

THE ROLE AND CHALLENGES OF THE POLICE IN THE ADMINISTRATION OF JUSTICE IN NIGERIA

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Abstract

The study examined the historical emergence, duties and powers and the professional practices of the Nigeria police within the administration of criminal justice system in Nigeria together with its nature, prospects and challenges. These were with a view to strengthening the administration of criminal justice system in Nigeria. The study relied on primary and secondary sources of information. The primary source comprised the successive Constitutions of the Federal Republic of Nigeria, judicial decisions, and various statutes enacted for an enhanced administration of Criminal Justice System in Nigeria more particularly, the Administration of Criminal Justice Act, 2015, Nigeria Police Act, 2020 and so on. The secondary source of information included books, journal articles, newspapers and magazine publications and; the internet. Data collected were subjected to content analysis. The study found that there exists in Nigeria both internal and external problems bedeviling the role of police in the administration of criminal justice system in Nigeria. It also found that if the Criminal Justice System in Nigeria would achieve the expected objective culminating in their existence, the challenges of corruption must be decisively addressed. The study concluded that though there are several challenges that are currently hindering the efficiency and effectiveness of the police in the Administration of Criminal Justice in Nigeria, quick intervention from government can assist in ameliorating the situations. There are several laws that have been put in place to ensure an improved, better, and speedy administration of Criminal Justice System in Nigeria, unless concerted efforts are made by the stakeholders in the administration of criminal justice system in Nigeria, certain bottle neck in the bureaucratic plane would not allow effective application of laws bringing the needed reform.

Keywords: Police administration, criminal justice, arrest warrant, police reforms.

1.1 Introduction

The success of any system of criminal justice administration depends largely on the efficient discharge of the obligations imposed by law on agencies involved in criminal justice delivery. The Police Force is one of those agencies.¹ The Police are predominantly responsible for the

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maintenance of public order in a state. It is the responsibility of the police to ensure the maintenance of law and order, preserve societal values, protect lives, liberty and properties of the people.² In the same vein, the Police are the first contact in the administration of criminal justice system as they are responsible for arresting offenders, gathering needed evidence to prosecute offenders, deciding if and what charges will be filed, and charging offenders to court where need be.³ Hence, it cannot be overemphasized, that without the existence of the Police, there would be disorder, anarchy and disarray in the society. The people would live in a state of nature where life would be vicious, brutish and uncivilized. Verily, one's safety and liberty are guaranteed by the law, but this is only in theory, practically, the laws are implemented by the Police. The Nigeria Police Force is a creation of law entrenched in the Constitution of the Federal Republic of Nigeria (as amended) under Section 214 (1) as follows:

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

The Constitution further provides that the Nigeria Police Force shall be organized and administered in accordance with such provisions as may be prescribed by an Act of the National Assembly and that the members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by the law.⁴ Pursuant to Section 214(2) (a) & (b) of the Constitution, the Nigerian legislature enacted the Police Act⁵ which provides for the establishment of Police Force and also specifies in details the duties and functions of the Nigerian Police. Section 3 of the Nigeria Police Act [NPA 2020] provides that “there shall be established for Nigeria a Police Force to be known as the Nigeria Police Force.” Section 4 of the NPA 2020 provides that the Police shall

- (a) prevent and detect crimes, and protect the rights and freedom of every person in Nigeria as provided in the Constitution, the African Charter on Human and People's Right and any other law;
- (b) maintain public safety, law and order
- (c) protect the lives and property of all persons in Nigeria.

¹ W. A. Adebayo ‘Nigerian Police: Structure, Powers and Functions’ in T.F Yerima & B. Abegunde (Eds) *Essays on Administrative Law in Nigeria*, (Petoa Educational Publishers 2006)

² Ibid

³ E. E. O. Alemika and I. C. Chukwuma “Police-Community Violence in Nigeria” in Lecture delivered at Centre for Law Enforcement Education, Lagos and the National Human Right Commission, Abuja Nigeria (2000).

⁴ Section 214(2)(a) & (b)

⁵ The Nigeria Police Act 2020 repealed the Police Act, Cap 19 Laws of the Federation of Nigeria 2004

- (d) enforce all laws and regulations without any prejudice to the enabling Act of other security agencies.
- (e) discharge such duties within and outside Nigeria as may be required of it under this Act or any other law.
- (f) collaborate with other agencies to take necessary action and provide the required assistance or support to persons in distress, including victims of road accidents, fire disaster, earthquakes and floods
- (g) facilitate the free passage and movement on highway, roads and street open to the public; and
- (h) adopt community partnership in the discharge of its responsibilities under this Act or under any other law; and
- (i) vet and approve the registrations of private detective schools and private investigative outfits

Apart from the Constitution and the NPA 2020, the duties imposed on the Nigerian Police can be located in a number of other statutes such as Criminal Code Act,⁶ Administration of Criminal Justice Act 2015 [ACJA 2015] and Customs and Excise Management Act⁷ among many others.

