

**COURSE  
GUIDE**

**CSS 841  
POLICING AND LAW ENFORCEMENT IN NIGERIA**

**Course Team**

Dr. Dickson Ogbonnaya Igwe  
(Writer/Developer)-NOUN  
Prof. Sam Obadiah Smah (Course  
Coordinator )-NOUN.  
Dr. Dickson Ogbonnaya Igwe (Course  
Editor )-NOUN  
Dr. Dickson Ogbonnaya Igwe (Programme  
Leader)-NOUN



**NATIONAL OPEN UNIVERSITY OF NIGERIA**

© 2021 by NOUN Press  
National Open University of Nigeria  
Headquarters  
University Village  
Plot 91, Cadastral Zone  
Nnamdi Azikiwe Expressway  
Jabi, Abuja

Lagos Office  
14/16 Ahmadu Bello Way  
Victoria Island, Lagos

e-mail: [centralinfo@nou.edu.ng](mailto:centralinfo@nou.edu.ng)  
URL: [www.nou.edu.ng](http://www.nou.edu.ng)

All rights reserved. No part of this book may be reproduced, in any form or by any means, without permission in writing from the publisher.

Printed 2021

ISBN: 978-978-058-311-8

<b>CONTENT</b>	<b>PAGE</b>
Introduction.....	iv
Course Aims.....	iv
Course Objectives.....	v
Working through this Course.....	v
Course Materials.....	v
Study Units.....	v
Textbooks and References.....	vi
Assessment.....	vii
Tutor Marked Assignment.....	vii
Final Examination and Grading.....	vii
Course Marking Scheme.....	vii
Course Overview.....	viii
Course Overview and Presentation Schedule...	viii
How to get the most from this Course.....	ix
Tutors and Tutorials.....	xi
Summary.....	xi

## INTRODUCTION

### Welcome to CSS 841: Policing and Law Enforcement in Nigeria

SS 842 is a semester of 3 credit unit course that provides students with the various topics on the issues in Policing and Law Enforcement in Nigeria. It is prepared for postgraduate students in Criminology and Security Studies in the National Open University of Nigeria (NOUN).

Policing and Law Enforcement is a core prerequisite for graduate students in Criminology and Security Studies as it helps them to grasp Police and their role of law enforcement in Nigeria, the rudiments of law enforcements, nature and patterns of law enforcement, challenges facing the Nigeria police from effectively enforcing the laws as stipulated in the Criminal Code, Penal Code, Criminal Procedure Act and Constitution of the federal Republic of Nigeria. This guide provides the students with simple understanding of the role of the Nigerian Police force in enforcing the laws are enshrined in various code books in Nigeria. To study this course, and the various units, students need to be ready to think critically. They need to develop constructive minds and use situational analysis, case studies and other research-oriented approaches carefully to grasp and understand the tenets of policing and law enforcement in Nigeria.

In this course, aims and objectives will be explained. The module provides some useful advice on the reading system, the role in using the course guide, the structure of the module, and guidance for the assessment.

## COURSE AIMS

- a) To demonstrate an understanding of the roles and obligations of the Nigerian Police force in Nigeria especially as it concerns law enforcements.
- b) To understand the various patterns and strategies employed by the Nigeria police in enforcing laws in Nigeria.
- c) To outline and critically analyze contemporary challenges facing the Nigerian policing in their role of law enforcement and crime prevention.
- d) To examine the professional misconducts carried out by the Nigeria police in the course of law enforcement in Nigeria.
- e) To critically evaluate and appraise the Nigeria police force in their role of law enforcement within the context of the crime rate in Nigeria.

## COURSE OBJECTIVES

- i. To introduce students to the concept of policing and law enforcement in Nigeria
- ii. To expose students to various roles played by the Nigeria police force in terms of law enforcement.
- iii. To identify various challenges facing the police force from effectively enforcing laws in Nigeria.
- iv. To teach students how to assist the police in law enforcement by providing relevant and vital information to the police
- v. To highlight and explain the modern patterns of law enforcements in other climes.

## WORKING THROUGH THIS COURSE

To complete this Course, students are advised to check the study units, read the recommended books as well as other course materials provided by the NOUN. Each unit contains Self-Assessment Exercise (SAE) and Tutor Marked Assignments (TMAS) for assessment purposes. There will be a written examination at the end of the course. The course should take students about 14 weeks to complete. You will find all the components of the course listed below. Students need to allocate time to each unit to finish the course successfully.

## COURSE MATERIALS

For this course, students will require the following materials:

- 1) Course Guide
- 2) Study Units
- 3) Textbooks and References
- 4) Assignment File
- 5) Presentation Schedule.

## STUDY UNITS

There are fifteen (15) study units in this course broken into 3 modules of 5 units each.

They are as follows.

### **Module 1**

Unit 1	Introduction and General Background
Unit 2	Nigeria Police and Law Enforcement.
Unit 3	Powers of the Police Amidst Law Enforcement
Unit 4	Contemporary Law Enforcement
Unit 5	General Function of Police: Investigation, Patrol and

### **Module 2**

Unit 1	Police Discretion and Law Enforcement
Unit 2	Arrest and Search (Arrest without, Arbitrary by the Police, Arrest with Warrant)
Unit 3	Custodial Interrogation and Statement by the Accused Persons (Miranda Warning)
Unit 4	Police and Prosecution
Unit 5	Detention and Torture

### **Module 3**

Unit 1	Critical Issues in Policing: Computerised and Enhanced Law Enforcement
Unit 2	Community Policing and Crime Prevention
Unit 3	Professional Police Misconduct within Law Enforcement
Unit 4	Public Perception of the Nigerian Police and Its Implication on Law Enforcement
Unit 5	Repositioning the Nigeria Police for Effective Law Enforcement

Each unit contains some exercise on the topic covered, and Students will be required to attempt the exercises. These will enable them evaluate their progress as well as reinforce what they have learned so far. The exercise, together with the tutor marked assignments will help students in achieving the stated learning objectives of the individual units and the course.

### **TEXT BOOKS AND REFERENCES**

Students may wish to consult the references and other books suggested at the end of each unit to enhance their knowledge of the material. This will enhance their understanding of the material.

Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.

Aremu, A.O. (2017). The “Trinity” And the Missing Mission in Policing. An Inaugural Lecture delivered at the University of Ibadan on Thursday, 18 May, 2017. 2016/2017 Inaugural Lecture Series.

John, S.D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States: Thompson Wadsworth

Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct. (1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.

Ojomo, F.Y. (2011). Policing in a Corrosive Environment. Ibadan: Kolaak Enterprises

Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.

Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.

Ugwuoke, C.U. (2015). Criminology: Explain Crime in the Nigeria Context. (2nd ed.). With an Update on Terrorism/Boko Haram. Nsukka: Great AP Express Publishers Ltd.

Ugwuoke, C.U (2010). Criminology: Explaining Crime in the Nigerian Context. Nsukka: Great AP Express Publishers Ltd.

## ASSESSMENT

Assessment for this course is in two parts. Such as the Tutor-Marked Assignment, and a written examination. Students will be required to apply the information and knowledge gained from this course in completing their assignments. Students must submit their assignments to their tutor in line with submission deadlines stated in the assignment file. The work that you submit to your Tutor-marked Assignment for assessment will count for 30% of your total score.

### **TUTOR MARKED ASSIGNMENT (TMA)**

In this course, you will be required to study 15 units, and complete tutor marked assignment provided at the end of each unit. The assignments carry 10 per cent mark each. The best four of your assignments will constitute 30 per cent of your final mark. At the end of the course, you will be required to write a final examination, which counts for 70 per cent of your final mark.

The assignments for each unit in this course are contained in your assignment file. You may wish to consult other related materials apart from your course material to complete your assignments. When you complete each assignment, send it together with a tutor marked assignment (TMA) form to your Tutor. Ensure that each assignment reaches your tutor on or before the dead line stipulated in the assignment file. If, for any reason you are unable to complete your assignment in time, contact your tutor before the due date to discuss the possibility of an extension. Note that extensions will not be granted after the due date for submission unless under exceptional circumstances.

### **FINAL EXAMINATION AND GRADING**

The final examination for this course will be for two hours, and count for 70 per cent of your total mark. The examination will consist of questions, which reflect the information in your course material, exercise, and tutor marked assignments. All aspects of the course will be examined. Use the time between the completion of the last unit, and examination rate to revise the entire course. You may also find it useful to review your tutor marked assignments before the examination.

### **COURSE MARKING SCHEME**

<b>Assessment</b>	<b>Marks</b>
Assignments	Four assignments, best three marks of four count @ 30% of course marks

Final Examination	70% of total course work
<b>Total</b>	<b>100% of course marks</b>

## COURSE OVERVIEW

Assignment file consists of all the details of the assignments you are required to submit to your tutor for marking. The marks obtained for these assignments will count towards the final mark you obtain for this course. More information on the assignments can be found in the assignment file.

## COURSE OVERVIEW AND PRESENTATION SCHEDULE

<b>Module 1</b>	<b>Title of work</b>	<b>Weeks Activity</b>	<b>Assessment (End of Unit)</b>
Unit		Week 1	
1	Introduction and general background		
2	Nigeria Police and Law Enforcement	Week 2	
3	Powers of the Police amidst Law Enforcement	Week 3	Assignment 1
4	Contemporary Law Enforcement	Week 4	
5	General Function of Police: Investigation, Patrol and Traffic..	Week 5	
<b>Module 2</b>			
Unit	Issues concerning Police conduct and Law Enforcement (Discretions)	Week 6	Assignment 2
1			
2	Arrest and Search (Arrest without, Arbitrary by the Police, Arrest with Warrant)	Week 7	
3	Statement by the Accused persons (Confirmation of Confessional Statement by Police, Confession Made under Duress)	Week 8	
4	Police and Prosecution	Week 9	

5	Detention and Torture	Week 10	
<b>Module 3</b>			
Unit			
1	Critical Issues in Policing: Computerized and Enhanced Law Enforcement	Week 11	Assignment 3
2	Community Policing and Crime Prevention	Week 12	
3	Professional Police Misconduct within Law Enforcement	Week 13	
4	Public Perception of the Nigerian Police and Its Implication on Law Enforcement	Week 14	
5	Repositioning the Nigeria Police for Effective Law Enforcement	Week 15	
16	Revision	Week 16	Assignment 4
17	Examinations	Week 17	
18	Total	17 Weeks	

## HOW TO GET THE MOST FROM THIS COURSE

In distance learning, your course material replaces the lecturer.

The course material has been designed in such a way that you can study on your own with little or no assistance at all. This allows you to work, and study at your place, and at a time and place that best suits you. Think of reading your course material in the same way as listening to the lecturer. However, you are advised to study with your course master in the same way a lecturer might give you some reading to do, the study units give you information on what to read, and these form your text materials. You are provided exercise to do at appropriate points, just as a lecturer might give you an in-class exercise.

Each of the study units follows a common format. The first items is an introduction to the unit, and how a particular unit is integrated with the other units and the course as a whole. Next to this, is a set of learning objectives. These objectives let you know what you are required to know by the time you have completed the unit. These learning objectives are meant to guide your study. The moment a unit is finished,

you must go back and check whether you have achieved the objectives. If you make this habit, it will improve your chances of passing the course significantly.

The main body of the unit guides you through the required reading from other sources. This will usually be either from the reference books or from a reading section. The following is a practical strategy for working through the course. If you run into difficulties, telephone your tutor. Remember that your tutor's job is to help you when you need assistance, do not hesitate to call and ask your tutor for help or visit the study centre.

### **Read this Course Guide thoroughly is your first assignment.**

- 1) Organise a study Schedule, Design a “Course Overview” to guide you through the course. Note the time you are expected to support on each unit and how the assignments relate to this unit. You need to gather all the information into one place, such as your diary or a wall calendar. Whatever method you choose to use, you should decide and write in your own dates and schedule of work for each unit.
- 2) Once you have created your own study schedule, do everything to be faithfully to it. The major reason students fail is that they get behind with their course work. If you get into difficulties with your schedule, please, let your tutor know before it is too late for help.
- 3) Turn to unit 1, and read the introduction and the objectives for the unit.
- 4) Assemble the study materials. You will need the reference books in the unit you are studying at any point in time.
- 5) Work through the unit. As you work through the unit, you will know what sources to consult for further information.
- 6) Before the relevant due dates (about 4 weeks before due dates), access the Assignment file. Keep in mind that you will learn a lot by doing the assignment carefully, they have been designed to help you meet the objectives of the course and pass the examination. Submit all assignments not later than the due date.
- 7) Review the objectives for each study unit to confirm that you have achieved them. If you feel unsure about any of the objectives, review the study materials or consult your tutor.
- 8) When you are confident that you have achieved a unit's objectives, you can start on the next unit. Proceed unit by unit through the course and try to pace your study so that you keep yourself on schedule.

- 9) When you have submitted an assignment to your tutor for marking, do not wait for marking before starting on the next unit. Keep to your schedule. When the Assignment is returned, pay particular attention to your tutor's comments, both on the tutor-marked assignment form and also the written comments on the ordinary assignments.
- 10) After completing the last unit, review the course and prepare yourself for the final examination. Check that you have achieved the unit objectives (listed at the beginning of each unit) and the course objectives (listed in the Course Guide)

## TUTORS AND TUTORIALS

There are 15 hours of tutorials provided to support this course. Tutorials are for problem solving and they are optional. You need to get in touch with your tutor to arrange date and time for tutorials if needed. Your tutor will mark and comment on your assignments, keep a close watch on your progress and on any difficulties, you might encounter and provide assistance to you during the course. You must submit your tutor-marked assignments to your tutor well before the due date (at least two working days are required). They will be marked by your tutor and returned to you as soon as possible.

Do not hesitate to contact your tutor by telephone, e-mail, or discussion board. The following might be circumstances in which you will find necessary contact your tutor if:

You do not understand any part of the study units or the designed readings.

- ❖ You have difficulties with the exercises.
- ❖ You have a question or problem with an assignment, with your tutor's comments on an assignment or with the grading of an assignment.

To gain maximum benefits from this course tutorials, prepare a question list before attending them. You will learn quite a lot from participating in the discussions.

## SUMMARY

The course guide has introduced you to what to expect in Policing and Law Enforcement in Nigeria. It examines the general background of Nigeria Police Force, history of the police in Nigeria, their roles of law enforcement, strategies and patterns of law enforcements. Issues

concerning Police conduct and Law Enforcement: (Discretions), Policing within The Law, Arrest and Search (Arrest without Warrant, Arbitrary Arrest by the Police, Arrest with warrant), statement by the accused persons (Confirmation of Confessional Statement by Police, Confession Made Under Duress), Police and Prosecution, detention and torture, critical issues in Policing and law enforcement (Automate crime Analysis, Computer Aided Investigations), community policing and Crime prevention, Professional Police Misconduct within Law Enforcement, public Perception of the Police and Its influence on Law Enforcement and repositioning the Nigeria Police for Effective Law Enforcement

The course also discusses the challenges facing the police from effectively enforcing laws in Nigeria, importance of public cooperation in law enforcement in Nigeria, the roles of the public in law enforcement. Upon completion you should be knowledgeable about policing and law enforcement in Nigeria.

We wish you success with the course and hope you will find.



<b>CONTENT</b>	<b>PAGE</b>
<b>Module 1</b> .....	<b>1</b>
Unit 1      Introduction and General Background.....	1
Unit 2      Nigeria Police and Law Enforcement.....	12
Unit 3      Powers of the Police amidst Law Enforcement.....	28
Unit 4      Contemporary Law Enforcement .....	39
Unit 5      General Function of Police: Investigation, Patrol and Traffic.....	52
<b>Module 2</b> .....	<b>75</b>
Unit 1      Police Discretion and Law Enforcement.....	75
Unit 2      Arrest and Search (Arrest without, Arbitrary by the Police, Arrest with Warrant) .....	84
Unit 3      Custodial Interrogation and Statement by the Accused Persons (Miranda Warning)	100
Unit 4      Police and Prosecution.....	107
Unit 5      Detention and Torture.....	124
<b>Module 3</b> .....	<b>142</b>
Unit 1      Critical Issues in Policing: Computerized and Enhanced Law Enforcement.....	142
Unit 2      Community Policing and Crime Prevention.....	154
Unit 3      Professional Police Misconduct within Law Enforcement.....	171
Unit 4      Public Perception of the Nigerian Police and Its Implication on Law Enforcement.....	189
Unit 5      Repositioning the Nigeria Police for Effective Law Enforcement.....	197

## MODULE 1

- Unit 1      Introduction and General Background
- Unit 2      Nigeria Police and Law Enforcement.
- Unit 3      Powers of the Police Amidst Law Enforcement
- Unit 4      Contemporary Law Enforcement
- Unit 5      General Function of Police: Investigation, Patrol and Traffic.

### **UNIT 1      INTRODUCTION AND GENERAL BACKGROUND**

#### **CONTENTS**

- 1.0      Introduction
- 2.0      Objectives
- 3.0      Main Content
  - 3.1      Definition
  - 3.2      Historical Background to Law Enforcement
  - 3.3      English Law and Law Enforcement
  - 3.4      Early Law Enforcement in England
  - 3.5      Early Law Enforcement in United States
    - 3.5.1      Boston
    - 3.5.2      New York
    - 3.5.3      Los Angeles
  - 3.6      Early Law Enforcement in Nigeria
- 4.0      Conclusion
- 5.0      Summary
- 6.0      Tutor-Marked Assignments
- 7.0      Reference/further readings

#### **1.0      INTRODUCTION.**

Law is a body of rules for human conduct enforced by imposing penalties for their violations. Technically, laws are made and passed by the legislative branches of our federal government, state government or local government. They are based on customs, traditions, more and current need. Law refers to all the rules of conduct established and enforced by the custom, authority or legislation of a group, community or country.

Law entails both prescription (rule) and enforcement of authority, in other words, law refers to both rules and their enforcement. In Nigeria, just like in other climes, those who enforce the laws are not the same as those who make them. Historically, before the emergency of democracy, rule of law and criminal justice system was not the case. Often rulers

both made and enforced the laws. Contemporarily, due to evolution of the criminal justice in Nigeria, the police and other law enforcement agents enforce the law in Nigeria. However, this course guide will concentrate on the Nigerian police alone and their roles in of law enforcement.

## 2.0 OBJECTIVES

By the end of the unit, you should be able to:

- define law enforcement
- trace the historical background to law enforcement
- discuss law enforcement in ancient times

## 3.0 MAIN CONTENT

### 3.1 Definition

Law enforcement is any system by which some agents of government act in an organised manner to enforce the law by discovering, deterring, rehabilitating, or punishing people who violate the rules and norms governing that society. Although the term encompasses entities such as courts and corrections, it is most frequently applied to those who directly engage in patrols or surveillance to dissuade and discover criminal activity, and those who investigate crimes and apprehend offenders, a task typically carried out by the police, the police is the first and foremost agent of the criminal justice system obliged to enforce law in Nigeria.

Although, there are other law enforcement organisations charged with specific law enforcements, however some of them work in synergy with the Nigeria Police Force. For instance, in Nigeria, the Nigeria Security and Civil Defense Corps (NSCDC) are charge with safe guiding and protecting oil pipelines, electric cables, power stations against vandals and criminals. Most of the time, when NSCDC apprehend any vandal or criminal, they hand them over to the Nigeria Police for prosecution.; similarly, Economic and Financial Crime Commission (EFCC) arrests and prosecute offenders charged with money laundering and coordinates various institutions involved in the fight against money laundering and enforcement of all laws dealing with economic and financial crimes in Nigeria; the National Drug Law Enforcement Agency are in charge of drug law enforcement in Nigeria. Although law enforcement may be most concerned with the prevention and punishment of crimes, organisations exist to discourage a wide variety of non-criminal violations of rules and norms, effected through the imposition of less severe consequences. There are also different units in different police

departments, including “Criminal Investigation Department (CID)”, “Special Anti-robery Squad (SARS)”, “Traffic Warden”, “Prosecuting department”, etc.

### 3.2 Historical Background to Law Enforcement

Law enforcement can be traced back to the cave dwellers, who were expected to follow certain rules or face banishment or death. The customs depicted in early cave-dwelling drawings may represent the beginning of law enforcement. The prehistoric social order consisted of small family groups living together as tribes or clans. Group living gave rise to customs everyone was expected to observe. The tribe's chief had executive, legislative and judicial powers and often appointed tribe members to perform special tasks, such as serving as a bodyguard or enforcing edicts. Crimes committed against individuals were handled by the victim or the victim's family. The philosophy of justice was retaliatory, that is it aimed at punishing the offender. A person who stole the game from a neighbour's traps could expect to pay for the crime by being thrown into a pot of boiling or a cage of wild beasts. Other common punishments for serious offences were flaying.

A system of law and law enforcement began earlier than 2000 B.C as a means to control human conduct and enforce society's rules. Keeping the peace was the responsibility of the group. The earliest record of ancient people's needs to standardise rules and methods of enforcement to control human behaviour dates back to approximately 2300 B.C., when the Sumerian rulers Lipitshtar and Eshumma set standards on what constituted an offence against society. A hundred years later, the Babylonian King Hammurabi established rules for his Kingdom that designated not only offenses but punishment as well. Although the penalties prescribed were often barbaric by today's standards, the relationship between the crime and the punishment is of interest, most of the offences attracted capital punishment. For instance:

*“If a builder builds a house for a man and does not make its construction firm and the house collapses and causes the death of the owner of the house-that builder shall be put to death. If it causes the death of a son of the owner-they shall put to death a son of that builder. If it causes the death of a slave of the owner-he shall give the owner a slave of equal value. If it destroys property, he shall restore whatever it destroyed and because he did not make the house firm, he shall rebuild the house which collapsed at his own expense. If a builder builds a house and does not make its construction meets the requirements and a wall falls in-that builder shall*

*strengthen the wall at his own expense” Code of Hammurabi (2200 B.C.).*

The main principle of the code was that “the strong shall not injure the weak” Hammurabi originated the legal principle of *lex talionis*-an eye for an eye. The first accounts of a developing court system came from Egypt in approximately 1500 B.C. in Egypt, public officers performed police functions. Their weapon and symbol of authority was a staff topped by a metal knob engraved with the King’s name. The baton carried by the modern police officer may have its origin in that staff. The Greeks had an impressive form of law enforcement called the *ephori*. Each year at Sparta a body of five *ephors* was elected and given almost unlimited powers as investigation, judge, jury and executioner. These five men also presided over the Senate and Assembly, assuring that their rules and decrees were followed.

Like the Greeks, the Romans had a highly developed system to administer justice. The Twelve Tables were the first written laws of the Roman Empire. Drawn up by 10 of the wisest men in Rome in 451 and 450 B.C., the Twelve Tables were fastened to the speakers’ stand in the Roman Forum. The tablets dealt with legal procedure, property ownership, building codes, marriage customs and punishment for crimes. At about the time of Christ, the Roman emperor Augustus chose members from his military to form the Praetorian Guard to protect the palace and the Urban Cohort to patrol the city. Augustus also established the Vigiles of Rome. Initially assigned as fire fighters, they were eventually given law enforcement responsibilities. As the first civilian police force, the Vigiles sometimes kept the peace very ruthlessly. The word *vigils* derive these vigils.

### 3.3 English Law and Law Enforcement

The beginning of just laws and social control were destroyed during the Dark Ages as the Roman Empire disintegrated. Hordes of Germanic invaders swept into the old Roman territory of Britain, bringing their own laws and customs. These German invaders intermarried with conquered English, the result being the hard Anglo-Saxon.

The Anglo-Saxons grouped their farms around small, self-governing villages that policed themselves. When criminals were caught, the punishment was often severe. Sometimes, however, the tribe would let offenders prove innocence through battle or through testimony by other tribe people willing to swear that the accused was innocent. In addition, the tribe sometimes allowed criminals to pay fine for committing a crime or to work off the debt.

As time went on, the informal grouping of families became more structured. Alfred the Great (A.D. 849 to 899) first established that all freemen belong to an association binding them with a certain group of people. If one person in the group committed a crime and was convicted, all group members were responsible for the person's fine. Consequently, all group members were careful to see that no one in the group broke the law. Every male, unless excused by the king, was enrolled in a group of 10 families known as a **tithing**. To maintain order, they had a chief tithing man who was the mayor, council and judge in one. Society was so basic that they enforced only two laws: Laws against murder and theft. (The tithing system established the principle of collective responsibility for maintaining local law and order)

Any victim or person who discovered a crime would put out the **Hue and Cry**, for example, "Stop, thief!" Anyone who heard the cry would stop any activity and help capture the suspect. (The Hue and Cry may be the origin of the general alarm and the citizen's arrest). When capture was made, the suspect was brought before the chief tithing-man, who determined innocence or guilt plus punishment. Theft was often punished by working off the loss by bondage or servitude-the basis for civil law, restitution for financial loss.

If a criminal sought refuge in a neighbouring village, that village was expected to return the criminal for punishment. This cooperation among villagers eventually resulted in the formation of hundreds, groups of 10 tithings. The top official of the hundred was called a **reeve**. The hundreds also elected a constable to lead them in pursuit of any lawbreakers. The constable was the first English police officer and had charge of the weapons and horses of the community. Finally, the hundreds were consolidated into shires or counties. The head of shire was called the **shire-reeve**, the forerunner of the county sheriff.

The shire-reeve acted as both police officer and judge, travelling from hundred to hundred. The shire-reeve had the power of *posse comitatus*, meaning he could gather all the men of a shire together to pursue a lawbreaker, the fore-runner of the posse.

### 3.4 Early Law Enforcement in England

Several interesting developments in law enforcement occurred in the following centuries. In 1285 king Edward I set up a curfew and night watch program that allowed for the gates of Westminster, then capital of England, to be locked. This would keep the city's occupants in and unwanted persons out. Bailiffs were hired at night watchmen to enforce the curfew and guard the gates. Edward I also mandated that groups of 100 merchants be responsible for keeping peace in their districts, again

making law enforcement a local responsibility. This system of law enforcement, called the **Watch and Ward**, provided citizens protection 24 hours a day. The term Watch and Ward originated from the name of the shifts, with the day shift called *ward* and the night shift *watch*.

With an ever-increasing population and a trend toward urbanization, law enforcement became truly a collective responsibility. If a man's next-door neighbour broke the law, the man was responsible for bringing the lawbreaker before the shire-reeve. The hundred decided yearly who would be responsible for maintaining law and order, with responsibility rotated among community members. Inevitably some people paid other members to serve in their place, beginning a system of deputies paid to be responsible for law and order. The paid deputy system was then formalised so that those whose turn it was to pay met and appointed the law enforcers. The abuse of citizen duty to serve as watchmen was pervasive, however, and led to petty thieves and town drunks serving as watchmen.

During the fourteenth century, the shire-reeve was replaced by the justice of the peace. The justice of the peace was assisted by the constables and three or four men knowledgeable of the country's laws. At first the justice of the peace was involved in both judicial matters and law enforcement, but later his power became strictly judicial. The justice of the peace eventually became the real power of local government.

With the passing of feudal times and the rise in the power of the church, the unit of local government in rural areas progressed from the hundred to the **parish**, the area in which people lived who worshipped in a particular church. Each year, the parish appointed a parish constable to act as their law officer. This system of maintaining law and order in rural Britain lasted from the middle Ages until the eighteenth century. (*During the middle ages, the parish constable system was used for rural law enforcement; the Watch and Ward System was used for urban law enforcement*).

Developments in Urban England required a different system of law enforcement. With urbanisation came commerce, industry and a variety of buildings usually made of wood, since England was primarily forest land. For purposes of fire prevention, the town guild appointed men (Watch and Ward) who patrolled at night on fire watch. They assumed the coincidental responsibilities of preventing people from breaking into houses and shops.

Although the watch and ward system were primitive and not too effective, it was adequate until the Industrial Revolution (1750) began. About the same time, famine struck the rural areas, and large numbers of

people moved from the country into the towns seeking work in weaving and knitting mills and in factories. Many, however, failed to find work, and England experienced much unemployment, poverty and crime.

### 3.5 Early Law Enforcement in the United States

When the English colonists came to America, they brought with them many traditions, including traditions in law enforcement. From the beginning they were concerned with avoiding anarchy. The early colonial American settlements relied heavily on self-policing to assure the peace. Communal pressure was the backbone of law enforcement. The colonists were of similar background, most held similar religious beliefs, and there was actually little worth stealing. The seeds of vice and crime were present. Many features of British law enforcement were present in early American colonial settlements. In New England, where people depended on commerce and industry, the night watchman or constable served as protector or public order. In the South, where agriculture played a dominant role, the office of **sheriff** was established as the means of area law enforcement. Most watchmen and sheriffs were volunteers, but many were paid to serve in the place of others who were to patrol as a civic duty.

New England adopted the night watchman or constable as the chief means of law enforcement; the South adopted the office of sheriff. Many different types of law enforcement were tried in many different parts of the country. Almost all used some kind of night watch system, with little or no protection during the day. The fastest growing municipalities were the first to organise legal forces. The first police forces in the United States were developed in Boston, New York and Los Angeles.

#### 3.5.1 Boston

In 1631 the Boston court established a six-man force to guard the city from sunset to sunup, the first night watch in America. In 1636 a town watch was created and stayed in effect for more than 200 years. At first the primary function was to ring a bell in case of fire. In 1702 the police were to patrol the streets in silence. In 1735 they were required to call out the time of day and the weather. In 1801 Boston became the first to acquire a permanent night watch. These men were paid 50 cents a night. In 1807 the first police precincts were formed, and in 1838, a day force was created to supplement the night force.

### 3.5.2 New York

The first colonists in New York, then called New Amsterdam, were the Dutch who settled on Manhattan Island's south end. In 1643 a "burgher guard" was formed to protect the colony. Then, in 1653, New Amsterdam became a city (population, 800), and the burgher guard was changed to a **rattle watch**, a group of night patrolling citizens armed with rattles to call for help. In 1658 the rattle watch was replaced eight paid night watchmen, the first police force. In 1664 the British took over New Amsterdam and renamed it New York. Thirty years later the first uniformed police officers replaced the nighttime rattle watch, and four years after that, New York's streets were lighted.

The system of watchmen was very ineffective. Often the watchman was sentenced to patrol as a form of punishment for a misdemeanour. In addition citizens could avoid watch duty by hiring someone to take their places. Wealthy citizens came to rely on hiring others, and the men they hired then hesitated to invoke their authority against the well-to-do. Due to a continuing increase in crime during the day, New York City hired an assortment of watchmen, fire marshals and bell ringers to patrol both day and night. In 1844 a paid day watch was established, consisting of 16 officers appointed by the mayor. At this time the night watch consisted of 1,100 watchmen and was completely separated from the day force. Friction existed between the day and night forces, and they were totally incapable of combatting the growing lawlessness in the city.

Legislators from New York City visited the London Metropolitan Police Department and were so impressed that, in 1844, New York City followed the pattern set in England 15 years earlier. (*In 1844 New York City established the first modern round-the-clock, paid American city police force, modeled after the London's Metropolitan Police Department*). Soon other cities followed suit, including Chicago, Cincinnati, New Orleans, Philadelphia, Boston, Baltimore and San Francisco.

Although patterned after the London Metropolitan Police, New York Police officers protested wearing uniforms. Not until 12 years later did the New York police adopt a full police uniform and become the first uniformed law enforcement agency in the country. Likewise, although established the Bow Street Runners (the first detective unit) in 1750, it was more than 100 years later before America police agencies recognized a need for detective units. In 1866 Detroit established the first detective bureau, followed by New York in 1882 and Cincinnati in 1886. Other important differences from the London police were that

police in the United States were armed and they were under local, not national, control.

### **3.5.3 Los Angeles**

In 1850 California became a state, and Los Angeles incorporated as a city with a population of 1,610. During its first year, the city elected a mayor, a city marshal and a sheriff. The duties of assumed by sheriff and marshal included the collection of local taxes. The sheriff's obligations required him to traverse a vast area on horseback, fighting bands of Indians and marauding desperadoes. Lacking paid assistants, the marshal was permitted to deputize citizens whenever necessary to maintain order.

In 1853 the city council established a police force of 100 volunteers, called the Los Angeles Rangers. Four years later they were replaced by the Los Angeles City Guards, who were charged with maintaining the peace. Finally, in 1869, the police force changed from a voluntary organisation to a paid department.

## **3.6 Early Law Enforcement in Nigeria**

Early law enforcement in Nigeria especially as it concerns informal social control has been from the earliest stage of development in Nigeria. In the traditional Nigeria societies fines and compensation was imposed on offenders, usually in forms of compensation to the victims and at times as ransom to the entire society. This was essentially facilitated by the fact that social control and behaviour were tied to an individual's sense of reciprocity with the group to which he belonged. In this regard, groups were largely responsible for enforcing restitution orders against offenders in favour of victims.

Moreover, the masquerade institutions played a prominent role in law enforcement in the Nigerian traditional societies. Members of the masquerade institution would appear masked often at night in the role of the supernatural beings and would denounce and attack offenders. In the process, personal identity of the animator of the masquerade is hidden, suppressed and strictly guarded as a secret. The hidden identity of members of the masquerade institutions provided a formidable platform for enforcing criminal laws in traditional societies. In fact, in some traditional communities, masquerade was used to execute dangerous criminals and to enforce difficult criminal laws such as compelling recalcitrant offenders into exile.

Moreover, masquerade institutions were also used as a socialisation agent. In most cases, the application of this method succeeds where the

cane failed. Such institutions were useful for disciplining deviant children and women by frightening them and by instilling good behaviour, conduct, obedience and truthfulness in them.

Similarly, in Hausa traditional communities, the royal warders in ruler's palace enforced laws for instance, Makama was in charge of arrest, and Doka in charge of execution. Some of the offenders were confined in a community confinement in a pre-colonial society and the offenders were usually sent underground in a large pit set deep in the floor of a stoutly walled room. A prisoner sent to the pit would remain there unless his kinsmen could compensate for the offense.

Similarly, oral evidence also abounds to suggest that among the Igbo of South eastern Nigeria, the houses of chiefs had reserved rooms where offenders were summarily confined and from where they were often sold into slavery.

#### **4.0 CONCLUSION**

In this unit we have been able to highlight the definition of law enforcement, and gave a historical background to law enforcement. The earliest law enforcements were traced to Babylon, followed by Greek, Romans, England, United States of America. We were able to highlight historical background to law enforcement in Nigeria.

#### **5.0 SUMMARY**

Our current laws and the means by which they are enforced have their origins in the distant past, perhaps as far back as the cave dwellers. Law refers to all the rules of conduct established and enforced by the customs, authority or legislation of a group, community or country. A system of law and law enforcement began earlier than 2000 B.C. as a means of controlling human conduct and enforcing society's rules. Keeping the peace was the responsibility of the group. Many features of our present system of law enforcement are borrowed from the Greeks, Romans and particularly the English.

The English tithing system (groups of 10 families) established the principle of collective responsibility for maintaining local law and order. If a law was broken, the Hue and Cry sounded, the origin of the general alarm and the citizen's arrest. The constable was the first English police officer and had charge of the weapons and horses of the community. In response to a need for more regional law enforcement, the office of shire-reeve was established. The shire-reeve was the law enforcement agent for an entire country. In Nigeria, the masquerade institution, the royal warders in Hausa traditional communities, the chiefs in south

eastern Nigeria enforced laws in one way or the other right from the pre-colonial days of Nigeria.

## 6.0 TUTOR- MARKED ASSIGNMENT

1. Define Law enforcement.
2. What common problems existed throughout century for people in law enforcement?
3. Why was there no law enforcement during the daytime for many centuries?
4. In earlier law enforcement in England parish constable systems was used where?

## 7.0 REFERENCES/FURTHER READING

Aremu, O. (2014). Policing and Terrorism: Challenges and Issues in Intelligence. Ibadan: Stirling-Horden Publishers Ltd.

Dambazau, A.B. (2011). Criminology and Criminal Justice. Ibadan: Spectrum Books Limited.

Henry, M. W. & Karen, M.H. (2000). An Introduction to Law Enforcement and Criminal Justice. (6th ed.). United States of America: Thompson Wadsworth

Ugwuoke, C.U (2010). Criminology: Explaining Crime in the Nigerian Context. Nsukka: Great AP Express Publishers Ltd.

Ugwuoke, C.U. (2015). Criminology: Explain Crime in the Nigeria Context. (2nd ed.). With an Update on Terrorism/Boko Haram. Nsukka: Great AP Express Publishers Ltd.

## UNIT 2 NIGERIA POLICE AND LAW ENFORCEMENT

### CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is Policing?
  - 3.2 Nigeria Police and Law enforcement: An Overview
    - 3.2.1 Historical Background of the Nigeria Police Force
  - 3.3 Roles of Nigeria Police Force
  - 3.4 Performance of Police with Regards to Law Enforcement
  - 3.5 Nigeria Police and Crime Prevention
  - 3.6 Patterns of Law Enforcement Employed by the Nigeria Police
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

### 1.0 INTRODUCTION

The police is the first and foremost law enforcement agents in the criminal justice corridors. No case in the CJS can be handled or prosecuted without the input of the police. Hence, the roles of the Nigeria police cannot be overemphasised. Some criminologist has argued that law enforcement is the sole responsibility of the Nigeria police force while other criminologist has argued that the Nigeria police needs the assistance of the court and prison in enforcing the laws. This unit will showcase the roles of Nigeria police force especially as it concerns law enforcement.

### 2.0 OBJECTIVES

By the end of the unit, you should be able to:

- define policing
- explain the roles of Nigeria Police in law enforcement
- give a historical background of the Nigeria police force
- evaluate the performance of Police with regards to law enforcement

## 3.0 MAIN CONTENT

### 3.1 What is Policing?

The word police is a derivative of the Greek word, which means citizenship or polis city. It would be noted that the term police from its derivation connotes civil organisation of citizens within a city, whose primary role is to provide security for the city and people residing in it. More fundamentally, the term police is an institution or organisation (private or public), whose agents are involved in enforcing enacted laws and at the same time ensuring internal protection of life and properties. Furthermore, Ehindero (2006) conceptualises police as a law enforcement organ, primarily concerned with bringing to justice those who breached the law. Similarly, Aremu, Uwakwe and Ozurumba (2006) aver that the word, “Police” is the arrangement made in all civilised countries to ensure that the inhabitants keep the peace and obey the law. The foregoing presupposes that the roles of the police are more than what is generally perceived by the citizens as law enforcement.

Further conceptualisation of what policing is, according to Alemika (1993), shows that it is paramilitary nature and it is so constituted to comprise able-bodied men and women, trained with the sole purpose of defending the status quo. That is, enforce the law, values and ideologies that justify, legitimise and defend prevailing distribution of power and wealth in society.

An important submission that might help in the understanding of what actually policing is, was given by Sir Robert Peel, the founder of Britain’s Police Force in his recommended legislation of 1829. In this legislation, he suggested nine principles of effective policing.

They are as follows:

1. Prevent crime and disorder, as an alternative to military repression and severity of legal punishment;
2. Recognise that the power of the police to fulfil their functions and duties is dependent on public approval of their existence, actions and behaviour;
3. Recognise always that to secure and maintain the respect and approval of the populace in the task of their deliverance of laws;
4. Recognise always that the extent to which the co-operation of the public can be secured diminishes proportionally with the necessity of the use of physical force and compulsion for achieving police objectives;

5. Seek and preserve public favour, not by pandering to public opinion, but by constantly demonstrating absolutely impartial service to law;
6. Use physical force only when excessive persuasion, advice and warning are found to be insufficient to obtain public cooperation;
7. Maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police;
8. Recognise always the need for strict adherence to police executive functions and to refrain from seemingly to usurping the powers of the judiciary or avenging individuals of the state; and
9. Recognise always that the test of police efficiency is the absence of crime and disorder, and not the visible evidence of police action in dealing with them.

While other criminologist has opined that policing is synonymous with law enforcement.

### **3.2 Nigeria Police and Law enforcement: An Overview**

The police is the biggest most visible and important system of the criminal justice system. The police provide the entry point into the Criminal Justice System either through crime reports from the public or its own discovery. Hence, there is no law enforcement in the entire criminal justice system without the police. The police organisation is the main public institution which provides regular direct contact with the public, a situation that makes it unique from the other components of the criminal justice system. The uniqueness of the police borders on the fact that the decision of the policeman on the street is as important as the existence of the criminal justice system and law enforcement. The policeman is the ‘gatekeeper’ of the criminal justice system as he decides who goes into the system and his decision has wider implication for the other system components. The policeman lubricates the system through the arrest of suspects who are essentially the inputs into the criminal justice system. He is the custodian of law enforcement as far as the criminal justice system is concerned.

#### **3.2.1 Historical Background of the Nigeria Police Force**

Like any other structure or institution, the Nigerian Police Force has a history. The history of the evolution of police organisation in Nigeria. Shows that the colonial government established a Police Force immediately after the annexation of the Lagos colony in 1861. Its history in Nigeria particularly dates back to 1861 during colonial era, when the consul of Lagos colony established a consular guard of thirty members to watch over the colonial properties. This guard grew in size

and was later known as the Hausa constabulary. This was because it was dominated by Northerners. In 1896 the Lagos police was established. A similar force was already formed in Calabar in 1894 known as the Niger Cost Constabulary. And in the North too, the Royal Niger Company set up Royal Niger Company Constabulary in 1888. In the early 1900's when the protectorates of Northern and Southern Nigeria were proclaimed, part of the Royal Niger Company constabulary became the Northern Nigeria Police and part of Nigeria Coast Constabulary became the Southern Nigeria Police. Although the South and North were amalgamated in 1914, their police forces were not merged until in 1930, with headquarters in Lagos. It is important to also note that during colonial period, most police were associated with local government (Native authorities). But by 1960's under the first Republic, these forces were regionalized and then nationalised. By this Nationalisation of the Nigeria Police Force, the Inspector General of Police was in control of the general operation and administrative duties. He was supported at the headquarters by a deputy Inspector General and in each state by Police Commissioners. The 1999 constitution also provided for a Police Service Commission that is today responsible for Policy, organisation, administration and finance of the Nigerian police force (Dambazau, 2011; Ugwuoke, 2012).

The 1999 Nigerian Constitution provides for the establishment of the Nigerian Police Force under section 214. It provides that there shall be a Police Force, and subject to the provisions of the constitution, no other police force shall be established for the country. Section 214 clearly states that:

1. There shall be a Police Force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section, no other police force shall be established for the Federation or any part thereof.
  2. Subject to the provisions of this constitutional the Nigeria Police Force shall be organised and administered in accordance with such provisions as may be prescribed by an Act of the National Assembly;
- b) the members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by law. In line with the provisions of the constitution, powers and duties were conferred on the Police by the enactment of the Police Act (Cap 359) Laws of the Federation of Nigeria which empowers the Police among other things with the duties of:

1. Prevention and detection of crime;
2. The preservation of law and order;
3. Apprehension and prosecution of offenders
4. Enforcement of all laws
5. Performance of military duties within or outside Nigeria as may be required by them or under the authority of the act or any other act and
6. Protection of life and property.

Policing all over the world is undergoing constant and rapid changes especially in terms of type of government and technology. Most countries in the world today are democracies when taken in the minimalist sense of filling positions of political power through elections. This move has also taken root in Africa. For instance, before 1990, only seven African countries-Morocco, Senegal, Botswana, Zimbabwe, Tunisia, Egypt and Mauritius had multi-party systems. But between 1990 and 1999, in more than 42 countries, a peaceful change of government took place as a result of competitive multi-party elections. Nigeria became independent in 1960. But after only six years of civilian rule, the military took over power in 1966. The military ruled till 1999 for a period of about 30 years after a brief civil rule between 1979 and 1983. However, since 1999, there has been return to civil rule and there is the process of democratic consolidation.

