



FACTSHEET

DECEMBER 2018

Comparison Between the Existing Police Act, Cap P.19 Laws of the Federation of Nigeria 2004 (Enacted 1943) and Police Bill, 2018 (SB.682) Sponsored By Senator Ibn Na'allah

INTRODUCTION

This factsheet contains a comparison of the provisions of the Police Act, Cap P.19, Laws of the Federation of Nigeria and the Police Act (Repeal and Re-enactment) Bill, 2018 (SB. 682). The bill was read the second time and referred to the Senate Committee on Police Affairs in July 2018 for further legislative action. The Committee has resolved to conduct a Public Hearing on the Bill to enable stakeholders make meaningful inputs before its passage into law. It is hoped that this factsheet will aid citizens' understanding of proposed changes to the law.

POLICE ACT	POLICE BILL (SB.682)
Part I- Short Title and Interpretation Contains definitions of key terms in the Act such "commissioner" "constable" "court" "police officer" etc.	Part I – Preliminary » Sets out proposed guiding principles of the bill, which include efficiency and effectiveness, accountability and transparency, protection of human rights and fundamental freedoms and partnership. » States the objectives of the bill to include: ensuring a people friendly Nigerian Police; embodying the values of accountability, fairness, justice and equity in Police operations; Police responsiveness, respect by Police of the dignity of all persons, safeguard of the fundamental rights in the Constitution; fostering of cooperation and partnership between the Police and the communities it serves; and respect for victims of crime and an understanding of their needs
Comments The proposal in the bill appears to be aimed at setting out a mission for the Police. This has been identified as a gap by police reform experts who indicate insufficient articulation of the mission of the police force in the Police Act as a gap. According to CLEEN Foundation's Legal Diagnostic of the Police Act, <i>"The Act is not simply a legal authorization for the police to act. It is also business and managerial authorization. It should guide the operations of the police and define its culture."</i> ¹ Recommendations here include that the law should capture the expectation of the new kind of police Nigeria requires and focus on modelling a new police service that works in partnership with the communities. The bill addresses this.	

¹ See Review of the Nigerian Police Act 1943: Legal Diagnostic and Draft Bill by CLEEN Foundation on <http://new.cleen.org/Legal%20Diagnostic%20on%20Police%20Act.pdf>.

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Part II- Constitution and Employment of the Force This part sets out the general duties of the police. Section 4 provides six broad functions for the Nigeria Police Force without more. They include: » Crime Prevention; » Detection and apprehension of offenders; » Preservation of law and order; » Protection of life and property; and, » Enforcement of all laws and regulations with which they are directly charged. These include laws and regulations made by federal, state and local governments. » Performance of such military duties within or outside Nigeria as may be required of them by, or under the authority of this or any other Act. Section 5 provides for the Constitution of the Force to include an Inspector-General of Police (IGP), such number of Deputy Inspectors -General (DIG), Assistant Inspectors -General (AIG) as the Nigeria Police Council considers appropriate, a Commissioner for each State of the Federation and such ranks as may, from time to time, be appointed by the Nigeria Police Council. Section 6 provides that the Force shall be under the command of the Inspector-General, and contingents of the Force stationed in a State shall, subject to the authority of the Inspector-General, be under the command of the Commissioner of that State. Sections 7 and 8 sets out the duties of the DIGs and AIGs, but not the IGP.	Part II- Establishment and Duties of the Police Also sets out the general duties of the Police Clause 4 of the bill expands on these duties to include among others: • protection of the rights and freedom of every person in Nigeria as provided in the Constitution, the African Charter on Human and Peoples’ Right, and any other law; • provision of humanitarian assistance for citizen(s), facilitation of movement on highways etc. without subjecting citizens to extortion, and adoption of communist partnerships. • Adoption of community partnership in the performance of the duties provided under this section Part III of the Bill Clause 6 provides for the Hierarchy of the Force to include an Inspector-General of Police, and this includes stipulation of a Deputy Inspector -General, not such number of Deputy Inspectors-General as contained in the existing Act. The DIG and Assistant-Inspectors Generals (AIGs) will be appointed by the Police Service Commission and shall be subject to due process for removal. It further sets out in clause 7, the appointment procedure and qualification requirements for the person to be appointed as IGP - a Senior Police Officer not below the rank of an Assistant Inspector General of Police with the requisite academic qualifications of not less than a first degree or its equivalent in addition to professional and management experience. The appointment procedure includes a formal application, nomination by the Police Council, appointment by the President from the Council’s recommendations and Senate confirmation. The removal process for the IGP would only be occasioned by misconduct, gross violation of the constitution or demonstrated incapacity to effectively discharge his/her duties. This process includes investigation by the Police Council and Senate approval. When appointed, the IGP will have a 5-year tenure.