1.1 Brief History of the Nigerian Police Force

The amalgamation of Northern and Southern Nigeria in 1914 was a precursor to the formation of the present Nigeria Police Force on April 1, 1930, with it headquartered in Lagos, commanded by an Inspector-General of Police.⁸ Nigerians assumed the overall leadership of the force in 1964 when Louis Orok Edet was appointed the first indigenous Inspector General of Police. Since then, fourteen other Nigerians, including the incumbent, Kayode Adeolu Egbetokun, have all been at the helm of the Police affairs. As it stands today, The Nigerian Police Force is a creation of S 214 (1) CFRN which makes it a national force with the power to solely operate throughout the country. Thus, by virtue of Section 4 of Police Act 2020, power is conferred upon the force for the maintenance of law and order throughout the country. The Nigerian Police has a centralized management command structure in which the Inspector-General of Police is saddled with the operational control of the force. As the head of the Force, the Inspector General of Police is appointed from among some serving top hierarchy of the Force. The appointment is made by the President based on the advice of the Nigeria Police

⁶ Cap C38 Laws of the Federation of Nigeria, 2004

⁷ Cap C45 Laws of the Federation of Nigeria, 2004

⁸ A. Akano 'The Police, Rule of Law and Human Rights: The Police Perspective' in Tamuno, Bashir, Alemika and Akano (editions) *Policing in Nigeria; Past, Present and Future* (Malthouse Press Limited 1991) 440

Service Commission.⁹ It is noteworthy that from the colonial period to date, the role of Nigeria Police has been quite reflective of the political, economic and social development in the country. In other words, the character roles, and priorities of the Police in the country are principally determined by the changing nature of the political and economic structure of the country at different times. As earlier emphasized the duties and power of the Nigeria Police Force are statutory. They are created by the Constitution of Federal Republic of Nigeria¹⁰ but can also be found in other statutes. For the current purpose, some of these powers will be discussed as hereunder:

2.1.1 Power to Investigate Crimes

Police investigation is the foundational efforts for assembling of evidence for the prosecution of a criminal case. Though by virtue of section 66 of the Nigeria Police Act 2020, police power of prosecution is well donated, it is noteworthy that preliminary to the exercise of the prosecutorial power in criminal investigation. During investigation, the Police exercise an extensive power to do a number of things which include power to take measures to prevent crime,¹¹ power to arrest,¹² power to interrogate suspect,¹³ power to interview witnesses,¹⁴ power to search properties and person in order to prevent crime, detect and apprehend offenders and collect evidence for prosecution,¹⁵ power to grant bail to suspects pending the completion of investigation and before arraignment in court,¹⁶ power to serve summons,¹⁷ Power to disperse illegal and unlawful procession and assembly.¹⁸

2.1.2 Power to Arrest

To make an arrest is ‘to deprive a person of his liberty by legal authority; taking under real and assumed authority custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand’¹⁹. Arrest is the starting point in criminal proceedings and the Police are empowered by Section 3 of the Administration of Criminal Justice Act (2015) and Section 32 of the Police Act 2020 to arrest an offender unless there is a submission to

⁹ P. Ahire, *Imperial Policing: The Emergence and Role of the Police in Colonial Nigeria 1860-1960* (Open University Press, 1991) P. 40

¹⁰ Constitution of Federal Republic of Nigeria 1999 as (altered), s 214

¹¹ Nigeria Police Act 2020 ss 4 (a) & 83; see also Administration of Criminal Justice Act 2015 s 50

¹² Ibid, s 40; see also ACJA 2015 s 89 [n 10]

¹³ Ibid, s4, s42; see also ACJA 2015 s 18 [n 10]

¹⁴ Ibid

¹⁵ See NPA 2020 ss 4, 49, 50, 51 & 52; see ACJA 2015 ss 9-12

¹⁶ NPA 2020 s 60; see also ACJA 2015 ss 30 & 31

¹⁷ NPA 2020 s 65

¹⁸ See provisions of Public Order Act and Criminal Code Act s 72.

¹⁹ Garner Bryan, *Black's Law Dictionary* (7th edition, West Group 1999)

custody by word or action. There are essentially two types of arrest; arrest with warrant and arrest without warrant. The power of Police to effect arrest with or without warrant often depends on the nature of the offence. Sections of the law creating offences in respect of which an offender cannot be arrested without warrant usually stipulates so,²⁰ so that it will be clear to any police or other officer intending to effect an arrest that a warrant is needed.

2.1.2.1 Arrest with Warrant

A warrant of arrest is an authority in writing issued by a court to a Police Officer or any other person to arrest an offender and bring him before the court to respond to the allegations made against him.²¹ The warrant is usually issued by a Magistrate or a Judge of a High Court after complaint on oath has been received that a person has committed an offence.²² A warrant of arrest must be in writing signed by the Magistrate or Judge and must contain necessary particulars such as date of issue, the person to whom it is directed and it may be issued on Sunday or public holiday²³

A warrant of arrest once issued remain in force until the named offender therein is arrested or until it is vacated or revoked by a Magistrate or a Judge.²⁴ However, if an arrest has been made on the authority of the warrant but the person arrested escapes or is discharged, he cannot be re-arrested with the same warrant until a new one is issued. Irregularity in the issue of warrant of arrest does not render the warrant invalid or nullify the trial of the offender arrested thereunder, unless it can be shown that a miscarriage of justice has in fact been occasioned by such error, omission or irregularity²⁵