Policing under military rule is different from policing in a civilian and democratic dispensation.

As Mike Okiro has pointed out, under military rule, the police can take some actions in the course of duty that are inimical to the tenets of democracy and get away with it.<sup>1</sup> But in a democratic society, you will not get away with it because policing is subject to the rule of law embodying values respectful of human dignity, rather than the wishes of the leader or party in power.

### **3.3 ROLES OF NIGERIA POLICE FORCE**

Traditionally, policing was the responsibility of all adults in community. In medieval society, all male adults were obliged to contribute towards the prevention and control of crime and disorder under the system “hue, cry and pursuit”. But the emergence of the state, with its vast bureaucracies anchored on centralisation, hierarchical authority/power structure, and professionalism changed the traditional policing method of policing being every one’s business (Weber 1968). The emergence of an entity with its claim to the monopoly over the means of legitimate violence in society resulted into the creation of specialised agencies such

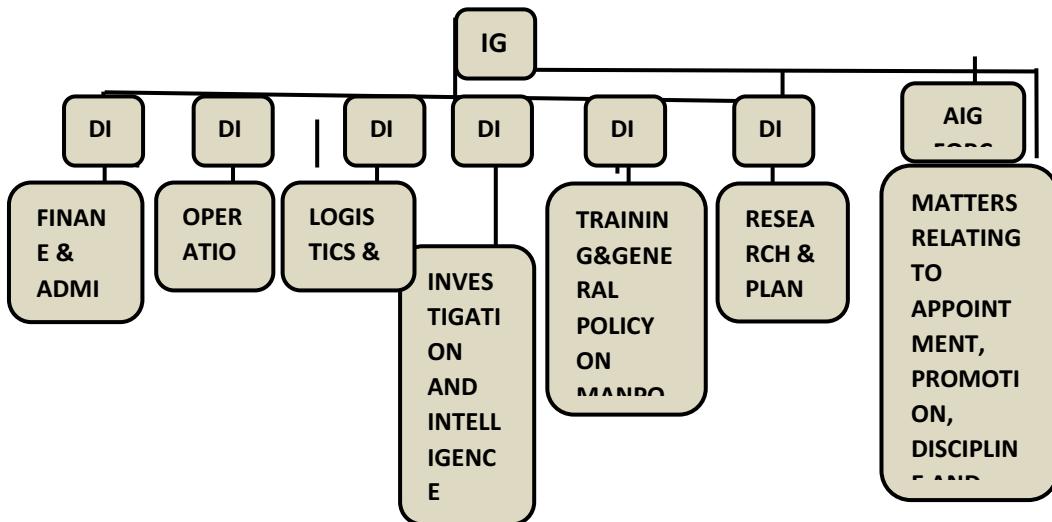
as police and the Armed Forces charged with the responsibility of controlling the use of violence by other groups. By this therefore police were scheduled to perform the following responsibilities or duties:

- i. Prevention of crime
- ii. Protection of lives and properties
- iii. Enforcing law
- iv. Maintenance of peace and public order.
- v. Providing a wide range of services to the citizens.

By doing this it has the potential for violence and right to use coercive means in order to establish social control.

According to Yecho (2004), the Nigeria Police is statutorily required to fight crime through detection, investigation, apprehension and prosecution of offenders in law court and the protection of lives and property through proactive policing. The place of police in Nigeria cannot be compromised. Their constitutional and statutory functions according to him are well defined so that the force can manage crisis situation, maintain peace and security.

## ORGANISATION OF THE NIGERIA POLICE



**Source: Organisation of the Force Headquarters  
Police Functions and Powers**

The Nigeria Police is constitutionally vested with functions and powers in Section 194 of the Constitutions of Nigeria. It says that:

There shall be a Police Force for Nigeria, which should be styled the Nigeria Police Force, and subject to the provisions of this section to the police force shall be established for the federation or any part thereof the members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by law.

Again, Section 4 of the Police Act (1967) modified by Decree No 23 of 1979 provided that:

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

In sum, under the Police Act 2, the Police Force shall be engaged in doing the following; prevention and detection of crime; apprehension of offenders; preservation of law and order; and protection of life and property.

The philosophical set-up of the police worldwide is to among other things provide social services. Alemika (1993) rightly notes this when he queries the inadequacy of constitutional provisions for the Nigeria Police in this regard, that is, social services. As observed by Black (1980) in Alemika American Police functions have little or no relevance to deviant behaviour and social control such the transportation of the sick and injured people to the hospital or the removal of dead dogs and abandoned automobiles from the street- but even where an exercised of authority is involved, the role of the police may depart from law enforcement in a narrow sense.

According to Danmadami, the contemporary functions of the Police in Nigeria includes but not limited to:

1. Prevention and detection of crime
2. Apprehension of offenders
3. Preservation of law and order
4. Protection of property
5. Due enforcement of all laws and regulations with which they are directly charged; and
6. Performance of such military duties within or outside Nigeria.

Specifically, however, Danmadami further observed that police performance in Nigeria involves;

- (a) Making arrests and processing arrested persons by way of bail, or remand;
- (b) Investigation and assembling of evidence;
- (c) Producing such evidence, including exhibits before the court; and
- (d) Preventing crimes generally by acting as in (a) – (c) above

This specific duty of the police in Nigeria outlined above are obviously articulated from a broader and general objectives of police duties which Alderson (1979) has identified as a set of ten broad objectives governing the establishment of police organisation in a free, permissive and democratic society.

These according to Alderson include:

- The desire to contribute towards liberty, equality and fraternity in human affairs.
- The desire to reconcile freedom with security and uphold the rule of law
- The need to facilitate human dignity through the observance and protection of human rights and the candid pursuit of happiness
- The need to provide leadership and participate in dispelling criminogenic social conditions through co-operative social action
- The desire to achieve better understanding and mutual trust with members of the public
- The need to ensure the security of persons and their property
- The desire to investigate, detect and activate the prosecution of offences within the rule of law.
- The need to facilitate free passage and movement on high ways and road and on streets and other places open to members of the public
- The desire and need to ensure public order and curb disorder if it becomes inevitable
- The need to deal with major and minor crises and desire to help and advise those in distress and also to activate other agencies when necessary.

### **3.4 Performance of Police with Regards to Law Enforcement**

It may not be entirely a fact that the Criminal Justice System particularly the police have not lived up to their expectations. This is because the Nigeria police has not been professionally correct in the discharge of its duties. The Nigeria police of the colonial and immediate Postcolonial

era had in different ways tried to carry out some of constitutional responsibilities with some degree of success. Danmadami has noted that the agency has achieved satisfactory results in the fight against crime between 1930 and 1965 despite difficulties resulting from economic depression in a period when illicit distillation of spirits, counterfeiting and child stealing were rampant in certain parts of the country (Danmadami, 1979). He further noted that the police performed satisfactorily with respect to the suppression and eventual eradication of dangerous cult and secret society organisations whose activities were assuming notorious and dangerous proportions.

It is pertinent to observe that the police duties and operations do not take place in vacuum, the socio-economic and political contexts in which the police operate is a factor and a determinant of the effectiveness of the Police. The Nigeria Police is faced with the responsibility of maintaining order and persecuting offenders and law enforcement generally. Kolo so far, they have been able to do quite a good job as no institution exists without challenges, lives of officers have been lost in the line of duty while some others have been maimed for life. Recently in Lafia, the capital of Nassarawa state in Nigeria about 100 Policemen lost their lives while trying to restore sanity to the village. According to the survivors, they tried to invite the chief priest while trying to also protect themselves from any attacks from the indigenes. In fact, the loss of police men has become so rampant that it is no longer an issue. Most of these deaths are as a result of several issues varying from inadequate personnel and ammunition which explains why the police cannot stand a gun battle with armed robbers. Some of them even remove their uniforms and claim to be civilians.

The Nigeria Police also helps in traffic control and ensuring that the roads are safe for both pedestrians and motorist. Essentially, the Nigeria Police has done a good job in the Nigerian society as the resources allocated to them have been put to use. Since 1999 numerous special police units have been created to address the problem of rising deviant and criminal behavior these include the Rapid Response Squad, Operation Sweep and the Anti-Robbery Squad (SARS) etc

### **3.5 Nigeria Police and Crime Prevention**

Formal social control aids the association of people with one another especially as it applies to various organic societies in which (as Durkheim formulated) people are essentially different from one another, perform different functions (division of labour) and have different belief systems. It is especially under these conditions of increased individualism that societies have to take special efforts to ensure their members are social beings. Nigeria is a country with over 200million

people and three major ethnic groups and diverse tongues (language) as a result, the police has the responsibility to maintain law and order and ensure that the entity known as Nigeria remains in peace and harmony by ensuring that the domination of the group is directed in a manner oriented at harmonising clashing interests and activities. The concept of crime prevention employed as a result of this individualism are repressive and coercive that are instituted not by socialisation into norms but on the basis of power and force which the Nigeria Police has to utilise in ensuring compliance thus the emphasis here is to prevent crime in the first place.

According to Durkheim, all societies require a moral order and crime exists to evaluate and strengthen the social control mechanism. The force is an indispensable entity as it prevents people from deviation because of the threat of formal punishments and application of sanctions as this would help to ensure conformity in a highly differentiated society like Nigeria, thus the role of the Nigeria police to prevent crime becomes paramount.

### **3.6 Patterns of Law Enforcement Employed by the Nigeria Police**

#### **Beat Patrols**

A beat is the area which a particular constable or group of constables is detailed to patrol during a single tour of duty. It may be a precinct in a city or town embarrassing as small as a couple of streets, roads, or as large as a kilometer radius, depending on the density of the population, the known rate of crimes, the economic or administrative importance of the establishment or building in the area. In the rural areas, it may be a collection of villages or hamlets or a stretch of kilometers of our national borders. Depending on the size, nature and extent of the beat to be covered the concerned police officer may go on foot, bicycles, horse backs, or vehicles, and where necessary with the assistance of police trained dogs. The primary object of the beat patrol system is to disperse policemen in a way that will possibly eliminate or reduce the opportunity for misconduct and to increase the likelihood that an offender will be apprehended while he is committing an offence or immediately thereafter. The strong likelihood of immediate apprehension, no doubt, has a strong deterrent effect on potential offenders.

The beat system offers a close circuit monitoring system of the entire area covered by the concerned police officer and provides a good, reliable and firsthand information and data on the criminal activities in the area. Where this practice is pursued vigorously, crime rate is bound

to reduce drastically as potential crimes are detected early and prevented before maturing into full-blown offence. The system affords the police officer concerned, who is well attuned to his beats, to be able to spot quickly and easily any new-face in the area. It also engenders close affinity,

respect and trust between the police institution/officer and members of the community within the beat precinct giving members of the community a sense of participation in crime prevention. This goes a long way at assisting the police at nipping commission of crime in the bud. The beat system also acts as a gag on potential offenders as the fear of being apprehended or discovered before the commission of the crime may deter him from further prosecution of the offence. Another advantage of this system is that it breeds efficient police organisation as each officer is given specific beat duty and as such, individual performance of the concerned officer can be easily and efficiently ascertained and measured with corresponding rewards and reproach. On the long run the beat system becomes the cheapest crime prevention and management option as most crime would have been nipped in the bud and the attendant cost of prosecution, and incarceration would be avoided. A corollary of the beat system was the moribound policy of posting DPO to their locality.

The policy as constituted was laudable but it was killed by the hydra headed “Nigerian factor” in our body polity. The policy would have gone a long way at assisting the police in their crime prevention duties and stem the tide of official corruption in the institution. A police officer working within his locality is more likely to know the dark spots in the area and probably the criminals and potential criminals in his neighbourhood. As a “local” he will be circumspect at collecting bribes from members of the community as victims can easily trace his roots in the community and thus become stigmatised.

In as much as this system is cheap on the long run and desirable in its import, it will not work well in an environment of distrust, ethnic bias, nepotism and corruption. The system will also fail except and unless there is adequate logistic and institutional support both from the government and the private sector in the state. Since the system rests strongly on prompt, efficient and effective communication network, it may fail where there is no support system like good roads reliable communication system and efficient energy backup. Also, the initial capital outlay for the implementation of the system nationally may be outlandish. In spite of this however, you will also agree with me that crime detection and prevention task has improved since the introduction of GSM phones in the country.

## **Anti-Vice Squads**

This is a surveillance squad operating in disguise and carrying out intelligent surveillance of areas that one potentially breeding ground for various vices such as gambling, prostitution, rioting etc. They operate at large gatherings, public places, and motor parks etc. where theft and affray have been found to be rampant. The objective of the squad is to gather information and provide proactive measures to prevent the commission of crime and where that fails, to at least immediately apprehend the criminals at the point of commission of the offence. This measure has been used at various times, with varying degrees of success, by the police authorities to carry out raids on these breeding places of crime. Such raids have led at times to arrest and prosecution of drug users and peddlers, arms dealers and robbers etc.

Through the system is good as a measure of crime prevention, its use over a long period of time is doubted. Not only is it expensive to run on a long-time basis but it also imparts negatively on the public image posture of the police; for it implies a fire brigade approach to crime prevention and management. The system can also be easily abused by overzealous police officer.

## **Stop Detain and Search**

By virtue of the powers conferred by the provision of section 25 of the police Act, a police officer on beat is expected to be vigilant and on his suspicion being aroused, entitled to stop, detain and search any person whom he reasonably suspects of having in his possession or conveying in, any manner anything he has reason to believe has been stolen or unlawfully obtained or with reference to which an offence has been committed. In the words of Tinubu this mechanism, when sedulously employed in a police jurisdiction, yields tremendous results for detecting offences, as much as preventing them.

## **Specie Escorts**

Armed policemen guarding large sum of money, valuables or explosives in transit. This is a service rendered free of charge to governmental and quasi-governmental agencies, but on payment of fees, to private organisations and individuals.

## **Static Guards**

adopted in advanced world and partially in Nigeria during the colonial era and the first republic. Through this model police guards are provided at public institutions and places to check ingress and egress of customers

and clients etc. and prevent crimes in relation to such establishments. It is true that this crime prevention method has been overshadowed with the developments of close circuit monitors, it is still however been used with respect to public institutions and installations. The recent experience of guarding NNPC installations by arms guards readily comes to mind.

## National (Internal) Security

The police in collaboration with the relevant state security agencies also provide surveillance network on the activities of persons considered security risks in order to prevent sabotage and subversion of the nation and its established institutions.

## Regulating Assemblies, Processions Etc.

The police are empowered to prevent likely breach of the peace and contain any tendency towards inciting and provocative acts etc. by persons initially gathered for a lawful purpose, or such acts by others towards a lawful gathering and or possession. Though there is no definition of the phrase “breach of the peace” in our criminal legislation, yet the phrase forms a constituent part of several offences. It is provided, for instance that it is an offence when three or more persons, with intent to carry out some common purpose, assemble in such a manner or being assembled, conduct themselves in such a manner as to cause persons in the neighbourhood to fear on reasonable grounds that the persons so assembled will tumultuously disturb the peace or will be such assembly needlessly and without any reasonable occasion provoke other persons tumultuously to disturb the peace. This type of offence which generates a breach of peace called unlawful assembly and is punishable as a misdemeanor. Where the persons unlawfully assembled legion to act riotously in a manner as to disturb the peace it is treated as a felony. In this aspect of preventive justice two important issues always confront the police in the exercise of their preventive powers. The first is in respect of the type of behaviour which qualifies as a phenomenon that causes or likely to cause a breach of the peace. And the second is whether a breach of the peace or a conduct likely to generate it can occur in a public as well as in a private place. With respect to the first issue the judicial and academic approach is that the behaviour in question is not confined to criminal acts or conducts but could also include such other wrongful acts.<sup>30</sup> On the second issue the consensus of opinion and statutory authorities is that such conduct that causes or likely to cause the breach of the peace is not confined to public places<sup>31</sup> alone as such acts could also occur or be carried out in private places. In the words of Amadi:

*“Offences dealt with under Chapter 10 of the Criminal Code are these in relation to breaches of the peace. There is nothing throughout the chapter which suggests that a breach of the peace is either a purely public or private phenomenon.”*

Where the police are alive and proactive about their duties to the citizens and the state they can effectively and efficiently use this power to prevent the commission of crimes and bring it to the bud.

### The Supervisee System

This system enables the police to keep an eye on the movement and activities of criminals who, on conviction, are sentenced to police supervision. The term of the order of supervision couple the supervisee to report to the police in his area of residence once a month (when he may be questioned as to his activities etc. during the past month), from one police jurisdiction to another and other such change to continue to report monthly to the police of his new residence. Whilst in a particular area, he may not change his address without prior intimation of the police in his area. This police powers which is hardly put to use could serve as a veritable mechanism for crime prevention and detection.

## 4.0 CONCLUSION

In this unit we have been able to highlight the definition of policing, Nigeria police and law enforcement, historical background of the Nigeria Police force. Roles of Nigeria Police Force especially as it concerns law enforcement, Performance of the police with regards to law enforcement. Nigeria police and crime prevention. Patterns of law enforcement employed by the Nigeria police. Moreover, this unit was able to showcase the law enforcement is part and parcel of Police roles, even some criminologist has opined that Police is synonymous with law enforcement.

## 5.0 SUMMARY

Police could be conceptualised as a law enforcement organ, primarily concerned with bringing to justice those who breached the law. While other criminologist has opined that policing is synonymous with law enforcement. The police is the biggest most visible and important system of the criminal justice system. The police provide the entry point into the Criminal Justice System either through crime reports from the public or its own discovery. Hence, there is no law enforcement in the

entire criminal justice system without the police. The uniqueness of the police borders on the fact that the decision of the policeman on the street is as important as the existence of the criminal justice system and law enforcement. The policeman is the ‘gatekeeper’ of the criminal justice system as he decides who goes into the system and his decision has wider implication for the other system components. Majorly, the police were scheduled to perform the following responsibilities or duties:

- i. Prevention of crime;
- ii. Protection of lives and properties
- iii. Enforcing law;
- iv. Maintenance of peace and public order;
- v. Providing a wide range of services to the citizens; By doing this it has the potential for violence and right to use coercive means in order to establish social control.

## **6.0 TUTOR- MARKED ASSIGNMENT**

1. Define Policing
2. Mention five major functions of the Nigerian Police force
3. Describe the three major patterns of law enforcement employed by the Nigeria police to prevent crime
4. How would you rate the performance of the Nigeria police force especially as it concerns law enforcement?

## **7.0 REFERENCES/FURTHER READING**

Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.

Aremu, A.O. (2017). The “Trinity” And the Missing Mission in Policing. An Inaugural Lecture delivered at the University of Ibadan on Thursday, 18 May, 2017. 2016/2017 Inaugural Lecture Series.

John, S.D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States: Thompson Wadsworth

Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct. (1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.

Ojomo, F.Y. (2011). Policing in a Corrosive Environment. Ibadan: Kolaak Enterprises

Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.

Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.

Ugwuoke, C.U. (2015). Criminology: Explain Crime in the Nigeria Context. (2nd ed.). With an Update on Terrorism/Boko Haram. Nsukka: Great AP Express Publishers Ltd.

Ugwuoke, C.U (2010). Criminology: Explaining Crime in the Nigerian Context. Nsukka: Great AP Express Publishers Ltd.

## UNIT 3      **POWERS OF THE POLICE AMIDST LAW ENFORCEMENT**

### **CONTENTS**

- 1.0    Introduction
- 2.0    Objectives
- 3.0    Main Content
  - 3.1    Power to Prevent Crime
  - 3.2    Power to Receive Complaints from Members of the Public
  - 3.3    Powers to Arrest
  - 3.4    Investigative Powers
  - 3.5    Powers of Prosecution
  - 3.6    Powers to Release on Bail
  - 3.7    Power to Release Suspects Unconditionally
- 4.0    Conclusion
- 5.0    Summary
- 6.0    Tutor-Marked Assignment
- 7.0    Reference/Further Reading

### **1.0    INTRODUCTION**

The police officer is the first interpreter of the law and in effect performs a quasi-judicial function. He makes the first attempt to match the reality of human conflict with the law, he determines whether to take no action, to advise, to warn, or to arrest: he determines whether he must apply physical force, perhaps sufficient to cause death. It is he who must discern the fine distinction between a civil and a criminal conflict, between merely unorthodox behaviour and a crime, between a legitimate dissent and disturbance of the peace, between the truth and a lie. As the interpreter of the law, he recognises that a decision to arrest is only the first step in the determination of guilt or innocence. The constitution and the Police Act have empowered the Police force to carry out some task and such powers is legally backed up under the constitution. This unit begins with the Police powers to prevent crimes, the power to receive complaints from the members of the public. Then continues with the power to arrest, investigative powers, powers to release on bail and finally power to release suspects unconditionally. The unit went on to conclude and summarised the major points as contained in the unit.

### **2.0    OBJECTIVES**

By the end of this unit, you should be able to:

- discuss the constitutional powers of the Police force
- explain different powers enjoyed by the Police
- explain conditions that must be met before a suspect is released on bail

## 3.0 MAIN CONTENT

### 3.1 Power to Prevent Crime

The law made ample provision for the role of Police in prevention of crime within their jurisdiction. Section 53 of the Criminal Procedure Act (CPA) provides thus:

- (1) Every Police Officer may interpose for the purpose of preventing, and shall to be best of his ability, prevent the commission of any offence.
- (2) A Police officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal of or injury to any public landmark or buoy or other mark used for investigation.

The law thus allows all Police officers, irrespective of rank or position, to intervene and prevent crime within their jurisdiction. This power may be exercised independently by any Police Officer and need not follow any protocol or order from a superior authority or officer. However, where the Police Officers receives information that there is a plot or plan to commit a crime within the jurisdiction, he is enjoined to report to a superior Police Officer or any other Officer whose duty is to prevent or take cognizance of the commission of the offence. The law recognises that there are branches and divisions within the Police formation where it is the duty of a Police Officer who receives the information or complaint for instance, that a crime was being committed or about be committed, to forward it to the appropriate Officer who will be able to take charge of the situation.

Where the Police Officer who receives the information is the appropriate person to take action, it is expected of him to take immediate action to prevent the crime. The way and manner in which an arrested is affected may depend on the case. Where the police is intervening to prevent a crime from being committed, an arrest could be made without a warrant of arrest from the Magistrate Court or, if it appears that it might not be possible to prevent the crime, the Police Office does not need any further authority or order to intervene to prevent any injury or destruction of public property, whether such property is movable or immovable. But, of course, this can only be done where the attempt to commit the crime was being made in the presence of the Police Officer.

The power to prevent the commission of crimes may also require judicial intervention. In some cases, the Police or some other person may swear on an oath that someone is likely to commit a breach of the peace or to disturb the public tranquility, or do any wrongful act that may probably occasion a breach of the peace or a disturbance of public tranquility. The Magistrate may thereafter, if satisfied as to the allegation, order that the person show cause why he should not be ordered to enter into recognizance with or without sureties to keep the peace for a fixed period.

Where it is established that a person is a habitual offender the police may swear to an oath to that effect and then bring such a person before a Magistrate Court. The Magistrate may require that such a person show cause why he should not be ordered to enter into recognizance, with sureties, for good behaviour for a period not exceeding one year.

The provisions of Section 35 and 37 of the CPA may be employed not only by Police officers but also by other persons especially if they are resident within the locality. Prevention of crime involves intelligence gathering and the use of technology. It also needs much collaborative efforts by all. The security agencies as well as the general public supplying needed information. The telephone numbers of the Police within a particular locality must be advertised and consciously placed where members of the public may easily access them, for example in market places, supermarkets, street corners and also through banners. There must be competent Police personnel to receive calls and forward the information to the appropriate or designated authorities who must be equipped enough to take immediate steps.

What all this means is that the Police must develop a comprehensive data on habitual offenders which they must circulate and update from time to time. This will ensure that habitual offenders moving from one locality to another are quickly identified and taken before the appropriate Magistrate Court to be bound over to keep the peace. The police may also employ the provisions of Section 35 and 37 of the CPA for this purpose. Happily, times have changed. In the not too distant past, people were afraid to give valuable information to the Police because the Police themselves could not be trusted. Many a time, the police officer who receives information from an informant might pass information about the informant to the suspected criminal thereby endangering the life of the informant. Although, more still needs to be done. Public Perception of the Nigerian Police and Its Implication on Law Enforcement will be discussed in subsequent unit.

### **3.2 Power to Receive Complaints from Members of the Public**

Any member of the general public may make a complaint to the Police against any other person alleging that the other person is about to commit or is committing or has committed an offence. The complaint may be made orally and not necessarily written or an oath except where there is an enactment, that makes it mandatory that the complaint must be in writing. The appropriate officer who receives complaint from the members of the public in the Police station is the Charge Room Officer. The Charge Room Officer receives members of the public who intend to lodge complaints to the Police Station, he attends to them courteously, patiently listens to their complaints. He may conclude as to the nature of the complaint. Where the complaint is not a criminal matter, he may courteously explain the position; or where the complaint is not a criminal matter, he may courteously explain the position; or where the complaint do not fall within the territorial jurisdiction of the police station, he may advise the complainants as to the proper place to go. After noting the nature and details of the complaint, he will direct the Station writer (who usually works closely with the Charge Room Officer) to enter in concise language, into the Station Crime and Incidents Diary in his own handwriting a record of complaints refused on the ground that they will not serve any useful purpose. He must also refer it to the Station Officer where the complaint is made against the Police. All other complaints must be immediately forwarded to the Station Crime Duties Officer. Who in turn assigns the complaint to an officer usually called the Investigating Police Officer (IPO). The IPO will investigate, take statement of the complaint, and any suspect arrested as well as any witness after the matter is reported to the Divisional Police Officer (DPO) for further directives.

### **3.3 Power of Arrest**

The police Officer is conferred with powers to arrest any person suspected to be committing, or to have committed or about to commit, a crime. The police acts by virtue of Section 4 of the Police Act. A cardinal duty of the police is the prevention and detection of crime and the apprehension of the offender. In the exercise of their duties to prevent crime, the Police have inherent powers to investigate any complaint that they received from the general public or any other information that they may receive from any other source and carry out proper investigation with all facilities and resources at their disposal and ensure that crime is prevented. In this respect they may exercise their powers of arrest and detention of persons suspected to have committed the offence for possible prosecution. The police right to receive

complaints from the public and the power of arrest and detention and the treatment of persons in their detention centre.

In making an arrest, the Police officer shall actually touch or confine the body of the person to be arrested unless there is a submission to the custody by word or action. In effecting arrest, the Police Officer must refrain from the use of handcuffs or from subjecting the person to be arrested to unnecessary restraint except by order of court or Justice of the Peace unless there is reasonable apprehension of violence or of an attempt to escape or unless the restraint is considered necessary for the safety of the person arrested.

Upon actually confining the person arrested or coming in contact with him and after identifying himself as a Police Officer and pronouncing that the person is being arrested. This may be dispensed with if the person is being arrested while committing the offence or immediately afterwards, or escape from custody the Police officer effecting the arrest is at liberty to search the arrested person if he suspect him to be in possession of weapons, stolen articles, instruments of violence or poisonous substance, or tools connected with the kind of offence which he is alleged to have committed or other articles which may furnish evidence against him in regard to the offence which is alleged to have committed. Arrested will be examined fully in another unit.

### **3.4 Investigative Powers**

The Nigeria Police is legally empowered to carry out investigations. Upon the receipt of a complaint and assignment to the Investigating Police Officer, the IPO will thereafter start investigation into the allegation. This may entail taking down statement of the complaint, witnesses and the arrested suspect. Before a matter is charged to the court, it is the responsibility of the Police to carry out a thorough and detailed investigation in order to ascertain the truth, which must be proved with credible evidence that is beyond reasonable doubt when presented in court or strong enough to get a conviction”.

While it is a paramount duty of the Police to investigate all allegation of crime, it is however at their discretion or liberty to investigate any allegation of commission of an offence made by any person. Police discretion within law enforcement will be discussed fully in the next unit. It must be emphasised that it is in fact the duty of the Police to investigate all allegations of commission of crime.

Essentially, the law enforcement officer shall be concerned equally in the prosecution of the wrong-doer and the defense of the innocent. He shall ascertain what constitutes evidence and shall present such evidence

impartially and without malice. In so doing, he will ignore social, political, and all other distinctions among the persons involved, strengthening the tradition of the reliability and integrity of an officer's word. The law enforcement officer shall take special pains to increase his perception and skill of observation, mindful that in many situations his is the sole impartial testimony to the facts of a case.

### **3.5 Powers of Prosecution**

The Nigeria Police Force is also empowered by law to prosecute. Prosecute is simply the power and the legal authority to represent the State or Police to conduct criminal trial before a competent court. The person or authority who conducts the prosecution is referred to as the prosecutor and the person being tried or charged before the court is referred to as the accused person or the defendant. When the Police is satisfied that a suspect is guilty of an offence or that a *prima facie* case is established against such a person or there is enough evidence against the person based on the investigation they have conducted, they will proceed to prepare a charge against the suspect. A charge is a document filed in court detailing the offences committed by the accused person. It may be divided into several counts. Section 152 of the Criminal Procedure Act provides thus,

- (1) the charge shall contain such particulars as to the crime, and place of the offence and the prison, if any against whom or the thing, if any, in respect of which it was committed as are reasonably sufficient to give the accused notice of the matter with which he is charged.

The charges filed in the magistrate courts are drafted by the police where the offence was investigated and signed by a Senior Police Officer. The essential components of a good charge:

- (1) the time when the offence was committed;
- (2) the place where the offence was committed;
- (3) the offence that was committed. The offence must be known to law, therefore the Section of the Criminal Code or Penal Code, or any other law under which the offence was committed must be clearly stated in the charge;
- (4) the person who is alleged to have committed the offence must be clearly stated by his names and other names by which he is known;
- (5) the names of the complainant or the person against whom the offence was committed;

- (6) nature of the offence must be stated in such a way as to give the accused person sufficient notice of the matter with which he is being charged;
- (7) the charge must also contain the particulars of the manner, or form in which the offence was committed
- (8) the charge must follow the words of the provisions of the law under which the charge is laid. It follows that the details of the offence should be given in a concise manner.

The power to prosecute criminal cases before a court in Nigeria is provided for under Section 23 of the Police Act which provides as follows:

*Subject to the provisions of Section 194 and 211 of the Constitution of the Federal Republic of Nigeria 1999 (which relate to the power of the Attorney-General of the Federation and the State to institute and undertake, take over and continue and discontinue criminal proceedings against any person before any court of law in Nigeria), any police officer may conduct in person all prosecutions before any court, whether or not the information or complaint is laid in his name.*

The provision of this law is quiet clear; the law empowers any police officer to prosecute any matter before any court in Nigeria. This may raise a lot of issues, prosecution will be fully discussed in subsequent unit.

### 3.6 Powers to Release on Bail

Any person arrested by the Police whether with or without a warrant of arrest, must be taken to a Police Station within a reasonable time, or as soon as possible. The operative word is “within all reasonable dispatch”. This is important, the suspect arrested by the Police must not be taken to a private home, hotel or any other place. In fact, the suspect must not be diverted to any other building even within the premises of the Police Station. In some cases, even if the suspect is taken into the Police Station the arrest is not formally recorded in the diary of the Police Station. Such an arrest and detention, having not been formally and properly treated according to the law and procedure of the Police in the treatment of arrested persons is unlawful and illegal.

Again, the suspect must be informed of the offence for which he is being arrested and informed if the police intend to detain him in the Police Station. He is then afforded the opportunity of calling his Solicitor and

family members to inform them of his detention at the Station. It is not legally allowed for the Police after effecting arrest and detaining a suspect to also deny him access his Solicitors and family members. The right step is to release him on bail. In some cases, the Police will prefer to continue to detain the suspect without releasing him on bail immediately for various flimsy excuses. What is the position of the law as to why, when and how the Police should release a suspect without releasing him on bail immediately for various flimsy excuses? What is the position of the law as to why, when and how the Police should release a suspect on bail? Section 35 (1) of the 1999 Constitution of the Federal Republic of Nigeria provides that:

*Every person shall be entitled to his persona liberty and no person may be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law:-*

*For the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence.*

The constitution therefore allows a person to be denied of his right to personal liberty if it was for bringing him before a court in execution of the court's order or he is suspected of having committed an offence, however, the suspect is not to be detained endlessly. The detained person or suspect must be charged before a court of law within 24 hours or 48hours where the court is not within reach. This is the 'reasonable time' contemplated in Section 35(4) of the Constitution. However, an exception is made to this rule where the person is detained on suspicion of having committed a capital offense.

The Police Officer is empowered to release a suspect on bail where it will be impracticable to arraign him before the court within 24hours or 48 hours as the case may be. Where the investigation is still in progress and there is no sufficient evidence yet upon which the Police may arraign the suspect before the Court, the Police officer in charge of the station has the power to release the suspect on bail pending arraignment before the court, or if at the conclusion of investigation, and no criminal or implicating evidence is found against him, to release the suspect unconditionally. The power to release on bail person arrested by the Police without warrant is further reinforced by Section 27 of the Police Act. Arrest with or without warrant will be fully discussed on subsequent model and unit.

### 3.7 Power to Release Suspects Unconditionally

Where the Police discover at the end of their investigation that the suspect did not commit any offence, the appropriate step to take is not to grant bail but to release unconditionally. The practice of releasing every suspect on bail when in the fact the Police have concluded that he is not guilty of any crime or when the Police have concluded not to file any charge against the suspect is irregular and not supported by law. Section 19 of the CPA provides as follows:

*When any person has been taken into custody without a warrant, for an offence other than an offence punishable with death, the officer in charge of the police station to which such person is brought shall, if after the inquiry is completed he is satisfied that there is no sufficient reason to believe that the person has committed any offence, forthwith release such person.*

The police ought not to arraign a suspect after discovering that he has not committed any offence but quite often they have done so simply because they want to please the complainant or they want the suspect to go and prove his innocence in court and nothing more. This type of prosecution has unnecessarily compounded largely the congestion of cases before the court. It has led also to congestion of the prisons and increased the number of persons awaiting trials. This is also brought about because the prosecutors having no evidence upon which to prosecute continues to ask for adjournments while the accused person continues to be remanded in prison custody.

## 4.0 CONCLUSION

In this unit we have been able to consider the various powers which the Police force enjoy when enforcing the laws. These powers are backed up by the 1999 Constitution of the Federal Republic of Nigeria and the Police Act. We have been able to examine the Police powers as it relates to prevention of crime. We were also able to see that the Nigeria Police force and police in other climes are empowered to receive complaints from members of the public. The Police force are equally empowered to arrest suspects, the Police also enjoys investigative powers in Nigeria. Upon detection of a crime or as reported by members of the public, the Police are empowered to prosecute a suspects and also have the powers to release a suspect on bail and also enjoys the power to release a

suspect unconditionally when such a suspect have been proven to be innocent beyond any reasonable doubt.

## 5.0 SUMMARY

It becomes obvious from this unit that the law granted the Nigeria Police extensive powers to prevent crimes which are contained in the Police Act and the 1999 Constitution of the Federal Republic of Nigeria which could be done through patrol, stop and search, arrest, investigation etc. Police officers in Nigeria and elsewhere are empowered by law to receive complaints from members of the public who are victims of crime or who witnessed a crime been committed. Moreover, the Police is entitled by the law to not only arrest but to investigate crimes and provide evidence which will be used to prosecute a case in a court of competent jurisdiction. In the same way, this unit reviewed that the Police is empowered to prosecute a case and are also empowered to release offenders on bail, some bail may be granted with or without surety depending on the gravity of the offence committed by the offender. After investigation, when an offender is found to be innocent, the police are obliged by the law to release such suspect unconditionally.

## 6.0 TUTOR-MARKED ASSIGNMENT

1. Upon receiving a complaint from the public who carries out the next lines of action?
2. In your community, does the Police force refrain from the use of force when making arrest?
3. On what occasions are the Police entitled to use handcuffs on an arrested suspect?
4. What is a charge?
5. List five (5) essential components of a good charge?
6. On what condition(s) should the Police force release a suspect unconditionally?

## 7.0 REFERENCES/FURTHER READING

Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.

John, S.D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). States: Thompson Wadsworth

Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct. (1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.

Ojomo, F.Y. (2011). Policing in a Corrosive Environment. Ibadan: Kolaak Enterprises

Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.

Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.

Senna, J.J. & Siegel, L.J. (1996). Introduction to Criminal Justice, (7th ed.). St. Paul, MN: West Publishing Company, 1996.

## **UNIT 4 CONTEMPORARY LAW ENFORCEMENT CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Why we Have Police?
  - 3.2 Five Basic Contemporary Goals most Law Enforcement Agencies Set?
  - 3.3 What Two Concerns must be Balanced by Law Enforcement?
  - 3.4 What Types of Records are Typically Used in Law Enforcement?
  - 3.5 What Basic Styles of Policing have Been Identified?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 Reference/Further Reading

### **1.0 INTRODUCTION**

According the Law Enforcement Code of Ethics “As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice. This unit begins with why we have police and how police agencies relate with the people. Next is discussion of what two major concerns must be balanced by law enforcement, followed by how officers receive their information for law enforcement and what types of records are typically used in law enforcement, followed by the importance of centralisation of records and the basic styles of policing we have in law enforcements.

### **2.0 OBJECTIVES**

By the end of the unit, you should be able to:

- explain why we have police and how police agencies relate to the people
- explain how officer receive their information for law enforcement
- discuss why centralisation of records is encouraged and what basic styles of policing have been identified.

## 3.0 MAIN CONTENT

### 3.1 Why we Have Police?

Why does a modern society such as ours need police? Think about that. Why might you call the police? What if a neighbour's barking dog kept you awake night after night and the owner ignored your complaints? You might sue him, but that would involve time and expense. You might consider shooting the dog, but that could get you sued. The society offers you another option: call the police. Criminologists have argued that you have this option because situations occur in which "something ought not to be happening and about which something ought to be done now. In Nigeria and like in other climes, it is the police who have the authority to do something and to do it now. That something may involve the use of coercive force. In fact, Bittner suggests that this capacity to use force is the core of the police role:

In sum, the role of the police is to address all sorts of human problems when and insofar as their solutions do or may possibly require the use of force at the point of their occurrence. This lends homogeneity to such diverse procedures as catching a criminal, escorting a governor, directing a traffic, dispersing violent protests amongst others.

Policing is an exercise in symbolic demarking of what is immoral, wrong, and outside the boundaries of acceptable conduct. It represents the state, morality and standards of civility and decency by which we judge ourselves. The contribution of police to civil society cannot be overemphasised. The sacred and mysterious quality that attaches to policing endures because it is, metaphorically at least, a kind of service, or even gift, society assembles to stimulate the best in citizens on behalf of others.

Police is necessary when coercion is required to enforce the laws. The populace attaches diverse meaning and interpretations to what the police do in their day in, day out activities. To some, police are crime fighters, others see police as peacekeepers, some see them as traffic controllers, some see them as guards etc. There is also a widespread of popular conception of police work as exciting, nerve-jangling, chasing and apprehending dangerous criminals, kidnappers, armed robbers, armed bandits, cattle rustlers, etc.

### **3.2 Five Basic Contemporary Goals most Law Enforcement Agencies Set**

Law enforcement agents' goals may differ from clime to clime and from one jurisdiction to another, however, there are five basic contemporary goals that every law enforcement irrespective of the jurisdiction must have to achieve. Below are five basic goals of most police agencies:

1. Enforce laws
2. Preserve peace
3. Prevent crimes
4. Protect civil rights and civil liberties
5. Provide services

These goals often overlap most of the times. For example, a police officer intervening in a fight between a driver and a National Union of Road Transport Workers (NURTW) taskforce may not only enforce a law by arresting a suspect for assault, he may also maintain order, prevent other members of NURTW from engaging in the fight or prevent other drivers from engaging in the fight. He is also required to protect the civil rights and civil liberties of the suspect, the victim and the bystanders and provide emergency service to an injured victim.

It is obvious to note that success or failure in meeting each goal directly affects the success or failure of fulfilling other goals. Although five goals normally established by police are listen, in reality, policing is a single role comprised of numerous responsibilities. In addition, any discussion of goals in law enforcement must consider the vast differences between small and large agencies, as well as between rural, suburban and urban departments. Small agencies, frequently located in the rural or suburban areas, often have much less specialisation, have a closer relationship to the citizens being served and may have less diversity among those citizens, as well as within the agency. Large agencies, frequently located in urban areas, are likely to have more specialisation, a more distant relationship to the citizens being served and much greater diversity among those citizens.

#### **Enforcing Laws (*The number one primary goal of police agencies is to enforce laws and assist in prosecuting offenders*)**

Historically, enforcing laws has been a prime goal of policing. However, this goal has become increasingly complex. Not only must decisions be made as to what laws to enforce, but policing is also integral part of the criminal justice system, responsible for apprehending offenders and assisting in their prosecution. Unfortunately, because police are in the closest contact with the public, they are often blamed for failures in the criminal justice system. For example, an assault victim whose attacker is

found innocent in court may feel resentment not only against the court but against the department.

The release of a suspect from custody for lack of sufficient evidence, the failure of a prosecutor to take a case to trial or the failure of the corrections system to reform a convict prior to release all directly affect the public image of policing. The public image of policing is critical considering a large percentage of police work is in direct response to citizen complaints or reports. In fact, public support may be the single most important factor in the total law enforcement effort. The crime-fighting image of the Nigeria police is extremely poor. The stereotype of police officers emphasises their role as “crime fighter”, often to the exclusion of all others.

Because each state in Nigeria has numerous statutes and limited resources, full enforcement of all laws is never possible. Even if it were, it is questionable whether full enforcement would be in keeping with legislative intent or the people’s wishes. The police decide which reported crimes to actively investigate and to what degree and which unreported crimes to seek out and to what degree. This boils down to police discretion, which will be further discussed in another module and unit in full. Discretion which is judgment must be exercised as to which laws to enforce. All police departments and public must accept that not all laws can be enforced at all times. The law does not set priorities; it simply defines crimes, classifies them as felonies or misdemeanours and assesses penalties for them. The police set its own priorities based on citizen’s needs.

Usually the police concentrate law enforcement activities on serious crimes-those that pose greatest threat to public safety and or cause the greatest economic losses. From that point on, priorities are usually determined by past police experience, citizen wishes and expectations and available resources.

### **Preserving the Peace** (*A second important goal of the police is to preserve the peace*)

Police are often called to intervene in noncriminal conduct such as that which occurs at public events (crowd control), in social relations (domestic disputes) and in traffic control (parking, pedestrians) to maintain law and order. They frequently help people solve problems that they cannot cope with alone. Often such problems, if unresolved, could result in crime. For example, loud parties, unruly crowds or disputes between members of a family, business partners, landlord and tenant, or a businessperson and customer might result in bodily harm-assault. Studies indicate that domestic violence frequently leads to homicide.

Police effectiveness in actually preserving the peace will largely be determined by public acceptance of this role. Often if police officer simply ask a landlord to allow an evicted tenant access to his or her apartment to retrieve personal possessions or asks the host of a loud party in the residential area to turn down the stereo, this is enough. Mere police presence may reduce the possibility of a crime-at least temporarily. Here, as in enforcing laws, public support is vital.

### **Preventing Crime (A third goal is crime prevention)**

Just as police officers cannot be expected to enforce all the laws at all times, they cannot be expected to prevent all crimes from occurring. “The ‘war on crime’ is a war police not only cannot win, but cannot in any real sense fight. They cannot win it because it is simply not within their power to change those things-such as unemployment, the age distribution of the population, moral education, freedom, civil liberties, ambitions, and the social and economic opportunities to realise them-that influence the amount of crime in any society”. It is obvious that the police cannot control economic conditions, poverty, inequality; occupational opportunity, moral, religious, family, or secular education; or dramatic social, cultural, or political change. These are the ‘big ticket’ items in determining the amount and distribution of crime. Compared to them what police do or do not do matters very little.