Section 9 establishes the Nigeria Police Council as stated in the Constitution i.e. the President, Governor of each State, Chairman of the Police Service Commission and the IGP. Section 9(4) and (5) specifically provides that the President shall be charged with operational control of the Force and the IGP shall be charged with the command of the Force subject to the directive of the President. Section 10 of the Act, in line with section 215(3) & (4) of the Constitution authorises the President and Governor of a State to issue directions on maintenance of public safety and order to the IGP or Commissioner of Police as the case may be and mandates them to comply with same.	The bill retains the provisions on the Nigeria Police Council in Clause 5 as any alteration here would first require Constitution amendment. It also retains the provision requiring the Permanent Secretary in the Police Affairs Office in the Presidency to be the Secretary to the Council and for the Secretariat of the Council to be in the Police Affairs Office of the Presidency. Clause 10 defines the powers and duties of the IGP, which includes development of a yearly financial plan for the Police and establishment of Police training centres. Clause 12 mandates State Commissioners to establish community police fora in the States under their command subject to the directions of the State Governor.
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Comments

Police reform panels have often advocated for a tenured position and qualifications for the position of IGP, including a removal process for the office, which the bill captures. Section 215 of the Constitution provides for appointment and removal of the IGP without prescribing appointment qualifications or a removal procedure. The bill's attempt to fill this gap is commendable however, it may be subject to legal debate on whether this should be done in the Police Act or via Constitution amendment.

The CSO Panel on Police Reform found that the NPF is structured in a way that over-centralises its operations arguing that too many decisions begin and end on the desk of the IGP. The existence of seven Deputy Inspectors-General (DIGs) who function as the heads of departments at headquarters is described as being unwieldy - often working against the stability in the NPF, as all the DIGs see themselves as prospective IGPs as the IGP has no security of tenure.²

The Nigerian Police Council is meant to provide general supervision of the NPF and provide a key role in its organisation and administration, but they do not meet regularly in practice.

It has been suggested that the powers of the functions of the Nigeria Police Council be expanded to include receiving and deliberating reports pertaining to policing matters and on security concerns. The DanMandami Police Reform Report³ recommended that the Council should meet regularly, at least quarterly, to formulate and review police policies. The rationale is that if such regular meetings afford State Governors the opportunity to make valuable inputs into the administration of the Police, it would give them a sense of ownership and reduce the tendency to demand for creation of State Police or Vigilante organisations. It was noted in that report that the Government accepted this recommendation, but never implemented it. Making this a statutory requirement could ensure compliance.

2 See also Report of CSO Panel on Police Reform in Nigeria at: <http://www.noprin.org/CSO%20Panel%20Final%20Report.pdf>

3 See "Motions Without Movement" Report of Presidential Committees on Police Reforms in Nigeria. Available at: <http://new.cleen.org/Report%20of%20Presidential%20Committee%20on%20Police%20Reform.pdf>