2.1.2.2 Arrest Without Warrant

Police officers are empowered by law to arrest offenders without warrant particularly the serious ones.²⁶ This is to avoid any ugly situations in which offenders will be allowed to escape arrest. It will be ridiculous for a Police officer to go in search of a warrant when a person is committing felony in his presence, such an offender would surely escape. Therefore, a Police officer can effect an instant arrest without warrant in the following instances and on the

²⁰ Criminal Code Act s 376

²¹ ACJA 2015 s. 35 see [n 10]

²² Ibid s.35, *Ikonne v COP* (1986) 4 N.W.L.R (pt 36) 473

²³ Ibid s.35, 36, and 37

²⁴ Ibid s.35 (2)

²⁵ *Mottatadonu v Ahu* (1995) 8 N.W.L.R (pt 412) 225 at 238; Section 382 of the Criminal Procedure Code

²⁶ ACJA 2015, S 18, Criminal Procedure Code s.26, Nigeria Police Act 2020 s 32; *Dallison v. Coffrey* (1964) 2 ALL E.R 1203; *Associated Provincial Picture House Ltd. V. Wednesbury Corporation* (1948) 1 K.B, 224

following persons:

someone whom he suspects on reasonable ground of having committed an offence against a law in Nigeria or against the law of any other country, unless the law creating the offence provides that the suspect cannot be arrested without a warrant; who commit any offence in his presence.; who obstructs the Police officer while in the execution of his duty or who has escaped or attempts to escape from lawful custody; in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to the thing; whom he suspects on reasonable grounds of being a deserter from any of the armed forces in Nigeria; whom he suspects on reasonable grounds of having been involved in an act committed at a place outside of Nigeria which, if committed in Nigeria, would have been punished as an offence, and for which he is, under a law in force in Nigeria, liable to be apprehended and detained in Nigeria; having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of housebreaking, car theft, firearm or any offensive or dangerous weapon; whom he has reasonable cause to believe a warrant of arrest has been issued by a court of competent jurisdiction in Nigeria; found in Nigeria taking precaution to conceal his presence in circumstances, which afford reason to believe that he is taking such precaution with a view to committing an offence; whose arrest a warrant has been issued or whom he is directed to arrest by a Judge, Magistrate, Justice of the Peace or superior police officer; whom he reasonably suspects to be designing to commit an offence for which the police may arrest without a warrant, if it appears to him that the commission of the offence cannot be otherwise prevented or²⁷; required to appear by a public summons issued under this Act or any other Act.

The power conferred on a Police officer to arrest any person who commits an offence in his presence by Section 26 (a) of the Criminal Procedure code is absolute. It is not subjected to the limitation contained in Section 18 of the ACJA. It has been held, with reference to Section 18 of the ACJA that grounds for reasonable suspicion may be borne out of a Police officer's personal knowledge or facts stated to him by another person.²⁸ Under Section 3 of the ACJA, and Section 26 of the Criminal Procedure Code (CPC), a police officer is empowered to arrest any person who is suspected to have committed an offence and who refuses to give full particulars about himself. And by section 26(e) of the CPC, the Police are also authorized to arrest any person known to be proposing to commit an offence if it appears to a police officer that the commission of such offence cannot be otherwise prevented.

2.1.3 Power to Conduct Searches

After a police officer has made a lawful arrest, he is empowered to conduct searches both on the

²⁷ Section 26 of Criminal Procedure Code

²⁸ *I.G.P v Ogbomor* (1957 W.R.N.I.R) P 140

person arrested and even on the premises.²⁹ The word “search” can be defined as ‘an examination of a person’s body, property or other area that the person would reasonably be expected to consider private, conducted by a law enforcement officer for the purpose of finding evidence of crime.’³⁰ A search is intended to seek out anything that is hidden, which is unlawful or even though lawful, is the evidence of a crime.

The essence of search is to obtain evidence upon which a conviction can be secured; therefore, it is important and essential to criminal investigation and prosecution. Furthermore, a search may be by way of medical examination of the body of a person suspected to have committed a crime. The medical examination may be conducted by a qualified medical practitioner at the request of a police officer or any other person under the direction of a medical practitioner or police officer.³¹ Under section 49 the Police Act, a police officer has power to detain and search a person whom he reasonably suspects of being in possession of stolen property.³² However, in conducting a search on a woman, it is the requirement of the law that the search will be conducted by another woman³³ and it is indecent and unlawful for a woman while searching the body of another woman, to fondle, caress or violate her person.³⁴ However, it is lawful for a man to search other thing attached to the person of a woman such as handbags, briefcases etc. It is the rule that for premises to be searched a search warrant must be issued out to such Police officer except if a person to be arrested under a warrant of arrest is suspected of being in a premises, a police officers can enter such premises and search for the person without a warrant³⁵ and it is required that search must be conducted in the presence of two respectable residents of the neighborhood sent for by the person to whom the search warrant is addressed. A police officer may detain and search any person whom he reasonably suspects of having in his possession or carrying in any manner, anything, which he has reason to believe to have been stolen or otherwise unlawfully obtained.³⁶ A search warrant is usually procured upon information on oath and is issued by a magistrate upon being satisfied that a reasonable ground exists for believing that any building, ship, carriage is being used for the commission of an

