell, P.F., In: B.C Okoro, *the Police, Law and Your Rights*, (Lagos: Princeton, 2013)
- [16]. Human Right Watch (2010) Report on the Nigerian Public available in [www.nigeriapublic watch.com/](http://www.nigeriapublicwatch.com/) accessed on 28<sup>th</sup> December, 2016
- [17]. Joseph Livermore, "Policing" *Minnesota Law Review*, 55 (1971)
- [18]. Smith, E., *Public Systems in the United States* (New York: Harper and Row, 1960)
- [19]. *The State (Creation and Transitional Provisions) Decree No 14 of 1967*

Njoku Donatus Ikechukwu, et. al. "A Critical Review of the powers of the Nigeria Police under the Act." *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*, 26(03), 2021, pp. 09-25.