POLICE ACT	POLICE BILL (SB.682)
Part III- General Administration Part III sets out provisions on general administration e.g. Oaths to be taken by officers on appointment, enlistment, re-engagement, appointment of supernumerary police officers Section 14 provides that a Constable shall on appointment be enlisted to serve in the Police for three years or for such other period as may be fixed by the Police Service Commission.	Part IV- General Administration The bill includes training requirement provisions in this section. Clause 15 increases the enlistment period to five years or for such other period as may be fixed by the Police Service Commission. It further provides for enlistment of Professionals from the relevant fields of criminology psychology, sociology, Law, medicine, pathology, etc. into the service; requirement of psychological evaluations and specialised training in any professional field relevant to policing and law enforcement during the enlistment period. Clause 19 mandates all police officers to undergo periodic training and retraining in basic policing and law enforcement courses as well as specialised courses relevant to law enforcement. Also, the Inspector – General, in consultation with the Police Service Commission, shall be responsible for the revision of the training, duration as well as content of police training at least once in every five years.
Comments The training and specialisation requirements in the bill appear to be aimed at addressing the lack of specialisation and what many term the “general duty policy” of the Police. The CSO Panel found that with the exception of a few, upon enlistment, officers are made to carry out all duties, irrespective of their areas of specialisation. The Panel further observed that <i>the “lack of career trajectory in the NPF has turned most police officers in Nigeria into ‘jacks-of-all-trades’ who in the end, are not able to master any.”</i> The provision on periodic training and retraining and revision of training content by the IGP avoids specifying a constraining time limit in the law. This provision would require a consequential amendment of Regulation 103 to the Police Act, which provides for 3-6months as the training period for recruit constables. One recommendation from the CSO Panel is the introduction of specialised training on policing of gender crimes.	

POLICE ACT	POLICE BILL (SB.682)
PART IV – Powers of Police Officers -Section 23 gives police office prosecutorial powers, but subject to the Attorney’s Generals power to institute and take over criminal proceedings. -Section 24 provides for cases where an officer can arrest without warrant. It further references arrest without warrant provisions in the Criminal Procedure Act (CPA) (now repealed and overtaken by the Administration of Criminal Justice Act-ACJA) 2015.	PART V – Powers of the Police Officer -Clause 20 attempts to qualify the power of prosecution in section 23 of the Act by subjecting the police officer’s power to conduct prosecutions to relevant criminal procedure laws in force at the federal level and in a state regarding prosecution by non-qualified legal practitioners. It further requires that every Police Division have at least one police officer that is qualified to practice as legal practitioner.

-Section 25 provides for power of an officer to arrest without having a warrant in his position, service of summons by an officer (section 26) and bail of persons arrested without warrant (section 27). The bail provisions also reference the CPA and require the Police to take a suspect before a magistrate as soon as possible, or otherwise, release the person on bail. -Section 28 confers powers on a superior police officer to instruct any officer to search premises (with or without a warrant) for property believed to be stolen and to seize same. There is no threshold for such belief or suspicion nor requirement to show probable cause. -Section 29 confers power to detain and search suspected persons on reasonable suspicion, but without safeguards. -Section 30 provides for powers to take fingerprints, impressions and photographs, which includes a requirement for the Police to obtain the Order of a magistrate where a person refuses to subject himself to such records being taken, as well as, a provision requiring that the records be destroyed or given to a suspect who has been discharged or acquitted.	-The bill attempts to update the Police Act by making references to the Administration of Criminal Justice Act (ACJA) 2015. For instance, Clause 22 mentions that in addition to section 18 of ACJA which deals with cases where the Police can arrest without warrant, the Police can arrest any person that is found committing a felony, misdemeanor or simple offence, or is suspected by the Officer of having committed or is about to commit a felony, misdemeanor or breach of the peace. -Clause 25 requires that persons arrested are taken into custody before a court, which has jurisdiction with respect to the offence with which he is charged as soon as practicable after he is taken into custody. It further makes provisions on bail. -Clause 26 provides for cases where the Police can apply for extension of detention or remand of a suspect i.e. to preserve evidence or interrogate him/her. In such cases, the Police can apply to the court pursuant to section 293 of ACJA. Such application must be made within 48 hours of the arrest. The Court must also determine such application within 48 hours. -Clause 29 provides for powers to search premises and includes a prohibition on violation of human rights in the course of the search. -Clause 30 makes provisions on search warrant safeguards i.e. provisions on conditions to be satisfied before a search warrant can be issued e.g. the grounds for the warrant, the premises to be searched, etc. -Clause 31 provides for issue and execution of search warrants and its endorsement upon execution. Clause 32 provides for power to detain and search a suspected person or vehicle: • where the police officer has reasonable grounds for suspecting that a person is in possession of or conveying anything the officer is believed to be stolen or unlawfully obtained; • where reasonable grounds for suspicion exists that such person or vehicle is carrying an unlawful article; • where reasonable grounds for suspicion that incidents involving serious violence may take place within a locality; • where information has been received as to a description of an article being carried or of a suspected offender; and
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	• a person is carrying a certain type of article at an unusual time or in a place where a number of burglaries or thefts are known to have taken place recently It adds however in Clause 33 that certain personal attributes shall not be grounds for reasonable suspicion, including: • a person's colour, age, hairstyle or manner of dress; • previous conviction for possession of an unlawful article; or • stereotyped images of certain persons or groups as more likely to be committing offences. -Clause 34 provides for actions to be carried out by a police officer before a search occurs i.e. the Officer must be in uniform and wear a visible Police identity card and must inform the person in charge of the vehicle of his/her name, police station, object and grounds of the search. -Clause 36 mandates the Officer to record details of the search and provide a copy to the person to be searched while Clause 37 provides for a National Search Record Form containing details of a search. -Clause 38 provides for powers to take fingerprints, photographs, measurements. Note: Power to take finger prints etc. is contained in section 15 of ACJA. Unlike ACJA, the bill however further requires the Police to store such fingerprint impressions and measurements in a retrievable format and hand over to a suspect who has been discharged or acquitted. It also requires a police officer to approach a court to compel a suspect in lawful custody who refuses to submit him/herself for such records to be taken. Public Rallies & Processions Clause 39(3) prohibits the Inspector General of Police or the Commissioner of Police or their lawful delegates from unreasonably disallowing members of the public, the right to hold peaceful rallies, processions and assemblies in public highways, buildings or spaces.
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	. Subsection (4) provides for police personnel to provide security cover for such meeting, rally or procession. In cases where the organisation decides to proceed with a rally against Police advice, the Police is required to obtain a court order to prevent the rally- Clause 39(5.)
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Comments

