

ROLES, RIGHTS, & RESPONSIBILITIES UNDER NEW POLICE ACT



Other entities with responsibilities are:

- * National Human Rights Commission
- * Office of the Auditor General of the Federation

INTRODUCTION

The passage of the new Police Act 2020 has seen the introduction of new actors in the police accountability structure and a clear delineation of roles and responsibilities. This factsheet highlights who these key actors are and states the responsibilities which have been assigned to them. The purpose is to identify and situate these roles for the purpose of advocacy for implementation.

PRESIDENT

- » Appoint and Remove IGP in consultation with the Nigeria Police Council (per the 1999 Constitution)
- » Give lawful directions to the IGP with respect to the maintenance and securing of public safety and public order as he may consider necessary (per the 1999 Constitution)
- » Convene Police Council meetings at least twice a year (Police Act, 2020)

GOVERNORS

- » Responsible for security in their States
- » Constitutionally authorised to give lawful directions on security to their State Commissioners of Police
- » Shall participate in Police Council meetings at least twice a year (Police Act, 2020)
- » Must keep records of contributions made to the Police and purpose of the contributions (Police Act, 2020). This is to promote transparency and avoid funds duplication

POLICE COUNCIL

** Police Council is made up of the President, State Governors, IGP & Chairman of the Police Service (PSC)*

- » Advising the President on appointment and removal of IGP
- » General supervision of the Police Force
- » Organisation and administration of the Police Force and all other matters relating to the Police Force (excluding matters relating to the use and operational control of the Police (IGP powers) or the appointment, disciplinary control and dismissal of members of the Police Force (PSC power)
- » Receiving and deliberating on policing reports and advising the President or IGP on actions to be taken on security concerns and policing matters from the FCT and on any crucial decision of their Security Committee meetings (added functions per new Police Act)
- » Must meet at least twice a year (before now, there was no requirement to meet so Council rarely met)

INSPECTOR GENERAL OF POLICE (IGP)

** IGP functions not listed in Old Police Act. New Act now outlines responsibilities.*

Administrative/Operational Duties

- » Command and Operational Control of the Police now vested in IGP (per New Police Act. Old Police Act gave operational control to the President and subjected the IGP's command control to the President's directives)

What is operational independence & why is it important?

Refers to sufficient autonomy of the police leadership to decide, within an established budgetary framework and in line with laws and policies, how to respond to law-and-order situations and how to allocate resources, based on professional expertise and intelligence as well as on community contacts, and subsequently accounting for their decisions.

Source: United Nations Office on Drugs and Crime

- » Development of an overall national policing plan with inputs from the Police Force Headquarters and all the various police formations nationwide

- » Budgeting based on Policing Plan and inputs from States and other police formations
 - * *Police budgets used to be drafted at the Police Headquarters thus failing to capture budgetary needs of police structures at lower levels. This is called “top-bottom” budgeting. New Act now mandates “Bottom-up” budgeting.*
- » Determine the manpower distribution of the Police based on its numerical strength after due consultation with the Police Service Commission
- » Administer and organise the Police Force into various components, units or group
- » Ensure regular training and re-training of police officers and other staff and personnel of the Police Force on basic policing, crime detection, investigation, human rights, gender issues and others
- » Establish and maintain training institutions or centres for the training of members of the Police Force
- » Ensure the physical, mental & psychological wellbeing of all Police personnel
- » Ensure the welfare and conditions of service of Police personnel
- » Draft Standing Orders for the Operational Control of the Police
- » Delegate powers to Zonal, State, Area and Divisional Commands of the Police Force to encourage power decentralisation and police effectiveness
- » Revise the training, duration and the content of the training of police officers, at least once in every five years
- » Ensure that training programmes are made available to every police officer/staff/personnel irrespective of gender
- » Establish and Maintain a Central Criminal Records Registry
- » Adopt community policing strategies/partnerships and problem-solving techniques to address conditions that cause crime and social disorder. Strategies to be varied according to the needs of the communities involved and the cultural context
- » Appoint community policing officers – regular citizens, not part of police, to aid community policing

Human Rights Compliance Duties of the IGP

- » Facilitate access to legal support for suspects, accused persons or detainees in police custody
- » Ensure that police officers assigned to work under relevant legal services scheme provide necessary assistance as may be required by legal counsel
- » Provide for the establishment and proper working of the legal schemes or mechanisms
- » Submit to the Attorney-General of the Federation and National Assembly, an annual report on how human rights and legal schemes responsibilities were discharged
- » Submit quarterly reports to the Police Service Commission, itemising the number and identity of persons:
 - detained in all police formations across Nigeria
 - charged and prosecuted in the courts in Nigeria and the outcome of their cases
 - killed or wounded during police operations across Nigeria; and
 - who died in police custody
- » Ensuring the set-up of a fair and effective complaints response process
- » Ensure that at least one Legal Practitioner is attached to every Police Division
- » Approve the registration of private detective schools and private investigative outfits