²⁹ ACJA 2015, s 9, Criminal Procedure Code s 44

³⁰ Garner .B. *Black’s Law Dictionary* (7th edition, West Group 1999) p 1351

³¹ Ibid, see Criminal Procedure Code s 127

³² Custom and Excise Management Act s 150

³³ See Criminal Procedure Code s 82, see also Customs and Excise Management Act. S 150 (2)

³⁴ Criminal Procedure Code Section 82

³⁵ Ibid, see the Criminal Procedure Code, Section 34

³⁶ Nigeria Police Act 2020 55 and 56

offence.³⁷ A police officer of the rank of Cadet ASP can also issue a search warrant. This power however, is limited to the issuance of warrant in respect of a shop, warehouse or other premises which within the preceding 12 months was occupied by any person convicted of receiving stolen property or of harboring thieves.³⁸

2.1.4 Power to Prevent Crimes

Pursuant to Section 4 of the Police Act which provides that ‘the police shall be employed for the prevention and detection of crimes, the apprehension of offenders and preservation of law and order.’ It may be stated that the most crucial aspect of police role is the detection and prevention of crimes and it is in fact by reason of the importance of the law attached to this role that the police has been given wide power under the relevant statutes.

Under Section 50 of the Administration of Criminal Justice Act 2015, ‘every police officer may interpose for the purpose of preventing and shall to the best of his ability prevent the commission of an offence’. It is further provided that every police officer receiving information of a design to commit any offence shall communicate such information to the police officer to whom he is subordinate and to any other officer to whom he is cognizance of the commission of any such offence.³⁹ A police officer is authorized to arrest any person whom he finds committing a breach of the peace of whom he believes on reasonable grounds about to join or renew the breach of peace

2.14.1 Power to Grant Bail

Bail is a basic constitutional right guaranteed by Section 35 of the Constitution. To grant bail is a security such as cash or a bond; security required by a court for the release of a prisoner who must appear at a future time.⁴⁰ When bail is granted, a suspect, an accused or a convicted person is granted temporary release from custody, pending the conclusion of investigation, the determination of the case against him, or the determination of his appeal against conviction.

The police are empowered under Section 62 of the Police Act 2020 to grant bail to arrested person where it is impossible to bring them to court within the time prescribed by the law. The basis of the power is in Section 35(4) & (5) of the Constitution of the Federal Republic of

³⁷ ACJA 2015, Section 144 [n 10]

³⁸ NPA 2020, Sections 55 and 56 [n 10]

³⁹ ACJA 2015, section 51

⁴⁰ Garner .B. *Black's Law Dictionary* (7th edition, West Group 1999) p 135

Nigeria (1999 as amended) which disallows the police from detaining suspects beyond a maximum period of 48 hours.⁴¹ There is really no formal procedure for making an application for bail but in practice it is usually in the court of superior records while an oral application is allowed in the court of inferior records such as Magistrate Court. Usually a person is granted bail by the police upon his entering into recognizance, with or without sureties, to appear at a police station or court on a subsequent date stated in the recognizance.

The application for bail at the police station is made in writing, either the suspect or his surety makes it. Upon application for bail, the suspect may be admitted to bail with or without conditions. Where conditions for bail are stipulated, the suspect must satisfy the stated conditions before he is released. Any suspects who fail to satisfy the condition set for his bail will remain in custody, and given that it is the accused person's duty to satisfy the bail conditions, his continued detention will not amount to a violation of his constitutional right.⁴²

2.1.4.2 Power to Conduct Criminal Trial

Section 66 of the Police Act 2020 provides thus:

Subject to the provision of Section 174 and 211 of the Constitution of Nigeria and section 106 of the Administration of Criminal Justice Act which relates to powers of the Attorney General of the Federation and of a State to institute, take over and continue or discontinue criminal proceedings against any person before any court of law in Nigeria, a police officer who is a legal practitioner may prosecute in person before any court whether or not the information or complaint is laid in his name. A police officer may, subject to the provision of the relevant criminal procedure laws in force at the Federal or State level, prosecute before the courts of law those offences which non-qualified legal practitioner can prosecute

In relation to section 66 of the Nigeria Police Act 2020, it is clear that the power vested in the police to conduct criminal proceedings thereunder is subject only to the power of the Attorney-General of the Federation or the Attorney-General of a state to institute, undertake, take over, continue or discontinue criminal trials in courts in Nigeria.