This is one of the most significant parts of the bill as it addresses police powers *vis-a-vis* human rights and due process safeguards. The power to search and arrest under the current Police Act is not detailed and contains no procedural safeguards. The Administration of Criminal Justice Act, 2015, however makes detailed provision on these. Parts 3 (section 35-49) and part 18 (sections 143-157) of ACJA contain provisions on arrest and search warrants while Part 19 (sections 158 to 188) contains detailed provisions on bail and recognizance. Unfortunately, ACJA does not have general application across the country and is yet to be domesticated in many States. The bill tries to improve on arrest and search warrant provisions, but falls short of extensive provisions of ACJA. In addition, it lacks necessary foundational provisions such as cases where a search can take place without a warrant. Further, it alludes to the existence of an arrest warrant without making detailed provisions on it.

In common law countries such as the United Kingdom and Australia, persons can only be arrested if a judge or a magistrate issues a warrant. This principle is subject to exceptions, including when the offence is being or about to be committed. For instance, in England, a constable may arrest, without a warrant, anyone who is about to commit or is currently committing an offence (or anyone the constable has reasonable grounds to believe is about to commit or currently committing an offence). Similarly, most civil law legal systems only authorise police officers to arrest people without giving prior notice to a judge when the suspect is in the course of committing an offence. Under any other circumstances, police officers need to inform the Public Prosecutor.

The law should provide better clarity on the circumstances under which a warrant must or must not be issued. The bill (as well as ACJA) reads as if arrest without warrant were the rule and the arrest with warrant the exception. International best practice requires that such provision should clearly lay down procedural requirements (an arrest warrant must be issued by a judge/magistrate) and then list the exceptions under which such a warrant is not necessary (e.g. *flagrante delicto* – *caught in the act*). On police powers to arrest without warrant in possession, best practice is that a police officer should not arrest a suspect over which a warrant has been issued without being in the possession of the warrant at the time of the arrest.

POLICE ACT	POLICE BILL (SB.682)
PART V-Property Unclaimed, Found or Otherwise Section 31 provides the procedure to be followed by the Police in cases of property found and unclaimed, which includes obtaining a court order to deliver it to a claimant or sale where the owner cannot be ascertained.	PART VI-Property Unclaimed, Found or Otherwise Clause 40 improves on this by mandating the Police to keep records of such property in a register, make public announcements, about the property to enable the rightful owner to claim it within a stipulated time frame, and public auction where the property remains unclaimed. Clause 41 makes provision for documentation of arrest witnesses and death in Police Station. This includes a requirement for the Inspector General to give a quarterly report to the Police Service Commission of the number and identity of persons who were killed or wounded during police operations across the country; or died in police custody.