This is where the idea of **community policing** comes from- the need for the police and the police within the community to work together as “co-producers of crime prevention”. The citizens know what the community’s problems are and how they might be solved. Citizens are on the front lines and know the pain of victimisation. Crime prevention activities frequently undertaken by police departments include working for juveniles, cooperating with probation and parole personnel, educating the public, instigating operation identification programs and providing visible evidence of police authority. In addition, many community services often provided by the police departments’ aid in crime prevention.

### **Protecting Constitutional Rights**

Not only are police charged with enforcing laws, preventing crime and providing services, they are expected to do so as specified in the Nigerian Constitution and the Police Act and Code of Conduct. Chapter four of the 1999 Constitution of the Federal Republic of Nigeria as amended section 34-44 categorically stated fundamental human rights as entitled to the citizens. The *Law Enforcement Code of Ethics* concludes with statement that law enforcement officers have a fundamental duty

“to respect the constitutional rights of all to liberty, equality and justice.” The police have the obligation to protect all persons in the free exercise of their rights. The police must provide safety for person exercising their constitutional rights to assemble, to speak freely, and to petition for redress of their grievances. In Nigeria many citizens are angered when a suspect’s rights prevent prosecuting a case. They begin to doubt the criminal justice system. However, should these same individuals find themselves suspected of a crime, they would expect their rights to be fully protected. The police must guarantee all citizens, even those perceived as unworthy of such protection, their constitutional rights.

The authority, goals and methods of the police must promote individual liberty, public safety and social justice. Protecting civil rights and civil liberties is perceived by some as the single most important goal of policing, hence concern for crime control must be balanced by concerns for due process.

### **Providing Services**

The fifth goal of law enforcement is to provide service. In addition to enforcing laws, preserving the peace, preventing crime and protecting civil rights and liberties, the police are often called to on to provide additional services to their community. The fundamental role of the law enforcement officer is to serve the community. Although in Nigeria, the motto of Nigeria police is “Police is your friend”, but in other climes, many police departments have their motto: as “To Serve and Protect”.

As society becomes complex, so have the types of service requested. Many new demands are made including giving information, directions and advice; counselling and referring; licensing and registering vehicles, intervening in domestic violence, working with neglected children; rendering emergency or rescue services; finding lost children, dealing with stray animals; controlling the crowds. In addition, many police departments provide community education programs regarding crime, drug, safety, domestic violence and the likes.

Although there are a lot of disagreements regarding what type of and amount of services the police should provide. They are often inappropriately asked to perform functions that might better be performed by another government agency-usually because they are the only government representatives available around the clock and because they have the resources and the authority to use force if necessary. However, in many small cities and towns many police services provided some social services which could be provided by another agency.

### **3.3 What Two Concerns must be Balanced by Law Enforcement?**

Law enforcement officers' departments are organised into two basic units: field services and administrative services. Task and personnel are assigned to one or the other.

**Field Service:** This unit is also called operations or line services.

Law enforcement officers in the field or operations ensure crime of any nature is prevented and detected. The main duty of the field law enforcement officer is to combat crime and they are always proactive in their services. One of the primary duties of the law enforcement officer in the field is to arrest offenders. This strategy is reactive, as is reactive, as we will identify in other units that ordinarily, it is expected that whoever commits an offence is liable and could be arrested by the police and charged to court. It includes patrol, traffic, community service, investigation, anti-robery, marine. More specifically, field officers investigates a burglary, arrest a car thief, testify in courts, serve a warrant, breaking up a fight, holding back a crowd at sports events, intervening in a domestic dispute before it gets violent, escorting, investigating a missing child, arresting kidnappers, countering armed robbery operations and arresting the armed robbery, seize illegal weapons, apprehend fleeing suspect, stop and search, carrying out strategic raiding, identifying and manning flashpoints or black spots. Traditionally, police departments have been generalists. That is most of their personnel is assigned to patrol, and each officer is responsible for providing basic law enforcement services of all types to a specified geographic area. General patrol has been and is the backbone of police work in smaller departments. In sum, law enforcement field service includes patrol, traffic, community service, crime prevention and detection, investigation and intelligence gathering.

**Administrative service:** Administrative services include communications and records, recruitment and training and provision of special facilities and services. Administrative services two areas that most directly the efficient provision of field services is communications and records. To properly serve the community, police officers must be kept currently and completely informed. They must know where and how much of each type of crime occurs. They also have to know what services are needed.

One of the most important functions of the administrative division in its support of the other units is keeping members informed of daily police operations and police operations and providing administrative instructions, special assignments and tasks to be performed. This is usually done at a **roll call** session before the officers on the next shift "hit the street."

Up-to-date information is usually provided in a daily circular or written on the notice board as the case maybe which contains brief summaries of what has transpired in the previous 24hours. Officers are given a synopsis of each complaint received and acted on, as well as descriptions of missing and/or wanted persons, stolen personal property and stolen autos.

The information provided at roll call is continuously updated by radio or cell phone. Data are available to officers in patrol cars or carrying portable radios or cellular phones. The introduction of the small, hand-carried police radio, cellular phone and beeper have extended the communications system so that officers on the foot (field service) may be reached to assist mobile patrol units and vice versa. This immediate communication has improved law enforcement officers' safety and provided better allocation of resources. Radio transmission dependability has improved steadily over the years and has resulted in a great reduction in response time to calls for service or reported criminal activities.

Communication is the lifeline of the police department. The police dispatcher receives all citizens' requests for police service. In some instances, the calls come directly to the dispatcher, who must act upon them and determine their priority. Some agencies have telephone operators screen the calls before giving them to the dispatcher to segregate informational calls from service calls. Dispatchers are responsible for knowing what patrol vehicles are ready for assignment and dispatching them to requests for service. They may also have some records responsibilities, for example making out the original incident complaint report containing the time the call was received, the time patrol was dispatched, dispatchers handle walk-in complaints. Some may also monitor jails through a closed-circuit television hookup. Such a system exists in many smaller and medium-sized departments.

In urban centres and metropolises especially in police state headquarters, are commands, divisional headquarters, in Nigeria, several dispatchers handle incoming calls and assign priority according to seriousness and availability of officers to respond. Police division in urban centres may also have direct and complete integration of police radio with regular telephone service. In this system any call to the police emergency number is automatically channeled to the dispatcher, who controls squad cars assigned to the area from which the caller is telephoning.

Many cities in Nigeria have the 112 or 199 system. A person who wishes to phone the police dials 199, and a central dispatching office receives the call directly. The eventual is to have 199 as the emergency number for police service in all Nigeria cities.

Some systems facilities officers' report writing. Laptops have a word processing programme officers can use to write their reports and send them directly to their departments, saving time and improving accuracy. Although computers make report writing easier, a computer cannot compose logical sentences or avoid conclusionary language. Although, most police stations in Nigeria lack computerised systems or laptops, reports are still been hand written manually.

### **3.4 What Types of Records are Typically used in Law Enforcement?**

The quality of records maintained is directly related to the quality of communication and field services provided. To give proper direction, police agencies must have sound records systems, as well as efficient communications systems. Police departments throughout the country vary in their reporting systems and their needs in management control and effective operational control. Their activities require keeping records not only of criminal activity but of all essential department activities.

Police records may be categorised as (1) administrative records (2) arrest records (3) identification records and (4) complaint records.

**Administrative records:** Include inventories of police equipment, department memorandums, personnel records, evaluation reports, quarterly reports, bi-annual reports, annual reports, and all general information that reflects correspondence or services rendered.

**Arrest records:** This category of information obtained from arrested persons when booked and information about the control and/or released of prisoners and court procedures.

**Identified records:** This contains fingerprints, photographs and other descriptive data obtained from arrested persons.

**Complaint record:** This usually contains information related to complaints and reports received from citizens or other agencies, as well as any actions initiated by the police. Because police work is public business, it requires accurate records of complaints received and the action taken by the police. Complaints may be criminals or noncriminal; they may involve lost property, damaged property, traffic accidents, medical emergencies or missing persons. Requests for police assistance may also involve robberies, murders, burglaries, vandalism or children playing in the street or cats up streets.

Most police stations have a procedure for recording complaint information either on forms or note books, it is unfortunate to note that the Nigeria police are still operating manually in most of their operations even in taking complaints. Initial records are filled out on all complaints or requests for service received by the dispatcher or a police officer. Information on the initial complaint record normally shows the complaints, victim, address of each, type of complaint, time of day, day of week, the officer handling the complaint or request, the area of the community where it occurred, the disposition, whether there was an arrest and whether follow-up reports or further investigation is justified.

### **3.5 What Basic Styles of Policing have been Identified?**

As noted by Senna and Siegel (1996), part of the socialisation as a police officer is developing a working attitude, or style, through which he or she approaches policing. For example, some police officers may view their job as a well-paid civil service position that stresses careful compliance with written departmental rules and procedures. Other officers may see themselves as part of the “thin blue line” that protects the public wrongdoers. They will use any means to get the culprit, even if it involves such cheating as planting evidence on an obviously guilty person who so far have escaped arrest.

Many studies have looked at **styles** of policing and have classified these styles into clusters called typologies. Although few police officers fall completely into a single typology, most tend to exhibit several behaviours to place them into a specific typology

Basic styles of policing include the following:

- Enforcer
- Crime fighter/zealot
- Social service agent
- Watchdog

**The Enforcer:** The enforcer focuses on social order and keeping society safe. Enforcers are less concerned with individual rights and due process. Such officers are often critical of the Supreme Court, politicians, police administrators and minority interest groups. Enforcers have little time for minor violations of the law or for the social services aspect, seeing them as a waste of police time and resources. Officers of this typology are most likely to use excessive force.

**The crime fighter/zealot:** The crime fighter/zealot is like an enforcer in that a primarily goal is to keep society safe. They tend to deal with all laws and all offenders equally. The crime fighter/zealot is frequently relatively new, inexperienced or unable to see the gray areas associated

with policing. Zealots are less critical of the social service aspects of policing than are enforcers.

**The social service agents:** The social service agents are more accepting of the social service roles and more attuned to due process. Such officers are often young, well-educated and idealistic. Like the enforcer and the crime fighters, social service agents are also interested in protecting society but are more flexible in how this is approached.

**The watchdog:** The watchdog is on the opposite end of the spectrum from the enforcer. The watchdog is interested in maintaining the status quo, in not making waves. Watchdogs may ignore common violations, such as traffic offenses, and tolerates a certain amount of vice and gambling. They use the law more to maintain order than to regulate conduct. They also tend to judge the requirement of order differently depending on the group in which the infraction occurs.

## 4.0 CONCLUSION

In this unit we have been able to examine why we have police. Police is necessary when coercion is required to enforce the laws. The populace attaches diverse meaning and interpretations to what the police do in their day in, day out activities. To some, police are crime fighters, others see police as peacekeepers, some see them as traffic controllers, some see them as guards etc. There is also a widespread of popular conception of police work as exciting, nerve-jangling, chasing and apprehending dangerous criminals, kidnappers, armed robbers, armed bandits, cattle rustlers, etc. We have been able to explain the five basic goals most law enforcement agencies set, the two major concerns law enforcements must balance, how officers receive their information, what types of records are typically used in law enforcements, basic styles of policing have been identified.

## 5.0 SUMMARY

The police are necessary when coercion is required to enforce the laws. The people largely determine the goals of policing and give law enforcement agencies their authourity to meet these goals. Moreover, citizens' support is vital. One primary goals of police agencies is to enforce laws and assists in prosecuting offenders. A second important is to preserve the peace. A third goal is crime prevention. A fourth goal is to protect citizens' constitutional rights. In seeking these goals, law enforcement faces the challenges of balancing concern for crime control with the concern for due process. A fifth goal of police agencies is to provide services.

Most police departments are organized into two basic units: field services and administrative services. Tasks and personnel are assigned to one or the other. Administrative services provide support for field support services and include communications and records, recruitment and training and provision of special facilities and services. Current information is usually provided at roll call, by radio and phone and by computer. Within the field services provided in a police department are patrol, traffic, community services and investigation. Sometimes these are specialised departments; sometimes the services are provided by single department. With the varying roles and responsibilities police officer have, it is not surprising that distinct styles of policing have developed. Four basic styles of policing are the enforcers, the crime fighter/zealot, the social service agent and the watchdog. The style of policing demonstrated by various officers contributes to their image.

## 6.0 TUTOR- MARKED ASSIGNMENT

1. Why are police needed in your community/neighbourhood?
2. Mention five primary goals of policing?
3. What services should police officers provide? Which are provided in your community/neighbourhood?
4. What style of policing will you probably support and why?

## 7.0 REFERENCE / FURTHER READINGS

Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.

Henry, M. W. & Karen, M.H. (2000). An Introduction to Law Enforcement and Criminal Justice. (6th ed.). United States of America: Thompson Wadsworth

John, S.D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States: Thompson Wadsworth

Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct. (1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.

Ojomo, F.Y. (2011). Policing in a Corrosive Environment. Ibadan: Kolaak Enterprises

Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.

Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing.  
Contemporary Readings. Illinoise: Wave Land Press, INC.

1999 constitution of the federal republic of Nigeria

**UNIT 5      GENERAL FUNCTION OF POLICE:  
INVESTIGATION, PATROL AND TRAFFIC.****CONTENTS**

- 1.0    Introduction
- 2.0    Objectives
- 3.0    Main Content
  - 3.1    Police and Investigation
    - 3.1.1    The Preliminary Investigation
    - 3.1.2    The Follow-Up Investigation
    - 3.1.3    Investigative Responsibilities
    - 3.1.4    The Use of Computer
    - 3.1.5    The Intelligence Officer
  - 3.2    Police and Patrol
    - 3.2.1    Responsibilities of the Patrol Officer
    - 3.2.2    Types of Patrol
  - 3.3    Police and Traffic
    - 3.3.1    Responsibilities of the Traffic Officer
- 4.0    Conclusion
- 5.0    Summary
- 6.0    Tutor-Marked Assignment
- 7.0    References/Further Reading

**1.0    INTRODUCTION**

The general functions of police include but not limited to investigation, patrol and traffic, a number of specialised functions are also required of law enforcement personnel. Sometimes all the functions are performed by a single individual-a formidable challenges but most times many police divisions have division of labour and specialties. Crime investigation is meant ascertain the culprits of a particular crime with concrete evidences, specialised patrol, also called directed or aggressive patrol, is designed to handle problems and situations that require concentrated, coordinated efforts. This unit begins police and investigation, preliminary investigations, followed by responsibilities of investigator. The next sub-topic was police and patrol, which was followed by responsibilities of the patrol officer, types of patrol, methods of patrol and the challenges of patrol. The final sub-topic in this unit is police and traffic and the responsibilities of the traffic officer.

**2.0    OBJECTIVES**

By the end of the unit, you should be able to:

- discussd the primary responsibilities of patrol
- explain the responsibilities assigned to patrol officer, the responsibilities of traffic officer,
- dis cuss the primary goal of traffic law enforcement,

### **3.0 MAIN CONTENT**

#### **3.1 Police and Investigation**

To the general public, the term criminal investigation often brings to mind the image of the detective as portrayed in novels, on the radio, in magazines and on television. The “directive”, or “investigator”, single-handedly digs out evidence, collects tips from informants, identifies criminals, tracks them down and brings them to justice. Investigation is a prestigious assignment. In reality, however, as research has established, patrol officers were responsible for most arrests. Recall that aggressive traffic officers make more criminal arrest than detectives. In other climes many police divisions, the detective is a patrol officer-no special detective or investigation division exists. But in Nigeria, the patrol team are different from the criminal investigation department (CIDs).

Investigation do not determine the suspects to be guilty; they main objective is their investigation. A primary characteristic of an effective investigator is objectivity. The investigator seeks the truth, not simply proof of the suspect’s guilt. According to the Nigerian Police Law with Police Act and Code of Conduct “Upon the receipt of a complaint and assignment to the Investigating Police Officer, he that is, the IPO will thereafter start investigation into the allegation. This may entail taking down statement of the complaint, witnesses and the arrested suspect. Before a matter is charged to the court, it is the responsibility of the Police to carry out a thorough and detailed investigation in order to ascertain the truth, which must be proved with credible evidence that is beyond reasonable doubt when presented in court or strong enough to get a conviction”.

While it is a paramount duty of the Police to investigate all allegation of crime, it is however at their discretion or liberty to investigate any allegation of commission of an offence made by any person. Police discretion within law enforcement will be discussed fully in the next unit. It must be emphasised that it is in fact the duty of the Police to investigate all allegations of commission of crime.

Essentially, the law enforcement officer shall be concerned equally in the prosecution of the wrong-doer and the defense of the innocent. He shall ascertain what constitutes evidence and shall present such evidence impartially and without malice. In so doing, he will ignore social, political, and all other distinctions among the persons involved, strengthening the tradition of the reliability and integrity of an officer’s word. The law enforcement officer shall take special pains to increase

his perception and skill of observation, mindful that in many situations his is the sole impartial testimony to the facts of a case.

Successful investigators also possess numerous other abilities, as described by Peak et al (1998): In addition to performing the usual investigation functions, investigators must be able to think logically, comprehend and understand complex masses of data, communicate and relate with other members of the agency, and understand the concepts of organised crime, intelligence collecting and civil liberties. They must also have self-discipline, patience, attention to detail, knowledge of the law and some understanding of scientific techniques. Deductive and inductive reasoning and decision-making abilities are also assets.

### **3.1.1 The Preliminary Investigation**

The preliminary investigation consists of actions performed immediately upon receiving a call to respond to the scene of a crime. This investigation is usually conducted by patrol officers. The International Association of Chiefs of Police (1970) has used the word *preliminary* as an acronym to describe the procedures in a preliminary investigation:

- P Proceed to the scene promptly and safely
- R Render assistance to the injured
- E Effect the arrest of the criminal
- L Locate and identify witnesses
- I Interview the complainant and the witness
- M Maintain the crime scene and protect the evidence
- I Interrogate the suspect
- N Note conditions, events and remarks
- A Arrange for collection of evidence (or collect it)
- R Report the incident fully and accurately
- Y Yield the responsibility to the follow-up investigate

The importance of response time has been debated. Traditionally, rapid response has been stressed, but this has been called into question. Some studies have found that arrest is seldom attributed to fast police response to reported serious crimes because about 75 per cent of all serious crimes are discovery crimes, crimes discovered after they have been committed. Only the remaining 25 per cent, the involvement crimes, require rapid response. The results of preliminary investigation are written in an incident report containing the basic facts related to the crime, the crime scene and any suspects. Some cases are “solved” during this phase. For those that are not, the decision must be made as to whether to pursue the case, such as whether there are witnesses and/or physical evidence. If the solvability factors indicate that the case might be successfully resolved, a follow-up investigation is conducted.

### **3.1.2 The Follow-Up Investigation**

The follow-up investigation may be conducted by the investigation services division, sometimes also known as the detective bureau. Therefore, successful investigation relies on cooperative, coordinated efforts of both the patrol and the investigation functions. In smaller departments, the same officer handles both preliminary and the follow-up investigators.

### **3.1.3 Investigative Responsibilities**

Investigative responsibilities include the following:

- ✓ Securing the crime scene
- ✓ Recording all facts related to the case
- ✓ Photographing, measuring and sketching the crime scene
- ✓ Obtaining and Identifying evidence
- ✓ Interviewing witnesses and interrogating suspects
- ✓ Assisting in identifying suspects

#### **Securing the Crime Scene**

Any area that contains evidence of criminal activity is considered a crime scene and must be secured to eliminate contamination of the scene, which is the introduction of something foreign into the scene, the moving of items at the scene or the removal of evidence from it. The first officer on the scene must protect it from any change. This single responsibility may have far-reaching effects on solving the crime. Physical evidence must be properly protected to have legal and scientific validity.

#### **Recording Relevant Information**

Investigators record all necessary information by photographing, sketching and taking notes to be used later in a written report of the investigation and testifying in court. Answers to these questions are obtained by observation and by talking to witnesses, complainants and suspects, as discussed shortly. They are recorded in notes, photographs and sketches or are in the form of physical evidence. In addition to taking notes, the scene is usually photographed, measured and sketched. The photographs show the scene as it was found, taken in a series to “tell a story”, closed-up photographs are evidence, such as footprints, tire tracks and tool marks are also taken.

## Obtaining and Identifying Physical Evidence

A large part of an investigator's role centres on obtaining information and evidence-proof that a crime has been committed, as well as proof that a particular person (the suspect) committed the crime. All important decisions will revolve around the available evidence and how it is obtained. The kind of evidence to be anticipated is often directly related to the type of crime committed. Crimes against the person scenes frequently contain the evidence, such as blood, hair, fibers, fingerprints, footprints and weapons. Crime against property scenes are commonly characterised by forcible entry with tools leaving marks on doors, windows, safes, money chests, cash registers and desk drawers. Among the more common types of evidence found at the crime scene are fingerprints, blood, hair, fibers, documents, footprints, or tire prints, tool fragments, tool marks, broken glass, paint, insulation from safes, bite marks, firearms and explosives.

Fingerprints are often found at crime scenes. Latent fingerprints are made by sweat or grease that oozes out of the pores from little wells situated under the ridges at the ends of the fingers. When a person grasps an item with reasonable pressures, this grease takes the pattern of the person's fingerprints. An important development in detecting and preserving fingerprints is the cyanoacrylate, or superglue, fuming process. When cyanoacrylate is heated, fumes are generated that adhere to fingerprints. This process can be used on items taken to a crime laboratory or at the scene.

Fingerprint identification is an extremely important form of positive identification. Identification officers have specialised training in taking, identification and filling fingerprints. They are skilled in using scanners and computers in their identification. A specialised form of fingerprinting is DNA profiling. DNA profiling uses the material from which chromosomes are made to positively identify individuals. No two individuals, except identical twins, have the same DNA structure. Although DNA profiling is expensive and very labour intensive, the implications for law enforcement are tremendous.

## Protecting and Storing Evidence

All evidence collected is marked to identify the investigator who collected it. It is then packaged and placed in the evidence room until needed. If it is removed from the evidence room for any reason, strict check-out and check-in procedures are followed to maintain the **chain of evidence**, which is documentation of who has had possession of the

evidence from the time it was discovered and taken into custody until the present time.

Some agencies have established the position of evidence technician. The evidence technician is usually a patrol officer who has received extensive classroom and labouratory training in crime scene investigation. In divisions that have small detective bureaus and relatively inexperienced officers, this position fills a notable void. The officer has not been relieved of regular patrol duties but may be called on to conduct crime scene investigations.

## Interviewing and Interrogating

A large part of investigation is talking with people to obtain information. Officers on the street, interacting effectively using their interviewing skills, will bring a return on investment found nowhere else in the department. Skilled field interviews increase the department's image, clearance rate, and intelligence gathering". The community-oriented philosophy of policing stresses the importance of communicating with citizens to identify problems and concerns. Patrol officers assisted are occasionally by citizens detailing local criminal activity". In addition, information is also gathered by routine street contacts; bar checks, reports, taken, arrest, brothel raids, field interview and use of CIs-confidential informants.

Investigators interview those with information regarding a crime. They talk with victims, witness and friends, coworkers, neighbours or immediate members of the families of victims and suspects. Investigators **interrogate** suspects, those who they believe to be connected with a crime. A witness is a person other than a suspect who has helpful information about a specific incident or a suspect. A witness may be a complainant (the person reporting the offense), an accuser, a victim, an observer of the incident, an informant, an expert or a scientific examiner of physical evidence. Hight (1998) notes:

*The use of informants remains one of law enforcement's oldest and most essential investigative tools. In today's world of litigation, criticism of police practices, and ever-changing public views regarding how effectively law enforcement agencies perform their functions, the continued use of informants, who gather vital information, remains critical. Providing uniform guidelines for informants' increases credibility for individual agencies while demonstrating law enforcement's concern with controlling both the use of informants' sources and how they operate.*

Experience has illustrated time and again that no two people will view the same situation in exactly the same way. How a witness describes what has happened is affected by many factors, some objective (within the individual) and some objective (inherent in the situation). Perception of an incident is affected by the viewer's accuracy of observation, interpretation of what is seen and attention to the incident.

## Identifying Suspects

If officers do not witness a crime, eyewitness identification plays an important part in the arrest, as well as in the trial proceedings. Very specifically questions and use of an identification diagram may aid witnesses in their identification of suspects. Other information related to the suspect is also obtained, for example how the suspect left the scene—running, walking, in a vehicle—and in what direction. If the witness knows the suspect, the investigator asks about the suspect's personal associates, habits and where he or she is likely to be found. Usually, however, the witness does not know the suspect. In such cases investigators must obtain identification in other ways. The three basic types of identification are:

1. Field identification
2. Photographic identification
3. Lineup identification

Each type of identification is used in specific circumstances, and each must meet certain legal requirements to be admissible in court. Sometimes more than one type of identification is used.

**Field Identification:** Is at-the-scene-identification, made within a short time after a crime has committed. Generally, the suspect is returned to the crime scene for possible identification, or the witness may be taken to where the suspect is being held. Field identification is used when a suspect matches the description given by a witness and is apprehended close to the crime scene. The critical element in a field identification is time. Field identification is based on a totality of circumstances, taking into consideration the witness's concentration on the suspect when the crime was committed, the accuracy of the description, and the certainty at the time of the confrontation and the length of time between crime commission and the field identification. A reasonable basis for believing that immediate identification is needed must exist because the suspect does not have the right to have counsel present.

**Photographic identification:** Photographic identification is another option. Most people are familiar with the procedure of having victims and witnesses go through mug books in hopes of finding a picture of the

person they saw commit a particular crime. This type of identification is time consuming and is profitable only if the suspect has a record. Mug shots are not the only types of photographs used in suspect identification. Frequently officers know, or have a strong suspicion about, who committed a given crime. If the suspect is not in custody, or if it is not possible to conduct a fair lineup, officers may present photographs of people of similar general descriptions to victims or witnesses, who may identify the suspect from among the photographs.

**Lineup Identification:** A third option is a lineup, allowing witnesses to observe several individuals, one of whom is the suspect, to see if the witness can identify the suspect. The witnesses not only can see the people in the lineup, they also can hear them speak. A suspect may be asked to speak, walk, turn, assume a stance or make a gesture. If for any reason a suspect refuses to cooperate in a lineup, photographic identification may be used. The suspect's refusal to participate may be used against him or her in court.

### 3.1.4 The Use of Computer

Computers have become an integral part of the investigative responsibilities of police departments. Computers are being used to identify fingerprints, track evidence, analyses evidence and aid in case of investigation and management.

**Fingerprints** one of the first uses of computers in law enforcement was to assist in identifying fingerprints. More and more departments are installing automated fingerprint identification systems (AFIS). In the near future, we can expect live scan fingerprinting that results in 'paperless' systems; a person is booked and the fingerprints are recorded on a computer and sent immediately for a search to the linked and latent database especially with the advent of 5G networks. In advanced countries, a more recent use of computers in fingerprinting has been the introduction of **biometrics**-measuring physical characteristics, such as fingerprints or voice by computer.

**Evidence:** A computerized evidence tracking system (ETS) which is in use in many advanced countries of the world can prevent countless problems. Many such systems are available in other climes. Often, they incorporate barcodes, such as those used on merchandise in grocery stores.

**Labouratory analysis:** Especially in the United States of America and other advanced countries, the FBI laboratory uses computers in most of

its operations. Use of computers has greatly enhanced **forensic science**, which is the study of evidence.

**The internet:** The internet, as the name suggests, is a computer network linking millions of computers. Through the internet individuals can share information, discuss topics and ask questions. Criminologists have opined that there is so much information available to investigators on the internet these days. That one might not even have left his or her office to collect information that might have once taken him or her all over the city on a wild goose chase.

### 3.1.5 The Intelligence Officer

As stated above that some police divisions have separate investigative departments, from patrol department, so is it with intelligence department and criminal investigation departments. Some divisions fuse intelligence departments (officers) with criminal investigation departments (officers) together while others are separate. Be that as it may, intelligence officers may be undercover officers investigating crime or internal affairs officers investigating officers within the division or department.

#### **Undercover**

The first area is undercover work-long-term, ongoing investigation into such criminal activity as illegal sale of guns, payoffs to police officers or politicians, major drug cases and activities of organized crime. The officers often work on the same case in cooperation with the department of state security service. Undercover intelligence officers do not wear uniforms or drive marked cars. They may even use assumed names and fictitious identities. To avoid identification problems, some large agencies use officers who have just graduated from rookie school because they are less known on the street. Undercover operations are often perceived as mysterious and glamorous assignments, yet there are many inherent dangers in such work. As Senna and Siegel (1996) caution, the very nature of undercover work involves deceit by police agents that often borders on entrapment, which could jeopardize the case.

Physical dangers also abound, and even the most cautious officers may find themselves unavoidably immersed in the violence that defines the criminal world, victims of assault, shooting and worse, sometimes at the hand of other officers who are unaware of their undercover status. Complacency and greed are the two things that get undercover officers in trouble. Some get overzealous and miss the warning signs that something has gone wrong with the operation. Others get complacent, believing that because an operation went well last time, the next one will

be just the same. In addition to legal and physical dangers, undercover work can take its toll on officers' psyches. Sometimes the psychological dangers can outweigh the physical dangers for undercover cops. Senna and Siegel, elaborate: "Being away from home, keeping late hours and always worrying that their identity will be uncovered all create enormous stress" Family and social relationships may suffer from such assignments, as officers are precluded from sharing what they are involved in with those closest to them. Furthermore, many undercover officers find it difficult to return to routine law enforcement work once the covert operation is over, with some even turning to crime themselves.

## **Internal Affairs**

The second area of intelligence work is investigating fellow officers in the department. For example, the intelligence unit may investigate a complaint of an officer drinking on duty, corruption or other activities considered as professional misconduct. The internal affairs unit exists to maintain organisational integrity and standards, and should be viewed as a positive component of the organisation. However, officers assigned to internal affairs are often quite unpopular with their peers. Internal affairs is the organisational component of a law enforcement agency that typically has the poorest image in the eyes of both law enforcement officers and citizens.

### **3.2 Police and Patrol**

Patrol is the backbone of policing has been a long-time axiom. Patrol is the most vital component of police work. All other units are supplemental to this basic unit. Patrol can contribute to each of the common goals of police departments, including preserving peace, protecting civil rights and civil liberties, enforcing the law, preventing crime and providing services. Unfortunately, in countries, patrol officers not only have the position with the least prestige, but they also are the lowest paid, the least consulted and the most taken for granted. Patrol officers strive to move up. In Nigeria for instance most times, it is the lower ranking police officers that are sent on patrol with one or two senior police officers (like the rank of Assistant Superintendent of Police, ASP) to supervisor them. Traditionally police from inception have been engaged in patrol. Most of police officers are assigned to patrol, and each officer is responsible for providing basic law enforcement services of all types to a specified geographic area. Patrol is responsible for providing continuous police service and high-visibility law enforcement, thereby deterring crime.

In addition, patrol officers must understand the federal, state and local laws they are to uphold and use good judgement in enforcing them.

Patrolling, as a function, is one the few areas of policing that has seen little change since the early 1960s. Patrolling is an action involving constant movement within a given area or, in policing, within a given beat. The general reason for patrolling has remained the same since the beginning- which is to deter or prevent criminal activity and to provide security to the community.

In recent years, as our society has become more diverse and as many social controls have broken down, as information has exploded and technology has proliferated, the patrol function has become increasingly complex and critical to accomplishing the police department's mission. The majority of officers in a division are assigned to the patrol function, and the majority of the department budget is usually spent here. In addition, patrol officers have the closest contact with the public and have the most influence on how the public perceives the police in general. To those departments instituting community policing, the patrol function is absolutely critical, as will be discussed later in another module and unit.

Not only is patrol exceedingly important to the police function, it is also exceedingly challenging. No matter what approach to patrol is used, the patrol function is the most visible form of police activity, and individual patrol officers represent the entire police department. The tasks they are expected to accomplish are almost over-whelming.

### **3.2.1 Responsibilities of the Patrol Officer**

The basic responsibilities of the patrol officers in most police departments are to investigate crimes, prevent criminal activity and provide day-to-day police services to the community. The specific duties involved in fulfilling these responsibilities are varied and complex. The size of the department often dictates what functions are assigned to patrol.

Patrol officers may be responsible for the following

- Assisting people
- Enforcing laws
- Investigating crimes
- Keeping traffic moving
- Maintaining order
- Resolving conflicts

As protectors patrol officers promote and preserve orders, respond to requests for services and attempt to resolve conflicts between individuals and groups. As law enforcers the first duty of patrol officers

is to protect constitutional guarantees; the second duty is to enforce federal, state and local statutes. Patrol officers not only encourage voluntary compliance with the law but also seek to reduce the opportunity for crimes to be committed.

Patrol officers also serve important traffic control functions, and important investigation functions, finally patrol officers in any community are the most visible representatives of government and are responsible for the safety and direction of hundreds of people each day

### **3.2.2 Types of Patrol**

Patrol is frequently categorised as being either general or specialised. Both general and specialised patrol seek to deter crime and apprehend criminals, as well as to provide community satisfaction with the services provided by the police department. General patrol does so by providing rapid response to calls for service. Specialised patrol does so by focusing its efforts on already identified problems. Whether general or specialised patrol is used depends on the nature of the problem and the tactics required to deal with it most effectively.

#### **General Patrol**

General patrol is also referred to as preventive patrol, random patrol and routine patrol. The term routine patrol should not really be used, however, because there is nothing routine about it. As Geller, noted: "Every patrol officer knows that, in a split second the most inconsequential and routine activity can develop into a potentially hazardous attempt. Patrol work (at least as traditionally practiced) therefore consists of long periods of boredom punctuated by moments of terror". The challenges of general patrol change constantly. The patrol officer may be pursuing an armed bank robber in the morning and rescuing a kidnapped victim in the afternoon.

Traditionally patrol has been random, reactive, incident driven and focused on rapid response, to calls. These characteristics can be seen in the main types of activities officers engage in during a typical patrol shift: random/preventive patrol, self-initiated activities, calls for service, directed patrol and administrative duties. Often priorities for preventive patrol are identified and or assigned during roll call. For example, patrol officer may be alerted to the presence of a known escaped criminal sighted in the area to watch for while on patrol. Patrol might be more effective if it were proactive, directed and problem oriented and if it used differentiated response strategies.

## Specialised Patrol

Specialised or directed patrol is current innovations in police patrolling procedures reflect the movement away from crime-fighting and toward a sensitivity to the local community. The prevalence of the reactive-patrolling approach to crime control and reports that rapid response time is of little consequence have created concern about the effectiveness of random patrolling procedures and have subsequently led the way for directed patrolling practices with a narrower focus. The objectives in these structured patrol procedures typically include the concentration on high crime areas or specific offense types. In an additional effort to remove the old barriers between the community and police, police organisations have incorporated not only a more extensive use of foot patrol, but also other alternatives to squad cars, such as patrolling on horseback, motor scooters, even on power bikes (speed bikes).

Directed patrol uses crime statistics to plan shift and beat staffing, providing more coverage during times of peak criminal activity and in high-crime areas. Direct or aggressive patrol meshes well with problem-orientated policing and with community-oriented policing. Directed patrol emphasis is that officers be trained in the more effective handling of child abuse, domestic violence, missing children cases, and empathetic treatment of victims during crime investigations. This new service-oriented professionalism expands the job definition from law enforcement and order maintenance to include all community problems and encourages police officers to assist in neighbourhood improvements. This extension of patrol training to the climate and needs of the community is intended to better equip the officers for the social work duties that have always consumed much of their time.

Whether general or specialised, the demands made on patrol officers are many. To be effective, modern patrol officers must perform in three major spheres of activity-often simultaneously

- Respond to emergency calls for service
- Participate in tactical responses to apprehend perpetrators or to displace or disrupt problem patterns
- Engage in strategic problem-solving efforts with the community.

### 3.2.3 Methods of Patrol

Patrol officers before the emergence of automobiles were originally on foot or horseback. Bicycles patrol was latter introduced before motorcycles patrols and then motor patrol and airplane patrols. Airplanes were first used by the New York City Police Department in

1930. At that time daredevils' pilots were flying all over the city, sometimes crashing in densely populated areas. Patrol can be accomplished via foot, automobile, motorcycle, bicycle, horseback, aircraft and boat. The most commonly used and most effective patrol is usually a combination of automobile and foot patrol.

## **Foot Patrol**

The word *patrol* is derived from the French word *patrouiller*, which means, roughly, to travel on foot. Foot patrol, the oldest form of patrol, has the advantage of close citizen contact. Most effective in highly congested areas, it may help to deter burglary, robbery, purse snatching and muggings. Foot patrol has been shown to reduce citizen fear, increase citizen satisfaction, improve the attitude of police officers, and improve the job satisfaction among police officers. In addition, foot patrol shows some potential for reducing calls for service via telephone and, although the findings are not strong, it has some crime reduction potential. Furthermore, it may keep minor discords from escalating into more serious events; it may encourage citizens to take action on their own behalf; and it certainly positions patrol officers to receive and interpret information necessary to solve crimes.

The 1980s saw a significant trend back to foot patrol. In the 1990s it has become almost synonymous with community policing. Foot patrol is relatively expensive and does limit the officer's ability to pursue suspects in vehicles and to get from one area to another rapidly. Used in conjunction motorized patrol, foot patrol is highly effective. Foot patrol is proactive rather than reactive. Its goal is to address neighbourhood problems before they become crimes.

## **Automobile Patrol**

Automobile patrol offers the greatest mobility and flexibility and is usually the most cost-effective method of patrol. It allows wide coverage and rapid response to calls; the vehicle radio provides instant communications with headquarters. The automobile also provides a means of transporting special equipment and prisoners or suspects. The obvious disadvantage of automobile patrol is that access to certain locations is restricted, for example inside a building. Therefore, officers may have to leave their vehicles to pursue suspects on foot.

In addition, while patrolling in a vehicle, officers cannot pay as much attention to details they might see if they were on foot, for example a door ajar, a window broken or a security light out. The physical act of driving may draw attention away from such subtle signs that a crime may be in progress. Another disadvantage of automobile patrol is lack of

community contact so necessary for effective police work. To counteract the isolation that comes with automobile patrol, officers in patrol cars might be considered foot officers who use cars for transportation from one point to another. Many officers, however, do not see it that way. Many resists getting out of their cars to talk to citizens; some even feel it is a degrading type of appeasement. In addition, the practice contradicts the tactical principle of preventive patrol, which requires the continual presence of moving, motorized street patrol. The traditional vehicle-based random patrol is a luxury we soon may not be able to afford. This is mostly used in Nigeria by the police across all states.

## **Motorcycle Patrol**

Motorcycle patrol has been a popular option for agencies throughout the country for many decades. Police agencies have used motorcycles in all kinds of weather for years. Motorcycle patrol is similar to automobile patrol; however, it foregoes the advantage of transporting special equipment and prisoners to overcome the disadvantage of limited access presented by the automobile. The motorcycle is also better suited to maneuver easily through heavy traffic or narrow alleys.

Motorcycles are used for traffic enforcement, escort and parade duty. In fact, motorcycles and automobiles have dominated traffic enforcement for the past seven decades. They can also enhance community relations. If you put a motorcycle in a residential neighbourhood, even on an occasional patrol, you can watch the relationship develop. If you have an officer who represents the department well and maintains a professional image, the public relations benefit will be immeasurable.

Most motorcycle officers will tell you that the public finds them more approachable when they are on their bikes than when they are locked inside their patrol van. Motorcycle is a functional unit and a public relations tool-and it is both in all kinds of weather, as long as it is operated with caution and common sense. Among the disadvantage of motorcycles are their relatively high cost to operate, their limited use in adverse weather such as rainy season and the hazards associated with riding them.

## **Bicycle Patrol**

Bike patrols have taken modern policing by storm, but they are no means a new concept. They were around at the turn of the century, then kind of died out, and then experienced a resurgence that can be traced to the introduction of the city patrol-friendly mountain bike and their use in the mid-1980s. The inherent value of a bicycle unit is that it provides high visibility, accessibility and increased mobility. Reduction in crime

and improved community relations with low maintenance costs solicits favourable response from precinct commanders, business owners and taxpayers. Indeed, as with motorcycles, bike officers are more approachable than those in patrol vans, which serve to enhance police-community relations.

Bicycle patrol is sometimes used in parks and on beaches or in conjunction with stakeouts and surveillance. It adds another dimension of patrol available in special circumstances, such as in areas that are inaccessible to patrol vehicles and too large to be adequately patrolled on foot. Bike units are ideal for patrolling small areas and for performing directed patrol assignments. They may even be used to cover small areas that are some distance apart, with departments mounting bike racks on patrol cars for officers to transport their bikes to various patrol sites.

In addition to mobility, bicycles also provide a stealth factor, because they can be ridden very quietly and do not attract attention. Bikes are very quiet. Their accessibility is great. It mixes the benefits of a foot patrol and a car. They have the rapidity of a car in dense areas. A lot of times, they can get there faster than a police car. Bicycles patrol gives the police a proactive patrol. Rather than being reactive and handling the aftermath of crimes, they are out there looking for people violating the laws. This is an important component in any department ability to prevent crime.

Bicycles have some of the same disadvantage as motorcycles. One is that their use is limited by the weather. A second, more important disadvantage is that the officer is very vulnerable while riding a bicycle. Officers should have the proper safety equipment and follow all basic safety precautions while on bicycle patrol. Another vulnerability is about backup. Since the bike goes where the car can't go, how is the car going to provide backup? Bike officers should ride in pairs, especially in urban areas. Another disadvantage of bikes is the physical exertion required. Officers at times over-exert themselves in order to get to the emergency scene in time. And that could not be the best way to respond to a robbery in progress.

## **Mounted Patrol**

Modern law-enforcement organisations evolved from military antecedents; the horse, since the invention of the saddle, the stirrup, and the hose collar, has been driving force in military campaign and police actions. Mounted patrol units historically constitute some of the oldest and most varied police groups in other climes. Although there is a decline in use of mounted patrol units across societies since after the

World War II. Mounted police patrols have enjoyed a resurgence in popularity and now are found in more than 200 cities across the United States. Mounted patrols function in a variety of capacities, from community relations to park and traffic patrol, to crowd and riot control, to crime prevention. One of the primary responsibilities of the Mounted Unit is to control crowds during demonstrations and other occasions pedestrian or vehicular traffic is particularly dense.

Mounted patrols have also been used to do the following:

- Assist in evidence searches at crime scenes
- Round up straying livestock
- Search for lost children in tall corn or grass
- Apprehend trespassers

Like other forms of patrol, mounted patrol has a host of advantages and disadvantages. One of the advantages of mounted patrol is the rider's clear views, his or her visibility to the public, rapport with citizens, the ability to operate in close places, the facilities of being able to perform most duties from the saddle, and contributions to clean air and fuel economy. The disadvantages are exposure to inclement weather, lack of speed over long distances, limited carrying capacity, flesh-and-vulnerability, and street litter.

## Air Patrol

Air patrol is another expensive yet highly effective form of patrol, especially when large geographic areas are involved. The rapid growth in the use of police helicopters especially during elections and in the fight of insurgent. Choppers ideally support officers on the ground, apprehending dangerous fugitives, rescuing, and even assisting in aerial firefighting. A helicopter 500 feet in the air has 30 times the visual range of a unit on the ground, providing a patrol capacity equal to 15 patrol vans. Furthermore, a helicopter can arrive at a crime scene five to ten times faster than patrol vans and motorcycles.