Apart from this limitation there is no law that says the police can only conduct criminal proceedings in the inferior courts. The Supreme Court, per Tabai J.S.C held in *Uwagba v F.R.N*⁴³ that when words used in a statute are clear and unambiguous, the court will, in keeping

⁴¹ *Eda v COP* (1982) 3 N.C.L.R 219

⁴² *Ibid*

⁴³ (2009) 15 NWLR (pt 1163) 91 SC

with a fundamental canon on interpretation, accord them their natural meanings and the provisions of Section 66 of the Police Act is so clear in its spirit and intendment that it can only be accorded its natural, literal and grammatical meaning. The decision of the Court of Appeal in *Ajakaiye v F.R.N.*⁴⁴ Saulawa J.C.A, states thus, on the power of the police to conduct criminal proceedings:

By the virtue of the provision of Section 23 of the Police Act,⁴⁵ any police officer has the power to conduct in person all prosecution before any court of law in Nigeria whether not the information or complains is laid in his name. However, the exercise of such power is strictly subject to the well set out provisions of Sections 160 and 190 of the 1979 Constitution and now Sections 174 and 211 of the 1999 Constitution.

2.2 Fundamental Flaws of Nigerian Police

The Nigeria Police Force is saddled with the responsibility of maintenance of law and order. It also prevents, and investigate criminal activities. In discharge of these duties, the force has over the years failed and this is by the virtue of inherent flaws and challenges that have influenced the force in its application of its power as having been statutorily provided. Some of these flaws are:

- a. The abuse of human rights, collection of bribes, corruption in the force, indiscriminate shooting of suspects and fellow policeman, illiteracy and incompetence of certain police officers.
- b. There is police lawlessness which begins with small irregularities or illegalities such as disquieting features of committing crime of falsifying crime records against accused persons. These sorts of events, actions or inactions indulged in by the policeman show an open disregard for the principles of the rules of law and civilized conduct which adversely affect police discipline and make mockery of the Nigeria Police Force generally.
- c. There are also the problems of police extortion at road checkpoints, mounting of illegal roadblocks, arbitrary arrest and detection, torture of detainees, administrative cover-ups of crimes committed by the police force in the course of discharging their duties.

3.1 The Challenges of the Police in the Administration of Criminal Justice

The Police is saddled with much responsibilities when it comes to prevention and detection of

⁴⁴ (2010) 11 NWLR (Pt 1206) 500

⁴⁵ Now section 66 of the Nigeria Police Act 2020

crimes in the society. However, it cannot be said that Police are carrying out these responsibilities religiously, and this failure of the Police is as a result of the challenges facing the Police in the discharge of their duties. In Criminal Justice System, there are self-inflicted challenges caused by the Police that slow down the entire administration of criminal justice in Nigeria as a whole. Under this heading, the institutional constraint of the Nigerian Police, and major challenges of Nigerian Police in Criminal Justice System shall be discussed.

3.1.1 Institutional Constraint of the Nigerian Police and Criminal Justice System

(a) Police Organization and Management

Organization and management of police forces in terms of vertical and horizontal decentralization and coordination of authority have implications for police behaviour, performance and image.⁴⁶ The nature of rules of policing established by the police force, adherence to these rules, rewards or punishment for compliance or non-compliance to these rules influence police discipline, integrity, effectiveness, performance and legitimacy, including public estimation and support.⁴⁷ The Nigeria Police Force needs to do a lot more in developing its organizational and managerial capacity to meet demands and challenges of policing in the country.⁴⁸

(b) Police Personnel Management

The rules and provisions for recruitment, training deployment, remuneration, promotion, discipline and pension and retirement affect police discipline, performance and image.⁴⁹ In Nigeria, these aspects are not given adequate and continuous attention. Supervision and coordination are generally lacking. Corruption, partisan and parochial considerations have contaminated the process and decisions relating to recruitment, deployment and promotion in Nigeria Police Force, thereby dampening motivation and commitment to excellence, sacrifice and integrity in police work.⁵⁰ But a particularly healthy development that indicates an emerging new Nigeria Police is the increasing number of highly qualified people in the Police

⁴⁶ Walker Samuel, *A Critical History of Police Reform: The Emergence of Professionalism* (Lexington Books 1977) 170.

⁴⁷ Wesley G. and Susan M., *Community Policing Chicago Style*. (Oxford University Press, 1977) 52.

⁴⁸ Tamuno .T., *The Police in Modern Nigeria* (University of Ibadan Press, 1970) 100.

⁴⁹ Arase J. and Iwufor, *Policing Nigeria in the 21st Century* (Spectrum Books, 2007).

⁵⁰ Akano A., 'The Police, Rule of Law and Human Rights: The Police Perspective' in Tamuno, Bashir, Alemika and Akano (editions) *Policing in Nigeria; Past, Present and Future* (Malthouse Press Limited 1991) 440.

force and who are gradually being given leadership position. If properly nurtured, this may in fact be an important factor in the development of a new Nigeria Police that is in harmony with the community it serves. But the corrupt elements that have long been embedded in the country's police force may still extinguish the new light, if the Police Service Commission and the police leadership fail to nurture the positive development.

(c) Information Management

The ability of a police force to manage information relating to socio-economic and political trends and to relate such information to trend, pattern and severity of crimes will determine its capacity to plan and implement crime prevention and crimes control policies, strategic plans and operations.⁵¹ Furthermore, the ability of a force to disseminate appropriate information about crime patterns and trends, police efforts and handicaps at promoting crime prevention and control will affect police-public relations, public support for police as well as police efficiency. The Nigeria Police Force has continued to neglect this critical area, resulting in operational strategies being dependent on guesses instead of science or systematically produced and acquired knowledge.