STATE/FCT COMMISSIONERS OF POLICE

- » Maintain command and control over the Police in their State of assignment
- » Implement police functions as stated in the Act in addition to added functions on human rights compliance
- » Establishment of Community Partnerships/Committees at the States
- » Other functions as may be directed by the IGP

ADDED FUNCTIONS/RESPONSIBILITIES FOR THE POLICE GENERALLY (per new Act)

- » Promote and protect the fundamental rights of persons in police custody as guaranteed by the Constitution
- » Promote access to justice by collaborating with other government agencies, private initiatives, NGOs to establish legal aid schemes or mechanisms for accused persons, detainees or accused persons in police custody
- » Promote and protect the fundamental rights of all persons as guaranteed under the African Charter on Human and Peoples' Rights and other Human Rights laws
- » Adopt community partnership in the discharge of its responsibilities
- » Officers shall not get into any personal debt whatsoever and if any does, shall have 1/3rd of the amount deducted each month from his salary until payment is completed. Officer will be also be liable for disciplinary action
- » Officers shall not run any private business except farming
- » Officers shall not discriminate on basis of gender, socio-economic status, religion, and ethnicity

Financial Responsibilities

** New Provisions. Not in the Old Act*

- » Submission of annual report of activities and expenditures of the Police Force to the Minister of Police Affairs
 - » Submission of annual audited accounts of the Police Force to the Minister of Police Affairs
 - » Submission of information and description of all contributions made to the Police Force, including contributions other than cash to the Minister
 - » Funding provisions is a codification of standard government agency funding. Not a new fund for the police
- * Note: General Police Fund established in new Act (for salaries, pensions, day-to-day administration etc. is subject to laws on use of Public Funds.) Separate from the Police Fund which is strictly for training and equipment purchase. Fund to lapse after 6 years.*

MINISTER OF POLICE AFFAIRS

- » General oversight: operational and policy compliance review
- » Setting performance indicators based on the overall mission and vision of police
- » Submitting Police budgets to the National Assembly

- » Receive and review annual reports on the activities of the Police Force, including financial statements and audited report
- » Power to make Regulations on policy, organisation and administration of the Police Force, including financial matters (excluding police pensions, which shall be governed by Pensions Act)
- » Minister must review Regulations regularly
 - * *The Police Regulations were adopted in 1968 and have never been reviewed. It contains “details” on policing, specifically provisions on internal police disciplinary procedure, police formation and units, as well as provisions affecting enlistment and duties of women officers, which is seen to be discriminatory e.g. only single women can enlist, required permission to marry etc.*

ATTORNEY-GENERAL

- » Power to take over prosecution of criminal offences from the Police
- » Review Police annual report or compliance by Police on duty to provide access to legal custody for suspects, send findings and recommendations to the President and publish same in the Attorney General’s/Ministry of Justice website
- » Review Police record of all arrests and searches made with or without warrant in relation to Federal offences within Nigeria (State AG to do the same for States)
- » Analyse trends of arrests, bail and related matters, and share same with the National Human Rights Commission, the Legal Aid Council of Nigeria or a non-governmental organisation
- » Establish an electronic and manual database of all records of arrests at the Federal and State level

JUDGES/MAGISTRATES

- » Oversight over detention facilities: Chief Magistrates to conduct monthly inspection of police stations and detention centres within their territorial jurisdiction and grant bail to suspects where appropriate
- » The High Court to visit detention facilities in cases of persons detained by other law enforcement agencies
- » Issuing of arrest and search warrants
- » Hearing criminal matters
- » Issuing of verdicts and orders on criminal cases
- » Interpretation of the provisions of the law on police powers i.e. case-law

POLICE SERVICE COMMISSION

- » Personnel management issues: “hiring and firing” of officers
- » Police Promotion and Discipline
- » Making Regulations and Standing Orders relating on the appointment, promotion and disciplinary control, including dismissal of persons appointed by it into the Police Force
- » Making Standing Orders on appeals by Police against dismissal or other disciplinary measures.
- » Review and take action on IGP’s quarterly reports on the number and identity of persons detained in all police formations across Nigeria; charged and prosecuted in the courts in Nigeria and the

outcome of their cases; killed or wounded during police operations across Nigeria; and who died in police custody