Helicopters and small aircraft are generally used in conjunction with police vehicles on the ground in criminal surveillance and in traffic control, not only to report tie-ups but to clock speeds and raid ground units. Helicopters have also been used to rescue persons from tall buildings on fire and in other situations, such as floods. In addition, air travel is a cost-effective means of transporting prisoners over long distances. Air patrol does have disadvantages, however, including the high cost of buying, operating and maintaining planes and helicopters. Another disadvantage is that citizens may complain of the noise when an aircraft patrols residential area. Some citizens may feel they are being

spied on—that the police are literally an “eye in the sky”—and it may make them nervous. This disadvantage might be countered by public relations information stressing the purpose of the air patrol.

## Water Patrol

Water patrol is used extensively on our coasts to apprehend gun and narcotics smugglers as well to curtail sea pirates’ activities. Inland, water patrols are often used to control river and lake traffic. Water patrol units are very specialised and are used in relatively few cities in the United States. In those cities with extensive coasts, however, they are a vital part of patrol. Water patrols are used for routine enforcement of such things as vessels exceeding speed limits, intoxicated operators and safety inspections, as well as search and rescue operations, emergency transportation in flooded areas, general surveillance and antismuggling operations. Although faced with unique challenges, marine officers are driven to keep waterways in their jurisdictions safe for business and recreational use.

Furthermore, close ties can develop between boating community or fisher men and women and the marine agencies that patrol it. One disadvantage of water patrol is expense. Speedboats are expensive to buy, operate and maintain. In addition, they must be moored, and they must be operated by officers with special boat skills.

As we summaries this sub-unit, it is vital to note that the Nigeria police use more of automobile patrols. Motorcycles are mostly used for escorts of the Presidents, Governor or top-ranking politicians then for crime preventions. Foot patrol is not mostly used by the Nigerian police. Marine police and patrol exist in the coastal communities but are very few. Air patrol are mostly used by the police during elections in Nigeria. However, it is vital to note that the Nigeria Air Force assist the Nigeria Army on fighting the insurgents in Northern Nigeria via air patrols and air strikes. Mounted patrols are seldom used by Nigeria police for crime patrols except for parades and colour parties.

## 3.3 Police and Traffic

### 3.3.1 Responsibilities of the Traffic Officer

Traffic law enforcement is a critical responsibility of police officers. The principal goal of the traffic division is to increase safety on the streets and highways by enforcing traffic regulations. Furthermore, because officers are on the street so much of the time, they often are among the first to know of problems in the transportation system and can provide information as well as advise on overall system planning.

Traffic officers may be responsible for the following duties:

- ✓ Enforcing traffic laws
- ✓ Directing and controlling traffic
- ✓ Providing directions and assistance to motorists
- ✓ Investigating motor vehicle accidents
- ✓ Providing emergency assistance at the scene of an accident
- ✓ Gathering information related to traffic and writing reports

The primary objectives of most traffic programmes are to obtain the smoothest possible movement of vehicles and pedestrians consistent with safety and to reduce losses from accidents.

## **Enforcing Traffic Laws**

Police officers seek to obtain the compliance of motorists and pedestrians with traffic laws and ordinances, as well as driver license regulations and orders. They issue warnings or citations to violators. Traffic officers provide law enforcement action related to operating and parking vehicles, pedestrian actions and vehicle equipment safety.

### **1. Speeders**

Speeding-most everyone does it at one time or another, if not all the time, and many justify it as just as “just going with the flow of traffic. However, speeding has become an increasing problem for law enforcement, as more cars travel the streets and people seem more in a hurry than ever before to get from point A to point B. In fact, some don’t even realise they are speeding until they are flagged down by road safety or police checkpoints.

To combat the problem of lead-footed drivers, some agencies are using portable Smart Monitoring Awareness Rada Trailers (SMART) parked along-side the road. Motorists see their speeds in foot-high figures on the trailers digital display. The posted speed limit sign mounted above the display is a reminder to ease up on the gas pedal.

### **2. Red Light Runners**

A problem related to speeding is red light running. Many people think they simply don’t have a spare minute to spend sitting at an intersection. Furthermore travelling at 120 or 140 or kilometer per hours, over the posted speed limit makes stopping for red lights that much more difficult According to Retting and Williams (1997), “Research shows that running lights and other traffic control devices (stop and yield signs) is the most frequent type of collision in urban crashes and that motorists

are more likely to be injured in crashes involving red light running than in other type of crashes. Some jurisdiction are installing red-light cameras to help enforce traffic laws. These cameras photograph red-light runners, getting a shot of the license plate number for identification, and typically stamp the date, time of day, time elapsed since the light turned red and the vehicles speed.

### 3. Traffic Stops

Once an officer has probable cause, whether it's having clocked a driver exceeding the posted speed limit, witnessing a red-light runner or some other traffic violation, a traffic stop can be made. Traffic stops are a common part of an officer's day. Each has a law unto itself, and each may be dangerous. There is always the chance for violent action. Traffic stops are one of the most dangerous aspects of a police officer's job. When stopping a vehicle, a police officer has little knowledge of the facts and circumstances occurring in the life of the driver of the automobile or in the lives of passengers in the automobile. The police officers do not know if the occupants of the motor vehicle have experienced a traumatic even during the day, are under the influence of alcohol or drugs, have weapons or have some type of motivation for wanting to injure or kill the police officer. Every traffic stop is unique. Some individuals will sit in the motor vehicle and wait for the police officer to approach, while others are eager to exit the vehicle.

### 4. Issuing Tickets

Often a traffic stop will result in a ticket being issued. Although police in Nigeria does not issue ticket, they will take you to their station for prosecution, it is the Federal Road Safety Commission that issues tickets in Nigeria. Be that as it may, tickets cause police officer more trouble than virtually anything else in other climes, in large part because they underestimate the impact of this seemingly mundane duty. Traffic contacts are immeasurably more than simply spotting a violation and putting it on paper. On the contrary, interactions with traffic violators are highly complex psycho-dynamic situations. Police officers frequently write tickets for the wrong reasons. The best reason to write ticket is to enhance the safety of the public, whether it's driver you have stopped, other drivers, pedestrians, cyclists or any other users of the streets and sidewalks.

## Directing and Controlling Traffic

Police officers frequently are called to direct traffic flow, control parking, provide escorts and remove abandoned vehicles. They frequently are asked to assist in crowd control at major sporting events.

They are also responsible for planning traffic routing, removing traffic hazards and assuring that emergency vehicles can move quickly through traffic. One-way officer keep traffic flowing is to help drivers of broken-down cars and those who have run of gas. Such stopped vehicles cause other moving vehicles to slow down and can contribute to crashes, as drivers divert their eyes from the road (rubbernecking) to see why someone else has pulled over to the shoulder. Most highways patrol vehicles have push bumpers to help guide disabled cars out of the way and to a service station, and some have fuel transfer pumps to give stranded motorists enough gas to get a fuel station.

In many jurisdictions officer and other respondents en route to an emergency, such as ambulances or fire trucks, can control traffic light to their favour, eliminating the need to slow or stop at a red light and preventing accidents that may occur when a firefighters, ambulance, anti-robbery squad chasing armed robbers or other emergency vehicles passes through an intersection against the light. In these systems, a frequency-coded signal is emitted from the approaching vehicles to a signal controller device on the traffic light, providing a green light to the emergency vehicle.

## **Providing Directions and Assistance to Motorists**

Police officers provide information and assistance to motorists and pedestrians by patrolling, maintaining surveillance of traffic and the environment, conducting driver-vehicle road checks and being available when needed.

## **Investigating Motor Vehicle Accidents**

Police officers gather and report the facts about accident occurrence as a basis for preventing accidents and providing objective evidence for citizens involved in civil settlements of accidents losses. Police officers investigate accidents, including gathering facts at the scene and reconstructing the accident. They may also prepare cases for court and appear as prosecution witness when there has been a violation, such as drunk driving.

## **Providing Emergency Assistants at the scene of an Accidents**

At an accident scene, the police officer may assist accident victims by administering first aid, transporting injured persons, protecting property in the victim's vehicle and arranging for towing of disabled vehicles.

## Gathering Information Related to Traffic and Writing Reports

The police officer reports on accidents, violations, citations and arrest, disposition of court actions, drivers' cumulative records, roadway and environmental defects and exceptional traffic congestion. The reports assist the traffic engineer and traffic safety education agencies by providing information useful in their accident prevention programs and in planning for traffic movement or vehicle parking. Furthermore traffic-related records, including registration records, drivers' license, traffic citations and collision reports, may play an important role not only in traffic management but also in criminal investigations.

Sometimes police officers serve unofficially as the city's road inspector as they discover problems in either road conditions or traffic flow. They may propose corrections to achieve safer, more effective motor vehicle and pedestrian travel and vehicle parking.

### 4.0 CONCLUSION

In this unit we have been able to examine the general functions of the police; investigation, patrol and traffic. These three key functions of the police are interwoven, interconnected and interrelated. We also revealed that in some police divisions that one police officer can perform these trio functions but in the recent times, due to division of labour and specializations, officers are posted into different departments based on the above functions of investigation department, the patrol team and the traffic officers. We also observed that patrol ab initio is the backbone of the law enforcements, during patrol, crime can be prevented, detected and arrest made, unlike in the other two functions. However, each of the officers in these three departments or functions complements each other especially as it concerns law enforcement. They are work together to achieve the goals and objectives of law enforcement.

### 5.0 SUMMARY

A large part of an investigator's role centres around objectively obtaining and presenting information and evidence. Investigators recognize, collect, mark, preserve and transport physical evidence in sufficient quantity for analysis and without contamination. Investigation responsibilities include securing the crime scene; recoding all facts related to the case; photographing, measuring and sketching the crime scene; obtaining and identifying evidence; interviewing witnesses and interrogating suspects; and assisting identifying suspects. Of all the operations performed by the police, patrol is the most vital. Patrol is

responsible for providing continuous police service and high-visibility law enforcement, thereby deterring crime. In addition, patrol officers may be responsible for assisting people, enforcing laws, investigating crimes, keeping traffic moving, maintaining order and resolving conflicts. Traditionally patrol has been random, reactive, incident driven and focused on rapid response to calls. Patrol might be more effective if it were proactive, directed and problem oriented and if it uses differentiated response strategies. Direct patrol uses crime statistics to plan shift and beat staffing, providing more coverage during times of peak criminal activity and in high-crime area. Patrol can be accomplished via foot, automobile, motorcycle, bicycle, horse-back, aircraft and boat. The most commonly used and most effective patrol is usually a combination of automobile and foot patrol. The primary goal of traffic law enforcement is to produce voluntary compliance with traffic laws while keeping traffic moving safely and smoothly.

## 6.0 TUTOR-MARKED ASSIGNMENT

1. What is the goal of an investigating officer?
2. What does a preliminary investigation consist of?
3. What type of patrol is used in your community and how effective is it?
4. Why doesn't patrol have as much prestige as investigation?
5. If you had your choice of patrol, what method would you select? Why?
6. What kind of traditional patrol do you feel is effective? Which of the suggested changes do you support?
7. Have you been involved in a traffic accident? How would you evaluate the performance of the officer(s) responding to the call?

## 7.0 REFERENCES/FURTHER READING

Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.

Aremu, A.O. (2017). The “Trinity” And the Missing Mission in Policing. An Inaugural Lecture delivered at the University of Ibadan on Thursday, 18 May, 2017. 2016/2017 Inaugural Lecture Series.

John, S.D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States: Thompson Wadsworth

Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct. (1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.

Ojomo, F.Y. (2011). Policing in a Corrosive Environment. Ibadan: Kolaak Enterprises

Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.

Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.

Ugwuoke, C.U. (2015). Criminology: Explain Crime in the Nigeria Context. (2nd ed.). With an Update on Terrorism/Boko Haram. Nsukka: Great AP Express Publishers Ltd.

Ugwuoke, C.U (2010). Criminology: Explaining Crime in the Nigerian Context. Nsukka: Great AP Express Publishers Ltd.

## **ASSESSMENT**

## MODULE 2

- Unit 1 Police Discretion and Law Enforcement
- Unit 2 Arrest and Search (Arrest without, Arbitrary by the Police, Arrest with Warrant)
- Unit 3 Custodial Interrogation and Statement by the Accused Persons (Miranda Warning)
- Unit 4 Police and Prosecution
- Unit 5 Detention and Torture

### **UNIT 1 POLICE DISCRETION AND LAW ENFORCEMENT**

#### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is Discretion?
  - 3.2 How is Discretion Exercised by the Police?
  - 3.3 What Factors Influence Police Discretion?
  - 3.4 Orientations of Police or Styles of Policing and Use of Discretion
  - 3.5 Officers Characteristics and Use of Discretion
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

#### **1.0 INTRODUCTION**

The use of discretion is one of the major challenges facing Police today across climes. This unit will discuss the meaning police discretion, how and why it is exercised, what factors influence discretion, and how it can be controlled. How the use of discretion by the Police affects other crucial areas of law enforcement, including biased based policing; police misconduct, brutality, and corruption, and the liability of the police for their conduct.

## 2.0 OBJECTIVES

By the end of the unit, you should be able to:

- define discretion
- describe how police exercises discretion especially as it concerns law enforcement
- explain factors that influence police discretion
- explain the correlation of police experience, age, race, gender, attitude, educational qualifications and use of police discretion
- explain the relationship between officers' characteristics and use of discretion.

## 3.0 MAIN CONTENT

### 3.1 What is Discretion?

Discretion means the availability of a choice options or actions one can take in situation. We all exercise discretion many times every day in our lives. At a restaurant, we have discretion in selecting a steak dinner or a fish dinner. At the video store, we have discretion in picking mastery or a comedy to view. Discretion involves making a judgment and a decision. It involves selecting one from a group of options.

The criminal justice system involves a tremendous amount of discretion. A judge exercises discretion in sentencing. He or she can sentence a defendant to a prison term or to probation. A judge can release a defendant on bail or order the defendant incarcerated until trial. Prosecutors exercise discretion: they can reduce charges against a defendant or drop the charges entirely. Parole boards exercise discretion: they can parole a person from prison or order him or her to serve the complete sentence. The entire criminal justice system is based on the concept of discretion. Why is there so much discretion in law enforcement? In our system, we tend to treat people as individuals. One person who commits a robbery is not the same as another person who commits a robbery. Our system takes into account, why the person committed the crime and how he or she committed it. Were there any mitigating or aggravating circumstances? When a judge, a prosecutor, or a parole board member exercises discretion, each generally has sufficient time and data necessary to make a careful, reasoned decision.

The judge can read the presentence report prepared by the probation department or consult with the probation department staff member preparing the report. The judge can also consult with the district attorney

or the defense attorney. The prosecutor and parole board member also have sufficient data and time in which to decide what action to take in a case.

However, most crucial decisions made in the criminal justice system do not take place as described in the previous paragraph. The most important decisions do not take place within an ornately decorated courtroom or a wood-paneled conference room. They take place on the streets. They take place any time of the day or night, and generally without the opportunity for the decisions makers to consult with others or to carefully consider all the facts. The split-second decisions are often very lowest level in the criminal justice system. The police officer is general the first decision maker in the law enforcement and in the criminal justice system and is often the most important.

Wilson described the police officer's role in exercising discretion as being "unlike that of any other occupation... one in which sub-professionals, working alone, exercise wide discretion in matters of utmost importance (life and death, honour and dishonour) in an environment that is apprehensive and perhaps hostile."

Police are expected to realise a high level of equality and justice in their discretionary determinations though they have not been provided with the means most commonly relied upon in government to achieve these ends. The police make policy about what law to enforce, how much to enforce it, against whom, and on what occasions.

Not much happens in the Nigeria criminal justice system without the use of discretion by the police. How does a police officer exercise discretion on the street? Before we look at how discretion is exercised, it is important to understand police-committed and police-uncommitted time. Police-committed and police-uncommitted time. Police are often directed by the police dispatcher (119 or 112) to crimes, emergencies, and other calls requesting police services. Often supervisors will assign police during particular hours to specific areas to perform duties. These are examples of committed time. However, most of police patrol time is spent doing whatever the individual officers want to do; this is uncommitted time.

In his pioneering work, "Police Patrol Work Load studies: a review and critique," Carry W. Cordiner stated, Patrol officers have the opportunity to determine what their workload will be during the uncommitted portion of their patrol time. (This proactive) component of patrol work is also largely ambiguous, because the conduct and effect of preventive patrol are not clear, and many of the self-initiated activities undertaken are not strictly crime – or non-crime-related.

### **3.2 How is Discretion Exercised by the Police?**

At least some discretion is exercised in every aspect of law enforcement and the police task. Some discretionary actions involve very subtle and perhaps minor decisions, while others involve blatant and important ones. Police discretion exists when officers have some leeway or choice in how to respond to a situation. The fewer the rules about handling incidents and situations, the more discretion police officers have. Discretion involves both actions and inactions. Not doing something may be equally as important as doing something. Discretion involves both having the power to decide which rules apply to a given situation and whether or not to apply these rules.

Both of these decisions have potentially important implications for the community and for the department. Police discretion has been justified on many grounds including: the existence of vague laws, limited resources, community alienation, the need to individualize the law, and the fact that many violations are minor in nature. The exercise of police discretion poses some difficulties, such as: unequal treatment of citizens, interference with due process, a reduction in deterrent effects, and the hidden or unreviewable nature of many discretionary decisions. Police discretion exists at both the individual level (patrolling strategies, decisions to arrest, stop and frisk, write a report, etc.) and at the administrative or departmental level (manpower levels, allocation of personnel and resources, policies, training, etc.).

Police departments are being both encouraged and perhaps compelled to enact clear policies regulating officers' actions. As Alpert and Fridell (1992) aptly point out, the purpose of departmental policy is to reduce officer or individual discretion as well as to help officers prepare for situations they may confront. Clearly, some officers decisions, such as the decision to arrest, how to patrol, and to stop and frisk should be made with a significant amount of individual discretion, while others such as the use of deadly force and continuing discretion, while others such as the use of deadly force and continuing a police pursuit, are certain candidates for a reduced amount of discretion.

In sum, the police exercise discretion to perform the following crucial actions:

- To arrest
- To stop, question, or frisk
- To use physical force
- To use deadly force
- To write traffic summonses

- To use certain enforcement tactics (harassment, moving loiterers, warning, and so on) To take a report on a crime To investigate a crime

Some of the extent of police discretion is indicated by the following research-findings.

### You decide

Think about what you would do as a police officer under the following circumstances. This is a perfect example of a case calling for the exercise of police discretion.

### 3.3 What Factors Influence Police Discretion?

We know that officers practice discretion, and we know that discretion is necessary. Are there factors, however, that cause the police to exercise discretion in a certain way? Scholars have been studying this issue for quite a while.

Herbert Jacob wrote that four major factors influence police officers in determining the exercise of discretion:

1. Characteristics of the crime. A serious crime leaves the police less freedom or ability to ignore it or exercise discretion regarding it.
2. Relationship between the alleged criminal and the victim. Generally, the police tend to avoid making arrest when a perpetrator and a victim have a close relationship. In recent years, however, many departments have limited discretion in domestic violence or family assault cases and have adopted pro-arrest policies.
3. Relationship between police and the criminal or victim. Generally, a respectful, mannerly complainant is taken more seriously and treated better by the police than an antagonistic one. In the same way, a violator who acts respectfully to the police is also less likely to be arrested than is an antagonistic one.
4. Department politics. The preferences of the police chief and city administration, as expressed in department policy, generally influence the actions of the officer.

Studies of police discretion have shown that the most significant factor in the decision to arrest is the seriousness of the offence committed. This factor is supplemented by other information, such as the offender's current mental state, the offender's past criminal record (when known to

the arresting officer), whether weapons were involved, the availability of the complainant, and the relative danger to the officer involved.

Irving Pilavin and Scott Briar found that the subject's attitude greatly influenced an officer's discretion to arrest. With the exception of offenders who had committed serious crimes or who were wanted by the officer. This evaluation and the decisions that followed from it were limited to information gathered by police during their encounter with the juveniles.

### **3.4 Orientations of Police or Styles of Policing and Use of Discretion**

Given the wide discretion of police and their multiple functions, many of which are not related to crime, it is interesting to consider how discretionary judgements are made. In view of suggestions made in researchers carried out by criminologists and scholars in the area of criminal justice system and law enforcement in particular. Attitudes, orientations and style of policing play a huge role in police discretions. In his research, Wilson (1968) contends that police make judgements about situations and individuals, and they practice distributive justice. They evaluate the moral character of victims and suspects, and these judgements determine action. Police officer's belief system is "comprised of beliefs, attitudes, values, and other 'subjective outlooks'. Others have also suggested that the exercise of police discretion is structured by the officer's belief system.

Police develop indicators that are used to determine behaviour. Past experience leads police to make conclusions concerning suspiciousness, crime proneness, and the moral character of certain types of individuals. Police develop styles of policing that affect their discretionary behaviour. Some have argued that certain types of police departments encourage different styles of policing. For instance in "legalistic" police division, law enforcement activities are emphasized over order maintenance behaviour. In the same vein, an individual officer's style of policing affects the outcome of the encounters. Some officers are overzealous and are preoccupied with arrest while other operate on the premise that "doing justice" is the underlying goal of policing and law enforcement.

Criminologists have been advocates of the need to consider police attitudes or orientation in our understanding of police discretionary behaviour. They argued to understand what determines the routine choices that patrol officers make, we need to examine the beliefs that officers hold toward their job, the law and the events and people they confront in the daily course of their occupation. Police do not react to

each incident as though it were unique. Rather they generalise. They fashion a coherent set of beliefs or orientations that guide their behaviour. The belief system they develop structures their perceptions and definitions of order, and thereby provides the norms and standards that influence their discretionary behaviour.

Brown (1981) contents that the exercise of discretion requires the use of beliefs and values or an “operational style”, the decision to act is partly to the actual encounter (such as decisions on the appropriateness of service or order maintenance activities, crime control preoccupation, utilisation of time, etc). Although these underlying decisions or attitudes shape discretionary choices. Brown argues that other factors, such as organisational and environmental characteristics, also affect the decision to act. Ericson (1982) contents that officers develop a “recipe of rules” that guides their behaviour. These recipes of rules is essentially a collection of rules-thumb learned on the job, which mediate actual events, police department rules, and legal codes. The community, the law, and the policing organisation provide the officer with rules, and these rules provide the officer with a sense of order-what the officer perceives as appropriate conduct. This sense of order may affect not only the ultimate outcome of encounters, but also the process by which police achieve their outcome. This process involves the interaction between police and citizens, both as complainants and suspects.

It is clear from the review of the literature that many scholars believe that attitude can play a role in police discretionary behaviour. Many suggest that police officers act on the basis of predispositions or overall orientations and these predispositions provide an interpretive framework in which the situational cues are evaluated. Predispositions supply the officer with a repertoire of possible behaviour and, from this collection, the officer with a repertoire of possible behaviour and, from this collection, the officer selects an appropriate response to a specific situation. While there exists intuitive support for the connection between police attitudes and behaviour, little empirical research has been conducted to examine this issue and the few studies that have addressed this have reported disappointing results.

### **3.5 Officers Characteristics and Use of Discretion**

Researchers have examined characteristics of police officers (i.e. experience, age, race, gender, attitudes, educational qualifications etc.) to determine how they may influence what police do. Overall, these characteristics have not been found to exert strong influence on police discretionary behaviour. However, some research has shown that less experienced police officers perform more “work” (are more aggressive, stop and frisk more often, arrest more often) and more experienced

officer engage in higher quality work and/or are less likely to engage in a legalistic manner, while other research has found no relationship between individual officer experience and arrest behaviour. Some research has suggested a connection between officer experience and certain officer attitudes (i.e. cynicism, role definition, perception of the public, perception of support by the criminal justice system), which may relate to discretionary behaviour.

It has been assumed that the level of education of an officer affects police behaviour, and the advent of police professionalism has definitely incorporated this premise. It has been argued that college-educated officers learn things that are independent of what is taught in their curriculum, in addition to the course work that improves their work performance. The research, however, has resulted in findings suggesting that there is no effect of individual education on police behaviour. But there may be a negative effect on arrest if officer education is measured at the departmental level.

Some research has also suggested a link between officer education and certain attitude (attitudes toward legal restrictions, attitudes toward discretion, perceptions of ethical conduct, cynicism, attitudes towards the community, solidarity, use of force role) that may in turn influence police behaviour. The race of an officer has been examined in terms of its effect on police behaviour. Early research reported a link between officer race and arrest behaviour. The race of an officer has been examined in terms of its effect on police behaviour, however more recent research finds no such effect. Some research concerning race and the use of force has reported racial differences. In general, the deadly force literature concludes that black officers are overrepresented in police shootings of citizens, although most researchers note that this relationship is most likely due to differential deployment of black officers in high crime areas and to the higher rate of black officers residing in that race may play a role in officers attitudes, which may influence their behaviour.

Generally, research has indicated that the gender of an officer exerts no influence on police behaviour, while some earlier research found that females were less likely to make arrests, use deadly force, and be involved in deadly force situations. Research has also suggested that officer attitudes may be related to gender.

Unfortunately, there has been little empirical work examining police attitudes and their influence on police discretionary behaviour, and the research that has been done on this issue has yielded disappointing results. As indicated previously, many scholars have speculated that attitudes influence behaviour, however, few researchers have been able

to demonstrate this link. Job dissatisfaction associated with less legalistic and order maintenance behaviours and police professionalism and attitudes toward street justice being unrelated to either behaviours. Some research have found that crime-control oriented officers are more likely to use force, but less likely to use the arrest sanction, than are officers who did not espouse this philosophy. There has been some indication that attitudes may influence proactivity in traffic enforcement, but these attitudes play a very small role.

Overall, it seems apparent that attitudes contribute little to our understanding of police behaviour. However, it has been suggested that maybe the more fundamental attitudes held by police officers would do better in explaining police discretionary behaviour than the specific occupational attitudes typically examined in research certain police officer attitudes have been found to relate to other officer attitudes, but additional research needs to clarify the presumed attitude-behaviour link.

## 4.0 CONCLUSION

In this unit we have been able to consider the meaning discretion-which involves both actions and inactions. Not doing something may be equally as important as doing something. Discretion involves both having the power to decide which rules apply to a given situation and whether or not to apply these rules. How is discretion exercised by the police, what factors influences police discretion (factors like police officer's experience, age, race, attitudes, educational qualification and the gender of the officers amongst), orientation of police or styles of policing and use of discretion and finally officer's characteristic and use of discretion.

## 5.0 SUMMARY

Since police exercise so much discretion, it is important to understand the factors that affect their discretionary choices. It appears as though organizational, situational, neighbourhood, and officer characteristics all may play some part in the decisions that police make. While much research has focused on the determinants of police behaviour and much has been learned in the process, there is still a great deal that is unexplained. As researchers use more sophisticated designs and methods, it becomes apparent that the study of police discretionary behaviour is a complicated endeavor.

## 6.0 TUTOR-MARKED ASSIGNMENT

1. What is discretion?

2. List five (5) ways police exercises discretion?
3. Explain how orientation or style of policing influences their use of discretion?
4. Can you explain how officer's characteristics influence their use of discretion?

## 7.0 REFERENCES/FURTHER READING

- Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.
- John, S.D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States: Thompson Wadsworth
- Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct.(1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.
- Ojomo, F.Y. (2011). Policing in a Corrosive Environment. Ibadan: Kolaak Enterprises
- Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.
- Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.
- Senna, J.J. & Siegel, L.J. (1996). Introduction to Criminal Justice, (7th ed.). St. Paul, MN: West Publishing Company, 1996.

## **UNIT 2 ARREST AND SEARCH (ARREST WITHOUT, ARBITRARY BY THE POLICE, ARREST WITH WARRANT)**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is Arrest?
  - 3.2 Lawful Arrest
  - 3.3 Arrest with Warrant
  - 3.4 What is Search?
  - 3.5 Search under Law
  - 3.6 When can the Police Seize Property?
  - 3.7 How the Police can Conduct a Decent Search on Persons
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

### **1.0 INTRODUCTION**

The Police are the first and foremost law enforcement agents not only in Nigeria but also in other climes. They are charged with crime prevention, crime detection and crime prosecutions. The Nigeria Police force employs diverse strategies and means to ensure that the above obligation saddled on them are achieved and carried out to the best of their knowledge. Arrest and search is one of the strategies Nigeria Police force and Police in other jurisdictions employ to ensure that they prevent crime from taking place, that they are also able to detect criminals and prosecute crime. This unit begins with the explanation of what arrant is, and went further to distinguish a lawful arrest.

It continued with arrest with warrant. And when further to elucidate on what search is and continued by expatiating on search under law. The unit went ahead to clarify when the police can seize property and ended on how the police can conduct a decent search on persons.

### **2.0 OBJECTIVES**

By the end of this unit, you should be able to:

- define arrest
- distinguish between lawful arrest and arbitrary arrest.

- define search.
- explain what search under law is
- explain when the police can seize property and how the police can conduct a decent search on persons.

### **3.0 MAIN CONTENT**

#### **3.1 What is Arrest?**

As we discussed in Module 1, unit 3 that the Nigeria Police are legally entitled to make arrest. In this unit, we shall fully discuss the issues of arrest and search as a means of law enforcement by the Nigeria Police force. Section 35 (1) of the Constitution provides that every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save, *inter alia*, upon reasonable suspicion of his having committed a criminal offence or to such extent as may be reasonably necessary to prevent criminal offence or to such extent as may be reasonably necessary to prevent his committing a criminal offence. In essence, this presupposes that no man should be punished or be made to suffer in body except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land.

Arrest means placing a person under lawful detection against his will for the purpose of law enforcement. In making an arrest, the police is an agent or servant of the State and not of the complainant. The police force is a servant of the state a ministerial officer of the central power, though subject, in some respect to local supervision and regulations; therefore, the police, in effecting an arrest and detection, were not acting as the servants or agents of the defendants or complainants. They were fulfilling their duties as public servants and officers of the Federal Republic of Nigeria who have pledged to preserve the peace by day and night, to prevent robberies and other felonies and misdemeanors and to apprehend offenders against the peace. Against this background, it will be wrong and unlawful for any police officer to treat any arrest based only on the dictates against this background, it will be wrong and unlawful for any police officer to treat any arrest based on the dictate of either the complainant or the suspect. The brief of an investigating policy officer at all time is to determine to the best of his ability, based on the evidence available, whether or not a crime has been committed or about to be committed. He does not have to create one where there is none.

The police enjoy the discretion to continue or drop the arrest or detection of a suspect depending on evidence gathered from investigation, it is improper to await the direction of the complainant or suspect to decide the proper steps to take on arrest or detention. Besides,

when an offence is committed in the presence of a police officer or brought to his knowledge, he has a duty to effect arrest with due authorisation for his superior and not to await superior directive outside the police command. Only the purpose of the law and not selfish ends should be served.

The point here is that the police, in carrying out its responsibilities, is a servant of the Federal Republic of Nigeria. Even though, by the Constitution, it is a federal government institution, the Nigeria Police Force, by its character and sensitivity of its obligation to the state, is a common organisation for the sensitivity of its obligation to the state, is a common organisation of both the Federal and State governments just as the Court of Appeal or the Supreme Court are. Thus, against the popular principle in a federal system that the state governments cannot confer functions and impose duties on the functionaries of the Federal Government, both governments (Federal and State governments) can confer and impose duties on the police. In the same vein, it is to serve the complainant in a case in the same manner as the suspect. Arrest may be fair or unlawful depending on the circumstances of each case.

### **3.2 Lawful Arrest**

For an arrest to be lawful however, the police must adequately respect the rights of the individual to liberty by ensuring that:

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

In making an arrest, section 3 of criminal procedure Act requires that the police officer or any other person making the arrest must actually touch or confine the body of the person to be arrested. This may however not be necessary if by mere request, the person to be arrested willingly submits himself to the custody. In the case of Sadiq v state, the accused was merely invited by the police officer to the station and he refused. He was later charged with evading police arrest but the court quashed the case on the ground that mere invitation does not amount to arrest.

Arrest may be made by a private person, a police officer and a judge or magistrate. The law stipulates different circumstances under which each of them may make arrest. Section 10 (1) of CPA (Section 26 CPC) provides that a police officer can arrest without warrant any person whom he reasonably suspects of having committed an indictable

offence. He can also arrest a person who commits any offence in his presence or obstructs a police officer while in execution of his duty or escapes or attempts to escape from lawful custody. He is authorised under the same section to arrest:

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

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

- a. Every person who actually does the act or makes the omission which constitutes the offence;
- b. Every person who does or omits to do or act for the purpose of enabling or aiding another person to commit the offence;
- c. Every person who aids another in committing the offence;
- d. Any person who counsels or procures any other person to commit the offence. A police officer can only exercise this power of arrest lawfully where the offence is committed in his presence or where he suspects on reasonable grounds that an indictable offence has been committed. The law emphasizes that this power conferred on the police officer cannot be exercised without reasonable suspicion.

Reasonable ground or suspicion has been a recurrent phrase in all the laws conferring power on police to arrest without warrant discussed here-above. In the cause of Chukwura v COP, the court observed that, to justify an arrest on treasonable suspicion, evidence of the ground for that suspicion must exist and must be adduced and the test as to what is reasonable suspicion is an objective one.

However, in Nigeria there have been rampant cases of arrests made without reasonable suspicion. There have been many cases of arrest of parents and relations of suspects by police, either because the suspects were at large or jumped bail. There have also been cases of arrest of

complainants and substitution of criminals with innocents citizens. A victim who claimed that he was a commercial motor-cycle operator said that he was arrested because he could not meet the demand of N20.00 made on him by the police. Another victim who claimed that he was arrested on his way from the market said that a policeman approached him to produce receipts for the provision items in the nylon bag he was carrying and he explained that no receipts were issued to him by the seller. But the policeman insisted that he should follow him to the police station which he complied, and when he got there he was detained.

There have been many cases of persons, including lawyers, who visited their relations or clients in the police station and were harassed, threatened or intimidated by police officers. According to Mr Okoro (2013), personal experience at Area 'E' Command Headquarters, Festac on Tuesday, 24th January, 20006. He went with his client to the station to secure bail for his business partner. On arrival, the Investigating Police Officer (IPO), one Mr. Daniel ordered him to make a statement independently. In prompt reaction to this, the IPO became furious and ordered him out. He threatened to bundle him into the cell and detain him if he disobeyed his order. He (Mr Okoro) reported this to the Area Commander who promptly called the officer to his office and cautioned him. This is a common experience among lawyers and relations of detained persons. Some years ago, a National Daily Newspaper reprinted that a certain man known as Mr. Bathlomen Madu whose elder brother, Rufus Madu was murdered by two gardeners went to a police station in Owerri to lodge complaint only to be arrested by the police. According to source, he secured his bail with N15, 000. Another case of arbitrary arrest was that of Mr. and Mrs. Chukwuma. After receiving a serious beating and a bath of hot water from her neighbours, Mrs. Chukwuma was arrested and detained.

### **3.3 Arrest with Warrant**

Section 25, 26 and 27 of CPA define a warrant of arrest as an authority in writing issued by a court to a police officer or any other person to arrest an offender. It is applied for when the allegation against the offender is serious and he has disobeyed summons. In the case of Peter Ayodele Fayose v the state, ABBA-AJI, JCA, as he then was, said:

"In the instant case, the information filed against the appellant is for conspiracy to murder and murder contrary to section 319 of the Criminal Code. Since when the order for the arrest of the appellant was made, the appellant and his co-accused have never appeared before the court. In fact, they have been in hiding. The respondent complied with condition precedent under section 23 of the Criminal Procedure Law for the issuance of a warrant of arrest by filing an affidavit of compliant on oath

to secure the arrest of the appellant to bring him to court to stand his trial.”

The law creating certain offences may require that offenders cannot be arrested without warrant. Among such offences include, section 319 of the Criminal Code, conspiracy to murder and murder; sections 101 and 104 – corruption and abuse of office; sections 105, 107 and 143-rescuing an insane person from lawful custody or hospital, Section 192-false declaration; section 117 – perjury, section 120- fabricating evidence; section 1210 corruption; section 123 – destroying evidence; section 125- conspiracy to bring false accusation. It includes also ‘Section 422- conspiracy to defraud and Section 419 – false presence. The sections mentioned here are by no means exhaustive. There are very many of such offences not mentioned here. Where any offender cannot be arrested without warrant, the law will provide so. Where it so provides, a police officer cannot arrest an offender unless, he is armed with a warrant or such offence is committed in his presence.

A warrant of arrest is issued by court on complaint made on oath. Also, in the same case of Peter Ayodele Fayose v The State (supra), the Court of Appeal offered further elaborate explanation on the requirement for the issuance of warrant of arrest, thus: There is no requirement under the Criminal Procedure Law that any application for the issuance of warrant of arrest must be by way of motion on notice. For the trial court to grant an application for warrant of arrest, there must be a statement on oath or a complaint on oath filed before the court as required by law, stating all the material facts necessary for the court to exercise its discretion. The purport of Section 23 of the CPL is that no warrant of arrest shall be issued in the first instance in respect of any complaint or statement unless such complaint or statement is accompanied by a statement on oath either by the complainant himself or by a material witness.

The power to issue warrant of arrest is vested in the court by section 21 of CPL. The requirement for a complaint or statement to be on oath either by the complainant himself or by a material witness is limited to summary trial procedure where the accused person cannot be arrested without a warrant of arrest.” Section 4 of the Criminal Procedure Act, provides that a person arrested shall not be handcuffed or subjected to unnecessary restriction except such restraint by order of court or unless there is reasonable apprehension of violence or of attempt to escape or unless it is considered necessary for the safety of the person arrested. He shall be informed within twenty-four hours of the cause of the arrest whether or not the arrest is made in the course of commission of the offence. But the police officer arresting him may search him, using reasonable force, and place in safe custody all articles found on him except the wearing appurtenances.

Section 35(2) of the 1999 constitution (as amended) provides that any person who is arrested or detained shall have the right to remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice.

### 3.4 What is Search?

The word search literally implies looking or seeking out that which is otherwise concealed from the searcher. Search as a trial procedure is intended to obtain evidence with which to prosecute a person suspected of having committed offence. Thus, whenever a person is arrested by the police there is the tendency to search him so as to discover from him incriminating materials. Section 6(1) of the CPA and Section 44 of the Criminal Procedure Code (CPC) empower the police officer making an arrest to search the body of the person so arrested. Under section 29 of the Police Act, Cap. P. 19 LFN 2004, a police officer has the power to detain and search a person who he reasonably suspects of having in his possession a stolen property. Generally, search may be conducted on a person under arrest, a thing such as a vehicle and on premises.

According to Okoro (2013), the police carry out search in the same crude manner as arrest, ignoring the import of our criminal justice system which presumes an accused person innocent until he has been proved guilty by a competent court. A person who is accused of crime is by that fact alone uprooted by police, from the vulnerable to the abuses inherent in the technique of law enforcement under the adversarial system. The police is given much powers under the constitution and the various laws with respect to criminal proceeding and investigation, and they have, whenever it became necessary, found it a veritable tool to violate the dignity and personal liberty of the citizens (Okoro 2013).

By this way, our criminal justice system is fast degenerating into an opportunity for the desecration of the cherished rights and privileges of the individual citizen instead of a socialised engineering role to maintain law and order within a society through the apprehension, seclusion and punishment or reformation of deviants as well as prevention of crime under a civilised atmosphere. Lamenting the bizarre manner in which searches are conducted by Nigeria police FRANKYLNE OGUNWEZEH had this to say:

Arriving at the police station, the suspect is as a matter of standard practice which violates every canon of decency, stripped naked to the briefs, disposed of his valuables like watches, purse, jewels and money Professor ikhariale noted that:

All over Nigeria there are armed policemen who regularly mount road-blocks searching every vehicle after administering the caution “wetin you carry”. For these zealous policemen, almost all vehicles on the traffic are suspected of committing or likely to commit crime thus they must be searched. By their daily activities at the traffic road-blocks, the police have suddenly taken over the duties of other agents like NAFDAC, NDLEA, Nigeria Customs (NC), Nigeria Immigration Service (NIS) etc. BEN OKEZIE, commenting Sunday Sun Newspaper of 6 November 2005 said: “all that we hear daily about police is either that they are fighting with the civilians or dragging with other security agents on who between customs and police should arrest smugglers, or who between them and FRSC should check vehicle particular; or who between them and NDLEA should arrest hard drug dealers or who between them and DSS should arrest journalists etc.

There had been more bizarre incidents of the police breaking into private residence in disregard of the right to privacy and ransacking the place without duly authorised warrants and brutalizing residents. There were instances where a lorry load of stern-looking armed mobile police men stormed the homes of citizens as early as 5.00am, smashing the doors, windows and beating up anybody they found and at the end of the search nothing was found.

According to Okoro (2013), a man narrated how a bus-load of armed policemen from Agboju Police Station raided his home about 10.30 pm in 1997, kicking and hitting everybody in sight with the butt of the gun, on mere suspicion that he was producing wine and spirits. According to him, after the through beating and harassment, they took away some of his property, including his car on the false accusation that everything in his possession was stolen. He said that it took the intervention of the officer-in-charge of Area ‘E’ command to save him from further brutality and harassment. Narrating the incident, he said: When I petitioned the Oga in-charge of Area ‘E’ he invited me to his office. Then he ordered his officers to bring before him all the policemen who were involved in the raid. In few minutes, all of them, including their DPO came. He then asked me to identify the officers who came to my house and I did. Subsequently, he warned them sternly, threatening to discipline them. He however, asked them to return to me everything they took from me. In fact everything, including the N12, 000.00 collected for my bail was given back to me.

This was indeed, one special case because the reverse was the case for many victims. The case of search under threat and harassment has become a routine practice by the police in Nigeria. With this widespread awful development, where then is the constitutional guarantee against the violation of human dignity, personal liberty and privacy treatment

provided under Sections 34 and 35 of the constitution of the federal republic of Nigeria (as amended)?

### **3.5 Search under Law**

Under the British and Criminal Evidence Act (CEA) of 1984, the police have been given the power to stop and search a person reasonably suspected of carrying prohibited articles such as offensive weapons and or housebreaking equipment or stolen goods. The Criminal Justice Act (CJA), 2003 extends the list of prohibited articles to include an article made, adapted or intended for use in causing criminal damage. The police also have the power to set up road blocks if there are reasonable grounds for suspicion that a person in the area has committed a serious arrestable offence or that a serious arrestable offence is about to be committed, or that a person is unlawfully at large.

Section 60 of the Criminal Justice and Public Order Act (CJPOA), 19994 specifically provides that powers may be given to the police, by a police officer of the rank of superintendent or above, to stop and search persons and vehicles, where the officer reasonably believes that incidents involving serious violence may take place in any locality in this area, and that it is expedient so to do to prevent their occurrence. The authorisation lasts for up to 24 hours. Where no superintendent is available, a Chief Inspector may grant this authorisation for the stop and search if “he reasonably believes that incidents involving serious violence are imminent.

In general, however, according to universal police practice, the police do not have the right to enter a person’s house or other private premises or even search his body without permission. But the law may on the following grounds, permit them to enter without a warrant:

- i. When in close pursuit of someone who has committed, or attempted to commit a serious crime, or attempted to commit a serious crime; or
- ii. To quell a disturbance; or
- iii. When they hear cries for help or of distress; or
- iv. To enforce an arrest warrant

The police don’t also have the power to search premises without a warrant unless:

- i. They have obtained the permission of the person concerned or;
- ii. A delay in obtaining a warrant would likely defeat the ends of justice, for example, where evidence is likely to be destroyed or removed.

However, the police have the inherent power to stop and search a person without having a search warrant if they suspect him of being in possession of:

- i. Drugs, or
- ii. An offensive weapon, or
- iii. Stolen property; or
- iv. Alcohol if he is at certain major social function or event;
- v. Evidence in relation to an offence unless the law;
- vi. Fireworks that he intends to use anti-socially.