(d) Personality of Police Personnel

The personality of a police officer exercises influence on his or her behaviour, performance and relationship with the public.⁵² This is the reason why in many societies, potential recruits are subjected to a number of psychological and other tests with a view to determining their emotional stability and social relation competence. The Police Service Commission and the Nigeria Police Force need to review the recruitment process in order to ensure that only those that can meet the challenges of police work in Nigeria, at present and in the near future are recruited. It will be a waste to recruit an individual who do not possess adequate academic qualification, strong emotional and moral qualities and a patriotic commitment to Nigeria, in an age or era characterized by computer crimes, sophisticated and technology assisted financial crimes, piracy, terrorism and espionage.

(e) Police Culture

A constellation of structural, institutional and personality factors create what has been

⁵¹ Rotimi K, 'Local Police in Western Nigeria: End of an Era in Policing in Nigeria' in Tamuno, Bashir, Alemika and Akano (editions) *Policing in Nigeria; Past, Present and Future* (Malthouse Press Limited 1991).

⁵² Ibid.

variously referred to as police culture. Police ‘working’ and culture result from the elements of police-work danger, authority and isolation.⁵³ Police work breeds solidarity and occupational pathology characterized by ‘perception of the public as uncooperative, unsupportive and antagonistic toward the police. In Nigeria, this engenders a tendency by the police to protect each other’s criminality and misconducts. As a result, the integrity of the police is undermined and a culture of impunity is thereby entrenched.

3.1.2 Major Challenges of the Nigerian Police and Criminal Justice System

3.1.2.1 Brutality and Extra-Judicial Killings

The Nigeria Police have been accused variously of brutality and extra-judicial killings.⁵⁴ Most of these incidents go uninvestigated and unpunished because the police in doing these acts exploits public anger at the high crime rates in the country to justify their actions claiming the victim was an armed robber killed in a shootout or while trying to escape police custody.⁵⁵ Investigations are rarely carried out. When investigations do take place, they do not comply with international standards while the others who are suspected of extrajudicial executions are never punished.⁵⁶ Police usually deny detainees of their legal rights to lawyers. Rather they are detained for weeks or months in police custody before they are charged and brought before a court. Suspects are usually executed, particularly when they cannot offer bribe. This situation is made worse by the inability of most families to pay for a lawyer or court fees.⁵⁷ Brutality and extra-judicial killings by the Police led to nationwide protest by the Nigerian youth in the month of November 2020 requesting for the disbandment of the Special Anti-Robbery Squad known as SARs. The said Protest forced the section of the Police to be scrapped by the Inspector General of Police.

⁵³ Ibid

⁵⁴ See a report released by the *Bureau of Democracy, Human Rights and Labour*, which is under the United States Department of State released on Monday, February 28, 2005 and obtained on Tuesday, March 8, 2005 from the Public Affairs Section of the U.S Embassy in Lagos (The report on Nigeria titled’’ Country Reports on Human Rights Practices-2004’’

⁵⁵ Police Force Order 237 Permits Officers to Shoot Suspects and Detainees Who Attempt to Escape or Avoid Arrest. In Practice, its Lets the Police Get Away with Murder.

⁵⁶ E.E O. Alemika ‘Policing and Perception of Police in Nigeria’’ *Police Studies* 11 (4), 161-176 (1998)

⁵⁷ E.E O. Alemika, ‘Police, Policing and Rule of Law in Transitional Countries’ in Lone Lindholt, Paulo de Mesquita Neto Danny Titus and E. Ethanibi, E.E O. Alemika (eds) *Human Right and the Police in Transitional Countries*, the Hafue: Kluwer Law International (2003)

3.1.2.2 Disobeying Court Order and Non-Execution of Court's Judgment

The Nigeria Police has also been accused of selective execution of court judgment.⁵⁸ This is a product of lack of professionalism which in turn is birthed by poor recruitment policy. All these eventually affect the quality of manpower and the training administered and engenders a general atmosphere of indiscipline.⁵⁹

3.1.2.3 Police Corruption

A major contemporary issue of regular discussion in relations to policing in Nigeria is the extent of corruption. There are many competing definitions of police corruption. The term has been used to describe many activities such as bribery, brutality, fabrication and destruction of evidence and nepotism.⁶⁰ Dantzker views police corruption as the misuse of authority by the police acting officially to fulfill personal needs or want. According to him, for a corrupt act to occur, three distinct elements must be present (a) Misuse of authority; (b) Misuse of official capacity; and (c) Misuse of personal attainment.⁶¹ In the word of Onwubiko, forms or types of corruption include:

improper political influence; acceptance of gratuities or bribes in exchange for non-enforcement of laws..... particularly those relating to gambling robbery, traffic offenses, prostitution and liquor offences, which are often extensively interconnected with organized crime; the fixing of traffic tickets; minor thefts; and occasional burglaries.⁶²