	Clause 42 requires employers to notify the Police of a missing employee or persons under their control within 24 hours of the person's disappearance.
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Comments

On documentation of arrest witnesses and death in Police Station, it is good practice to include a provision that the police officer shall "report the incident promptly to their superiors", who should ensure that "proper investigations of all such incidents are carried out"⁴. This responsibility is omitted in the bill as presently drafted.

POLICE ACT	POLICE BILL (SB.682)
Part VI- Miscellaneous provisions Section 33 sets up the Police reward Fund to be made up of: (a) all monies forfeited by order of a superior officer on members of the police for offences against discipline; (b) all fines levied for assaults on members of the police; (c) one third of any fees paid by members of the public in respect of extracts from reports made by the police; (d) one third of any fees paid in accordance with Standing Orders for the services of police officers who would otherwise be off duty; Purpose of the fund: (a) to reward members of the police for extra or special services (b) for procuring comforts , conveniences or advantages for members of the Force which are not authorised to be paid for out of moneys provided by the Federal Government; (c) for payment of ex gratia compassionate gratuities to widows or children of deceased members of the Force;	PART VII-Other Provisions Retains the Police Reward Fund and sources of funding but amends the use of the funds as follows: - <i>to reward members of the police for exemplary services;</i> - <i>such other purpose as may be determined, from time to time, by the Nigerian Police Council.</i> The use of the funds is subject to the rules for the time being in force under section 23 of the Finance Control and Management Act and shall be applied and disbursed at the direction of the Inspector General, based on criteria laid by the Nigeria Police Council. <i>New provision on Recognition and commendation for gallant and exemplary service (Clause 89)</i> Police officers who have distinguished themselves with their outstanding performance in the discharge of their duties shall be duly honoured and recognised for their gallant and exemplary service by the Police Force either by recommendation for national honours; through public presentation of awards and certificates of exemplary service from communities and civil society; or by the police setting aside a day or week in every year to celebrate outstanding performance by its officers and to remember their fallen heroes. <i>Private business and conflict of interest</i> Clause 47 amends the existing provision to say that while still in service, a police officer shall not directly be involved in managing and running any private business or trade except farming.

⁴ See, for example, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Principles 4, 5).

(d) for making ex gratia payments towards the funeral expenses of any member of the police who dies in the service of the Force. Section 36 expressly prohibits police officers from holding appointment or engaging in any private business or trade without the written consent of the Nigeria Police Council.	
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Comments

Reward and Recognition in the Police is one of the recommendations made by the several Reform Panels. The CSO Panel found that there is no system of rewarding police officers for outstanding service; but rather, there is a focus on national awards to the Police leadership, which often neglects frontline police officers. The Panel therefore recommended that deserving officers of lower rank should be prioritised.

On disbursement of the reward fund, it is important to highlight the need for prudent management and accountability to avoid corruption risks. *Note: The Finance Control and Management Act of 1958, which the Fund is subject to is also an outdated legislation in need of review.*

POLICE ACT	POLICE BILL (SB.682)
Part VII - Offences This part lists a number of offences that may be committed by police officers while on duty, and they include: - starting a mutiny; - causing or joining in any sedition or disturbance whatsoever; - fails to suppress a riot; - having knowledge of a mutiny or sedition and not informing his superior officer promptly; - strikes his superior officer in the execution of his duty; - deserts or aids or abets the desertion of any constable from the Force; or - provides false information on enlistment of a previous conviction for a criminal offence or of government employment	PART VIII - Offences The bill retains these offences but includes as an offence, the taking of intoxicating liquor or using psychotropic substances while on duty. This offence extends to persons who sell such substances to an officer, harbours such officer or tries to induce the officer with money, gift, spirits, liquors, psychotropic substances or stimulants to commit a breach of his duty Such person shall be guilty of an offence and liable on conviction to one month in prison with or without an option of fine not less than ten thousand naira - Clause 52 Clause 48 (3) adds that in discharging his duty, a police officer shall not discriminate against any Nigerian, based on the person's place of origin; gender, socio-economic status, ethnic, political or religious affiliation; or any form of disability; and shall not use such language, or act in such a way that suggests a bias towards a particular group.