Be that as it may, before the police can stop and search a person they must have reasonable grounds for suspecting that they will find these things. There is, however, an exception to this rule. If a serious violent incident has taken place, the police can stop and search you without having reasonable grounds for suspecting that they will find these things. It stands to reason therefore, that the police can stop and search a person or his vehicles without warrant if they reasonably suspect him of terrorist activity.

In Nigeria, the power of the police to search is derived by the Nigeria Police from the criminal procedure act and the police act. As it were, these statutes constitute the basis for the search of persons, things and premises. While this may be understandable when a search is carried out on reasonable suspicion with respect to a person under arrest can it also be reasonable explanation for the arbitrary road-blocks mounted at every obscure corner of our streets and they highways? Can it be excuse for the stop and frisk process, embarked on by the police without any emergency being declared?

What with raid of homes and sometimes, community? Professor Ikhariale observed that, whatever may be the pressing security need in Nigeria, the police do not have a constitutional concession to arbitrarily search a citizen whose liberty forms an essential basis for the establishment of the State. He posited and I agree. That:

There could not have been a warrant issued to the police to search anybody “anywhere” and “anyhow”, no matter the pressing nature of the law enforcement. Neither is it conceivable that there is a reasonable suspicion “that an entire community” and every road user has committed an indictable offence, escaping from lawful custody; having stolen or is associated with a breach of the peace (Okoro, 2013).

The law empowering the police to search does not concave of search as such that should be conducted indecently, devoid of every respect for

the dignity of person and human rights eminently protected by the constitution and various international conventions of which Nigeria is signatory. Articles 2 of UN code of conduct for law enforcement officials' states:

In the performance of their duty, law enforcement official shall respect and protect human dignity and maintain and uphold the human rights of all persons. Human rights are identified and well protected by international law under such instrument as Universal declaration on human rights, the international convention on civil and political rights, the declaration on the protection of all persons from being subjected to torture and other cruel, inhuman or degrading treatment or punishment; the United Nations declaration on elongation of all forms of racial discrimination; the international convention on the suppression and punishment of crime apartheid, the convention on the prevention and punishment of crime of genocide; the standard minimum rules for the treatment of prisoners and the Vienna convention of consular relations.

Articles 3 of the code implies that while there may be need for law enforcement officials to use force, such force may be authorised when it is reasonably necessary under the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders provided that no force ending beyond that should be used. Section 6(1) of the CPA requires that the force to be applied in search should be reasonably necessary for such purpose in accordance with the objective principle of proportionality.

Both the Nigerian municipal law and international conventions of which Nigeria is signatory provide that only a woman can search another woman while a man can search fellow man. Such a search may be made without warrant. However no search can be authorised to be made in any premises without a warrant issued in that regard. Where such warranted is not obtained a search is considered in law to be unlawful unless it is authorised and made in the presence of a justice of peace in accordance with section 82 of CDC. Only a Judge, Magistrate or a Superior police officer can authorised a search of premises. Under section 2 of the Police Act, superior police officer means any police officer above the rank of a cadet assistant superintendent of police. Section 28(3) of the Police Act limits the power of a superior police officer to issue a search warrant. According to the section, he may issue a warrant only if the thing to be recover from the premises intended to be searched is stolen property; or the premises have been within the proceeding 12 months, in the occupation of any person who has been convicted of receiving stolen property or of harbouring thieves or any offence involving dishonesty or fraud and punishable by imprisonment.

A search warrant authorises the police to enter premises on one occasion only a search warrant may be issued and executed on any day including a Sunday or public holiday in the presence of two respectable resident of the neighbourhood between the hours 5.00 and 8.00pm unless the court directs otherwise. Section 28(4) provides that it shall not be necessary to specify any particular property on the warrant provide that the officer granting the authority reasonably believes that the premises to be searched are being made a place for the reception of stolen goods. However where particular property has been specified in a search warrant, only foods mentioned therein should be seized. If the police have a search warrant they can, if necessary, use reasonable force to enter and search the premises. The householder or occupier of the premises is responsible for any repairs that are needed as a result of the police forcing entry. However, if the police search was made in error, the police should be asked to repair any damage they cause.

Besides securing a warrant to enter and search because of suspected crime, a warrant can be issued to enter premises to check if the occupant suffering from mental illness is at risk. A warrant can also be issued to enter the home of a sex offender to do a risk assessment. In some circumstances a police officer of the rank of inspector or above can give the police permission to make stops and searches in an area for a certain period time as long as this for no more than 24 hours. When this permission is in force the police should search for offensive weapons or dangerous instruments whether or not they have grounds for suspecting that people are carrying these items. An officer with the rank of inspector or above can give permission for search of people or vehicles to take place in order to prevent acts of terrorism. There is however, no law permitting the police to mount permanent road-blocks and check-points for the purpose of searches.

### **3.6 When can the Police Seize Property?**

If the police have used a search warrant to search premises or a vehicle and they have found articles covered by the warrant, they have the power to seize them and take them into safe custody, for example a police station. The articles are held there as possible evidence in any criminal proceedings which they may decide to start. Where a warrant is granted to search for specific items of stolen property, the police have the power to seize other items not referred to in the warrant if they feel that the suspect may have been involved in another crime. It is pertinent to emphasise also that:

- i. If the police have seized certain articles after a search, you have no right to make the police return the articles and there is no time limit on how long the police can hold them;

- ii. If you want to enquire about retrieving articles from the police you should ascertain from the police whether or not the property is to be used in evidence;

Where the property is to be used as evidence the prosecutor is responsible for its custody and disposal. Sometimes there may be the need to take legal action to get a court order for the article(s) to be restored to the owner but this would be a complex process, for which legal advice would be needed.

### **3.7 How the Police can Conduct a Decent Search on Persons**

For the purpose of decency and public morality and to ensure privacy of the individual under arrest the police should bear in mind these principles while conducting a search on persons.

- a. Search should be done in a private place;
- b. It should be carried out by a member of the same sex and out of the view of members of the opposite sex;
- c. Fingerprints, palm-prints or body samples such as a blood sample should not be taken from persons not under arrest for the purpose of prosecution;
- d. Only police officers duly delegated and in uniform have the power to stop a motor vehicle on a road and search.

Some occupational and personal concerns shared by most officers. Also, Van Maanen, in “Kinsmen in Repose: Occupational Perspectives of patrolmen, “writes that police officers view themselves as performing society’s dirty work and, therefore, as being isolated from the mainstream culture and stimulated. Police work, he writes, is characterised by drudgery, danger, and dogma and that these structural strains and contradictions lead to high levels of tension. Police recruits come under heavy pressure to bow to group standards of adherence to general axioms of police work world. He describes two distinct occupational perspectives that together form the officer’s personal identity. These include the officer’s unique role in the social world and her or his outsider position in the community, and the survival dictums that stem from the unique nature of the officer’s work.

## 4.0 CONCLUSION

In this unit we have been able to consider the meaning of arrest, distinguished between arbitrary arrest and lawful arrest. Although indiscriminate and arbitrary arrest has gradually becoming a police culture, it is unethical and one of the professional police misconduct as we will see in subsequent unit. This unit was also able to explain arrest with warrant and situations where police can arrest without warrant of arrest. The unit went ahead to elucidate on the meaning of search, which literally implies looking or seeking out that which is otherwise concealed from the searcher. Search as a trial procedure is intended to obtain evidence with which to prosecute a person suspected of having committed offence. The unit also distinguished search under law and arbitrary search and went further to state when police can seize property and how police can conduct a decent search on persons.

## 5.0 SUMMARY

In order enforce the law effectively, the Nigeria police force employs divers' strategies which includes but not limited to arrest; stop and search. Although there are certain conditions and situations that warrants the Nigeria Police force to arrest and search without warrant of arrest or warrant of search. However, arbitrary and indiscriminate has gradually becoming police culture in Nigeria as the Nigeria police are now fond of arresting innocent citizens for no just cause only to extort money from them in form of bail. The police are empowered by law to break in and enter private houses and residential areas to conduct search without warrant under certain conditions. The police are backed by law to seize properties on certain occasions.

## 6.0 TUTOR-MARKED ASSIGNMENT

1. What are the factors that make arrest lawful and unlawful?
2. Arbitrary arrest has gradually become a police culture in Nigeria, true or false? Explain?
3. What is warrant of Arrest?
4. List and explain circumstances under which the police are permitted to enter a person's house or other private premises without a warrant.

## 7.0 REFERENCES/FURTHER READING

Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.

John, S.D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States: Thompson Wadsworth

Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct.(1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.

Ojomo, F.Y. (2011). Policing in a Corrosive Environment. Ibadan: Kolaak Enterprises

Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.

Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.

Senna, J.J. & Siegel, L.J. (1996). Introduction to Criminal Justice, (7th ed.). St. Paul, MN: West Publishing Company, 1996.

Criminal code Cap ‘C38’ laws of the federation 2004

1999 Constitution of the Federal Republic of Nigeria.

Evidence Act, 2011

Criminal Procedure Act, 2004

## UNIT 3 CUSTODIAL INTERROGATION AND STATEMENT BY THE ACCUSED PERSONS (MIRANDA WARNING)

### CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Custodial Interrogation and Suspects Right (Miranda Warning)
  - 3.2 Statement by the Accused Person
  - 3.3 Confirmation of Confessional Statement by the Police
  - 3.4 Confession made Under Duress
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

### 1.0 INTRODUCTION

For any prosecution to be successful or even take place in the first place, there must be enough evidence to prosecute the accused. Hence, the police interrogates the accused in order to get enough evidence to proceed to court. Custodial interrogation is one of the strategies employed by the police to get statements and confession from the accused. The unit begins with custodial interrogation which emphasized the rights of the accused with much emphasize on the *Miranda* warning and then proceeded to statement of the accused person, confirmation of confessional statement by the police. The unit concluded with confession made under duress and its legal implication in the criminal justice system especially as it concerns the court.

### 2.0 OBJECTIVES

By the end of the unit, you should be able to:

- explain what custodial interrogation entails
- trace the origin of *Miranda* warning
- discuss the meaning of statement by the accused person
- explain confession made under duress and the legal implication of such statements in the court of law.

### 3.0 MAIN CONTENT

### 3.1 Custodial Interrogation and Suspects Right (Miranda Warning)

After making arrest of a suspect, the police begin investigation which most times is carried out via interrogating the suspect. Custodial interrogation is one of the strategies used by the Nigeria police force in enforcing the law. A suspect who comes under the police custody at the time of arrest, maybe on the street, or in a crime scene, or even caught red-handed committing a crime-must be warned of the right under the fifth amendment to be free from self-incrimination prior to any questioning by the police. The Miranda Warning originated from the United State Supreme Court in 1966 but police in other jurisdictions including Nigeria have pattern their custodial interrogation after the Miranda warning.

The United State Supreme Court decided that the police must give the **Miranda warning** to the person in custody before questioning begins. Suspects in custody must be told that:

1. They have the right to remain silent.
2. If they decide to a make a statement, the statement can and will be used against them.
3. They have the right to have an attorney present at the time of the interrogation, or they have an opportunity to consult with an attorney.
4. If they cannot afford an attorney, one will be appointed by the state.

This case has had a historic impact on police interrogation practices at the statement of the criminal justice process. Prior to *Miranda*, the police often obtained confessions through questioning methods that violated the constitutional privilege to protect one's self against self-incrimination. The Supreme Court declared in the *Miranda* case that the police had a duty to warn defendants of their rights. The court declared that certain specific procedures (that is, the *Miranda* warning) must be followed or any statement by a defendant would be excluded from the evidence. The purpose of the warning was to implement the basic Fifth Amendment right of a citizen to be free from self-incrimination.

As a result, the interrogation process is protected by, the Fifth Amendment and, if the accused is not given the *Miranda* warning, any evidence obtained during interrogation is not admissible to prove the state's case. It is important to note, however, that the *Miranda* warning does not deny the police the opportunity to generally question a suspect as a witness at the scene of an unsolved crime, as long as the person is

not in custody and the questioning is of an investigative and nonaccusatory nature. In addition, a suspect can still offer a voluntary confession after the *Miranda* rights have been stated. A summary of *Miranda* rights have been stated. After the *Miranda* decision, many people became concerned that the Supreme Court under Chief Justice Warren had gone too far in providing procedural protections to the defendant. Some nationally prominent expressed opinions that made it seem as if the Supreme Court were emptying the prisons of criminals and that law enforcement would never again be effective. Since *Miranda*, however, there has been little empirical evidence that the decision has had a detrimental impact on law enforcement efforts. Instead, it became apparent that the police had relied too heavily on confessions to prove a defendant's guilty. Other forms of evidence, such as the use of Witness, physical evidence, and expert testimony, 'have proved more than adequate to win the prosecution's case.

The essence of *Miranda* warning is that a defendant cannot be required to testify at his trial and that a suspect who is questioned before trial cannot be subjected to any physical or psychological pressure to confess. The warning is also significant because it established that the Fifth Amendment is privilege against self-incrimination requires that a criminal suspect in custody or in any other manner deprived of freedom must be informed of his or her rights. If the suspect is not warned, then any evidence given is not admissible by the government to prove its case.

### 3.2 Statement by the Accused Person

It is a routine practice in police stations to obtain a statement from an accused person. Such statements are normally obtained under threat or after the accused has been subjected to torture and brutality. Most times the police officers write the statements or dictate them for the accused persons to write and then, compel them to append their signatures or thumb impressions. A writer observed that:

*when the stakes are high and the suspect refuses to write a statement, the police always resort to either of two options. They graft one for him and force him to sign, with heavy doses of physical and mental intimidation or they dictate for him what to write as his crime. Resistance to any of the options equals an invitation to further torture.*

Section 35 (2) of the 1999 Constitution (as amended) provides that anyone who is arrested or detained is entitled to remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice. He is further protected from giving evidence under Section 36(II) and Section 160 (a), (b) of the Evidence Act. The cases of *Sugh v The State* and *Nasiru v State* lend judicial credence to this.

Police Regulation No 317(v) prescribes that there shall be rigid observance by members of a police station, of the Judge's Rules in the interrogation of suspects and accused persons.

### **Judges Rules**

These are cautionary words formulated by British Judges to be administered on a suspect on arrest before taking statements from him. The rules deal with the manner in which the police should take statements from persons connected with crime in England. They are now adopted by the Nigerian courts and required, as a matter of obligation, to be administered on an accused before he makes any statement. A police officer making arrest must caution the accused person that to wit:

*You are not to make any statement and any statement you make will be used against you in the court of law.*

The rules do not apply to Nigeria by virtue of any legislation or statutory provision. They are merely rules of administrative direction and not of law, therefore failure to comply with them in obtaining a statement will not render such statement inadmissible provided that the statement is shown to be made voluntarily. In the case of **R v Viosin**, the court held that the condition for admissibility of a confession remains its voluntariness. The version of the Judge's Rules in the North of Nigeria is called "Statement to Police Officer Rules (1960)." They are administered on the accused person as a caution in the same way as the Judges Rules.

The Judges Rules are used in the following situations:-

- (1) Where a police officer is trying to discover whether or by whom an offence has been committed, he is entitled to question any person whether suspected or not from whom he thinks that useful information may be obtained
- (ii) When the police officer has reasonable grounds to suspect a person, before putting to him any question concerning the offence.

- (iii) Where a person is charged or informed that he might be prosecuted for an offence he shall be cautioned.

### **3.3 Confirmation of Confessional Statement by the Police**

There is a practice developed by the Nigeria Police whereby an accused person, after making a confession, is taken to a superior police officer to either confirm or deny same. Like the Judge's Rules, this practice is not in force by virtue of any legislation but it has been endorsed by the courts. There is, therefore no legal requirement that it must be compiled with. In **Abuka v State**, the court ruled that failure to comply with this procedure does not, ipso facto, render a confession inadmissible. This may, however, reduce the weight to be attached to the confession.

### **3.4 Confession Made Under Duress**

Section 28(1) of Evidence Act, 2011 provides that a confession is an admission made at any time by a person charged with a crime, stating or suggesting the inference that he committed that crime. Confessions, if voluntary, are deemed by court to be relevant facts as against the person who made them.

Section 29 (2) states that . . . Besides, a confession made by an accused person is irrelevant if it is obtained by inducement, threat or promise proceeding from a person in authority and gives the accused person grounds to believe that by making the confession he would be discharged. A Police Officer has been interpreted by court as a person in authority, therefore any confession he extracts from an accused person through any form of inducement, threat or promise, will be inadmissible. In **R v Kwaghbo**, a police constable gave evidence in court that he obtained a statement from the accused person who agreed to make it after being cautioned. The statement was held to be inadmissible by court because there was strong indication that the accused was induced into making the statement.

Under Section 31 of the Evidence Act, a confession will however be inadmissible if it was:

- (a) obtained by deception practiced on the accused.
  - (b) made under promise of keeping the information disclosed confidential;
  - (c) made by the maker when he was drunk;
  - (d) made in answer to a question which the maker need not answer.
- On the whole, if it is alleged in court that a statement has been obtained by any circumstances under inducement, threat or promise, the prosecution will, automatically, be placed under a

duty to prove the voluntariness of the confession as a condition for its admissibility. The court process for proving the voluntariness of the confession is called **trial-within-trial**. In a decided case, it was held that once the issue of voluntariness of the confession is raised by the accused, the court is bound to conduct trial-within-trial. If at the end of the trial, the court finds as a fact that the statement was not made by the accused person, it will disregard it. But if the court finds that the statement was made by the accused, it can, without further evidence, form the ground for his conviction. These are the positions of the court in the cases of *Felix Okoro v State* and *Edamine v State*.

## 4.0 CONCLUSION

In this unit we have been able to consider the meaning of custodial interrogation especially as it concerns the rights of the accused during interrogation with emphasis on the *Miranda* warning. The implication of statements made by the accused without the *Miranda* warning. This unit was also able to explain statement by the accused person. The unit went ahead to elucidate on confirmation of confessional statement by the police and the implication to the Nigeria Criminal Justice System. Finally, this unit also examined confession made under duress.

## 5.0 SUMMARY

Law enforcement officers use many different investigatory technique to detect crime and ensure that the suspects actually committed the crime he is been accused of. However, police interrogation procedures have also been reviewed extensively. The *Miranda* warning shows how the Supreme Court of the United State established an affirmative procedure as a requirement for all custodial interrogations and how this warning has been replicated all police divisions across all jurisdiction including Nigeria. This warning protects the accused against making self-incriminatory statements that will be used against him or her. Moreover, this warning does not in any way detrimental on law enforcement investigatory procedures.

## 6.0 TUTOR-MARKED ASSIGNMENT

1. What is Custodial Interrogation?
2. List and explain the rights of the accused as contained in the *Miranda* warning?
3. Explain how confessional statements made by accused confirmed by the police?
4. What are the legal implications of confession made under duress?

## 7.0 REFERENCES/FURTHER READING

- Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.
- John, S.D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States: Thompson Wadsworth
- Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct. (1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.
- Ojomo, F.Y. (2011). Policing in a Corrosive Environment. Ibadan: Kolaak Enterprises
- Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.
- Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.
- Senna, J.J. & Siegel, L.J. (1996). Introduction to Criminal Justice, (7th ed.). St. Paul, MN: West Publishing Company, 1996.
- Criminal code Cap ‘C38’ laws of the federation 2004
- 1999 Constitution of the Federal Republic of Nigeria.
- Evidence Act, 2011
- Criminal Procedure Act, 2004

## UNIT 4 POLICE AND PROSECUTION

### CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is Prosecution?
  - 3.2 Authority of the Police to Conduct Prosecutions
  - 3.3 The Prosecution Processes
    - 3.3.1 Charge
    - 3.3.2 Amendment of Charge
    - 3.3.3 Holding Charge
  - 3.4 Trial
    - 3.4.1 Arraignment
    - 3.4.2 Plea
    - 3.4.3 Plea of Not Guilty by Reason of Insanity
    - 3.4.4 Examination-in-chief
    - 3.4.5 Cross-Examination
    - 3.4.6 Re-Examination
    - 3.4.7 Withdrawal from Prosecution
    - 3.4.8 Duty on a Person whose Prosecution is Withdrawn
    - 3.4.9 Discretion on Prosecution
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 Reference/Further Reading

### 1.0 INTRODUCTION

After a criminal defendant has been processed by police officers and DPP and relevant evidence has been gathered in the case, the focus of justice shifts from the law enforcement officers (police) to the criminal court system. Many people erroneously believe that the police's role has ended. However, the police are part and parcel of the criminal court system. Aside acting as a prosecutor, he brings the accused to and fro the court and the place of custody. This unit discusses police and prosecution. The unit begins with the meaning of prosecution, authority of the police to conduct prosecutions. This unit will also x-ray the prosecution processes which begins with the charge-amendment of charge-holding of charge. Moreover, the unit will also examine the trial process which entails arraignment, plea, and plea of not guilty on several reasons, cross-examination and re-examination. The unit will further examine withdrawal from prosecution and finally discuss police discretion to prosecute or to withdraw a prosecution.

## 2.0 OBJECTIVES

By the end of this unit, you should be able to:

- explain what prosecution is
- outline and explain the prosecution processes
- define trial
- outline and explain trial stages like arraignment and plea
- distinguish between cross-examination and re-examination
- explain when a prosecution can be withdrawn.

## 3.0 MAIN CONTENT

### 3.1 What is Prosecution?

In the literal sense, prosecutions are the processes involved in proving in a court of law that the accused person is guilty or otherwise of crime wherewith he is charged. There is no statutory definition of prosecution in our statute books. However, in *Oluka Obaze v Ozulonye* the learned **JUSTICE ALFA BELGORE, JCA** (as he then was) defined the word as “to see that justice is done.” Lawyers and judges perceive the word in this sense. Prosecution is not intended to punish but rather, to ensure that justice is done, that is to say, a person is not to be punished by mere reason of suspicion or to be declared innocent on the whims and caprices of the judge or the police. An accused person must therefore go through the process of prosecution under a conducive environment, to determine his or otherwise in the matter wherewith he is charged.

To ensure justice in prosecution processes, in the Nigerian legal system, a prosecutor is to be fair and impartial. His primary interest should be to present the facts as they are, avoid any effort to secure conviction through fraud or by misleading the court. It is therefore improper for a prosecuting police officer to insist on imposition of maximum punishment on the accused person where there are chances of mitigation.

In *R v Shugaba*, the court held;

*The business of the state counsel is fairly and impartially to exhibit all the facts to the jury. The Crown has no interest in procuring a conviction but the right person be convicted. Where a counsel refuses on the real strength of his case and thinks he can strengthen it by things collateral in a manner contrary to the law, he only weakens his case and may prevent a verdict which ought to be obtained.*

Ethically, a prosecuting police officer is expected by law not to withhold any previous decision on point of law favourable to the defendant being prosecuted. On the contrary, he is expected to make available to him such evidence to help his matter. A prosecuting police officer must have in mind that the accused person has right under the Constitution to defend himself in person or by a legal practitioner of his choice. Before commencing his prosecution, therefore, he should make sure that the accused is represented by counsel where he is not capable of representing himself. Failure to allow an accused person to defend his case to his satisfaction may be ground for the defeat of the prosecution for denial of fair-hearing in accordance with S.36 of the Constitution of the Federal Republic of Nigeria, 1999 (as mended).

In the spirit of attaining justice, a prosecutor should ensure that:

- (i) An accused person is provided an interpreter by the court where he cannot understand or communicate in the language of the court;
- (ii) The accused is given adequate time and facilities to prepare for his defense in accordance with Section 36 (6) (b) of the Constitution (as amended), 1999, the prosecutor should not object to requests for adjournments where they are made on reasonable grounds; and
- (iii) An accused is encouraged and assigned and assisted to procure the cross-examination of each prosecution witness.

Where a police officer prosecuting a matter in court does not comply with these principles, prosecution is likely to fail, resulting in discharge or wrongful conviction of the accused person. On the other hand, strict compliance with the principles may lead to successful prosecution resulting in deserved acquittal or conviction.

### 3.2 Authority of the Police to Conduct Prosecutions

The police derive its power of prosecution under Section 23 of the Police Act which states:

*Subject to the provision of Section 191 (174 and 211) of the Constitution of the Federal Republic of Nigeria which relate to the power of the Attorney General of the Federation and of the State to institute and undertake, to take over and continue or discontinue criminal proceedings against any person before any court of law in Nigeria, any police officer may conduct in person all prosecutions before any court whether or not the information or complaints is laid in his name.*

This section gives the police officer wide powers subject only to the power of the Attorney-General, to institute and prosecute cases in any court whether or not the complaint is laid in his name. In practice however, the police only institute and prosecute cases in normally taken over by the Attorney General. In *Olusemo v CPO*, the information was filled by a police officer and the defendant argued that the police officer cannot file a case in the High Court. The High Court held that the police can file a case in the High Court subject to the over-riding power of the Attorney-General who can take over the matter (Okoro 2013).

The authority of a police officer to prosecute a case also came up in the case of *FRN V Osahon*. In this case, the defendants/respondents were charged before the Federal High Court for certain offences under the Miscellaneous Offences Act, 1984 by the prosecution/appellant police officers. The respondents filed a motion to quash the charges on the ground that the prosecuting appellant police officers were not officers of the department of the Attorney General of the Federation who was the appropriate authority to prosecute. In his ruling, Nwodo, J of the Federal High Court, Lagos, dismissed the application and holding that the appellants were competent to institute the criminal proceedings. On appeal, the Court of Appeal reversed the judgment and quashed the charges. On further appeal to the Supreme Court by the appellants, the Supreme Court, by a majority of five to two, allowed the appeal. Delivering its judgment by S.M.S. **BELGORE, JSC**, the court held:

*"That the appellant police officers were covered by the words "any other authority or person" contained in section 174(1) of the 1999 Constitution, and they were competent to institute the criminal proceedings against the respondents."*

The police is not specially trained in the skill of prosecution of matters before the court. Prosecution in the court of law requires a good knowledge of law and the very essence of prosecution itself. Because of the high-profile technicalities involved in prosecution, police officers charged with the responsibility of prosecution suffer a lot of difficulties in handling their duties. As a result of this deficiency rampant in police prosecution, good cases have had to be adjourned unreasonably, struck out permanently for want of diligent prosecution or dismissed. In some cases accused persons against whom there is sufficient evidence for conviction or acquittal have been wrongly convicted or discharged because of unethical conduct by police prosecutors.

It has been observed also that the circumstances that necessitated the use of police prosecutors in the magistrate courts no longer exist especially in urban areas and metropolis, however in rural areas or semi-urban centres were the is dearth of lawyers. The need to use police officers as prosecutors arose out of the dearth of qualified lawyers to handle prosecution. Since the establishment of Nigeria Law School in 1963, the number of lawyers available for practice in Nigeria has been progressively on the increase. The country now has sufficient lawyers to meet the needs of public prosecution in some magistrate court in Nigeria and help further the administration of justice. The use of lawyers for prosecution would reduce to the barest minimum, the incidence of wrongful detention, want of diligent prosecution and holding charges. Given his training, a lawyer would prevent the lapses to which police prosecution is usually exposed. However, this does not apply in all jurisdictions and has not necessarily brought as fast dispensation in the Nigeria criminal justice system as many suspects are still in police custody for months while investigation for the prosecution are still ongoing while others are in correctional centres are awaiting trial inmates for a very long time.

In an address delivered by Lanke Odigyan, former President NBA, at the 2005 Nigerian Bar Association Annual General Conference, he noted that the powers conferred on the police by Section 23 of the police Act and the Criminal Procedure Act have been flagrantly abused and misused, leading to illegal detention and death in some cases. He said that the Nigerian Bar Association was of the viewpoint that the powers

conferred on the police by the section 23 of the Police Act should be abolished because:

- (i) the exercise by the police of the power of initiation and prosecution of criminal cases constitute an unwholesome incursion into the exclusively rights and privileges of qualified legal practitioners, who alone should have the right to plead any person's cause in our Law Courts.
- (ii) the majority of these police prosecutors who have taken over the duties of legal practitioners do not have any or adequate legal training and therefore cannot make or respond to legal arguments from lawyers in court;
- (iii) justice is jeopardized and cannot be done in a situation where the knowledge of the law of these police prosecutors is highly limited;
- (iv) the powers conferred on the police is made subject to the overriding powers of the Attorneys-General;

There is no gainsaying that the exercise of the prosecution powers of the police as contained in the Police Act and other laws are counter-productive and serve no useful purpose and, therefore, ought to be dispensed with (Okoro, 2013).

### **3.3 Prosecution Processes**

As we noted above, prosecution involves a number of processes. Among these processes are charge, arraignment, trial, conviction and sentence. We shall discuss the extent of police involvement in some of these processes in the magistrate court.

#### **3.3.1 Charge**

The police will normally charge a person when they have enough evidence to prove that he has committed an offence under investigation. Charge is a statement which states:

- (i) what crime the person is charged with; and
- (ii) when the crime was committed; and
- (iii) where the crime was committed; and
- (iv) what statute provides for the crime and penalty prescribed.

Section 2 of the Criminal Procedure Act defines charge as the statement of offences with which an accused person is charged in a summary trial before a court i.e. magistrate court. In the High Court, 'charge' is referred to as 'information'. It contains the particulars of the offences and drafted in the South by police, and in the North by the magistrate.

A charge must be clear enough as to give the accused person adequate notice of the offence with which he is charged and must contain particulars of the offence in this order:

- (i) name of the accused;
- (ii) date of commission of offence;
- (iii) place of commission of offence;
- (iv) sufficient description of the offence in accordance with the law creating it, stating the offence, the thing and the name of the owner of the thing against which offence is committed, in accordance with Section 152 of CPA.
- (v) the section of the law under which the accused will be punished and the law itself;
- (vi) signature of the authority drafting the charge.

Non-compliance with the contents of a charge as specified above will not essentially invalidate the charge but may lead to setting-aside of any conviction upon which it was based. This was the position of the court in *Duru v The Police*. Ordinarily, errors and omissions in a charge are not to be regarded as material by court unless the accused was, in fact, misled by such error or omission.

Where a defective charge has been read and explained to the accused person and he makes a plea, he can no longer object to the errors contained therein because he has submitted to the jurisdiction of the court. Objection must therefore, be taken before plea is made in accordance with Section 167 of Criminal Procedure Act

Other qualities of a good charge are:

- (i) no charge shall contain more than one offence except:
  - (a) Where the offence involves money defrauded from one person over a period of time;
  - (b) in compliance with a statutory form which allows for the joining of two offences together; e.g. offences of housebreaking or burglary can be joined together with stealing-where the accused person broke into a house to steal;
  - (c) offences defined in the alternative can be contained alternatively in a single count.

In the case of *Arobotu v The State*, the court held that any count which contains more offences as against this rule shall not invalidate the charge or trial unless it has occasioned a miscarriage of justice:

- (i) offenders shall not be joined together in a matter before the court. One accused should be charged in one charge sheet for the offences committed by him; a breach of this rule may however be permitted:
  - (a) when more than one person commits the same offence;
  - (b) when more than one person commits different offences in the course of the same transaction. Example, in ***Haruna & 40 others v The State***, some people were joined in a charged for agreement reached in Lagos to obtain payment in Bida for fictitious purchases by means of forged vouchers. One of the accused persons submitted the first payment voucher in Bida and received a cheque for the amount stated therein. It was held that all the accused were properly joined, tried and convicted in Bida because all the acts formed component parts of a whole. This is in accordance with Section 158 of Criminal Procedure Act.
  - (c) when a person is accused of committing an offence and another of abetting, or being accessory to or for attempting to commit such offence.
  - (d) when a person is accused of any offence or theft, criminal misappropriation, criminal breach of trust and another of receiving or assisting in the disposal or concealment;
- (ii) every offence with which any person is accused shall be charged separately in accordance with Section 156 of Criminal Procedure Act.

### 3.3.2 Amendment of Charge

The law permits the court or the person who drafted a charge to amend it upon discovery of an error. Any such alteration which may be done by the court or such person at any time before judgment, must be read and explained to the accused person, if it is made after trial has commenced and he shall plead to it, failure which trial may be rendered, null and void.

Failure of the prosecutor to amend a defective charge before judgment will:

- (a) if the defect is **substantial** compel the court not to make conviction; if it makes such conviction will be set aside on appeal. Example is the case of ***Dr. Clement Isong v The AG. Federation*** where the information referred to a repealed enactment and there was no similar offence known to the existing law. The court held that the error was material and fundamental and capable of misleading the accused.

- (b) if the defect is minor and not capable of misleading the suspect, it will be overlooked by the court. Omissions which are trivial and immaterial will normally not vitiate trial.

### **3.3.3 Holding Charge**

A holding charge is an order of court (magistrate court) which lacks jurisdiction to try an accused person, authorising his continued detention pending the time his case is brought before a court of competent jurisdiction. For example, a magistrate court does not have jurisdiction to try murder. Where, therefore, such a matter is brought before it, it may order holding charge to enable it keep the accused in detention until he is brought before the competent court (High Court).

Holding charge has been grossly abused by police, leading to the death of innocent detainees. The holding charge is illegal by virtue of Section 35 of the Constitution (as amended) and has been declared unconstitutional in the case of *Chinemelu v COP*. The proper order for a magistrate's court which does not have jurisdiction over a matter to make is striking out. Under Section 188(1) of Criminal Procedure Act and Section 341(1) of the Criminal Procedure Code, a magistrate's court cannot admit to bail any person charged with any offence punishable with death. Only the High Court can grant a bail to a person accused of capital offence if he satisfies certain conditions.

Since the magistrate's court has no jurisdiction to grant bail in respect of capital offence, the proper order to make when such applications are brought before it is to strike out the matter and not to make an order that the accused person be remanded in custody pending when an appropriated application will be made to the High Court which has jurisdiction to grant bail. This will ordinarily amount to breach of the accused person's fundamental right to liberty.

## **3.4 Trial**

Trial is systematic process of court proceedings involving a formal examination of evidence in a court of law by a judge and often a jury, so as to decide if somebody accused of a crime is guilty or otherwise. The basic processes involved in the proceedings are arraignment, pleading, examination-in-chief, cross-examination and re-examination.

### **3.4.1 Arraignment**

Arraignment consists of bringing the accused person to the court with a charge, and reading and explaining same to him in the language he

understands as well as taking his plea. An accused person is, therefore, said to be properly arraigned if he is brought before the court and the charge read and explained to him to the satisfaction of the court and he pleads **guilty** or **not guilty** to the offence. The court held in *Sunday Kajubo v The State* that:

Arraignment consists of charging the accused and reading over and explaining the charge to him in the language he understands, to the satisfaction of the court, followed by taking his plea. Section 215 of the Criminal Procedure Act provides that:

*The person to be tried upon any charge or information shall be placed before the court unfettered unless the court shall see cause otherwise to order, and the charge or information shall be read over and explained to him to the satisfaction of the court by the registrar or other officer of the court, and such person shall be called upon to plead instantly thereto. . .*

*Section 187 (1) of the Criminal Procedure Code provides that:*

*. . . the accused shall appear or be brought before the court and the charge shall be read out in court and explained to him and he shall be asked whether he is guilty or not guilty of the offence or offences charged.*

A person being arraigned before the court shall not be handcuffed otherwise bound or be subjected to unnecessary restraint except by order of court. Such order may be necessary where it is shown that he accused person's conduct is likely to disrupt court proceedings if he is not so fettered.

During arraignment the accused person has right to exercise any of the following options:

- (i) raise preliminary objection to the jurisdiction of the court to try him;

This should be done before pleading;

- (ii) refuse to plead to the charge; in this case a plea of Not Guilty will be entered;
- (iii) stand mute:

When a court finds an accused person standing mute, two reasons may be attributed. Either that he is doing so because he does not want to co-operate with the court out of malice of his own

conception or that his action is due to the “Visitation of God” (insanity). Muteness may also be as a result of deaf and dumb conditions. The court will take steps to determine the cause of the muteness and treat each situation differently.

### 3.4.2 Plea

Plea is part of arraignment. A plea consists of the question asked by the officer of the court who reads and explains the charge to the accused person and the response given by the accused person. After reading and explaining the charge to the satisfaction of the court, the registrar or court clerk (as the case may be) asks the question:

Are you guilty or not guilty? The accused is expected to respond either; that:

***“I am not guilty” or “I am guilty” “guilty” or “not guilty”.***

*Section 285 of the Criminal Procedure Act provides:*

*At the commencement of the hearing, the court shall state or cause to be stated to the defendant the substance of the complaint and shall ask him whether he is guilty or not guilty.*

The plea must be made by the accused himself and not by his counsel unless the presence of the accused could be dispensed with in accordance with S.100 of the Criminal Procedure Act. Where a defendant pleads not guilty, he has submitted himself for trial by the court. A plea of not guilty will normally be entered, whether or not the accused pleads so, for any offence punishable with death.

Where an accused person pleads guilty and the court is satisfied that by his plea, he intends to admit the truth of the offence, and shows no sufficient cause why sentence should not be passed, the court shall proceed to sentence him sometimes, with the minimum penalty. This was the position in *Aremu v COP*. It is however not in all cases where plea of guilty is taken that the defendant is convicted on his plea. Most times, the court will order that trial should still proceed notwithstanding the plea of guilty.

For a court to convict on a ground of plea of guilty, it will be satisfied that:

- (i) the plea is recorded by the court as nearly as possible in the words used by the accused and that it is non-ambiguous; where the evidence produced by the prosecution does not support the plea, the court is not likely to convict on the plea;
- (ii) the offence is not such that can only be constituted by expert evidence, so that without such evidence it cannot be determined;
- (iii) the offence is not capital offence.

### **3.4.3 Plea of Not Guilty by Reason of Insanity**

Section 27 of the Criminal Code provides that every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved. This rebuttable presumption of the law was upheld in the case of *Ogbu v State; and Ejinima v State*. If a trial judge has reason to suspect either before the commencement or in the course of trial that an accused is “of unsound mind, and consequently incapable of making his defence then before proceeding any further the court must investigate the question, taking such medical evidence as required and then make a specific finding thereon. In *Mboho v State*, it was held that where the unsoundness of the accused and capacity to understand proceedings and make his defence is alleged or suspected, a judge or magistrate may, at any stage of the case, investigate it and then make a specific finding thereon before proceeding further in the matter.

The plea of not guilty by reason of insanity was further examined by court in the case of *R v Ogor*. It was held that where an accused pleads not guilty by reason of insanity and the court confirms that he actually committed the offence and that he did so during a state of insanity, he will be remanded in prison custody until the Governor’s pleasure is known. However, if the accused person is found not to have committed the offence wherewith, he is charged, he shall be discharged and the court will disregard the issue of his insanity (Okoro, 2013).

### **3.4.4 Examination-in-Chief**

Section 214 (1) (1) of the Evidence Act, 2011 provides that the examination of a witness by the party who calls him shall be called his examination-in-chief. The process therefore takes place where a witness is asked questions from the witness box but the person who invited him to court or his counsel to testify in his favour on an issuer on trial. Witnesses shall be first examined-in-chief before they are cross-examined. Examination-in-chief must relate to relevant facts and leading

questions are prohibited. Section 221(2) of the Evidence Act 2011 states that:

Leading questions shall not, be asked in examination-in-chief, or re-examination, except with the permission of the court. According to subsection (3) of this section, leading questions may however, be tolerated as to matters which are introductory or undisputed or which in the court's opinion, have been proved. Leading questions may however, be asked in cross-examination.

### **3.4.5 Cross-Examination**

The examination of a witness by a party other than the party who invited him is called his cross-examination. Cross-examination should normally follow examination-in-chief and it needs not be confined to the facts to which the witness testified on his examination-in-chief.

Section 216 of the Evidence Act provides that in criminal proceedings where more than defendant is charged at the same time each defendant shall be allowed to cross-examine a witness called by the prosecution before the witness is finally re-examined.

Leading questions may be asked in cross-examination but a person charged with an offence and called as a witness shall not be asked any question tending to show that he has committed or been convicted of being charged with any offence other than that wherewith he is charged, or is of bad character, unless:

- (i) the proof that he committed such offence is material to show that he is guilty of the offence with which he is charged;
- (ii) he has personally or by his counsel asked questions of the prosecution witness to establish his good character or by his conduct or action involve imputation on the character or the prosecutor or his witnesses; or
- (iii) he has given evidence against any other person charged with the same offence.

### **3.4.6 Re-examination**

Re-examination is the further explanation and classification of issues or questions raised by the adverse party or his counsel during the cross-examination. During cross-examination attempts are normally made by the adverse party or his counsel to discredit and impugn on the credibility of the character and evidence of the witnesses. Re-examination is therefore desirable to explain the matters referred to in the cross-examination. If new matters are introduced during re-

examination, the adverse party or his counsel can, by the permission of the court, cross-examine on them with further re-examination permissible. Leading questions are not allowed in re-examination.

### **3.4.7 Withdrawal from Prosecution**

The very essence of prosecution is to prove before the court of law that the defendant or accused person, indeed, committed the crime. In carrying out this responsibility a burden is placed on the state (prosecution) to prove the defendant guilty beyond reasonable doubt. However, if the prosecution fails to establish his guilt, or unable to secure sufficient evidence to prosecute the case, it is unconditional to continue to keep the accused person or defendant in custody. He should be discharged and the matter withdrawn.

The law confers on the police prosecutor the power to withdraw from the prosecution of any person in any trial or inquiry before a magistrate's court. However, he cannot do this unilaterally. He must do so with the consent of the court i.e. the magistrate or on the instruction of the Attorney-General of the state. Such withdrawal is allowed at any time during the trial before judgment is pronounced. Section 75 (1) of the Criminal Procedure Act provides:

*In any trial or inquiry before a magistrates court, any prosecutor with the consent of the court, may, or on the instruction of the Attorney-General of the State in the case of an offence against a law of the State, shall, at any time before judgment is pronounced or an order of committal is made, withdraw from the prosecution of any person. . .*

The accused person from whose prosecution the prosecutor withdraws shall be discharged only and not acquitted. However, if the withdrawal is made before the accused makes his defence; the magistrate may order his acquittal if he satisfied upon the merits of the case that such order is proper.

### **3.4.8 Duty on a Person Whose Prosecution is Withdrawn**

Withdrawal from prosecution of an accused person is not a presumption that the person is innocent of the offence wherewith he is charged. The withdrawal may be for reason other than the extent of his involvement in the crime with which he is charged. It may be because the prosecutor does not have requisite evidence or he has not done proper investigation to advance his case. When a person has been set free for want of evidence and it is believed that he actually committed the crime, there is additional burden on the State to keep him under surveillance to see

whether he will relapse into crime or commit the offence again. It is wrong to assume that because he has been set free, he will not commit crime again. There are rampant cases of persons who, after serving jail term, returned to the community to continue their criminal activities.

### 3.4.10 Discretion on Prosecution

As we discussed in previous unit that the Police exercises a lot of discretions especially in law enforcement. Do the police have discretion to determine what cases to prosecute and those not to prosecute? We shall answer this question by examining some sections of the Criminal Procedure Act and other corresponding laws.

Section 10 (i) of the Criminal Procedure Act empowers any police officer to arrest any person whom he suspects, upon reasonable grounds, of having committed offence. Section 36 (i) (5) of the 1999 Constitution (as amended) presumes every person so arrested or charged with a criminal offence to be innocent until he is proved guilty. Section 19 of the Criminal Procedure Act provides:

*When any person has been taken into custody without a warrant, for an offence other than an offence punishable with death, the officer in charge of the police station or other place of reception of arrested persons to which such person is brought shall, if after the inquiry is completed, he is satisfied that there is no sufficient reason to believe that the person has committed any offence, forthwith release such person.*

Arrest is mostly made by police on suspicion. Where arrest is made on this ground and after inquiry there is no substantial evidence to lend credence to the likely commission of the offence by the accused person, the police is authorised to release such person without any recognizance since his release on this ground does not equal bail. Regarding such cases for which the police officer is satisfied that there is no sufficient reason to believe that the accused person has committed any offence; therefore, the police have lawful discretion not to proceed on prosecution.