A more extensive list of forms of police corruption has been identified, they include:⁶³ Favouritism, which although is committed for a form of gain that is not materially tangible, nevertheless the actions do result in clearly identifiable benefit for the policeman in question. Acts of favouritism involve the misuse of police discretionary power, such as allowing a person to avoid the consequences of illegal acts.⁶⁴ Bribery is the most common example of police corruption. It involves the payment of money or some other material good in return for protection from law enforcement. Most of the acts of bribery are similar to acts of favouritism

⁵⁸ E. Onwubiko, *The Nigeria Police and Judiciary; Friend or Foe*; the Guardian (Sunday July 2004) at 38

⁵⁹ Ibid

⁶⁰ Tim Newburn, *Criminology* (Taylor and Francis, 2007)

⁶¹ Mark L. Dantzker *Understanding Today's Police* (Prince-Hall) P 157

⁶² E Onwubiko (n 58)

⁶³ T. Sayed, and D. Bruce, 'Inside and Outside Boundaries of Police Corruption' (African Security Review, Vol. 7, No. 2 1998)

⁶⁴ Ibid

except that the former result in materially tangible gain.⁶⁵ *Extortion* is said to be a form of bribery, but it involves a more aggressive pursuit of corrupt money, in which the police use their powers to create opportunities for corrupt gain. Kickbacks relate in general to the more administrative or bureaucratic sides of police work. They are usually in the form of giving favourable treatment in respect of the provision of a legitimate service, and they take place in interaction with workers in areas related to police function and responsibilities with members of the general public.⁶⁶ *Diversion of Police Resources* involves the use of police resources and powers for private purpose.⁶⁷ *Deceptive Practices* involve the employment of ‘deceptive’ illegitimate law enforcement ends, in order to fraudulently enhance the performance of either the police officer concerned or others, or to gain some special bonus and so on.⁶⁸ Corruption in the Nigeria Police is pervasive; it is a continuing problem; and that it is found at all levels and ranks of the Nigeria Police Organization. What then are the causes of police corruption in Nigeria, or what factors influence the corruption? In the final analysis, there are many competing explanations for police corruption, including dishonest and faulty recruitment; faulty training and supervision; political influence; death of professional standards; society’s demands for illegal services; poor welfare and administration; and socialization of new recruits into corrupt practices.⁶⁹

3.1.2.4 Human Rights Violation

Another problem of the police is human rights violations which include police brutality. A human right is defined as something which no one may be deprived of, without great affront to justice. Human rights include “those rights which are inherent in our nature and without which we cannot live as human beings”⁷⁰ it means that there are certain deeds which should never be done, certain freedoms which should never be invaded, some things which are sacred in human relationships. In short, these rights are fundamental as spelt out in Chapter IV of the 1999 Constitution. Although the rights must be protected, they are not absolute, because the

⁶⁵ Ibid

⁶⁶ Ibid

⁶⁷ Ibid

⁶⁸ Ibid

⁶⁹ S. G. Ehindero “The Nigeria Police in National Security”, Lecture delivered at the National War College, 21-22 (26 January 2006)

⁷⁰ M. Tabiu and Ladan, “Human Rights and Prison System in Nigeria” (1998) *National Human Rights Commission*, 9.

exigencies of state society or national survival might demand qualification or even abrogation of the rights as may be necessary in given circumstances.⁷¹

3.1.2.5 The Police Power of Bail

The police power of bail is another area where the police has been found wanting. The police are empowered to arrest persons upon reasonable suspicion of their having committed a crime⁷² though there are situations where a person suspected of committing a crime might not be arrested, but issued a summons to appear in court. There are various statutory provisions giving the police the power to release arrested persons on bail. Generally, these provisions deal with two situations. The first situation is where investigations have not been completed and secondly where the investigations have been concluded. Despite the above, the police make arrest even where there are no reasonable grounds to do this and would refuse to admit to bail unless payment is made.⁷³ Other challenges that prevent the Police from adequately carrying out their duties include the following:

(a) Inadequate or Obsolete Equipment

A visit to the police station would reveal the magnitude of this challenge ranging from dilapidated buildings, to insufficient office spaces within the building down to furniture, uniform and kits. It is a different matter altogether when the consideration shifts to patrol vehicles, communication facilities, equipment and computers. The Nigerian Police Force lack modern weapons needed to combat violent crimes compared to the superior weapons used by the criminals and that is why they mostly decline to respond to a distress call or arrive late at the scene after the crime has been completed and the suspects long gone.

(b) Inadequate Training

Most of the police officers are not well trained in the art of combating crimes, proper investigation of crimes, and what it entails in adequately questioning and interviewing a suspect. This has been a serious bane in the administration of police force in Nigeria, good training is necessary.

(c) Recruitment Process

Recruitment is a process of accepting potential applications for placement into specific job in an organization and this has been one of the major challenges affecting the Nigeria Police

⁷¹ C. E. Osita, *Human Rights in Africa; Some Selected Problems* (Macmillan, 1984) 5-6

⁷² CFRN 1999, s 35

⁷³ I.E Okagbue, "Bail Reform in Nigeria" (NIAL/Caltop Nigeria, 1996) 14-15

Force because at inception the Police Force does not accept the best in the society.