It further provides for a number of offences that may be committed against police officers while on duty, including: - Assaulting a police officer; and - Refusing to aid a police officer who is being assaulted. Other listed offences include impersonation of a police officer, obtaining admission into the Force by fraud.	
Comments The list of offences that may be committed by police officers appears to be limitative in its present form and ought to be amended to leave the possibility of adding other offences to the list, including corruption, fraud, use of excessive violence, etc.	

POLICE ACT	POLICE BILL (SB.682)
PART VIII- Regulations and Standing Orders Section 46 provides that the President may make regulations on the recommendation of: - <i>the Nigeria Police Council with respect to the policy, organisation and administration of the Force, including establishments and financial matters, other than pensions</i> - <i>the Police Service Commission with respect to appointments to offices in the Force, promotion, transfer, dismissal and disciplinary control of officers .</i> Section 47 empowers the President to make standing orders for the good order, discipline and welfare of the Force after consultation with- - the Nigeria Police Council with respect to the policy, organisation and administration of the Force, including establishment and financial matters other than pensions - the Police Service Commission with respect to any matter relating to appointments to offices in the Force, promotion, transfer, dismissal and discipline of members of the Force.	PART IX- Regulations and Standing Orders The bill retains most of the original provisions but amends the following : » The Minister supervising the Police (not the President) is empowered to make Regulations. » The Police Service Commission is empowered to make Standing Orders for the appointment, promotion, and discipline of members of the Police. » The Inspector General of Police is empowered to make Standing Orders relating to operational control of the police.

The Police Service Commission, with the approval of the President, may make such standing orders as they may think fit and proper with respect to any matter relating to the duties and operational control of the Force.	
Comments The Police Regulations and its regular review is a key component of review of the Police Act as it contains detailed provisions on enlistment, and more importantly, provisions that affect women police officers. Examples are provisions that discriminate against women police officers by directly or indirectly excluding them from certain aspects or types of training, prohibiting them from getting married without written consent of their Commissioner of Police, and discharging of pregnant unmarried police officers etc. These provisions are in conflict with constitutional provisions against discrimination and should be repealed. Other provisions, such as Regulation 121 of the Act, which provides for certain general duties of women police officers e.g. investigation of sexual offences, presence where women or children are being interviewed by male officers etc. should not be interpreted as limiting the role of women police officers. Overall, the Police Bill hardly addresses how to integrate gender into internal police oversight. Provisions should be added with a view to: » Building the capacity and representativeness of internal oversight actors within the police service; » Monitoring the implementation of gender-responsive policy within police services Oversight of police services for women, men, girls and boys; » Preventing and addressing sexual harassment and discrimination within the police; » Preventing and addressing police misconduct against members of the public. Finally, it is important for the law to mandate a regular review of the regulations to ensure that it is up to date and in line with modern and best practices.	

OTHER PROVISIONS

POLICE ACT	SB. 682
Part IX- Application Provides for application of the Act to persons already serving in the Police Force.	PART X- Application Same. Provides for application of the Act to persons already serving in the Nigeria Police Force.
X - Special Constables Makes provisions for appointment, allowances etc. of a special constabulary to perform certain duties.	Deleted
PART XI – Traffic Warden Service Establishes the traffic warden service and provisions guiding them.	PART XII – Traffic Warden Service Establishes the Traffic Warden Service

SB. 682

PART XI – Community Police Forums and Boards

This is a new part establishing community police forums, divisional and state community police boards to maintain partnership between the community and the Police, promote communication, improve rendering of police service, promote co-operation and improve transparency and accountability in the provision of police services.

It shall be made up of representatives of the local community in the state of jurisdiction.

The objectives of the forums and boards as stated are to:

- a. maintain a partnership between the community and the Police;
- b. promote communication between Nigeria Police and the community;
- c. promote co-operation between the Police and the community in fulfilling the needs of the community regarding policing;
- d. improve the rendering police service to the community; and
- e. improve transparency and accountability in the provision of police services to the community.

This bill adds that this provision shall not prevent Police liaison with the community by means other than Community Police Forums and Boards.

Comments

Community Policing is a concept that has gained popularity although it is understood in different ways by stakeholders. Community support and participation are critical to improving police performance, fighting crime and obtaining public ownership of police reform programs.

Some however misconstrue it as community-based policing where communities often set up their own security initiatives e.g. vigilante groups. Such initiatives have been criticised for having no legal rules guiding them. Because such groups are often not subject to due process standards, it creates a potential for abuse.