This is because no prosecution succeeds without evidence. The prosecution must prove before the court that there is reasonable ground for suspecting the accused otherwise proceedings will be frustrated and consequently struck out, and the accused discharged and or acquitted. As for cases for which a police officer has reasonable ground to believe that the accused person has committed the offence based on the evidence which he obtained after inquiry, the police have no discretion to decide

whether or not to prosecute. They are required by Section 35 of the 1999 Constitution (as amended) and Section 17 of the Criminal Procedure Act to bring the accused person before the court within twenty-four hours or if it is a case punishable with death or such serious cases, within reasonable time for prosecution.

## 4.0 CONCLUSION

In this unit we have been able to consider the meaning prosecution, and examined the powers bestowed on the Nigeria Police to conduct prosecution. Without the Police who makes the arrest, carries out pre-investigations, they will be no prosecution. Although some people erroneously believe that in the criminal court, that the police has no part to play again. The police are part and parcel, of the prosecution in the criminal court. This unit was also able to outline and explain the prosecution process which starts with the charge, then the amendment of charge and holding of charge. The unit went ahead to elucidate on the meaning of trial, listed and explain the stages in trial which includes arraignment, plea, cross-examination and re-examination. The unit also explained when police can withdraw prosecution, the duty on a person whose prosecution is withdrawn. The unit finally examined police discretion especially as it concerns prosecution.

## 5.0 SUMMARY

The nexus of prosecution is arraignment, arraignment consists of bringing the accused person to the court with a charge, and reading and explaining same to him in the language he understands as well as taking his plea. An accused person is, therefore, said to be properly arraigned if he is brought before the court and the charge read and explained to him to the satisfaction of the court and he pleads guilty or not guilty to the offence. The role police play in prosecution of cases cannot be overemphasised in Nigeria criminal justice system. From the charge, to the amendment of charges to holding of charges and the trial proper the police officer have a significant role to play in these processes.

## 6.0 TUTOR-MARKED ASSIGNMENT

1. What is prosecution?
2. Outline and explain the prosecution process
3. On what condition can a charge be amended?
4. What is holding charge?
5. Explain what constitutes proper arraignment?
6. On what grounds can an accused person stand mute in the court of law?

7. Distinguish between cross-examination and re-examination within the trial process

## 7.0 REFERENCES/FURTHER READING

Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.

John, S.D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States: Thompson Wadsworth  
Criminal code Cap ‘C38’ laws of the federation 2004  
1999 Constitution of the Federal Republic of Nigeria.  
Evidence Act, 2011  
Criminal Procedure Act, 2004

Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct. (1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.

Ojomo, F.Y. (2011). Policing in a Corrosive Environment. Ibadan: Kolaak Enterprises

Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.

## UNIT 5 DETENTION AND TORTURE

### CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is Detention?
  - 3.2 Pre-trial Detention of Juveniles in Nigeria
  - 3.3 The Police Detention and Torture in Nigeria: Victims Experiences
  - 3.4 Law and Detention
  - 3.5 Liability of the Police under the Law
  - 3.6 Medical Treatment of a Person in Detention
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 References/Further Reading

### 1.0 INTRODUCTION

Over two centuries ago, Cesare Beccaria (1738-1794) the pioneer of the Classical school of Criminology had earlier called for reform in the criminal justice system especially the legal system as a result of an effort to reform the legal system and effectively protect accused persons against harsh and arbitrary punishment by the State. He emphatically called for abolition of torture to obtain confessions from the criminal justice system amongst other reforms in the CJS. Despite this call, the Nigeria criminal justice system have utilised torture to obtain confession from the accused. In fact, the Nigeria Police force has turned torture to obtain confession from the accused as one of their modus-operandi. The unit begins with

### 2.0 OBJECTIVES

By the end of this unit, you should be able to:

- define detention
- explain the extent of pre-trial detention of juveniles in Nigeria
- explain the experiences of victims of torture in Nigeria.

### **3.0 MAIN CONTENT**

#### **3.1 What is Detention?**

Detention is the physical confinement of a person to a lawful custody. In conformity with the Universal Declaration of Human Rights 1948 which was endorsed by the General Assembly of the United Nations without a dissenting vote, Section 35 of the Nigerian Constitution provides that

*Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty in the following cases and in accordance with a procedure permitted by laws.*

A person may however be deprived of this liberty on the following grounds permitted by law.

- (a) In execution of the sentence or order of a court in respect of a criminal offence of which has been found guilty;
- (b) By reason of his failure to comply with the order of a court or in order to secure the fulfillment of any obligation imposed upon him by law;
- (c) For the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such an extent as may be reasonably necessary to prevent his committing a criminal offence;
- (d) In the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;
- (e) In the case of the persons suffering from infections or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or
- (f) For the purpose of preventing the unlawful entry of any person into Nigeria or the taking of proceedings relating thereto.

Detention made according to the provision of the law, as above, is a penal process intended to keep the detainee for a minimum period of time to allow for investigation into the allegation against him before bringing him before a competent law court. The police must disclose to the detainee the general nature of the suspected crime and inform him that he does not need to answer any questions other than giving his name and address in accordance with the Judge's Rule, now recognised

universally, as a general rule of law. The courts have reiterated these rights of an accused in several judicial pronouncements.

A person under detention is thus, entitled to have access to a solicitor immediately, regardless of his circumstances or health conditions. If the accused person is handcuffed and questioned by the police, he is also entitled to have access to a solicitor. This access may be a personal meeting or telephone contact. Ordinarily, he does not have the right, while in detention, to make a telephone call personally without the presence of a police officer. Often times, the police will make the call for him without delay, unless there is a good reason not to, for example, on the ground that it might lead to destruction of evidence of the warning of accomplices. There is no fixed time limit but any delay should not be longer than necessary to investigate or prevent the crime or apprehend offenders.

If a young person under 16 years of age is detained by the police, it is proper that the police should tell his parents or guardians as soon as possible and allow a parent or guardian access the young person at the police station. The police may, however, refuse access if there is a suspicion that the parent or guardian is involved in the crime or offence or if it is in the interest of the young person to delay or deny access. But no one should be detained more than once in connection with the same offence or an offence which arises out of the same grounds.

Such conditions as may be permitted by law to deprive a person of his liberty as I have noted above, may occur only, in execution of the sentence or order of a court in respect of a criminal offence of which the accused has been found guilty; by reason of a person's failure to comply with the order of a court or in order to secure the fulfillment of any obligation imposed upon him by law; or for the purpose of bringing him before a court upon reasonable suspicion of his having committed a criminal offence; or to such extent as may be reasonably necessary to prevent him from committing a criminal offence.

### **3.2 Pre-trial Detentions of Juveniles in Nigeria**

Although the Children Young People Law (CYPL) is a bit silent on the method mode and modus operandi for the arrest of children and detention of children and young people. It was very clear in the 1999 Constitution as amended that it prohibits to torture or engage in any inhuman or degrading treatment in the process of arrest and detention. The law further stipulates that everyone must be informed in writing and within 24 hours of the facts and grounds of his arrest. He/she must be informed in the language that he/she understands. In the same vein, all arrested persons have the right to remain silent until after consultation

with his/her personal counsel (legal practitioners) or any other person who he deems fit. More importantly, the law categorically states that the juvenile arrested must be brought to a law court within 24-48 hours of arrest. Hence any person who is arrested unlawfully or detained illegally have the capacity to sue for the bridge of his/her human right and bridge of his/her liberty. The sue can be done either through habeas corpus proceedings or any other means as stipulated by the constitution especially under the Fundamental Right (Enforcement Procedure) Rules. It is quiet unfortunate that juveniles are been detained as awaiting trial inmates in Nigeria correctional facilities across Nigeria. Okunola and Dinne (2016), noted in their study titled ‘factors underlying legal aid scheme by awaiting trial inmates in Agodi correctional facility Ibadan’ that that juveniles and under aged children are been detained as awaiting trial inmates in Agodi correctional service Ibadan and they further noted that awaiting trial inmates constitutes over 93.2% of the total population in Agodi correctional facility Ibadan, while 77.1% of the ATIs have spent more than six months in pre-trial detention, although some of them committed a simple or minor offence. This revelation by Okunola and Dinne (2016) show to the extent the rights of juveniles are been violated in Nigeria and such violation of human is not peculiar to Agodi correctional facility but is obtainable in almost all other correctional facility in Nigeria.

It is stipulated in the CYPL that police should grant bail immediately to juveniles who cannot be immediately be brought before a competent court. Regrettably, the Nigeria Police force remand most juveniles for a long period of time, especially for those whose parent cannot afford to pay money for bail (In paper and in theory, bail is free) but the Police in Nigeria collects huge amount of money from offenders as bail and those who cannot afford to pay stays a longer time in a pre-trail custody. The CYPL demands under legal obligation to inform the guardians, caregivers and parents of the arrested juvenile, unfortunately, the Nigeria police vehemently flouts this rule by not informing the parents, guardians and caregivers of this arrested juveniles. Even sometimes when the guardian, parents and caregivers are contacted, most of them are helpless due to fear of the police and ignorance of the law and most of them cannot afford to hire a legal counsel due to their low socio-economic status. Unfortunately, legal aid is only available for criminal offences and this juvenile cannot be charged for criminal offence.

In CRA (2008) pre-trial detention of children in conflict with the law is the last detention is last measure, however, in Lagos state and other states in Nigeria, it is the first and only measure taken especially when the child committed a criminal offence. As stated in section 212 of the Act, it stated as follows that (a) detention pending trial could be used (a) only as a measure of last resort and for the shortest possible period of

time; and (b) wherever possible, be replaced by alternative measures, including close supervision, care by and placement with a family or in an educational setting or home.

The CRA went further to stipulate the modus operandi in which a child subjected to pre-trial detention shall be treated: (2) While in detention, a child shall be given care, protection and all necessary individual assistance, including social, educational, vocational, psychological, medical and physical assistance, that he may require having regard to his age, sex and personality. (3) Where the court authorises an apprehended child to be kept in police detention, the court shall secure that the apprehended child is moved to a State Government accommodation, unless it certifies: (a) that, by reason of such circumstances as specified in the certificate, it is impracticable for him to do so; or (b) in the case of an apprehended child who has attained the age of fifteen years, that no secure accommodation is available and that keeping him in some other authority's accommodation would not be adequate to protect the public from serious harm from the child.

The Act made it obvious what it meant by a 'State Government accommodation' within this context. Which does not certainly does not include Juvenile Justice in Nigeria prisons which are federally owned. Unfortunately, this is where most children and young person who are in conflict with the law in Nigeria are detained. In subsection 4 of section 212, the Act made provision for the classification in the place of detention pending trial shall take account of the social, educational, medical and physical characteristics and condition of the child including his age, sex and personality (CRA, 2008).

### **3.3 The Police Detention and Torture in Nigeria: Victims Experience**

The purpose of detention appears to have been grossly abused by the Nigerian Police. They conceive of detention as a preliminary punishment for the accused person so as to extract incriminating information. To the police, therefore, detention is an opportunity to torture, harass and intimidate a detainee. The Nigerian Police perceive its role and responsibility as a bully that has a duty to compel obedience to the authority of the state by brute force. Under this illusion, the police have tended to treat persons under detention with crass cruelty which sometimes resulted in the maiming and death of victims. They have pursued their responsibility by perpetrating serious violation of individual rights, culminating in incessant beating, use of excessive force and other forms of crude torture (Okoro 2013).

One Mr. Henry Ukaegbu narrated his ordeal in police detention. He said that he voluntarily returned some documents he picked up at a spot

where robbery event had taken place. When he arrived the police station to deposit the documents, he was detained and tortured.

Uzoma Okorie, was a female stenographer with a private trading company in Marina, Lagos. She was arrested in February, 3, 1993 on an allegation of stealing and taken into custody by policemen at Adeniji Adele Police Station Lagos. Two male police officers, John Okon, the investigation police officer and one Sergeant Joseph both of the station stripped her naked and forced her to a huge concrete pillar supporting the roof of the building. Then they handcuffed her and started flogging her bare back, buttocks and thighs until she bled profusely. When she could not still confess, they inserted a neck of a larger beer bottle into her vagina and retained it there while the torture lasted. Her torture continued until she fainted and was admitted unconscious at the Police Hospital Falomo, Lagos where she recovered.

What the officer meant by ‘talking’ is confession. There is a presumption by the police that any one arrested is guilty if the alleged offence and therefore must confess. Against this background anything a suspect state other than admission of guilt must be taken to be a lie. Regrettably, this represents the common mindset of an average police officer.

The average policeman erroneously views his role as a bully that has a duty to compel obedience to the authority of the state through perpetration of serious violation of the rights of the individual. It has become routine to accomplish this end through torture, beating, use of excessive force, arbitrary arrests and detention, as well as general harassment of the individual and communities. But this is a far-cry from the expectation of the public. The public expects the police to contribute to the guarantee of social justice in the society by serving as a counselor, law enforcer, prosecutor, arbiter and a peace-maker. But the police view its role in the contrary.

Commenting on police brutality in Nigeria, **FRANKLYNE OGBUNWEZEH** again submitted as follows:

*Many suspects held in police custody have been given gifts of fractures limbs, broken jaws, subdued spirits and stained reputations. Many have had their penises tortured and pierced with needles and broomsticks, and or their finger and toe nails forcefully dragged out of their skins. Many others have had their skins crudely tattooed with cigarette burns. . An attendance at a police treatment of a suspect in Nigeria is akin to a surreal movie starring the Gestapo, Nazi Camp Commanders, and the stasi in a race*

*on who could invent more brutality with the least economy. . . the suspect is stripped naked of all humanity. His dignity is so very degraded, and trampled upon by the policemen, as to warrant convulsion. It beats the imagination, for example to behold a policeman wielding whips and swinging same on unarmed citizens, at the threshold of the 21st-century. Where whips fail to satisfy their boots; kicking, cursing and dehumanising the taxpayers, whose sweats and labour ensures job security for the police.*

Torture is usually inflicted, as earlier noted, when a suspect is required to make statement and his statement is not in tune with what the police expect. One or a combination of the following methods are normally employed by police to torture suspects in the course of investigation, hanging, shooting on the hips, cigarette burns, insertion of broomsticks or pins into the genitals of a male suspect and broken bottles into the vagina of female suspects, beating with horsewhip, electric cables and batons; electric strokes; mock execution, removal of finger nails, denial of food and medication. Commenting on the July, 27 publication of the Human Rights Watch (HRW) report, **OGBUNWEZEH** again, said:

*Police Torture and deaths in custody in Nigeria, which comprehensively exposed the rottenness of the Nigeria Police Force . . . was availed a microscopic peep into the wretched festival of intimidation, brutalization, and butchery generously brewed, brutally packaged, and liberally dished-out to the ordinary Nigerian, by the officers and men of the Nigeria Police Force.*

A 2010 report of Network on Police Reform in Nigeria (NOPRIN), entitled Criminal Force, recounted several cases of police abuse and brutality as follows:

*“Personnel routinely carry out summary executions of persons accused or suspected of crime; rely on torture as a principal means of investigation; commit rape of both sexes,”*

*The report further disclosed that: suspects are being bound, suspended from ceilings, kicked and beaten with machetes, gun butts, boots, fists, electrical wires and animal hide whips. Females detainees have been reportedly raped, and males have had sharp objects inserted into their genitals.*

A report based on over fifty interviews with victims and witnesses of torture and all manner of acts of ill-treatment in police custody, many of which resulted in death attested to the canonization of torture by the police. It stated that across Nigeria both senior and junior police officers routinely commit or order the torture and mal-treatment of criminal suspects. The report reveals that “for too long, the police in Nigeria have gotten away with murder and brutality”. Most victims were arrested within the context of an aggressive government campaign against common crimes and were tortured to obtain confessions. They were tortured in local and state police stations across Nigeria, often in interrogation rooms, specially equipped for that purpose.

Forms of torture documented by Human Rights Watch include the tying of arms and legs behind the body, suspension by hands and legs from the ceilings, severe beatings with metal or wooden objects, spraying of tear gas in the eyes, shooting in the foot or leg, raping female detainees, and using pliers or electric shocks on the penis.

In addition, witnesses reported that dozens of suspects died as a result of their injuries; others were summarily executed in police custody. A 23-year-old man who was arrested in Enugu in June 2004 had this to say:

*“They handcuffed me and tied me with my hands behind my knees, a wooden rod behind my knees, and hung me from hooks on the wall, like goal posts, then they started beating me. They got a broomstick hair (bristle) and inserted it into my penis until there was blood coming out.” Then they put their tear gas powder in a cloth and tied it round my eyes. They said they were going to shoot me unless I admitted I was the robber. This went on for four hours.”*

Majority of the torture victims interviewed were ordinary criminal suspects whose cases were not informed by the police of the reasons for the arrest; they receive no legal representation and were subjected to excessive periods of pretrial detention.

A 31 years-old-woman victim of torture and arrest narrated her ordeal in Lagos in January, 2004 as follows:

*“The female inspector slapped me with a belt and then hit me with a wooden stick. She beat me all over my body and also my face. I can’t count the number of times she did this. Two other male officers were present and watching; next, the policemen tied a rope round my arms and body*

*and hung me up from a hook in the ceiling. Then the female inspector continued to beat me with a wooden stick, and sprayed tear gas in my private parts. She said that I will never have peace in my life as I am a liar. She wanted me to agree to the crime that I duped my boss and stole his money.”*

Access to Justice reported in October, 2004, reported that one Lawal Yahuza dragged himself into the courtroom on his buttocks because his two legs were broken by the police at the point of arrest and detention in Kaduna. According to the report, they battered his knees and ankles with the batons thereby rendering him unable to use them. In another report of this organization it stated thus:

*The procedure of interrogative torture – is like psychological torture, a well-formulated set of tortuous practices in which pain is applied to the accused person in graduated doses. The investigating officer determines the intensity of the pain, its frequency and points of application and the number of those adequate to break the suspect’s resistance. The application of pain to the body of the suspect is methodical and various methods have been developed or borrowed from other sources, each of these involving a peculiar positioning of the suspect, a mode of bodily restraint by mechanical means; a system of body pains for the infliction of pain, and a peculiar set of devices to inflict pain.*

Police torture in Nigeria is often socially accepted because it had been common for so long. The police authorities are yet to convince the public that justice had been done to any of the perpetrators of this wanton violation of citizens’ rights. A culture of levity and impunity by the police top hierarchy has protected the perpetrators. When victims of their relations attempted to attain accountability for this violation, they have faced harassment, intimidation and obstruction by the police.

### 3.4 Law and Detention

As we have already noted, unlawful detention presupposes a wrongful and intentional act of a person causing total restraint on the liberty of another person, for whatever period of time, by either actively causing the person’s confinement or preventing that person from leaving the place that he or she is located. Unlawful detention or imprisonment is a tort of strict liability. Liability turns on an intention to detain. Good faith is not a defence. The only defence however, is that the imprisonment

was pursuant to a lawful authority or statutory instrument as we discussed under chapter seven.

The proper functioning of law enforcement services is essential not only for an effective criminal justice policy but also for the protection of fundamental human rights of individuals. However, while stressing the importance of the task that the law enforcement officials perform, it is also pertinent to acknowledge the potentials for abuse that the discharge of their duties entailed. It is against this backdrop that Resolution 34/169 of 17 December, 1979 on Code of Conduct for Law Enforcement Officials was adopted by the United Nations General Assembly. It states that:

*“the functions of law enforcement in the defence of public order, and the manner in which those functions were exercised, had a direct impact on the quality of life for individuals, as well as for society as a whole.”*

Article 1 of the United Nations Code of Conduct for Law Enforcement Officials of which Nigeria is signatory therefore provides that law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession. Accordingly, they are expected to respect and protect human dignity and maintain and uphold the human rights of all persons; they are not to inflict, instigate or tolerate any act of torture or other cruel, inhumane or degrading treatment or punishment; they are also expected to use proportionate force only when strictly necessary for the performance of their duty. This provision with the expectation of the public who the police is established to serve as well as Nigeria's municipal law manifestly correspond with Section 34(1)(a) of the 1999 Constitution which requires that no person shall be subjected to torture or to inhuman and degrading treatment.

The Nigerian national law does not presume a detainee guilty of an offence. He is rather clothed with innocence and expected to be treated accordingly until he is proved otherwise. Section 36(5) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) provides that:

*Every person who is charged with criminal offence shall be presumed to be innocent until he is proved guilty.*

Section 35 (2) of the Constitution (as amended) states that any person who is arrested or detained shall have the right to remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice. Mr. Ogbunwezeh had this basic right in mind when he noted that the normal procedure on arrival at a

police station is “to record the particulars of the suspect, read to him his rights and present him with options open to him, in relation to his rights to legal representation.” An accused must not be compelled to give evidence. This right is protected both by Section 36 (11) of the 1999 Constitution (as amended) and Section 160 (a) and (b) of the Evidence Act. Section 160 (a) stated that a person charged with an offence shall not be called as a witness in pursuance of his prosecution except upon his own volition.

### **3.5 Liability of the Police under the Law**

The Nigeria Police Code of Conduct states that police officers shall not knowingly disobey the law or rules of criminal procedure in such areas as interrogation, arrest, detention, searches, seizures, use of informants and preservation of evidence; It states also that police officers shall not knowingly restrict the freedom of individuals, whether by arrest or detention, in violation of the Constitution and laws of the Federal Republic of Nigeria.

The purport of this Code is that a police officer shall be held personally liable in law in actions for assault, wrongful arrest, false imprisonment, trespass, public misfeasance, negligence or an action for the return of property which has been wrongfully taken. As action for malicious prosecution is available where a person believes that the police have maliciously and without reasonable cause abused their powers in recommending prosecution to the court. Further, the police are liable in law for the care of those in their custody.

In addition to foregoing, because police officers hold office under the constitution and the statue, they are also subject to the police disciplinary regulations and the public service rules. In the performance of his duties, a police officer must, therefore, obey lawful orders, but must refuse to obey any orders he knows would require him to commit an illegal act for which he may be called to account. Where, however, he is in doubt as to the clarity of an order given to him, the officer should, if feasible, request the superior officer issuing the order to clarify the order, failing which he may be personally liable for the illegal act.

Any detention effected for reasons other than to enforce the law is unlawful. Unlawful detention or imprisonment involves a wrongful, intention act of a person causing total restraint on the liberty of another person, for whatever period time, by either actively causing the person’s confinement or preventing that person from leaving the place that he or she is located. Unlawful imprisonment as we have noted above, is a tort of strict liability and turns on an intention to detain. Good faith is not a defence. The only defence likely to succeed against a claim of false

imprisonment is that the imprisonment was pursuant to a lawful authority.

Torture of a person in detention for the purpose of extracting information from him is prohibited by the law. It is not for the accused person to prove his guilt but for the prosecution to do so. Where the prosecutor has no evidence the law does not empower him to secure such evidence by compelling the accused to provide it as so doing through torture or intimidation will amount to breach of Section 35 (1) of 1999 Constitution of the Federal Republic of Nigeria (as amended) and entitle the victim to action in battery, assault, false imprisonment and therefore enforcement of Fundamental Right under Section 46 (1) of the same constitution which states, inter-alia:

*Any person who alleges that any of the provisions of this chapter has been is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress.*

According to S.42 of the Criminal Procedure Code, repeated in the preceding chapters no police officer shall detain in custody a person arrested without warrant for a longer period than in the circumstance of the case is reasonable; and such period shall not, in the absence of an order of a court obtained under section 129, exceed 24 hours exclusive of the time necessary for the journey from the place of arrest to the court and of any intervening public holiday. A proviso to Section 35(1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) makes it unlawful to detain an accused person, even where the detention is lawful, for a period longer than the maximum period of imprisonment prescribed for his offence.

Section 35(4) of the 1999 Constitution (as amended) provides that any person who is arrested or detained for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to prevent him from committing a criminal offence shall be brought before a court of law within a reasonable time. Reasonable time in this context means:

- (a) One day (24 hours), in the case of an arrest or detention in any place where there is a court of competent jurisdiction within a distance of forty kilometers; and
- (b) Two days (48 hours) or such longer period as, in the circumstance may be considered by the court to be reasonable, in any other case.

Since Section 35(5) (b) is open to interpretation; it may well mean that any person detained for a period longer than two days (48 hours) for any offence other than an offence for which he is not entitled to bail may have right of action under Section 46.

In addition to procedures provided under the Fundamental Human Rights Enforcement law, where an arrest is wrongful, the person arrested may have grounds to found an action against police for trespass to his person. Interference, however slight with a person's elementary civil right to security of his person and self-determination in relation to his own body constitutes trespass to a person. The three types of trespass to the person known to torts are:

- (a) Unlawful imprisonment (or false or wrongful imprisonment)
- (b) Battery; and
- (c) Assault.

The powers and discretion given to police to arrest, search, interrogate and detain is therefore, not without limitation in the sense that the courts have always recognised that whenever a person is unlawfully arrested and detained by the police, he shall on application to court, be released. He may then sue for damages all those responsible for his detention and may even obtain exemplary damages against those who arrested him. This is further illustrated in the decision in the case of *Rookes v Bernard*.

In the Nigerian case of *John Folade v AG, Lagos State & Ors.*, the question was also, what constituted reasonable time under section 32 of the 1979 constitution (now S.35(4) and (5) of 1999 Constitution). The applicant was arrested and detained by the police on 8th September, 1980 and charged before a Chief Magistrate Court on 27th October, 1989 with an offence for which that court has no jurisdiction. The court did not grant him bail. Consequently, the applicant brought an application ex-parte for leave to apply for an order releasing him on ground that his continued detention was a violation of S.32 of 1979 Constitution (now section 35(4) and (5) of the 1999 Constitution) (as amended). In his judgment granting the leave, **BALOGUN J**, said:

- (i) reasonable time under Section 32 of the 1979 Constitution must depend on the peculiar facts of each case;
- (ii) any application by a person who is unlawfully detained for leave to apply for an order to be released from his detention is in strict terms an application for leave to apply for a writ of Habeas Corpus to challenge alleged errors which if established, will go to make the entire detention unlawful;

- (iii) The court is always prepared and will be quick to give relief against any improper use of power or any abuse of power by any member of the executive, the police or any other person which results in unlawful detention of an applicant.

The Constitution stipulates, under Section 35(4) also that an accused person who is not entitled to bail or has been granted bail, should be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date, if he is not tried within a period of:

- (a) two months from the date of his arrest or detention in the case of a person who is in custody or is not entitled to bail; or
- (b) three months from the date of his arrest or detention in the case of a person who has been released on bail.

Where this is not complied with, the victim is entitled to apply for an order of court for his release on the ground that his continued detention is a violation of the Constitution as buttresses by the cases of *Folade v AG*, (supra), discussed above.

In accordance with Article 11 of the UN Declaration on the Protection of All Persons from Being Subjected to Torture or other Inhuman or Cruel or Degrading Treatment or Punishment, section 35 (6) provides that except with respect to a person detained upon reasonable suspicion of having committed a capital offence, any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person. For the enforcement of a person's rights, Section 46(2) of the 1999 constitution (as amended) provides that:

*A high court of State shall have original jurisdiction to hear and determine any application made to in pursuance of the provisions of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement with that State of any right to which the person who makes the application may be entitled.*

Article 8 of UN Code of Conduct for Law Enforcement Officials directs law enforcement officials who have reason to believe that a violation of the Code has occurred to report so to their superior authorities or organs vested with reviewing or remedial power. This is to balance internal discipline with violation of basic human rights. Article 10 of the UN Declaration on the Protection of all Persons from Being Subjected to

Torture and Inhumane Treatment provides that criminal proceedings shall be instituted against persons alleged to have committed torture, cruel, inhuman or degrading treatment.

### **3.6 Medical Treatment of a Person in Detention**

A person is not disentitled to access to medical treatment by reason of his being in detention. The law, as we have already extensively discussed, considers an accused person to be innocent. His detention is aimed at bringing him before the law court for the administration of justice. While it is permissible to restrain him during the pendency of the detention, he has unfettered right to live which may be infringed if he is denied access to medical treatment.

An accused person may sustain injury while committing offence or fleeing there from. Sometimes injuries are inflicted on him in detention during torture either by police or fellow detainees, acting in connivance with the police. Certain degree of injuries may threaten life or even result in actual death if treatment is not timely.

These police have the attitude of treating, with levity, detainees who sustain injuries whether or not such detained bear the injuries from the time of arrest. The case of Mrs. Chukwuma is in point. She narrated her story as follows:

*After beating my son almost to a state of coma, Mr. Nwachukwu pounced on me like a mad dog. He rained killer blows on me and kicked me all over my body. While I was still lying on the ground, helpless, his wife ran into her kitchen and brought a bowel of hot water which she poured on me. After all these, Mr. Nwachukwu went to invite the police from Igando Police Station. Inspite of the visible wounds I sustained from the hot water, the police arrested and detained me. They even refused me from going for treatment.*

Samuel Ome whose brother, Chinedu was clubbed to death by a policeman identifies as Wilson, on 26 August, 2005 at Alagomeji Bus Stop, Ebute Metta in Lagos state, said that his brother would have survived if the police had furnished the hospital the necessary police report authorising his treatment.

There used to be police order prohibiting doctors, whether orthodox or native, or any person for that matter, from treating victims of accidents and gunshots without police clearance. This order derives its legal force from Decree 28 of 1986. As a result of this order so many people died,

waiting for police clearance which never came timely. However, following the death of Naval Chief Rear Admiral Olu Omotehinwa in 1996 who died while awaiting police clearance in the hospital, after he was attacked by robbers, ant the public out-cry that trailed the incident, the police issued this counter order.

Medical practitioners have the cardinal responsibility of caring for the injured and the sick, according to the ethics of their profession. The police will, in no way be an obstacle to this important duty

A former Inspector-General of Police reinforced this order by directing all police personnel throughout the country not to molest any medical practitioner treating victims of gunshot or motor-accident. He noted, however, that the need for security consciousness makes it morally imperative for any medical doctor handling such cases to inform the police at their earliest convenience. Article 6 of the UN Code of Conduct for Law Enforcement Officials provides that law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever it is required. Any injured person in custody should be provided with adequate and appropriate treatment through or in consultation with medical personnel outside the law enforcement operations. The law enforcement officials are also expected by the Code, to secure medical attention for victims of violation of law or of accidents which occurred in the course of violation of law. Section 5 (c) of United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provides:

Whenever the use of force and firearms is unavoidable, law enforcement officials shall ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.

There is not yet any corresponding Nigerian law for the enforcement of this provision. However, Police Regulation No. 327 provides that every police officer shall acquire a sound working knowledge of First Aid. Whether this knowledge is required for the personal benefit of the police officer himself or to provide medical aid to victims of police brutality and violation of law is yet to be proved.

#### 4.0 CONCLUSION

In this unit we have been able to consider the meaning of detention, pre-trial detention of juveniles in Nigeria and finally the experience of victims in Nigeria as it regards to detention and torture. It is unfortunate

that the Nigeria Police still relies on cruel and barbaric method to make offenders confess to a crime. Although this method has been abhorred in this 21 century, but the Nigeria police are still using them, maiming some innocent citizens all in the name of investigation. Some innocent citizens have equally lost their lives due to pain and torture inflicted on them by the Nigeria police force. Police is liable to illegal detention and torture in Nigeria. Detained persons are entitled to medical treatments even under detention in case they become sick while in detention.

## **5.0 SUMMARY**

Despite the abolition of the use of torture and other barbaric and cruel treatment of the accused. The Nigeria police has been using such prohibited means to obtain confession from the accused. Some innocent citizens have confessed to crimes they did not commit due to pain been inflicted on them. Also, against the United Nations standard of treating the accused some people are been detained in a custody for a very time while awaiting trial. There is urgent need to abolish the use of torture by the police force to obtain confession from the accused.

## **6.0 TUTOR-MARKED ASSIGNMENT**

1. What is detention?
2. Discuss the extent of juvenile detention in Nigeria?
3. What does the law say about use of torture in obtaining confession from the accused?
4. Discuss how eradicate illegal detention and torture from Police operations in Nigeria?
5. Discuss the treatment of a person in detention in Nigeria.

## **7.0 REFERENCES/FURTHER READING**

- Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.
- Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct. (1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.
- Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.
- Ojomo, F.Y. (2011). Policing in a Corrosive Environment. Ibadan: Kolaak Enterprises Okunola, R.A. PhD & Dinne, C.E. (2016) Factors underlying utilization of legal aid scheme by awaiting

trial inmates in Agodi prison Ibadan, Oyo State, *The Nigerian Journal of Sociology and Anthropology Vol. 14 no. 1*.June 2016.PP 129-143 Criminal code Cap ‘C38’ laws of the federation 2004 1999 Constitution of the Federal Republic of Nigeria. Evidence Act, 2011 Criminal Procedure Act, 2004

United Nations Basic Principles on the Use of Force and Firearm by Law Enforcement Officials

Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.

Police Regulation No. 327

UN Code of conduct for Law Enforcement Officials

UN Declaration on the Protection of persons from being subjected to torture and inhuman treatment.

## MODULE 3

- |        |   |
|--------|---|
| Unit 1 | Critical Issues in Policing: Computerised and Enhanced Law Enforcement          |
| Unit 2 | Community Policing and Crime Prevention   |
| Unit 3 | Professional Police Misconduct within Law Enforcement                           |
| Unit 4 | Public Perception of the Nigerian Police and Its Implication on Law Enforcement |
| Unit 5 | Repositioning the Nigeria Police for Effective Law Enforcement                  |

### **UNIT 1      CRITICAL ISSUES IN POLICING: COMPUTERISED AND ENHANCED LAW ENFORCEMENT**

#### **CONTENTS**

- 1.0    Introduction
- 2.0    Objectives
- 3.0    Main Content
  - 3.1    Computers in Policing
  - 3.2    Computer-Aided Dispatch (CAD)
  - 3.3    Cell Phone Technology
  - 3.4    Automated Database
  - 3.5    Automated Crime Analysis (Crime Mapping)
  - 3.6    Computer-Aided Investigation (Computerised Case Management)
  - 3.7    Fingerprint Technology
    - 3.7.1   Inked Print or Ten-prints
    - 3.7.2   Latent Prints
- 4.0    Conclusion
- 5.0    Summary
- 6.0    Tutor-Marked Assignment
- 7.0    References/Further Reading

#### **1.0    INTRODUCTION**

Computers, technology, and modern forensic or criminalistics techniques have revolutionised policing and law enforcement generally and have made the police more effective in crime-fighting and other duties. Although, Nigeria police in particular and the criminal justice system in general have not fully cue in into this computer, technology and digitalized operations. Fingerprinting innovations, video cameras, videocassette recorders (VCRs), microcomputers, personal computers,

cash machines, cellular telephones, satellites, and the internet are all very familiar to the students reading this text. However, many students reading this text maybe be aware that the Nigeria police have not inculcated most of the above-mentioned technology in their operations. In other climes, especially in Europe and America, have seen advances in their law enforcement due technological revolution.

This unit will discuss technology in policing, including computers and their application in record keeping, crime analysis, communications, personnel allocation, investigations, administration, and training. It will also discuss fingerprints and automated fingerprints and palm identification systems.

## 2.0 OBJECTIVES

By the end of this unit, you should be able to:

- acquaint themselves with the latest technological advances in police
- explain how the computer and technology are revolutionising policing
- discuss the latest uses of computers in police operations, criminal investigations, and police management tasks
- explain the latest criminalistics and fingerprint technology.

## 3.0 MAIN CONTENT

### 3.1 Computers in Policing

In developed countries, almost every law enforcement agency uses computers in many phases of its operations. Computer use in police work has increased exponentially since 1964. Also, in other climes, 38 percentage of local police departments and 33 percent of sheriff's offices used computers and data devices as the primary means to transmit criminal incident data to a central information system. Some people especially in developing country like Nigeria may think that computerised has to be an expensive undertaking which is only available to large police divisions or headquarters, but this is far from the truth.

A small police division can become computerised with a basic computer system, including easily available database software management programs. Today, computers have become more geared toward law enforcement, giving agencies more choices and a better ability to tailor the technology to their specific needs. Officers are using laptops, embedded or modular systems, and hand-held personal digital assistants

(PDSs) for transporting information back and forth between their vehicle for field assignment and the police stations. However, it is unfortunate to note that the Nigeria police has not fully embraced computers in their operations as many police divisions are still operating manually (doing papers works), it is only in Police Headquarters, state headquarters, area commands, and some divisional headquarters in the metropolitans and urban that you can see few computers.

### **3.2 Computer-Aided Dispatch (CAD)**

Before the revolution, the police communications system was slow and cumbersome. In other climes, a citizen would call the police using a seven-digit telephone number. A police operator would take the information, write it on an index card, and put the card on a conveyor belt, where it would travel to the dispatcher's desk. The dispatcher would then manually search maps and records for the police car that covered the area from which the call originated and then call the car, giving the officer all the information from the index card. All records were kept manually. The 911 emergency telephones number system was introduced by America Telephone and Telegraph (AT&T) in 1968.

By 2003, 92 per cent of local police departments and 94 per cent of sheriff's offices participated in an emergency 911 system. In addition, 73 per cent of local police departments and 71 per cent of sheriffs' offices had enhanced 911 systems, capable of automatically displaying information such as a caller's phone number, address, and special needs. According to the President of the National Academics of Emergency Dispatch, about 500,000 911 calls are placed each day. He said fewer than one per cent of the calls are prank calls, in which someone is trying to play a trick on the operator, and about 10 to 15 per cent are bad calls (hang-ups, misdials, or accidental activation of 911 on cellular phones). About 35 per cent of all call are life-threatening emergencies. The president said the three most important rules in handling 911 calls are these; treat each call as legitimate until proven otherwise, follow a script, rather than adlibbing a response, and use a professional and encouraging demeanor.

Today computer-aided dispatch (CAD) allows almost immediate communication between the police dispatcher and police units in the field. Numerous CAD system software packages are available for purchase by police departments. With typical CAD systems, after a 911 operator takes a call from a citizen, the operator codes the information into the computer, and the information immediately flashes on the dispatcher's screen. The CAD system prioritizes the calls on the dispatcher's screen, putting more serious calls (such as crimes in progress and heart attacks) above less serious calls (such as past crimes

and nonemergency requests for assistance). The system also verifies the caller's address and telephone number, as well as determining the most direct route to the location.

The system also searches a database for dangers near the location to which the officers are responding, calls to the same location within the last 24 hours, and any previous history of calls to that location. The CAD system also maintains the status of each patrol unit. In this way, the dispatcher knows which units are available and where all units are located. The system also determines which patrol unit is closest to the location needing police assistance. Some CAD systems have automatic transponders within the patrol units. These enables dispatch personnel to monitor visually all patrol vehicles via a computer monitor and to assign them in coordination with this computer-generated information.

### 3.3 Cell Phone Technology

Today, nearly half of all 911 calls are placed from a cell phone, and most sophisticated 911 systems have the ability to trace the cell phone or get a location from which the call is coming from. This aids the police greatly. As a recent example, in July 2006, 18-year-old women was taken from the deserted streets of lower Manhattan in the early morning hours to a seedy hotel in Weehawken, New Jersey, where she was raped and murdered. The suspect stuffed the victim's body into a suitcase and dumped it in a trash bin behind an apartment building two blocks away. He then drove back to New York City and registered into another hotel. Police were able to find the suspect because he had taken the victim's cell phone and used it to make some calls to his mother and girlfriend. Police started their investigation by tracking her cell phone, which led them to the people the killer had called. The cell phone number appeared on callers' IDs on the phones the killed had called. The police were able to take him into custody shortly thereafter.

According to Clark, in a 2006 *FBI Law Enforcement Bulletin* article, the legal requirements for acquisition of cell site information by the police for the purpose of identifying the location of a cellular telephone and its user is still uncertain. He says that traditional law does not provide law enforcement with clear-cut guidance in the area of cell phone technology. He writes that traditional law enforcement methods of tracking, whether through the use of a tracking device inside a container, fit with the analysis provided by the U.S Supreme court in *United States v. Knotts* (1983) and the *United States v. Karo* (1984). These cases held that as long as the conveyance or thing to be monitored is out and about on the public thoroughfares, open field, or even on private property, all instances where the information revealed by the target could be observed by visual surveillance engaged in by third parties, no showing

of evidence-let alone probable cause-is required. Clark says his analysis holds true today as long as the tracking equipment belongs to the government; it does not resolve the issue when third-party assistance from the service provider is required. Cell phone location information to law enforcement without a court order.

In this area, the Nigeria police are trying their best. For instance, Adekunbi Kuye, recounting her ordeal and how her stolen phone was later retrieved, said: “In February (2018), I was robbed in front of my office. Two guys pulled out a gun and threatened me. They made away with my hard drives and my phone, a Samsung J 7 Pro, 2017 model. “A good friend, who is a private investigator, traced my phone, using my IMEI number. He got the call logs, pictures of the current user of my phone and his address. I went with a few policemen to arrest him. He was caught and taken to SARS office and my phone was retrieved” (Guardian Newspaper report 2018). The Nigeria police can actually retrieve stolen phones in Nigeria using the IMEI number but most times they are reluctant to engage in such due to the rigor and stress. But if the victim can motivate them monetarily they will be willing to carry out the operations, but something if the culprit has travelled to another state, it becomes difficult for the police to track such police, not because of lack of intelligence or technical know-how but because of the economic burden that will be involved in travelling to such state to conduct investigation, track and arrest suspect.

### 3.4 Automated Databases

As we have come into the twenty first-first century, computer technology is doing things previously unthinkable in policing very easy and possible. We are still using examples of developed countries. A simple example of how far we have come is a system in Mesa, Arizona. The Mesa Police Department’s Cellular Digital Packet Data (CDPD) technology, an automated database, gives officers immediate access, via mobile computers, critical information contained in the city’s mainframe computer. The department’s divisions using this system include homicide, pawn detail, auto theft, public information, gang control, and hostage negotiation. In 2006, a new pocket PC system, the Advanced Ground Information System (AGIS), was developed that allows the rapid information from emergency personnel from multiple agencies that are responding to the same event on a cell phone.

The availability of automated databases has revolutionised police work. An automated database is an enormous electronic filing cabinet that is capable of storing information and retrieving it in any desired format. The FBI created a major automated database, the National Crime Information Centre (NCIC) in 1967. The NCIC collects and retrieves

data about people wanted for crimes anywhere in the United States; stolen and lost property, including stolen automobiles, license plates, identifiable property, boats, and securities; and other criminal justice information. The NCIC also contains criminal history files and the status (Prison, jail, probation, or parole) of criminals. The NCIC has millions of active records, which are completely automated by computer. The NCIC provides virtually uninterrupted operation day or night, seven days a week. Although the FBI operates the NCIC, approximately 70 per cent of its use is by local, state and other federal agencies.

In 2000, the NCIC was renamed NCIC2000 and provided a major upgrade to the services previously described and extended these services down to the patrol car and the mobile officer. With this system, a police officer can identify fugitive and missing persons quickly using automated fingerprint identification system (AFIS) technology. The officer may place a subject's finger on a fingerprint reader in a patrol car, and the reader will transmit the image to the NCIC computer. Within minutes, the computer forwards a reply to the officer. A printer installed in patrol cars allows officers to get copies of a suspect's photography, fingerprint image, signature, and tattoos, along with composite drawings of unknown subjects. The printer can also receive images of stolen goods, including cars. The new system also provides for enhanced name searches. (based on phonetically similar names); prisoner, probation, and parole records; convicted sex offenders registries; and other services.