(d) Abuse of Statutory Power

The Police force has in most cases abuse their statutory powers, particularly the power of arrest. The police power of arrest is indeed wide and justifiable only on reasonable suspicion that an offence is committed or likely to be committed. While the object is to ensure effective crime prevention and detection, there is an underlying assumption that the police would apply these powers judiciously. However, this has not been the case, the power of arrest has become the most abuse of police power.

(e) Poor Police Remuneration

This is another notable factor that has engendered awful delivery by police officers in performing their constitutional duties. There have been cases where senior police officers have deprived junior officers the right of increment in salary.

(f) Inadequate Manpower

The Nigerian Police in the modern age seem to be handicapped in the face of current realities. It has been noticed that despite the teeming police personnel, the force is still bereft of manpower in certain quotas. There have been situations in which the police complain of shortage of staff when issues are reported to them.

4.0 Conclusion

The police play a vital role in the administration of justice. In fact, one wonders what the polity would be without the police. The role of the police which is predicated on constitutional and statutory provisions, include the maintenance of law and order through the prevention and detection of crime, apprehension of offenders, the investigation of persons alleged to have committed an offence as well as through the exercise of the power to grant bail to suspects under police custody. The police also participate positively in the administration of justice by conducting prosecutions as well as defending police officers facing trials in court. Furthermore, the police are engaged in the execution or enforcement of court orders and judgments. In doing so, they enhance the honour, respect and integrity accorded the court by compelling the performance and obedience to orders made by the court. It can therefore be said without equivocation that no criminal justice system can operate effectively without the participation of the police. This is so even with the obvious and flagrant committed by members of the police force. It goes without saying that the Nigeria Police have been striving to maintain peace, order

and good governance over the years, but they are seriously saddled with a lot of challenges. The Nigerian Criminal administration of justice system is besieged by a host of challenges among which are poor and ineffective criminal investigations. Though with the introduction of Administration of Criminal Justice Act 2015, some measures have been introduced to ensure speedy dispensation of criminal cases in court, the provision of section 1 of Administration of Criminal Justice Act summarized the object of the whole law. Delay in the duplication of files by the Police to the Ministry also serves as a clog to speedy dispensation of justice. On so many occasions, the suspect can be in the custody for more than three years and yet information will not be filed at an appropriate court which is clothed with jurisdiction to entertain the suit. The problem of delay in the prosecution of a suspect leads to the problem of congestion/overcrowding of inmates on awaiting trial in the correctional or custodial homes. The government of the day is very much concerned with the issues of security. The general public are anxious with lack of efficient maintenance of law and order and blame both the police and the government for not providing adequate security for the protection of lives and properties. Although the government are trying their best to satisfy these yearnings by embarking on several reforms of the Police Force but, it appears as if the problems are overwhelming. The way forward is to ensure that the Police, civil society, government and other stakeholders to put all hands on deck to address all matters of security because the maintenance of law, peace and order lies on everybody in the country

5.0 Recommendations

While finding a solution to the problems of funding for the police, government must also devise ways of dealing with the challenges of the police force and corrupt tendencies of the leadership of the organization. The following recommendations are hereby proffered as regards to challenges to the administration of criminal justice by the Nigeria Police Force listed above:

- (i) There is need to amend the provision of Section 215(3) and (4) of the 1999 Constitution of Nigeria. These provisions relate to the powers of the Federal Government regarding the control of the police relative the state governments. These provisions have been a source of controversy as well as conflict between the governors and the federal police authority. The provisions of Section 215(4) of the 1999 Constitution of Federal Republic of Nigeria (as altered) (CFRN 1999) appear to undermine the powers and integrity of the state governor relative to the management of the police. Thus, it is recommended that the provision be

amended to confer on the state governors being the chief security officers for their respective states power to be able to give directive to the Nigeria police for the contingent in their states and such directives to be promptly carried out without seeking approval from either the president or ministers.

(ii) The police should be properly equipped with modern and sophisticated equipment. Government must provide good condition of service to the police, this includes recruitment of adequate number of policemen, attractive salary and accommodation. This will improve the image of the police and thereby boosting their morale.

The police force should be properly equipped with modern and refined equipment. The government should provide good condition of service to the police; this should improve the image of the police and thereby boost their morale. The government should provide adequate logistics means that would contribute to the effective and efficient delivery of the police service.

(iii) Government is expected to provide good condition of service to the police force and this include attractive salary. This gives them the morale to carry out their duties well and to an extent would curb the menace of bribery.

(iv) All the security agencies in Nigeria particularly the police, the armed forces, state security service and so on must cooperate and complement other in the administration of justice in Nigeria. To facilitate this, a coordinating mechanism should be put in place that should encourage sharing of security information, tips and intelligence. This mechanism will equally stamp out rivalry which presently is one feature amongst security agencies in Nigeria. Once this is achieved, law enforcement agencies in Nigeria rather than being reactive will become more preventive in their approach as obtainable in other advanced jurisdictions

(v) Finally, improving the quality of the Nigerian police in the administration and provision of security cannot be resolved by proliferation of ad hoc committee, panels or task force, there is no alternative to putting in place a permanent mechanism as have been recommended herein to address the challenges of law enforcement and administration justice in Nigeria.