- » Prescribe criteria for disbursements from the Police Reward Fund

MINISTRY OF FINANCE

- » Release of approved budgeted amounts
- » In line with the Finance Control and Management Act, establish rules for the application of the Police Reward Fund

NATIONAL ASSEMBLY (NASS) /LEGISLATIVE COMMITTEES

- » Drafting relevant policing and criminal justice laws
- » Realistic and fair allocation/approval of police budget
- » Reviewing Auditor-General's reports on audit infractions by Police
- » Reviewing National Human Rights Commission's Reports on Human Rights violations and taking remedial action
- » Post-legislative scrutiny of laws passed i.e. to review implementation, effectiveness, operability and further necessary amendments
- » Monitoring police budget performance
 - * *NASS does not have a role in IGP appointment process. International best practice requires that parliament should have a role to play in the appointment and removal of the Head of Police so as to reduce executive dominance. In addition, the annual budget approval process is a powerful tool for NASS to raise questions and propose solutions on policing issues.*

NATIONAL HUMAN RIGHTS COMMISSIONS (NHRC)

- » Reviewing police reports on arrests and detention
- » External Oversight over the Police

OFFICE OF THE AUDITOR GENERAL OF THE FEDERATION (OAUGF)

- » Financial Oversight via annual audits
- » Forwarding audit reports to NASS

SUSPECTS/CITIZEN'S PROTECTIONS UNDER THE POLICE ACT

- » Respect for human dignity: Right to not be tortured or treated in a inhumane and degrading manner
- » Rights to legal access/a legal practitioner
- » When arresting a person, a Police Officer does not have to confine or touch the person if they willingly go with the Officer. Officer's are not to handcuff or restrain suspect except there is violence or escape is imminent
- » Right to be informed of reason of arrest in understandable language and right to remain silent and rights to legal representation
- » Relative or next-of-kin of arrested suspect to be informed at no cost to the suspect.

- » A person cannot be arrested in place of another person
- » A person cannot be arrested over civil or contract matters
- » Arrested suspect's details i.e. name, occupation and residential address the person's height, photograph, and full fingerprint impression, as well as and circumstances of arrest must be taken.
- » Property of arrested person must be recorded and returned when released
- » Suspect may choose to give a statement in presence of his lawyer, an officer of the Legal Aid Council of Nigeria, an official of a Civil Society Organization, a Justice of the Peace or any other person of his choice
- » Suspect may make a confession on video or electronic means.
- » Suspect must be taken to court within 24 hours or granted bail upon entering into recognisance i.e. obligation or bail bond for a reasonable amount of money with or without a surety to appear in court or at the Police station. This does not equate to payment of physical cash
 - * *Note: "Recognisance" means an obligation entered into before an Officer/Court with a condition to perform some act required by law. The party bound or suspect acknowledges that they owe a personal debt to the State if there is failure to perform that act e.g. "jumping bail" or refusing to appear before a court. If this happens, the sum would be forfeited.*
- » Before a search, Officer must tell a person the purpose for search, his name, police station, must be in police uniform or wear a visible and valid Police ID
- » **Right to not be arrested or searched based on personal attributes such as skin colour, age, hairstyle or manner of dress; or stereotyped images e.g. person with dreadlocks**
- » Every search must be recorded in a National Search Record Form and given to person searched to sign
- » Intimate body searches of a suspect in custody requires written consent. Must be done by a suitable qualified person i.e. nurse or medical doctor

POLICE WELFARE

- » Police Officers not to be paid salary below what is payable to officers in other security agencies
- » Police Reward Fund (retained from the old Act): The Fund is to be used to reward exemplary Police Officers, pay gratuities to Officer's widows and funeral expenses where an Officer dies in the service of the Police and for other purposes determined by the Nigerian Police Council
- » Rules on application and disbursement of funds subject to criteria made by the Police Service Commission and rules made by Minister of Finance
- » Police Act recommends national honours, presentation of certificates for deserving officers and a day or week set aside to honour officers.



**Plot 451 Gambo Jimeta Crescent off Nasir El-Rufai Crescent,
Guzape District, Abuja, Nigeria**

Website: www.placng.org * Email: info@placng.org * Phone: 08091899999

About PLAC

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organization committed to strengthening democratic governance and citizens' participation in Nigeria. PLAC works to enhance citizens' engagement with state institutions, and to promote transparency and accountability in policy and decision-making processes.

The main focus of PLAC's intervention in the democratic governance process is on building the capacity of the legislature and reforming the electoral process. Since its establishment, PLAC has grown into a leading institution with capacity to deliver cutting-edge research, policy analysis and advocacy. PLAC receives funding support from donors and other philanthropic sources.

with support from:



UKaid

from the British people

Foreign, Commonwealth
& Development Office