In addition, the FBI maintains the National Instant Criminal Background Check System (NICS), which provides access to millions of criminal history records from all 50 states and the districts of Columbia to match subject information for background checks on individuals attempting to purchase a firearm. The FBI also maintains the Violent Criminal Apprehension Program (ViCAP) database, which contains information on unresolved murders. ViCAP has helped local and state law enforcement agencies solve violent crimes for almost 20 years. In addition to these national databases, local law enforcement agencies maintain their own databases. Many agencies maintain their own databases. Many agencies use CD-ROMs, which are capable of storing massive files of data. The advantages of CD-ROM technology are that it is inexpensive and has numerous law enforcement applications. Police departments and investigators can store numerous types of archived files onto CD-ROM, such as closed cases, mug shots, fingerprint cards, motor vehicle records, firearm registration information, wanted notices, court decisions, missing person photos and information, and known career criminal files, including photographs and fingerprints.

### 3.5 Automated Crime Analysis (Crime Mapping)

Numerous software application programmes aid the police in automated crime analysis or crime mapping. Crime analysis entails the collection and analysis of data regarding crime (when, where, who, what, how, and why) to discern criminal pattern and assist in the effective assignment of personnel to combat crime. The most basic use of crime analysis is to determine where and when crimes occur so that personnel can be assigned to catch perpetrators in the act of committing the crime or to prevent them from committing it.

The forerunner in the use of modern sophisticated automated crime analysis was the New York City Police Department's Comp-Stat programme.

Comp-Stat provides instant statistical updating of all reported crimes, arrests, and other police activities, such as traffic and other citations. This programme and its movie screen-type visual displays provide the framework for the weekly crime analysis meetings at the New York City Police Department (NYPD)'s headquarters during which precinct commanders must account for all increase in crime and must provide strategies to reengineering programme of the mid-1990s and the envy of police departments throughout the world, Computer-Stat is a process that began to evolve in early 1994 when, after changes in the leadership of many of the NYPD's bureaus, disturbing information emerged. It appeared that the NYPD did not know most of its own current crime statistics, and there was a time lag of three to six months in its statistical reporting methods. Upon learning this, the department made a concerted effort to generate crime activity data on a weekly basis. CompStat has been credited with causing crime in New York City to drop to levels not seen since the 1960s. Numerous cities are now using CompStat programmes and other forms of automated crime analysis and crime mapping. It is unfortunate that Nigeria police force and other police in developing countries are quiet to pattern their police strategies into these digital policing.

Regional Crime Analysis Geographic Information Systems (RCAGIS) Spatial Analysis Regional Crime Analysis Geographic Information Systems (RCAGIS) Spatial Analysis is another computer programme several police departments have added to their arsenal of anticrime programmes. Although still an imprecise science, these computer programmes have been able to help police computer programmes have been able to help police locate crime "hot spots", spatially relate a list of potential suspects to actual crimes, profile crime geographically to identify where a serial criminal most likely lives, and even forecast

where the next crime in a series might occur. Geographic profiling was developed in the late 1980S. The Baltimore County, Maryland, Police Department uses a RCAGIS programme called Crime Stat.

A 2006 article disclosed that numerous law enforcement agencies throughout the nation are using a variety of different GIS or spatial analysis software programmes. The police use of special forecasting has been spurred by the development of electronic police records, advances in street maps for crime model specification, and improvement in the police management that places an emphasis on performance measures and accountability. Currently, the National Law Enforcement Corrections and Technology Centre (NLECTC) and several other research bodies are attempting to find the best one. The United Kingdom uses GIS-based information sharing systems in its crime and Disorder Reduction Partnerships (CDRPs).

Although the GIS systems show great promise, they cannot be considered a replacement for the experienced crime analyst and investigator. According to Ronald Wilson, programme manager of the Mapping and Analysis for Public Safety (MAPS) programme at the National Institute for Justice, “There is a lot of human behaviour that cannot be accounted for by mathematical models.

### **3.6 Computer-Aided Investigation (Computerised Case Management)**

Computer-aided investigation and computerised case management are revolutionising the criminal investigation process. As early as the 1980S, the NYPD’s Detective Division created an automated mug shot file called Computer-Assisted Terminal Criminal Hunt (CATCH). Using CATCH, detectives feed the description and modus operandi (MO) information of an unknown robbery perpetrator into the computer and then receive a computer printout that lists, in rank order, any potential suspects. The detectives can then obtain photographs of possible suspects and show them in photo arrays to victims for possible identification. The Los Angeles Police Department has operated a system similar to that of New York since 1985.

Since the 1990S, British police have operated a computer-aided investigation system called the Home Office Large Major Enquiry System (HOLMES), which is a reference to the legendary fictional detective Sherlock Holmes). It is a sophisticated computer programme developed for British investigators to aid them in managing complex investigations. (In Great Britain, an investigation is called an enquiry.) HOLMES is a complete case management system that can retrieve,

process, organise, recognise, interrelate, and retrieve all aspects of information on a case. It also keeps track of ongoing progress, or the lack of it, in investigations. The system was created in response to the infamous Yorkshire Ripper case, in which 13 women were killed between 1974 and 1981.

When the perpetrators were finally apprehended in 1981, it was discovered that he had been detained and questioned by at least six different police departments in connection with attacks. Because sharing of information on related cases was so cumbersome for the neighbouring forces at that time, the connection was never made. The St. Petersburg, Florida, Police Department adopted HOLMES. Information on criminal cases is constantly being entered, evaluated, reviewed, processed, and analyzed. Thousands of pages of information are readily available to any investigator working on a case at any time. Every piece of paper in a case is first evaluated by a “receiver and indexer” who decides how it is to be entered into the system so it can be retrieved quickly. Computers then enter the material into any of the six “indexes” or data classifications in the system. A document may suggest that certain follow-up actions are required, such as interviewing a new lead mentioned.

These actions will be brought up by the “statement reader” and sent to the “action allocator”. Thus, all potential leads are noted and immediately assigned for follow-up action. These follow-up actions are entered into the computer, and HOLMES enters them into a master progress report. Every time the case manager checks on the progress of a case, he or she knows immediately what has and has not been done by all those connected with the case. Even news releases issued are entered into the computer. Then, if a suspect is questioned later about facts on the case, the investigators know whether any pertinent details were leaked to the press. HOLMES can locate multiple uses of one name in the records of any one case at the lightning speed of more than one million words a minute. It can also scan all descriptions of people connected in any way to a case and advise if any of them comes close to the description of main suspect. This description can include such items as the make or colour of the car or boat driven or owned.

Investigators in Washington State battle violent crime with the Homicide Investigation and Tracking System (HITS/SMART). HITS/SMART, an electronic investigation system, stores, collates, and analyses characteristics of all murder and sexual offenses in Washington State. Investigators statewide can then retrieve information from the system on these violent crimes to help them solve related cases. The system relies on the voluntary submission of information by law enforcement agencies throughout the state. These agencies submit data

murders, attempted murders, missing persons (when foul play is suspected), unidentified dead persons believed to be murder victims, and predatory sex offenders.

Based on the information provided by the detectives, HITS/SMART analysts can query the database for any combination of the victims gender, race, lifestyle, method and cause of death, geographic location of the crime, the absence or presence of clothing on the body, concealment of the body, and the dates of death and body discovery. In this way, analyst can identify other murder cases with common elements. Once the database is accessed, analysts can then supply detectives with the names of similarly murdered victims (if known), investigating agencies, case numbers and the primary investigator's name and telephone number. Designing the query usually takes only a few minutes, as does the data search. It is quiet unfortunate that Nigeria police force has not emulated all digitalised computer-aided investigation.

### **3.7 Fingerprint Technology**

Fingerprints have historically offered an infallible means of personal identification. Criminal identification. Criminal identification by means by fingerprints is one of the most potent factors in apprehending fugitives who might otherwise escape arrest and continue their criminal activities indefinitely. This type of identification also makes possible an accurate determination of a person's previous arrests and convictions, which results in the imposition of more equitable sentences by the judiciary. In addition, this system of identification enables the prosecutor to present his or her case in the light of the offender's previous record. It also provides probation officers and parole board members with definite information upon which to base their judgement in dealing with criminals in their jurisdiction.

Fingerprints may be recorded on standard fingerprint cards or can be recorded digitally and transmitted electronically for comparison. By comparing fingerprints at the scene of a crime with the fingerprints at the scene of a crime with fingerprint record of suspect persons, officials can establish absolute proof of the presence or identity of a person.

There are two basic categories of fingerprints: inked prints or ten-prints and latent prints:

#### **3.7.1 Inked Prints or Ten-prints**

Are the result of the process of rolling each finger onto a ten-print card (each finger is rolled onto a separate box on the card) using fingerprinting ink. Inked prints are kept on file at local police departments, state criminal justice information agencies, and the FBI.

When a person is arrested, he or she is fingerprinted, and those inked prints are compared with fingerprints on file of known criminals. Inked prints or ten-prints are also taken for numerous other types of investigations such as employment background and licenses applications.

### **3.7.2 Latent Prints**

Are impressions left on evidence, these prints may be “lifted” and then compared with inked prints on file to establish the identity of the perpetrator. Latent prints are impressions produced by the ridged skin on human fingers, palms, and soles of the feet. Latent print examiners analyze and compare latent prints to known prints of individuals in an effort to make identifications or exclusions. The uniqueness, permanence, and arrangement of the friction ridges allow examiners to positively match two prints and to determine whether an area of a friction ridge impression originated from one source to the exclusion of others.

Although, a variety of techniques, including use of chemicals, powders, lasers, alternate light sources, and other physical means, are employed in the detection and development of latent prints. In instances where a latent print has limited quality and quantity of detail, examiners may perform microscopic examinations to make conclusive comparisons.

## **4.0 CONCLUSION**

In this unit we have been able to consider Critical Issues in Policing: Computerised and Enhanced Law Enforcement. We have seen that computer have aided policing in no small measure. But it is unfortunate that the Nigeria police force have not fully embraced and this has reduced their efficiency and effectiveness in crime control, crime detection and crime prevention negatively. Police division across Nigeria should as a matter of urgency computerise and digitalise their operations which will enhance their productivity and efficiency in their constitutional given roles.

## **5.0 SUMMARY**

There is no doubt that there are tremendous improvements have been made in the police use of technology in the fields of computers, communications, criminal investigation, surveillance, and criminalistics. Computers have enabled the police to dispatch officers immediately to any calls for service. They have also aided the police in the investigation process by enabling officers to feed descriptions and MOs into the computer and to receive almost instantaneous printouts on possible suspects. Computers have enabled police to maintain better records

more easily. Unfortunately, Nigeria Police force have not patterned their operations into these digitalized and computerised forms which would have made their operations efficient and effective.

## 6.0 TUTOR-MARKED ASSIGNMENT

1. Discuss the advantages of computer-aided dispatch (CAD) systems, including enhanced CAD
2. What is automated database? Discuss some examples of their use in policing?
3. List and discuss some of the uses of the computer in police department today?
4. What are the two basic categories of finger-prints? Discuss them
5. Why do you think Nigeria police are not using CAD and computerised techniques in their operations.

## 7.0 REFERENCES/FURTHER READING

John, S. D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States of America. Thomson Wadsworth.

Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct. (1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.

Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.

Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.

## UNIT 2 COMMUNITY POLICING AND CRIME PREVENTION

### CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 What is Community Policing?
  - 3.2 Dimensions of Community Policing
    - 3.2.1 The Philosophical Dimension
    - 3.2.2 The Strategic Dimension
    - 3.2.3 The Tactical Dimension
    - 3.2.4 The Organisation Dimension
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 Reference/Further Reading

### 1.0 INTRODUCTION

In less than two decades, community policing has evolved from a few small foot patrol studies to the preeminent reform agenda of modern policing. With roots in such earlier developments as police-community relations, team policing, crime prevention, and the rediscovery of foot patrol, community policing has become, in the 1990s, the dominant strategy of policing. This unit centres on community policing and crime prevention. The unit begins with what community policing means, dimensions of community policing which includes the philosophical dimension, the strategic dimension, the tactical dimension and the organizational dimension. The unit finally discussed Community Policing and Crime Prevention: Example of Kidnapping.

### 2.0 OBJECTIVES

By the end of this unit, you should be able to:

- describe what community policing means
- explain the essence of community policing especially in a country like Nigeria.
- explain community policing and crime prevention: example of kidnapping.

## 3.0 MAIN CONTENT

### 1.1 What is Community Policing

Community policing remains many things to many people. A common refrain among proponents is “community policing is a philosophy, not a programme”. An equally common refrain among police officers is “Just tell me exactly what you want me to do differently”. Some critics, echoing concerns similar to those expressed by police officers, argue that if community policing is nothing more than a philosophy, it is merely an empty shell.

It would be easy to list dozens of common characteristics of community policing, starting with foot patrol and mountain bikes and ending with the police as organizers of, and advocates for, the poor and dispossessed. Instead, it may be more helpful to identify four major dimensions of community policing and some of the most common elements within each.

### 3.2 Dimensions of Community Policing

There are four major dimensions of community policing and some of the most common elements within each. These four dimensions of community policing are:

- The Philosophical Dimension
- The Strategic Dimension
- The Tactical Dimension
- The Organisational Dimension

#### 3.2.1 The Philosophical Dimension

Many of its most thoughtful and forceful advocates emphasise that community policing is a new philosophy of policing, perhaps constituting even a paradigm shift away from professional-model policing. The philosophical dimension includes the central ideas and beliefs underlying community policing. Three of the most important of these are citizen input, Broach function and personalised service.

**Citizens Input:** Community policing takes the view that, in a free society, citizens should have open access to police organisations, and input to police policies and decisions. Access and input through elected officials is considered necessary but not sufficient. Individual neighbourhood and communities should have the opportunity to

influence how they are policed and legitimate interest groups in the community should be able to discuss their views and concerns directly with police officials. Police departments, like other agencies of government, should be responsive and accountable.

Mechanisms for achieving greater citizen input are varied. Some police agencies use systematic and periodic community surveys to elicit citizen input. Others rely on open forums, town meetings, radio and television call-in programmes, and similar methods open to all residents. Some police officials meet regularly with citizen advisory boards, and other formal groups. These techniques have been used by police chief executives, district commanders, and ordinary patrol officers; they can be focused as widely as the entire jurisdiction or as narrowly as a beat or a single neighbourhood.

The techniques used to achieve citizen input should be less important than the end result. Community policing emphasizes that police departments should seek and carefully consider citizen input when making policies and decisions that affect the community. Any other alternative would be unthinkable in an agency that is part of a government “of the people, for the people, and by the people.

**Broad Police Function:** Community policing embraces a broad view of the police function rather than a narrow focus on crime fighting or law enforcement. Historical evidence is often cited to show that the police function was originally quite broad and varied and that it only narrowed in recent decades, perhaps due to the influence of the professional model and popular media representations of police work. Social Science data is also frequently cited to show that police officers actually spend relatively little of their time dealing with serious offenders or investigating violent crimes.

This broader view of the police function recognises the kind of non-enforcement tasks that the police already perform and seeks to give them greater status and legitimacy. These include order maintenance, social services, and general assistance duties. They may also include greater responsibilities in protecting and enhancing “the lives of those who are most vulnerable—juveniles, the elderly, minorities, the poor, the disabled, the homeless”. In the bigger picture, the police mission is seen to include resolving conflict, helping victims, preventing accidents, solving problems, and reducing fear as well as reducing crime through apprehension and enforcement.

**Personal Service:** Community policing supports tailored policing based on local norms and values and individual needs. An argument is made that the criminal law is a very blunt instrument and that police officers

inevitably exercise wide discretion when making decisions. Presently, individual officers make arrests and other decisions based on a combination of legal, bureaucratic, and idiosyncratic criteria, while the police department maintains the myth of full or at least uniform enforcement. Under community policing, officers are asked to consider the “will of the community” when deciding which laws to enforce under what circumstances, and police executives are asked to tolerate and even encourage such differential and personalized policing.

Such differential or tailored policing primarily affects police handling of minor criminal offenses, local ordinance violations, public disorder, and service issues. Some kinds of behaviour proscribed by state and local law, and some levels of noise and disorder, may be seen as less bothersome in some neighbourhoods than in others. Similarly, some police methods, including such aggressive tactics as roadblocks as well as more prevention-oriented programmes such as landlord training, may coincide with norms and values in some neighbourhoods but not others. Even the strongest advocates of community policing recognise that a balance must be reached between differential neighbourhood-level policing and uniform jurisdiction-wide policing. Striking a health and satisfactory balance between competing interests has always been one of the central concerns of policing and police administration. Community policing simply argues that neighbourhood-level norms and values should be added to the mix of legal, professional, and organisational considerations that influences decision-making about policies, programs, and resources at the executive level as well as enforcement-level decisions on the street.

This characteristic of community policing is also aimed at overcoming one of the most common complaints that the public has about government employees in general, including police officers—that they do not seem to care and that they are more interested in “going by the book” than in providing quality, personalised service. Many citizens seem to resent being subjected to “strange policing” and would rather deal with officers who know them, and whom they know. Of course, not every police-citizen encounter can be amicable and friendly. But officers who generally deal with citizens in a friendly, open, and personal manner may be more likely to generate trust and confidence than officers who operate in a narrow, aloof, and/or bureaucratic manner.

### **3.2.2 The Strategic Dimension**

The strategic dimension of community policing includes the key operational concepts that translate philosophy into action. These strategic concepts are the links between the broad ideas and beliefs that underlie community policing and the specific programmes and practices by which it is implemented. They assure that agency policies, priorities,

and resource allocation are consistent with a community-oriented philosophy. Three strategic elements of community policing are re-oriented operations, geographic focus, and prevention emphasis.

**Re-oriented Operations:** Community policing recommends less reliance on the patrol car and more emphasis on face-to-face interactions. One objective and more interactive practices. A related objective is to find ways of performing necessary traditional functions (e.g. handling emergency calls and conducting follow-up investigations) more efficiently, in order to save time and resources that can then be devoted to more community-oriented activities.

Many police departments in Europe and America have increased their use of foot patrol, directed patrol, door-to-door policing, and other alternatives to traditional motorized patrol, Nigeria police should key into re-oriented operations of policing. Generally, these alternatives seek more targeted tactical effectiveness, more attention to minor offenses and “incivilities,” a greater “felt presence” of police, and/or more police-citizen contact. Other police departments have simply reduced their commitment to any form of continuous patrolling, preferring instead to have their patrol officers engage in problem solving, crime prevention, and similar activities when not handling calls and emergencies.

Many police agencies have also adopted differential responses to calls for service. Rather than attempting to immediately dispatch a sworn officer in response each and every notification of a crime, disturbance, or other situation, these departments vary their responses depending upon the circumstances. Some crime reports may be taken over the telephone, some sworn officer responses may be delayed. A particularly interesting alternative is to ask complainants to go in person to a nearby police mini-station or storefront office, where an officer, a civilian employee, or even a volunteer takes a report or provides other-in-person assistance. Use of differential responses help departments cope with the sometimes-overwhelming burden of 911 calls and frees up patrol officer time for other activities, such as patrolling, problem solving, and crime prevention.

Traditional criminal investigation has also been reexamined in recent years. Some departments have de-specialised the activity, reducing the size of the detective unit and making patrol officers more responsible for follow-up investigations. Many have also eliminated the practice of conducting an extensive follow-up investigation of every reported crime, focusing instead on the more serious offenses and on more “solvable” cases. Investigations attention has also been expanded to include a focus as well as on offenses, especially in the form of repeat offender unit that target high-frequency serious offenders. A few departments have taken

the additional step to trying to get detectives to expand their case-by-case orientation to include problem solving and crime prevention. In this approach, a burglary detective would be as concerned with reducing burglaries through problem solving and crime prevention as s/he was with solving particular burglary cases.

**Geographic Focus:** Community policing strategy emphasises the geographic basis of assignment and responsibility by shifting the fundamental unit of patrol accountability from time of day to place. That is, rather than holding patrol officers, supervisors, and shift commanders responsible for wide areas but only during their eight- or ten-hour shifts, community policing seeks to establish 24-hour responsibility for smaller areas. Of course, no single officer works 24 hours a day, seven days a week, week in and week out. Community policing usually deals with this limitation in one or a combination of three ways:

- (1) Community policing officers assigned to neighbourhood may be specialists, with most call-handling relegated to a more traditional patrol unit;
- (2) Each individual patrol officer may be held responsible for long-term problem solving in an assigned neighbourhood, even though s/he handles calls in a much larger area and, of necessity, many of the calls in the assigned area are handled by other officers; or;
- (3) Small teams of officer's share both call-handling and problem-solving responsibilities in a beat-sized area.

A key ingredient of this geographic focus, however it is implemented, is permanency of assignment. Community policing recommends that patrol officers be assigned to the same areas for extended periods of time, to increase their familiarity with the community and the community's familiarity with them. Ideally, this familiarity will build trust, confidence, and cooperation on both sides of the police-citizen interaction. Also, officers will simply become more knowledgeable about the community and its residents, aiding early intervention and timely problem identification and avoiding conflict based on misperception or misunderstanding. It is important to recognise the most police departments have long used geography as the basis for daily patrol assignment. Many of these departments, however, assign patrol officers to different beats from one day to the next, creating little continuity or permanency. Moreover, even in police agencies with fairly steady beat assignments, patrol officers are only held accountable for handling their calls and maintaining order (keeping thing quiet) during their shift. The citizen's question, "who in the police department is responsible for my area, my neighbourhood?" can then only truthfully be answered "the chief" or, in large departments, "the precinct commander". Neither patrol officers nor the two or three levels of

management about them can be held accountable for dealing with long-term problems in specific locations anywhere in the entire community. Thus, a crucial component of community policing strategy is to create some degree of geographic accountability of all levels in the police organisation, but particularly at the level of the patrol officer who delivers basic police services and is in a position to identify and solve neighbourhood problems.

**Prevention Emphasis:** Community policing strategy also emphasizes a more proactive and preventive orientation, in contrast to the reactive focus that has characterised much of policing under the professional model. This proactive, preventive orientation takes several forms. One is simply to encourage better use of police officers' time. In many police departments, patrol officers' time not committed to handling calls is either spent simply waiting for the next call or randomly driving around. Under community policing, this substantial resource of free patrol time is devoted to directed enforcement activities, specific crime prevention efforts, problem solving, community engagement, citizen interaction, or similar kinds of activities.

Another aspect of the preventive focus overlaps with the substantive orientation of community policing and problem-oriented operations. Officers are encouraged to look beyond the individual incidents that encounter as calls for service and reported crimes in order to discover underlying problems and conditions. If they can discover such underlying conditions and do something to improve them, officers can prevent the future recurrence of incidents and calls. While immediate response to in-progress emergencies and after-the-fact investigation of crimes will always remain important functions of policing, community policing seeks to elevate before-the-fact prevention and problem-solving to comparable status.

Closely related to this line of thinking, but deserving of specific mention, is the desire to enhance the status of crime prevention within police organisations. Most police departments devote the vast majority of their personnel to patrol and investigations, primarily for the purposes of rapid response and follow-up investigations, primarily for the purposes of rapid response and follow-up investigation after something has happened, and deterrence created by patrolling, rapid response, and investigating is expected, but the weight of research over the past two decades has greatly diminished these expectations.

Despite these lowered expectations, however, police departments still typically devote only a few officers specifically to crime prevention programming, and do little to encourage patrol officers to engage in any kinds of crime prevention activity beyond routine riding around.

Moreover, within both informal and formal police cultures, crime solving and criminal apprehension are usually more highly valued than crime prevention. An individual officer is more likely to be commended for arresting a bank robber than for initiating actions that prevent such robberies. Detectives usually enjoy higher status than uniformed officers (especially in the eyes of the public), whereas within many police agencies, crime prevention officers are seen as public relations functionaries, kiddie cops or worse. To many police officers, crime prevention work is simply not really police work.

The preeminence of reactive crime fighting within the police and popular cultures is understandable, given the dramatic nature of emergencies, crimes, and investigations. Much of police work is about responding to trouble and fixing it, about the contest between good and evil. Responding to emergencies and fighting crime have heroic elements that naturally all citizens would prefer not being victimised in the first place to being dramatically rescued, to having the police recover their stolen property. Most citizens would agree that “an ounce of prevention is worth a pound of cure. This is not to suggest that police should turn their backs on reactive handling of crimes and emergencies, but only that before-the-fact prevention should be given greater consideration.

A final element of community policing’s prevention focus takes more of a social welfare orientation, particularly toward juveniles. An argument is made that police officers, by serving as mentors and role models, and by providing educational, recreational, and even counselling services, can affect peoples’ behaviour in positive ways that ultimately lead to reductions, in crime and disorder. In essence, police are asked to support and argument the efforts of families, churches, schools, and other social service agencies. This kind of police activity is seen as particularly necessary by some in order to offset the deficiencies and correct the failures of these other social institutions and modern America.

### **3.2.3 The Tactical Dimension**

The tactical dimension of community policing ultimately translates ideas, philosophies, and strategies into concrete programmes, practices, and behaviours. Even those who insist that “community policing is a philosophy, not a programme” must concede that unless community policing eventually leads to some action, some new or different behaviour, it is all rhetoric and no reality. Indeed, many commentators have taken the view that community policing is little more than a new police marketing strategy that has left the core elements of the police role untouched. Three of the most important tactical elements of

community policing are positive interaction, partnerships and problem solving.

**Positive Interaction:** Policing inevitably involves some negative contacts between officers and citizens—arrests, tickets, stops for suspicion, orders to desist in disruptive behaviour, inability to make things much better for victims, etc. Community policing recognises this fact and recommends that officers offset it as much as they can by engaging in positive interactions whenever possible. Positive interactions have further benefits as well, of course: they generally build familiarity, trust, and confidence on both sides; they remind officers that most citizens respect and support them; they make the officer more knowledgeable about people and conditions in the beat; they provide specific information for criminal investigations and problem solving; and they break up the monotony of motorized patrol.

Many opportunities for positive interaction arise in the course of call handling. Too many officers rush to clear their calls, however, often in response to workload concerns and pressure from their superior, their peers, and dispatchers. As a result, they typically do a mediocre job of handling conditions, secure additional information, or create satisfied customers. The prime directives seem to be to do as little as possible in order to clear the call quickly and get back in the car and on the radio, ready to go and do little or nothing at the next call. Getting there rapidly and then clearing promptly take precedence over actually delivering much service or accomplishing anything. Community policing suggests, instead, that officers should look at calls as opportunities for positive interaction, quality service, and problem identification.

Even more opportunities for positive interaction can be seized during routine patrol, if officers are willing to exit their vehicles and take some initiative. Officers can go in and out of stores, in and out of schools, talk to people on the street, knock on doors, etc. They can take the initiative to talk not only with shopkeepers and their customers but also with teenagers, apartment dwellers, tavern patrons, and anybody else they run across in public spaces or who are approachable in private places. Police should insert themselves wherever people are and should talk to those people, not just watch them.

**Partnership:** Participation of the community in its own protection is one of the central elements of community policing. This participation can run the gamut from watching neighbours' homes to reporting drug dealers to patrolling the streets. It can involve participation in problem identification and problem-solving efforts, in crime prevention programmes, in neighbourhood revitalisation, and in youth-oriented educational and recreational programmes. Citizens may

act individually or in groups, they may collaborate with the police, and they may even join the police department by donating their time as police department volunteers, reserves, or auxiliaries.

Under community policing, police agencies are expected not only to cooperate with citizens and communities but to actively solicit input and participation. The exact nature of this participation can and should vary from community to community and from situation to situation, in keeping with the problem-oriented approach. As a general rule, though, police should avoid claiming that they alone can handle crime, drug, or disorder problems, and they should encourage individual citizens and community groups to shoulder some responsibility for dealing with such problems. Policing have sometimes found it necessary to engage in community organising as a means of accomplishing any degree of citizen participation in problem solving or crime prevention. In disorganised and transient neighbourhood, residents are often so distressed, fearful, and suspicious of each other (or just so unfamiliar with their neighbourhood) that police have literally had to set about creating a sense of community where none previously existed. As difficult as this kind of community organising can be, and as far from the conventional police role as this may seem, these are often the very communities that most need both enhanced police protection and a greater degree of citizen involvement in crime prevention, order maintenance, and general watchfulness over public spaces.

**Problem solving:** Supporters of community policing are convinced that the very nature police work must be altered from its present incident-by-incident, case-by-case orientation to one that is more problem-oriented. Certainly, incidents must still be handled and cases must still be investigated. Whenever possible, however, attention should be directed toward underlying problems and conditions. Following the medical analog, policing should address causes as well as symptoms, and should adopt the epidemiological public health approach as much as the individual doctor's clinical approach.

This problem-solving approach should be characterised by several important features:

- (1). It should be the standard operating method of policing, not an occasional special project;
- (2). It should be practiced by personnel throughout the ranks, not just by specialists or managers;
- (3). It should be empirical, in the sense that decisions are made on the basis of information that is gathered systematically;
- (4). It should involve, whenever possible, collaboration between police and other agencies and institutions; and

- (5). It should incorporate, whenever possible, community input and participation, so that it is the community's problems that are addressed (not just the police departments) and so that the community shares in the responsibility for its own protection.
- The problem-solving process consists of four steps:
- (1). Careful identification of the problem;
  - (2). Careful analysis of the problem;
  - (3). A search for alternative solutions to the problem; and
  - (4). Implementation and assessment of a response to the problem.

Community input can be incorporated within any or all of the steps in the process. Identification, analysis, and assessment should rely on information from multiple sources. A variety of alternative solutions should be considered, including, but not limited to, traditional enforcement methods. Typically, the most effective solution are those that combine several different responses, including some that draw on more than just the police department's authority and resources. A crucial characteristic of the problem-oriented approach is that it seeks tailored solutions to specific community problems. Arrests and law enforcement are not abandoned-rather, an effort is made in each situation to determine which alternative responses fit the problem. Use of the criminal law is always considered, as are civil law enforcement, mediation, community mobilisation, referral, collaboration, alteration of the physical environment, public education, and a host of other possibilities. The common sense notion of choosing the tool that best fits the problem, instead of simply grabbing the most convenient or familiar tool in the tool box, lies close to the heart of the problem-solving method.

### **3.2.4 The Organisational Dimension**

It is important to recognise an organisational dimension that surrounds community policing and greatly affects its implementation. In order to support and facilitate community policing, police departments often consider a variety of changes in organisation, administration, management, and supervision. The elements of the organisational dimension are not really part of community policing per se, but they are frequently crucial to its successful implementation. There important organisational elements of COP are structure, management, and information.

**Structure:** Advocates of community policing often look at various ways of restructuring police agencies in order to facilitate and support implementation of the philosophical, strategic, and tactical elements described above. Any organisational, strategic, and tactical elements described above. Any organisation's structure should correspond with its mission and the nature of the work performed by its members. Some aspects of traditional police organisation structure seem more suited to routine, bureaucratic work than to the discretion and creativity required for COP:

- **Decentralisation:** Authority and responsibility can sometimes be delegated more widely so that commanders, supervisors, and officers can act more independently and be more responsive.
- **Flattening:** The number of layers of hierarchy in the police organisation can sometimes be reduced in order to improve communications and reduce waste, rigidity and bureaucracy.
- **De-specialisation:-** The number of specialised units and personnel can sometimes be reduced, with more resources devoted to the direct delivery of police services (including COP) to the general public.
- **Teams:** Efficiency and effectiveness can sometimes be improved by getting employees working together as teams to perform work, solve problems, or look for ways of improving quality.
- **Civilisation:** Positions currently held by sworn personnel can sometimes be reclassified or redesigned for non-sworn personnel, allowing both cost savings and better utilisation of sworn personnel.

**3.2.4.2. Management:** Community policing is often associated with styles of leadership, management, and supervision that give more emphasis to organisational culture and values and less emphasis to written rules and formal discipline. The general argument is that when employees are guided by a set of officially sanctioned values, they will usually make good decisions and take appropriate actions. Although many formal rules will still probably be necessary, managers will need to resort to them much less often in order to maintain control over subordinates. Management practices consistent with his emphasis on organisational culture and values include:

- Mission- Agencies should develop concise statements of their mission and values and use them consistently in making decisions, guiding employees, and training new recruits.
- Strategic Planning-Agencies should engage in continuous strategic planning aimed at ensuring that resources and energy are focused on mission accomplishment and adherence to core values; otherwise, organisations tend to get off track, confused about their mission and about what really matters.
- Coaching-Supervisors should coach and guide their subordinates more, instead of restricting their roles to review of paperwork and enforcement of rules and regulations.
- Mentoring-Young employees need mentoring from managers, supervisors, and/or peers-not just to learn how to do the job right but also to learn what constitutes the right job; in other words, to learn about ethics and values and what it means to be a good police officer.
- Empowerment-Under COP, employees are encouraged to be risk-takers who demonstrate imagination and creativity in their work-this kind of empowerment can only succeed, however, when employees are thoroughly familiar with the organisation's core values and firmly committed to them.
- Selective Discipline-In their disciplinary processes, agencies should make distinctions between intentional and unintentional errors made by employees and between employee actions that violate core values versus those that merely violate technical rules.

## Information

Doing community policing and managing it effectively require certain types of information that have not traditionally been available in all police departments. In the never-ending quality vs. quantity debate, for example, community policing tends to emphasise quality. This emphasis on quality shows up in many areas: avoidance of traditional bean-counting (arrest, tickets) to measure success, more concern for how well calls are handled than merely for how quickly they are handled, etc. Also, the geographic focus of community policing increases the need for detailed information based on neighbourhood as the unit of analysis. The emphasis on problem solving highlights the need for information systems that aid in identifying and analysing community-level problems, And so on. Several aspects of police administration under community policing that have implications for information are:

- Performance Appraisal-Individual officers can be evaluated on the quality of their community policing and problem-solving activities, and perhaps on results achieved, instead of on traditional performance indicators (tickets, arrests, calls handled, etc.).
- Programme Evaluation-Police programmes and strategies can be evaluated more on the basis of their effectiveness (outcome, results, quality) than just on their efficiency (effort, outputs, quantity).
- Departmental Assessment-The police agency's overall performance can be measured and assessed on the basis of a wide variety of indicators (including customer satisfaction, fear, levels, problem solving, etc.) instead of a narrow band of traditional indicators (reported crime, response time, etc.).
- Information Systems-An agency's information systems need to collect and produce information on the whole range of the police function, not just on enforcement and call-handling activities, in order to support more quality-oriented appraisal, evaluation, and assessment efforts.
- Crime Analysis-Individual officers need more timely and complete crime analysis information pertaining to their specific geographic areas of responsibility to facility problem identification, analysis, fear reduction, etc.
- Geographic Information Systems (GIS)-Sophisticated and user-friendly computerized mapping software today makes it possible for officers and citizens to obtain customised maps that graphically identify "hot spots" and help them picture the geographic locations and distribution of crime and related problems.

## 4.0 CONCLUSION

A great deal of energy has been invested since 1980s in determining the nature of community policing and its effects. These efforts have paid off to the extent that the scope and variation of community policing is much better understood today and some of its effects have been fairly well documented. Since community policing have evolved significantly during this period, however, some of its elements have been more carefully evaluated than others. In addition, programmatic complexity, multiple effects, variations in scope, and research design limitations have hampered many of the community policing evaluations conducted thus far. Nevertheless, the tactical elements of community policing do seem to produce several beneficial outcomes for citizens and officers, and have the potential to impact crime and disorder. Whether the more philosophical, strategic, and organisational elements of community

policing will become firmly rooted, and whether they will ultimately have beneficial effects, is yet to be seen.

### **3.3 Community Policing and Crime Prevention: Example of Kidnapping**

Establishing and maintaining mutual trust is the central goal of community policing. This is done through recognising the need for cooperation with the community members in the fight against hostage-taking and kidnapping. Indeed, the police should encourage community members to come forth with relevant information. In addition, police should speak to neighborhood groups, participate in business and civic events, work with social groups, and take part in education and recreation programmes of the community. According to SP. Zems (2016), it is evident that no security formation can thrive without a good relationship with members of the public. Good police-community relationship helps Nigeria police to overcome complex of crime problem in the pluralistic society to reach its' desired goals and functions of crime detection, prevention and apprehension of criminals. Good police-public relationship serves to bring police and public into harmony thereby enabling the public to volunteer information of criminals to the police for proactive policing. The police need to understand the attitudes and values of the public they serve in order to achieve the objectives of crime detection, prevention and apprehension of criminals. The process of crime detection, prevention and apprehension of criminals cannot be complete without the role of information from key informants; it is these informants that volunteer information to police on the where-about of criminals (Sp. Zems, 2016; Ajah and Dinne 2019).

Consequently, the partnership between the police and the community must be enduring and balanced. It must break down the old concepts of professional versus civilian, expert versus novice, and authority figure versus subordinate. The police and the community must be collaborators in the quest to encourage and preserve peace, prosperity, curb hostage-taking, kidnapping and other forms of insecurity. Determining the underlying causes of kidnapping, hostage-taking crime depends, to a great extent, on an in-depth knowledge of community. Therefore, community participation in identifying and setting priorities will contribute to effective problem-solving and crime curbing efforts by the community and the police. Cooperative problem solving also reinforces trust, facilitates the exchange of information, and leads to the identification of other areas that could benefit from the mutual attention of the police and the community. Therefore, in addition to the serious crime problems identified by police, community policing must also address the problems of significant concern to the community. Community policing in effect allows community members to bring

problems of great concern to the attention of the police. Once informed of community concerns, the police must work with citizens to address them, while at the same time encouraging citizens to assist in solving the problems of concern to the police. The nature of community problems will vary widely and will often involve multiple incidents that are related by factors including geography, time, victim or perpetrator group, and environment.

Apparently, police-community relationship is an effective way to promote public safety and to enhance the quality of life in a community. It also links the police and the community together. The partnership that develops over time can ultimately help the police find the underlying causes of crime within the neighborhood. By getting the community involved, the police have more resources available to them to help in crime prevention (Law Essay Professionals, 2017; Ajah and Dinne 2019).

## 4.0 CONCLUSION

In this unit we have been able to consider Critical Issues in Policing: Computerised and Enhanced Law Enforcement. We have seen that computer have aided policing in no small measure. But it is unfortunate that the Nigeria police force have not fully embraced and this has reduced their efficiency and effectiveness in crime control, crime detection and crime prevention negatively. Police division across Nigeria should as a matter of urgency computerise and digitalise their operations which will enhance their productivity and efficiency in their constitutional given roles.

## 5.0 SUMMARY

The essence of community policing is for the police to work closely with all facets of the community to identify their concerns and find the most effective solutions to them. In the words of community policing is a paradigm shift established at the bedrock of community partnership in creating safe and secure environment for all. It is policing whereby the people take active part in their own affairs; the police are not seen as a problem or stranger whose presence stands for danger but as partners in development and those members of the community are co-producers of justice and quality police service. This fact indicates the need of involving the community, the local government and the police to work together to tackle crime. One rationale for public involvement is the belief that police alone can neither create nor maintain safe communities. Therefore, community policing has emerged as a major issue in the development of public safety for many countries in the world.

## 6.0 TUTOR-MARKED ASSIGNMENT

1. What is community policing?
2. Explain the tenets of the Philosophical dimension of community policing?
3. Describe the emphasis of the Tactical dimension of community policing?
4. Effective community policing will curb kidnapping in Nigeria, Discuss

## 7.0 REFERENCES/FURTHER READING

- Henry, M. W. & Karen, M.H. (2000). An Introduction to Law Enforcement and Criminal Justice. (6th ed.). United States of America: Thompson Wadsworth
- John, S.D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States: Thompson Wadsworth
- Linda, S. M. & Karen, M.H. (1998). The Police in the Community. Strategies for the 21st Century. (2nd ed.). London: West/Wadsworth. An International Thomson Publishing Company
- Linda, S. M. & Karen, M.H. (2002). The Police in the Community. Strategies for the 21st Century. (3rd ed.). London: Wadsworth. Thomson Learning.
- Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.

## **UNIT 3 PROFESSIONAL POLICE MISCONDUCT WITHIN LAW ENFORCEMENT**

### **CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Police Professional Misconduct
  - 3.2 Some Definitions of Police Misconduct
  - 3.3 Causes of Police Misconduct
    - 3.3.1 Bad Eggs
    - 3.3.2 Police Culture
  - 3.4 Forms of Professional Misconduct by the Nigeria Police Force
    - 3.4.1 Arbitrary Arrest and Detention
    - 3.4.2 Extortion Using Threats and Acts of Physical Abuse
    - 3.4.3 Sexual Assault Associated with Extortion
    - 3.4.4 Extra-Judicial Killings
    - 3.4.5 Does the Police have Lawful Authority to Kill?
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 Reference/Further Reading

### **1.0 INTRODUCTION**

Professional misconduct exhibited by the Nigerian police force has become a regular occurrence. This menace this has been a front burner in the media in the recent times. Nigerian criminal justice system, particularly the police is conclusively a failure and that the police has not been professionally correct in the discharge of its duties. This unit begins with police professional misconduct, some definition police misconduct, causes of police misconduct and forms of professional misconduct by the Nigeria police force.

### **2.0 OBJECTIVES**

By the end of the unit, students should be able to: define police professional misconduct, outline and explain causes of police misconduct. Students should also be able at the end of this unit to describe the forms of police professional misconduct by the Nigeria police force in Nigeria. Finally, students at the end of these units should be able to explain if the police have lawful authority to kill

## 3.0 MAIN CONTENT

### 3.1 Police Professional Misconduct

Professional misconduct is a major obstacle to the prospects of the Nigerian Police in guaranteeing security of lives and property, law and order. With the backing of autocratic leaders and repressive laws the police often acted outside the rule of law. The police have in most cases violate the laws themselves, killing innocent people, detaining persons arbitrary and with impunity. Political opponents of governments, workers, student's radicals and human rights activist have always suffered excessive waves of brutalities, abductions, unwarranted searches and violations of privacy, extra-judicial killings, bodily injury and intimidation, harassment and loss of personal liberties in the hands Police misconduct, specifically those behaviors that generate citizen complaints, is considered. The complaint process itself is then examined, with a specific focus on a topology of complainants. The key word is authority. The laws of most states, coupled with department regulations, usually define the extent to which force may be used by a police officer in the performance of official duties. In addition to articulating the proper circumstances for police use of force, legal codes and department policies give vague boundaries to the authority of police to intervene in the lives of citizens. However, as noted above, police work unfolds in a dynamic environment that is often filled with ambiguity of the proper police role.

### 3.2 Some Definitions of Police Misconduct

A variety of definitions of police misconduct have been developed. Field observers, working on a project for the Center of Research on Social Organization (CRSO) in late 1960s, were given several guidelines to assist them in determining when police use of force was judged to be unnecessary or improper (Reiss, 1970:64):

*If a policeman physically assaulted a citizen and then failed to make an arrest: proper use involves an arrest.*

*If the citizen being arrested did not, by word or deed, resist the policeman: force should be used only if it is necessary to make an arrest.*

*If the policeman, even though there was resistance to the arrest, could easily have restrained the citizen in other ways.*

*If a large number of policemen were present and could have assisted in subduing the citizen in the station, in lockup, and in the interrogation rooms.*

*If an offender was handcuffed and made no attempt to flee or offer violent resistance.*

*If the citizen resisted arrest, but the force continued even after the citizen was subdued.*

Stark (1972:57) notes that a set of guidelines was prepared by the International Association of Chiefs of Police (IACP). While the IACP directions were longer and more legalistic in appearance than were those given the CRSO observers, they were similar in content.