The MD Yusufu Police Reform Panel Report⁵ and Dan Mandami Panel Report noted the need to adapt community policing to suit Nigeria's peculiarities and for the government to formulate a community policing policy and framework for the country, considering Nigeria's cultural and political environment. It also recommended that all police officers should undergo training in the basic philosophy and practice of Community Policing. Both panels recommend that Community Policing Committees should be established in every local government and divisional commands comprising police officers, local government officials, traditional and community leaders to periodically meet and review priorities and performances.

In the bill, it appears that the establishment of the community partnership forums and boards is aimed at capturing this recommendation. It is important to note that the community policing is already being practiced, however incorporation into the law will give it statutory backing. Some observers however stress on the need for the Police to imbibe it as a philosophy and guiding principle in the performance of their duties as against focusing on setting up community policing structures to satisfy a requirement.

5 See Main Report of the Presidential committee on the reform of the Nigeria police force, 2008, page 162. Report available online in "Motions Without Movement" Report of Presidential Committees on Police Reforms in Nigeria, page 48. Available at: <http://new.cleen.org/Report%20of%20Presidential%20Committee%20on%20Police%20Reform.pdf>

PART XIII- Police Public Complaints and Discipline

This part establishes the Police Complaints Response Unit to receive complaints about police misconduct from the public or other police officers. The Bill also looks to enshrine the existing Police Complaints Unit within the legal framework governing the Police and provides a procedure for investigations. It mandates the Inspector-General of Police to establish a Police Complaints Response Unit in each of the Police Commands in all the State of Federation.

The Unit is mandated in monitor investigations initiated by the unit as well as conduct investigations. The Unit may receive:

- » any complaint alleging that the conduct complained of resulted in the death or serious injury or other gross human rights violation;
- » any complaint showing that a police officer is involved in an act constituting professional misconduct.
- If the investigations reveal a criminal offence, a copy of the report shall be sent to the Director of Public Prosecutions for prosecution.
- If it is an offence against discipline, it shall be sent to the appropriate Police or oversight authority for proper disciplinary action
- If it reveals false information against a police officer, then the complainant shall be tried according to relevant laws in force.

For any Police Service to be effective, it would need to have a feedback mechanism through which dereliction of duty and/or negligence can be checked. This provision is important so as to improve the professionalism of the Police Force and increase public respect and trust in the institution.

Even though, the insertion of the Unit in the Bill is a welcome development, it could do the following:

- » Clarify the exact powers of the Unit within the overall chain of internal control of the police force;
- » Grant personnel of the unit the right to independently deal with any case that falls within their authority;
- » Give the Unit the ability to make independent decisions related to internal control;
- » Ensure that staff have clean records and are appointed based on objective criteria; and
- » Develop the Unit's capacity to collaborate with all other national oversight bodies responsible for ensuring the proper functioning of state services.

FUNDING GAP IN THE POLICE ACT

The Police Act and the bill as proposed do not contain financial or funding provisions. The bill should establish an appropriate funding framework for the Police Force in line with what is obtainable in other Federal Government institutions e.g. annual budgetary allocations, aids and grants, other funding sources, authority for making expenditures etc. Particularly, a mandatory policing plan should be required to be drawn up annually by the Police Force and tied to expenditures in the bid to ensure that all police formations nationwide are appropriately funded for effective policing

The CSO Panel on Police Reform found the current state of funding the NPF challenging at different levels, including “low budgetary allocation, incomplete release of budgeted funds and late release of funds, all of which make planning in the NPF a difficult enterprise.” The donation of funds and equipment to the NPF by state, local governments and private bodies, without record keeping or accountability have been severely criticised as giving room to corruption, waste and lack of accountability. It is therefore recommended that any amendment to the Police Act contains watertight provisions on funding and financial contributions to the Police, proper keeping of records, and compliance with statutory rules on accounting and audit just as is obtainable with other public institutions.

CONCLUSION

The Police is a integral part of a nation’s security architecture and the frontline provider of security to citizens. To this end, it is important that the Police Act is brought in conformity with best practices and modern-day standards. The repeal and re-enactment of the current law would have benefits not only for the citizens but for the institution itself.



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About PLAC

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