The unnecessary or excessive use of force by the police (both of which fit under the label of “physical abuse”), especially when a citizen is seriously injured, is a most serious complaint. But there are other abuses that, while they don’t physically injure anyone, might be termed degrading, dehumanising, or humiliating. Police departments around the country record these types of complaints under a variety of terms such as *verbal abuse, courtesy, harassment, improper attitude, and ethnic slur*.

By the same token, Reiss (1970:59-62) discovered that citizens objected to and complained about:

1. the way police use language (not necessarily the words they select);
2. the habit police officers have of “talking down” to them; and
3. the “harassing” tactics of the police—the indiscriminate stopping and searching of citizens on foot or in cars, commands to go home or to “move on”.

In 1968, the National Advisory Commission on Civil Disorders (the Kerner Commission) reported the finding of similar abuses. While it noted that verbal abuse or courtesy in urban areas was more likely to be directed at whites, such tactics were particularly distressing to blacks. Said the commission report, “In nearly every city surveyed, the Commission heard complaints of harassment of interracial couples, dispersal of social street gatherings, and the stopping of (blacks) on foot or in cars without obvious basis. These, together with contemptuous and degrading verbal abuse, have great impact in the ghetto” (1968:299-322).

Reiss (1970:59) summarises the ways in which police traditionally have dealt with certain citizens, particularly those in the lower class:

1. the use of profane and abusive language;
2. commands to move on or get home;

3. stopping and questioning people on the street or searching them and their cars;
4. threats to use force if not obeyed;
5. prodding with a nightstick or approaching with a pistol; and
6. the actual use of physical force or violence itself.

These acts articulated by Reiss are consistent with what Perez (1994:21) labels “police malpractice.” Perez notes that these actions represent the common complaints received by police agencies, which he categorizes as use of excessive force and abuse of discretion. In fact, it is this second category, abuse of discretion that represents the large portion of citizen complaints (Dugan and Breda, 1991:168). Perez, (1994:25) notes that such acts as verbal abuse, harassment, discrimination, and failure to take action are representative of the abuse of discretion. This behavior on the part of police officers frequently results in citizen attempts at redress. Such redress often takes the form of a complaint.

### **3.3 Causes of Police Misconduct**

In addition to documenting its prevalence, research on police misconduct also attempts to explain its occurrence. Explanations of misconduct range from the individualistic “bad apples” approach to the institutional “police culture” perspective. Each of these frameworks has found support in the police literature.

**3.3.1 Bad Apples:** The bad apple analogy states that a few bad apples can ruin the entire barrel, suggesting that the rest of the apples in the barrel are otherwise good. In the case of police departments, the analogy suggests that the majority of police misconduct can be isolated to a small group of problem-prone officers. This approach has found some statistical support. For example, the Independent Commission on the Los Angeles Police Department (1991) found that in 183 of the departments more than 8,000 officers had four or more allegations of excessive use of force or improper tactics in a four-year period, and 44 officers had six or more allegations.

Consistent with the notion of concentrates misconduct, Lersch and Mieczkowski (1996:32) found that 35.5 percent of complaints about misconduct in a large police department was accounted for by 7.3 percent of the departments’ sworn personnel. These officers each had five or more complaints. Further, 46 per cent of the officers did not receive a single complaint over the same three-year examination period. However, the bad apple theory cannot explain all misconduct, or even the modal category. Almost two-thirds of the complaints examined by Lersch and Mieczkowski were attached to officers not classified as problem prone.

**3.3.2 Police Culture:** The police culture approach suggests that misconduct is a product of informal rules that develop in police organizations. Chevigny observes that “police recruits are much like other young men of similar background; it is police mores and police role that make them adopt police attitudes” (1969:137), and “the challenge to police authority continues as a chief cause of force in all urban police departments” (60).

Niederhoffer asserts that, ‘at first impression it would appear that above all other groups the police ought to be tied to the law, but because they learn to manipulate it, the law can become nothing more than a means to an end’ (1969:97). All of these works point to the role of police culture as a primary source for misconduct. Thus, macro level rather than micro level (individual) concerns seem most appropriate when considering efforts to stem police behavior perceived offensive by citizens. This point was underscored by Friedrich’s (1980) analysis of police use of force. He notes that classic characteristics of the setting were more closely related to the use of force by officers than individual characteristics of the officers themselves. Skolnick and Fyfe (1993:90) add that police applicants don’t see themselves as bullies nor does the police literature suggest that the police service attracts authoritarian personalities. Both the written and unwritten rules of police departments combine to form a distinctive world view that “affects the values and understanding of cops on and off the job . . . .” thus, efforts to stem police misconduct seem most appropriately targeted at characteristics of the police culture-those norms that guide police work.

Recent literature on police culture has moved away from the deterministic approach of past scholars. Crank (1998) notes that police culture is a complex mixture of various themes, which unfold in the environmental context of police work. The culture develops out of various exchanges and experiences that officers are exposed to in their day-to-day work environment. Police culture is a set of informal norms that develop in an occupation of uncertainty. As Crank observes: “What is often overlooked is the mediating influence of police culture on the relationship between unpredictable encounters and police administration. Officers deal with the unknown on a daily basis, and develop broad cultural adaptations to unknown situations” (1998:94). This perspective suggests that police culture is more than a basis for subverting formal regulations. It is not to say that such cultural themes as danger, morality or solidarity cannot be used for intended misconduct. However, these themes of police culture are more commonly the basis for addressing the multiple and uncertain tasks of police work. As a result, these informal cultural adaptations will always exist to some extent as long as officers are asked to fulfill an undefined role.

A review of police behavior and misconduct show that complaints are based on a variety of explanations. The actions that prompt citizen complaints can be a result of a mistake or the intended subversion of formal regulations. Nonetheless, in order for police agencies to provide accountability and an image of legitimacy, they must provide a process that allows citizens to file complaints about conduct they believe is improper or unjust. Such a process allows for the correction of behaviour deemed undesirable, or the dismissal of those who are unable to perform the tasks required of police officers adequately.

### **3.4 Forms of Professional Misconduct by the Nigeria police force**

#### **3.4.1 Arbitrary Arrest and Detention**

Numerous police officers, legal professionals, and civil society leaders characterized the problem of unlawful detention of citizens by Nigerian police officers with the apparent motivation to extort money as a widespread and growing problem throughout Nigeria. They described how the police use specific incidents of crime, and the high levels of crime in general, as a pretext to randomly arrest and detain individuals and groups of citizens.

Once a person is arrested by the police and refuses, or is unable, to pay the money demanded, they are often detained until they negotiate an amount for their release. In many cases, this unlawful detention may last for days or even weeks. Those who do not pay face threats, beatings, sexual assault, torture, or even death. Extended periods of detention leave victims and their friends and family vulnerable to repeated threats and demands for bribes. Using police terminology, a civil society leader in Lagos explained that the police “tend to cast the net very wide so they can arrest as many suspects as possible. This affords them more chances for extortion and corruption.”

Human Rights Watch interviewed 30 people in Lagos, Anambra, and Kaduna states who had personally paid or witnessed someone pay the police to be released, or to have someone else released from police detention. In the vast majority of cases, the person detained was never officially accused of a crime nor formally charged, much less interrogated. The bribes paid to or extorted by the police ranged from ₦800 to ₦398,000 (approximately \$5 to \$2,636). The average (median) amount paid was ₦3,500 (\$23). The police never signed a receipt, nor, except in a few rare instances where lawyers or human rights activists were able to intervene on their behalf, did they return the money.

In Lagos State, a police constable who drives a police van during surveillance patrols described to Human Rights Watch how his team randomly arrested people for the purpose of extorting money from them: In many cases, police officers round up and detain groups of citizens from public places such as restaurants, bars, bus stops, and markets. Police officers interviewed by Human Rights Watch generally referred to these mass arrests as “raiding.” Several witnesses interviewed by Human Rights Watch described being one of a dozen or more people picked up by the police and transported to a police station. Once at the station, the police, sometimes in the presence of senior officers, demanded money for their release. A police sergeant in Lagos described to Human Rights Watch how these operations are carried out at his station:

*In my station they do the raiding every Monday, Wednesday, and Friday. Today is a Thursday—they raided yesterday, they will raid tomorrow. I've seen them bring up to 100 people from commuter buses into the station and then compel the drivers to pay. Even today there were people at the station crying about how the police collected money from them. The raiding begins from 7 p.m. They're supposed to target bad people—ganja smokers, notorious thieves or criminals—but instead they go to the bus stop and take anyone they see.*

Although the police operate under the pretext of a crackdown on crime, often following a particular incident of armed robbery or burglary, the victims of this form of police extortion interviewed by Human Rights Watch were rarely questioned or interrogated about their alleged involvement in a crime.

While most victims who are arbitrarily arrested appear to be detained for a matter of hours, those who are either unwilling or unable to pay are typically held in a police cell overnight, and may be detained for several days or even weeks. Human Rights Watch interviewed 10 people who were detained, or whose family members were detained, for durations of one night to more than a month after they failed to pay the money the police demanded.

Victims, witnesses, and civil society leaders interviewed by Human Rights Watch believed that the police have a financial incentive to prolong the time detainees spend in police custody. As a human rights lawyer in Kaduna put it, “The more time a person stays in custody without being charged to court, the more opportunity the police have to extort money.” A lawyer who heads a civil society organization in Lagos described unlawful detention as a “cash cow” for the police on

account of the numerous ways the police find to demand money from the relatives of persons held in police custody: “You have to pay to enter the station, to see your relative, for cleaning supplies like disinfectant to clean the cell your relative is in, and for privileged accommodation so your relative isn’t in a place that’s dirty, damp, unlit.”

Human Rights Watch found that corruption in the police force has directly led to the unlawful deprivation of liberty for countless ordinary Nigerians, in contravention of Nigeria’s international and domestic legal commitments. The UN International Covenant on Civil and Political Rights states, “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.” Similarly, the African Charter on Human and Peoples’ Rights provides that “no one may be arbitrarily arrested or detained.” The Nigerian Constitution likewise guarantees, “Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty [except] … in accordance with a procedure permitted by law.” The constitution stipulates that for a warrantless arrest, “reasonable suspicion” must exist that the suspect committed a criminal offense. Moreover, the constitution provides that any person who is arrested “shall be brought before a court of law” within 24 hours.

### **3.4.2 Extortion Using Threats and Acts of Physical Abuse**

Persons held in police custody or stopped at police checkpoints or other public locations, and who are unable or unwilling to pay the police, are frequently subjected to threats and acts of physical abuse ranging from beatings to sexual assault, torture, and extrajudicial killings. A police sergeant in Lagos described to Human Rights Watch what happens at his police station to people who have been rounded up in police raids and mass arrests: “What they’re after is money. If people refuse to give them money, I’ve seen policemen at my station beat them up—they take their gun and bang you. Motorists who refuse to pay the money illegally demanded by the police at checkpoints also risk being physically assaulted by the police. A commercial minibus driver described to Human Rights Watch how in March 2009 he was beaten by a mobile police officer after failing to pay the full “toll”

### **3.4.3 Sexual Assault Associated with Extortion**

The police sometimes use the threat of rape and other forms of sexual assault as a means to extort money from women stopped at checkpoints, accosted by the police in public places, or detained in police custody. In

some cases, women are told they have the “option” of providing sex in lieu of payment. In a number of cases documented by Human Rights Watch and Nigerian human rights groups, police officers carried out their threats and subjected their victims to rape and other forms sexual assault, particularly when women who had been detained refused to pay all or part of the demanded sum. Although human rights groups have documented numerous cases of sexual assault, the police officers who commit these crimes are rarely held accountable.

A 20-year-old university student described how in October 2008 police officers approached her at a taxi stand in Lagos, sexually assaulted her by touching her breasts and buttocks, and then demanded that she hand over money and her mobile phone. The policemen threatened to rape her if she did not comply with their demands. She said that one of the policemen justified the extortion by saying, “We’ve not eaten yet; this is the only way to put money in our pockets.” The woman paid ₦10,000 (\$83), gave the police her mobile phone and, after being held against her will for two hours in an empty lot, was eventually released.

A 24-year-old market trader in Lagos described how in October 2008 the police stopped a commercial bus in which she was traveling and demanded ₦2,000 (\$17) from each passenger. The police detained her and another woman who were unable to pay. On their way to the police station, one of the police officers told the women, “We know you can’t pay, so instead you should offer us sex.”

The Network on Police Reform in Nigeria (NOPRIN), a nongovernmental group, interviewed two women who were detained in a Lagos police station in July 2005. The investigating police officer told the women that they would have to “oblige him with sex” to secure their release. Over the next week the police officer repeatedly raped the two women at the back of the police station.

Human Rights Watch interviewed seven female sex workers in Lagos who described being frequently subjected to police raids and threats of sexual assault or rape by police officers. Sex workers may be particularly vulnerable because the police can detain them under the pretext of cracking down on prostitution, which is illegal in Nigeria. The police’s actions appear to have little to do with enforcing the law, however; sex workers are rarely charged with prostitution offenses.

### **3.4.4 Extra-Judicial Killing**

Extra-judicial killing is depriving a person of his life in a manner not permitted by the law. So many promising and innocent Nigerians have been killed by the police either through torture or outright murder. Some

have been killed by the notorious operation known as “***Escorting***” and others by “***Accidental discharge***” of law enforcers who are hardly patient with recalcitrant motorists who are reluctant to part with their money as bribe. Recent report released in 2013 reveals that extra-legal police killings is estimated at 2,500 each year, although accurate statistics are difficult to ascertain.

According to Mr. Innocent Chukwuma, Director, Centre for Law Enforcement Education, for the most time, these killings happen out of the glare of the public eye. The Network on Police Reform in Nigeria (NIPRON) has identified two police departments mostly responsible for the various extra-judicial killings by the police. The departments are:

- a) department B which responds to active threats to law and order or public safety and security; the Police Mobile Force or MOPOL which most Nigerians known as “kill and go” falls under this department, and;
- b) department D which deals with intelligence gathering and criminal investigations; the State Criminal Investigation Departments (CID) which operates in the 37 administrative divisions across the federation fall under this department; the Special Anti-Robbery Squad (SARS) which falls under the state criminal investigation departments is very much feared by Nigerians.

Human rights lawyers and some civil society organizations in Anambra State have often accused officers and men of SARS set up in 220 by a former Commissioner of Police in that state of extra-judicial killings. The Executive Director of Nnewi based Human Justice International, Comrade Ifeanyi Onuchukwu said that:

*what he saw inside SARS cell in November, 2004 when he was detained on trumped-up charges of stealing made him believe that the anti-robbery squad has a favourite past-time of wasting innocent peoples' lives . . .*

According to him:

*“On that night when SARS operated from the Central Police Station, Awka, I was in the cell around 7:15pm when 20 detainees were brought out and summarily executed. Through my investigation, I got their names as Samuel Odoh, Oforbike Odoh, Chibueze Ugwueke, Ugochukwu Okonkwo, Chizoba Mbaebie, Ifeanyi Nwafunanya, Ugochukwu Anakwe, Ifeanyi Izueke, Ekene Ejike, Chinedu Okoro, Uche Ubaka, Onyeabo Anakwe,*

*Leonard Obasi, Emeka Ofoke, Chibuzo Asouzu, Ugochukwu Nwude, Charles Mbah and Obiafulu Osakwe. They were buried in shallow graves at Agu Awka, very close to Ezu River.*

**Some other reported alleged extra-judicial killings by the police in Nigeria are as follows:**

- (1) on November 17, 1987, two brothers, Sule and Saka Dawodu were shot and killed by a policeman at a checkpoint along Adeniji Adele Street, Lagos.
- (2) in March, 6, 1991, in Oko Oba, Lagos State, the police gunned down five members of a family and two of their friends. They were claimed by police to be robbers;
- (3) in May 1991, Dr. Nwogu Okere, GM of Klinsite (Nig) Ltd was shot and killed by the police who claimed that he was travelling in a stolen vehicle.
- (4) On September, 6, 1992, Israel Rindam, an army Colonel of the Training and Doctrine Command (TRADOC), Minna, Niger State was shot and killed by policemen at a checkpoint at Yaba Lagos.
- (5) in February, 5, 1994, a team of policemen from Divisional Police Headquarters in Ughelli, numbering ten, stormed Patani, Delta State, in a convoy of three vehicles. They went from house to house, felling seven innocent souls;
- (6) In December, 1996, the police shot and killed three traders in Jigawa State for a failure to give bribe to them; in the same month, a policeman killed a commercial bus driver in Ondo State for refusing to be extorted;
- (7) On November, 3, 1998, Emeka Ahumibe was cut down in a hail of bullets pumped into him by members of Abia State Anti-Robbery Squad, Operation Bang. It was the same squad that chopped off the ear of Chibuzor Ajero for posing as a bigman in a Mercedes Benz which he was driving. In the same month, Bright was killed by the same squad at Umuyota Junction on Uzoakoli Road, Abia State,
- (8) On February, 17, 2001, some policemen from the police Mobile Force Unit, Kogi State killed traders travelling in a bus stole their money and set the bus ablaze.
- (9) One Mr. Sam Ekpelle, based in Port-harcourt, was and killed by a policeman in Owerri in 2002;
- (10) In Damaturu, Capital of Yobe State, angry mob on October, 9, 2002 burnt nine building in a police barrack in protest for the killing of a lorry driver, Idi Bashriu, by a policeman;
- (11) In December, 2002, angry mob killed a policeman along Lagos-Ibadan Expressway in retaliation for the killing of a commercial

- motor driver who refused to part with N20 bribe demanded by the police man;
- (12) On January, 14, 2003, a policeman killed a nursing mother at Mushin, Lagos State, and went into hiding.
  - (13) On December, 31 2003, a 22-year old Emmanuel Ikechukwu was shot and killed by a policeman identified as Ofemi Okoi attached to Broad Bank branch of Idowu Street, Idumota Lagos. His offence was that the deceased dared to hold unto the policeman's shirt after the policeman had slapped and kicked him for throwing banga.
  - (14) On January 5, 2004, a police constable shot dead a motorist at Cele bus stop, Lagos State for refusing to part with N20.00
  - (15) On June 10, 2004, a policeman shot and killed a lorry driver, Sylvester Okeke in Awgu Local government Area of Enugu State. Six youths from the community who came to protest the killing were also shot by the police;
  - (16) In September, 2004, Mr. Celestine O. Chukwuma was killed by police in cell while awaiting trial.
  - (17) On February, 20, 2005, a 17 year old girl was shot and killed by police in Makurdi, Benue State;
  - (18) In May, 2005, a youth was killed by policeman in Owo, Ondo State and labeled him a wanted robber. On December, 30, 2005, a Police Sergeant identified as Afolabi Alegbe at Berger Bust Stop, Lagos shot and killed Mr. Bartholomew Oshoma, a senior Manager with the Flagship properties and Estate Ltd, Broad Street, Lagos.
  - (19) On June, 5, 2005 two robbers were killed in Port-harcourt by police who later claimed that it was a case of mistaken identity. In the same period, Dr. Obinna Nwazuruoke, a fresh medical doctor and son of a retired Inspector of police was gunned down by policemen from CID, Cross River State, Command.
  - (20) On June, 7, 2005, six Igbo youths were shot and killed by a patrol team led by ACP Danjuma Ibrahim and labeled robbers.
  - (21) In June, 2005, Morakinyo Akerele, Nnamdi a police check point Olufosin Adesaba were shot and killed at a police-check point by policemen at Falmo, Lagos.
  - (22) On Monday, 20th June, 2005, one Jimoh Fadairo, a carpenter was allegedly killed and his corpse taken away by a group of mobile policemen that invaded the neighborhood of Araromi Ale along Lagos-Badagry Expressway;
  - (23) A seventy year old man, Abubakar Azeez and his two sons, Shehu and Ibrahim were reportedly killed by a team of Special Anti-Robbery Squad (SARS) from Force Headquarters, Abuja in August, 2005.
  - (24) On August, 26, 2005, at Alagomeji Bust Stop, Ebute Metta, Lagos State, a police constable, Wilson, attached to Adekunle Police

- Station clubbed Chinedu Ome, an Okada rider, to death for failing to meet the N20.00 demand.
- (25) In April, 2006, youths of Umuaka town in Imo State engaged policeman in a fierce clash, resulting in destruction of lives and property because some police officers shot and killed a truck driver and his conductor for failing to give them N20.00 bribe.
  - (26) Three innocent Nigerians lost their lives in controversial circumstances in Benin City in May 2006. They were felled by the bullets from the firearms of the policemen in the Edo State ant-robbery squad, the policeman claimed they were in hot pursuit of a robbery gang who had earlier attacked some people at the foreign exchange;
  - (27) On Monday, 25th June, 2007, one Taofeeq Fetuga, a technician was allegedly killed by the police on Julius Elebiju street, Alapere, Ketu, Lagos State;
  - (28) On February, 25, 2008, police officers from Police Mobile Force reportedly attacked Ogaminana community in Kogi state and killed fifteen people as a reprisal for the killing of a police officer in the community, some people were killed, including two children while cars, motor-cycles and several houses were burnt.
  - (29) On June, 23, 2009, one Chekwube Okeke was arrested by SARS in Awka, Anambra state and was allegedly shot dead days later. One Nonso Ayalogu was also allegedly killed by the same SARS on 29th March of same year in Awkuzu.
  - (30) On June, 13, 2013, a boy named Timilehin Ebun, aged 19, was killed by police stray bullet at Mile 12 end of Ikorodu Expressway.

In February, 2013, over 20 corpses were found on Ezu River in the boundary between Enugu and Anambra state. The Intersociety and Human Justice Nigeria organisations have argued that since there was no evidence that the individuals drowned nor was there any communal fight resulting in their death, the suspicion should be narrowed down to the door steps of SARS in Anambra State, considering the incidence of extra-judicial killings in the State by the squad.

The spate of police brutality and shedding of innocent blood has reached its peak in our country. The unfortunate thing is that people are crying of economic hardship without really having a rethink on the bloody activities going on in this country. The blood of the innocent being wasted in Nigeria by so-called police stray-bullet is enough to render our economic activities comatose.

The truth is that some members of the Nigeria Police feel so much at ease exhibiting unprofessional conduct under various guises. In many cases, they have killed or hurt people for not giving them bribes at

checkpoints. There are several cases of harmless citizens being mistaken or substituted for criminals and callously murdered. There are so many instances of extra-judicial killings that people often wonder about the type of training given to those who saddled with responsibility of protecting life and property. And because the culprits are hardly held accountable for their dastardly acts, they continue to indulge in those acts with a sense of impunity.

Amnesty International reported that in 2007 alone, at least 241 people were extra-judicially executed by State agents. In a November 1, 2012 report, Amnesty International, in an account, entitled, Nigeria, **Trapped in the Cycle of Violence**, documented the atrocities carried out by the Nigerian security agencies as including enforced disappearance, torture, extrajudicial executions, the burning of homes and detention without trial.

Commenting extra-legal killing in Nigeria, Amnesty International in a report released in 2009 included Nigeria among countries that de-emphasised human rights issues in 2008. Also, the Attorney General and Minister of Justice, Mohammed Bello Adeke, (SAN), while delivering a keynote address on December 10, 2012 during the International Human Rights Day in Abuja, castigated the Nigeria Police for carrying out extrajudicial killing. According to media reports, Adeke opined that the Federal Government had noted with concern that the police had, through the years, relied on 'Police Force Order 237' to commit extrajudicial killings. The order, he observed, allows the police to shoot any suspect or detainees trying to escape or avoid arrest. Hiding under the cover of Order 237, the police had perpetrated unlawful killings of 7195 persons in four years, out of which 2500 were detained. The AGF further revealed that plans were afoot by his office to take over from the police the power to prosecute any criminal suspect in the courts because the Force, in his opinion, is peopled by laymen who could not adequately prosecute cases in court.

### **3.4.5      Does the Police Have Lawful Authority To Kill?**

I confronted some police officers with the issue of extra-judicial killing, and they posited that often times, such killings were not deliberate. Though some of the policemen admitted that some cases were due to negligence, arising from careless handling of rifles, they submitted that most of the cases of 'accidental discharge' were as a result of old age and faulty condition of rifles and poor maintenance. They posited also that most of the armourers lacked adequate training in the maintenance of rifles.

This explanation appears to be flimsy; it does not seem to present plausible grounds for rationalising the incidence of extra-judicial killings. Gunshots do not kill persons they are not targeted on. If the rifles are faulty, they will kill the handlers and their colleagues more often than they kill passers-by around them. It is unarguable that every incident of extra-judicial killing by police often arose from a disagreement between the police and their victims. It stands to reason therefore that victim have always been fired by the police in a fit of temper, arising from Altercation or disagreement.

Justifying operation fire-for-fire and the need for the police to fire back at suspected robbers. Mr. Tafa Balogun, former Inspector-General of Police said:

*"The police have statutory duty to protect the lives and property of persons in Nigeria. Only the police, customs and immigration are the law enforcement agencies permitted by law to carry arms. Private persons have no such right. Therefore, when robbers carry arms to shoot the law enforcement officers in order to expedite their operations, the agencies have right under the Constitution to defend themselves. This is justifiable morally and by the law"*

Though well-intended, the spate of killing of innocent citizens merely suspected to be robbers only goes to show that the concept of **operation fire-for-fire** has been grossly misinterpreted by officers and men of the force as license to use force arbitrarily, resulting in the high incidence of innocent people being shot dead ad armed robbers. The consequence of this ugly trend is that the sight of policemen now induces the same fear as appearance of robbers.

The Nigeria Police must realise that it is not their brief to mete out punishment to convicted criminals, let alone, untried suspects. There is nowhere in our law that the police are given power to execute anyone including the condemned unless as maybe legally directed by the court. Section 33(1) of the 1999 Constitution (as amended) provides that every person has a right to life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.

Article 3 of Code of Conduct for Law Enforcement Officers provides that law enforcement officers may use force only when it is strictly necessary and to the extent required for the performance of their duty.

Section 9 of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials provide;

Law enforcement Officials shall not use fire arms against persons except in self defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authorities or prevent his or her escape and only when less extreme means are sufficient to achieve these objectives.

..  
Section 33(2) of the 1999 Constitution (as amended) states that a person may be deprived of his life lawfully where it is necessary;

- (a) for the defence of any person from unlawful violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing riot, insurrection or mutiny.

Principle 1 of the Nigeria Police Code of Conduct stipulates that officers shall conduct themselves, whether on or off duty, in accordance with the Constitution of the Federal Republic of Nigeria and all applicable laws, ordinances and rules enacted or established pursuant to legal authority. Police officers should not, therefore, knowingly exceed their authority in the enforcement of the law.

Section 33(2) above is not an express authority given to the police to kill a person arbitrarily. Killing under these circumstances, according to the Constitution, may take place in extreme cases where less extreme means has proved inadequate to achieve the purpose. Recourse must, therefore, be had to the ethical standards in the law and the use of force and firearms as authorised by the Police Force.

The Nigeria Police Code of Conduct which was unveiled in January, 2013 encapsulates that a police officer should not employ unnecessary force or violence but may use only such force in discharge of duty, as is reasonable in all circumstances. The use of force, therefore, should be made only after discussion, negotiation and persuasion have been found to be inappropriate or ineffective. While the use of force is occasionally unavoidable, every police officer will refrain from unnecessary infliction of pain or suffering, or engage in cruel, degrading or inhumane treatment of any person.

On use of firearms by police officers, Mr. Sebastine Hemjirika, former Commandant of Police College, Lagos, explained further that Force Order 237 is the law that regulates the handling of firearms. According

to him, before a policeman is permitted to carry arms, he would have been adequately trained and cautioned, hence the excuse of accidental discharge is not tenable. He pointed out that the law stipulates circumstances under which a law enforcement official should use firearms. He states further, with illustration that:

*If a policeman shoots a commercial vehicle driver because he refused to give him N20.00 he cannot claim that he was carrying out a lawful duty . . . even for a suspected criminal trying to escape, the practice is that you aim at his knees so as to prevent him from escape.*

Force Order 237, according to him, must be understood by every police officer carrying arms. It states the circumstances under which firearms should be used, outside of which a policeman would be guilty if he applies arms, and consequently, dismissed and charged to court for prosecution, conviction and sentence. He stated that policemen are trained on how to manage crisis situations via the ‘philosophy of minimum force’

## 4.0 CONCLUSION

Despite efforts made by Network on Police Reform in Nigeria (NOPRIN) and Nigeria Police Public Relations (NPPRD) to reinvent the Nigeria Police Force as a public-friendly, humane and social service-focused law enforcement agency that eschews inappropriate use of lethal force, extra-judicial killings, intimidation, extortion and arbitrariness. Most of the Nigeria police officers has made the use of lethal force in form of assault, grievous harm, torture, intimidation, harassment, brutality as their modus operandi not only during investigation but in their everyday operations.

## 5.0 SUMMARY

The Nigeria Police has not been able to perform its duty in such a way that the citizenry will appreciate and support their duties. Various reports abound of high-handedness, torture, mass killings, intimidation, rape, extra judicial killings (summary execution) and other heinous crimes perpetrated against the same citizenry they ought to protect. This to a large extent make police citizen relationships in the country to be characterised by mutual hostility and resentment. Despite its vaunted slogan: “Police is your Friend,” most Nigerians perceived the police as a dreaded foe that must be avoided by any means possible.

## 6.0 TUTOR-MARKED ASSIGNMENT

1. What is police professional misconduct?
2. Outline and discuss the causes of police misconduct?
3. Explain two most prevalent forms of police misconduct in Nigeria
4. Why do you think police misconduct is high in Nigeria?
5. How do you think police misconduct in Nigeria can be curbed?

## 7.0 REFERENCES/FURTHER READING

- Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.
- John, S. D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States of America. Thomson Wadsworth.
- Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct. (1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.
- Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.
- Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.

## UNIT 4 PUBLIC PERCEPTION OF THE NIGERIAN POLICE AND ITS IMPLICATION ON LAW ENFORCEMENT

### CONTENTS

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Public Perception of the Nigeria Police Force
  - 3.2 Effects of Negative Police Perception on Law Enforcement
    - 3.2.1 Loss of Public Confidence
    - 3.2.2 Lack of Public Cooperation
    - 3.2.3 Poor Performance and Ineffective Law Enforcement by the Nigeria Police Force
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 Reference/Further Reading

### 1.0 INTRODUCTION

This unit dealt with how the public perceive the Nigeria police force. It is unfortunate that the public have negative perception of the police due to incessant intimidation, harassment, extortion and all sorts of abuse carried by the Nigeria police against the police they are meant to protect and care for. This unit begins with public perception of the Nigeria police force. This unit also discussed effects of negative public perception of the Nigeria police force with much emphasis on loss of public confidence, lack of public cooperation and poor performance and ineffective law enforcement by the Nigeria police force.

### 2.0 OBJECTIVES

By the end of this unit, you should be able to:

- explain public perception of the Nigeria police force
- describe what gave rise to the negative perception of the public on the police force
- describe effects of negative police perception on law enforcement
- describe the relationship between negative public perception of the Nigeria police and ineffectiveness of law enforcements in Nigeria and poor police performance.

### 3.0 MAIN CONTENT

### 3.1 Public Perception of the Nigeria Police Force

Police Regulation No. 325 provides that a police officer should develop the attribute of contest, forbearance and helpfulness in his dealings with members of the public. The nature and sensitivity of the police duties as provided in Section 4 of the Police Act renders a police officer an indispensable friend of the public. He is not just to be an ordinary friend; the public expect him also to serve as a counselor, law enforcer, prosecutor, arbiter and peace-maker. How well the police have lived up to this public expectation leaves much to be desired.

The image of police has plunged to unprecedented depths in recent years. A random opinion poll around the various communities in Nigeria today will reveal that the Nigerian Police is easily the most hated institution. An average policeman is perceived by the ordinary citizen more as an oppressor than a friend. The Nigerian populace sees the policeman as executor of orders just or unjust. As a result of the indignities which ordinary Nigerians have had to suffer in the hands of the police at one time or the other, many have come to the conclusion that the police force is wicked, corrupt and insensitive to the feelings of the ordinary man.

This awful tendency has made members of the public to develop and non-co-operative attitude towards the police. Hence, they do not see anything good about the police. Average Nigerians believe that only criminals keep police as friends. Arising from this abysmal public perception of the police, many citizens tend to avoid the police.

According to **CHUKWUMA**, annual research has indicated that:

*80 per cent of Nigerians do not report crimes or problems to the police. Rather, they use traditional means to solve problems, especially in the rural areas;*

A foremost human rights activist, and a Senior Advocate of Nigeria, **OLISA AGBAKOBA** once noted that:

*“the public detest the police as a result of the bad image that they have earned over the years”*

Former Commissioner of Police, **FRANK ODITA**, and expressing disappointment over the attitude of police officers to the public said:

*The present crop of police will have to go through a public relations orientation . . . to make them understand that they are servants of the people and not their masters . . . the slogan, police is your friend must be translated into concrete terms to police general conduct because a friend who extorts money from a friend or harassed or intimidates or frames him up, cannot be said to be a good friend.*

The public indignation and odium towards the Nigeria police stem not only from unfair treatments but sundry unsavory experiences which many have suffered in the hands of the police. There are cases of persons who in their efforts to assist the police, reported genuine criminal cases to the police, only for the police to expose their identities to the criminals who, in revenge, killed or maimed them. We have heard of people in emergency who called on the police for rescue only for the police to ask them to bring their vehicle to convey them. Need we recall cases of hundreds of innocent Nigerians murdered by the police and branded robbers for resisting extortion.

It is common knowledge that some citizens who summoned courage to question the impunity of police officers in Nigeria had been physically abused, shot at or even framed up as robbers. An average policeman perceives his role as a bully which has a duty to compel obedience to the authority of the Stated. The police have long lost touch with the discipline, toughness and professionalism that saw them perform with some merit on the international stage.

It is regrettable that for nearly a century after its formation, the Nigeria Police force still largely retains its colonial disposition as a punitive and expeditionary force rather than a society-friendly law enforcement organ of government. Its handedness and without respect for human rights.

**FRANKLYNE OGBUNWEZEH** captures the scenario as follows:

*. . . the Nigerian Police force is not only a nest of killers, but a sophisticated citadel of corruption, variously managed by cold-blooded murderers. This institution statutorily charged with the maintenance of law and order across the country, embraced a retrogressive metamorphosis, which saw it configuring itself into a notorious synonym for corruption and grotesque incompetence; noted for it arrant desecration of every*

*rational cannon of civilised conduct . . . Nigerians have known of many of their relatives, friends and neighbours, who have been labeled as armed robbers and summarily executed by the police, without recourse to judicial adjudication. Many Nigerians have known of policemen who conspired and collaborated with robbers to rob, rape and dispossess them of their properties and sometimes, live. We have known of George Iyamu and his likes that collaborated with notorious robbers to deny us of our peace and quiet. We have known of a former Inspector-General of Police and his likes who presided over avaricious establishment, within this institution created to fight those very crimes. We know of many others who leased out their service weapons, guns and bullets to armed robbers for a fee, or for some percentage of the lucre and loot. We know of some policemen who have shot and killed unarmed and innocent Nigerians for failure to yield to N20.00 bribe at many a police check-point. We know of policemen who have conspired and raped women in their phallic insecurities. In fact, the litany of police sins against the Nigerian people is inexhaustible...*

We also remember police officers like Ralph Ige, an Assistant Inspector General of Police in charge of Zone 9 who attempted to abduct the Governor of Anambra State, Dr. Chris Ngige. We remember also the role of the police in the impeachment of the Oyo and Bayelsa States Governors and violent reaction by the police to the peaceful demonstration organized by concerned mothers over the Sosoliso air-crash.

In October, 1996, traditional rulers in Ogun State were reported to have passed a vote of no confidence on the police, describing it as the major threat to lives and property. According to them:

*If you give police information, they reveal your identity to suspects*

There is a litany of public experiences in the hands of the police in Nigeria. The brazenness of police perpetrated indiscretions has, according to Ogbunwezeh, eroded every confidence in the institution and whatever they claim to represent in the eyes of the Nigerian people. Many Nigerians have lost hope in the police as the guarantee of their scrutiny, and instead, place their security in the hands of God.

### **3.3 Implication of Police Perception by the Public on Law Enforcement**

The Nigeria Police Force, which is the major government agency formally charged with the responsibility of policing and maintenance of social order, is currently experiencing certain challenges and interrelated problems that have culminated in its poor performance. It is a well-established fact among Nigerians that the police have not performed optimally in the delivery of its mandates (Ojedokun and Aderinto, 2014).

#### **3.2.1 Loss of Public Confidence**

Loss of public confidence in the personnel of the Nigeria police force is highly pervasive in the country. The police have always been accused of being inhuman and lacking behavioural integrity, a situation which usually leads to suspicion of the police by the public, even when the police are embarking on their rightful duties (Aremu, 2009). Similarly the Nigeria's second Presidential Committee on Police Reform, in its April 2008 Report, stated that there was a profound loss of public confidence in the integrity of police personnel in Nigeria as a result of pattern of violations associated with policing (NOPRIN 2010).

Osayande (2008) observes that the Nigeria Police, from inception, was built on a wrong foundation, because the British established a predatory police administration for Nigeria for the fundamental purpose and strategy of sustaining, promoting, and ensuring the socio-economic and political empire of the British in Nigeria. These imperial policing orientations and pre-occupations, according to Onyeozili (2005), have, over time, been maintained and strengthened by post-colonial governments who have been employing police brutality and terror against their opponents in post-independence political power struggles. Thus, the Nigeria police organisation has consistently been under serious negative public criticisms (Okoye, 2011; Ojedokun and Aderinto 2014)

#### **3.2.2 Lack of Public Cooperation**

We have noted earlier, public-co-operation is the most valuable asset of police organisation in every modern society. This is because criminals live with the people in the society and unless informants (populace) comes up with useful information concerning the identity of the criminals, the police will not be able to do the expected magic of identifying and arresting criminals. The colonial legacy predicated on unnecessary use of force seems to have denied the police the opportunity

of this vital asset which is public cooperation. Most members of the public see an average police officer as brutal and unfriendly and who should be avoided by all cost.

This distrust has also made members of the public to be skeptical about the abilities of the Nigeria police to protect their identity from criminals should they divulge certain information concerning the criminals. As people are afraid of reprisal attacks from the criminals should they cooperate with the police by giving information about the criminals (Ugwuoke, 2010).

### **3.2.3 Poor Performance and Inefficient Law Enforcement by the Nigeria Police Force**

It may not be entirely a fact that the Criminal Justice System particularly the police is a failure and the police has not been professionally correct in the discharge of its duties. The Nigeria police of the colonial and immediate Postcolonial era had in different ways tried to carry out some of constitutional responsibilities with some degree of success. Danmadami has noted that the agency has achieved satisfactory results in the fight against crime between 1930 and 1965 despite difficulties resulting from economic depression in a period when illicit distillation of spirits, counterfeiting and child stealing were rampant in certain parts of the country (Danmadami, 1979). He further noted that the police performed satisfactorily with respect to the suppression and eventual eradication of dangerous cult and secret society organisations whose activities were assuming notorious and dangerous proportions.

It is pertinent to observe that the police duties and operations do not take place in vacuum, the socio-economic and political contexts in which the police operate is a factor and a determinant of the effectiveness of the Police. The Nigeria Police is faced with the responsibility of maintaining order and persecuting offenders and so far, they have been able to do quite a good job as no institution exists without challenges, lives of officers have been lost in the line of duty while some others have been maimed for life. The Nigeria police has not effectively enforced law in Nigeria, this is due to poor public-police relations. The police cannot in any way enforce the law effectively without the assistance of the populace, unfortunately, due to incessant police professional misconduct, the public have become skeptical of the Nigeria police force and tend to avoid them like a plague.

## **4.0 CONCLUSION**

In this unit we have been able to consider public perception of the Nigeria police force, which is negative and its implication on law enforcement. We also considered the effects of negative public perception of the police on law enforcement, how loss of public confidence on the police affects police law enforcement negatively, how lack of public cooperation, the unit finally considered the association between negative public perception of the police and poor performance of the Nigeria police especially as it concerns crime prevention and law enforcement.

## 5.0 SUMMARY

The Nigeria police is the first and foremost law enforcement agents not only in Nigeria but in other climes, hence they are the closest law enforcement to the public. It is obvious that the Nigeria cannot effectively curb crime, detect crime, and enforce the law with the cooperation and support of the populace, this is because criminals lives with the populace, they know them by names and most times knows the criminals' in and out more than the police, hence the police needs not only intelligence, information but also support to effectively enforce law. Unfortunately, due to negative public perception of the populace on the Police, the police lack adequate cooperation public cooperation which in no small measure have effected their operations negatively.

## 6.0 TUTOR-MARKED ASSIGNMENT

1. How do you perceive the Nigeria police force? What is the rationale?
2. What is the public perception of the Nigeria police and why do you think the public perceive the police thus?
3. List and explain effects of negative public perception on the police on law enforcement especially as it concerns crime detection.

## 7.0 REFERENCES/FURTHER READING

Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.

Dambazau, A.B. (2011). Criminology and Criminal Justice. Ibadan: Spectrum Books Limited.

Henry, M. W. & Karen, M.H. (2000). An Introduction to Law Enforcement and Criminal Justice. (6th ed.). United States of America: Thompson Wadsworth

- John, S.D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States: Thompson Wadsworth
- Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct. (1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.
- Ojomo, F.Y. (2011). Policing in a Corrosive Environment. Ibadan: Kolaak Enterprises
- Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.
- Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.
- Ugwuoke, C.U. (2010). Criminology: Explaining Crime in the Nigerian Context. Nsukka: Great AP Express Publishers Ltd.
- Ugwuoke, C.U. (2015). Criminology: Explain Crime in the Nigeria Context. (2nd ed.). With an Update on Terrorism/Boko Haram. Nsukka: Great AP Express Publishers Ltd.

**UNIT 5 REPOSITIONING THE NIGERIA POLICE FOR EFFECTIVE LAW ENFORCEMENT****CONTENTS**

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
  - 3.1 Repositioning the Nigeria Police
  - 3.2 Reforming the Nigeria Police
  - 3.3 How to Reform the Nigeria Police
    - 3.3.1 Training
    - 3.3.2 Motivation
    - 3.3.3 Discipline
    - 3.3.4 Good Police-Public-Relations
    - 3.3.5 Proper Equipment
    - 3.3.6 Proper Funding
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor-Marked Assignment
- 7.0 Reference/Further Reading

**1.0 INTRODUCTION**

For effective and efficient law enforcement in Nigeria, there is urgent need to reposition and reform the Nigeria police force, which have not lived up to expectations in law enforcement. This unit begins with repositioning the Nigeria police force, and continues with the reforming of the Nigeria police force. The unit also outlined and discussed how to reform the Nigeria police force via training, motivation, discipline, good police-public relations, proper equipment and adequate funding.

**2.0 OBJECTIVES**

By the end of this unit, you should be able to:

- explain the rationale for the advocacy to reposition the Nigeria police force
- explain how the Nigeria police can be reformed
- explain how training, motivation, discipline, good police-public relations, proper equipment and adequate funding will help to reform and reposition the Nigeria police force.

### **3.0 MAIN CONTENT**

#### **3.1 Repositioning the Nigerian Police**

All over the world and across all spectrums of civilised considerations, the safest and most reliable person to approach for direction or an assistance when a stranger runs into some difficulty as to his itinerary or destination is a policeman. The Nigerian police cannot continue to be as ignoble and insensitive as they are presently portrayed by the “bad eggs” in its ranks. Policing is a noble profession in most part of the world. Our policemen could do better. We have in the Nigerian hierarchy and the rank file, many fine and ethically sensitive gentlemen of honour and integrity. We still have in the police men and women who have refused to be corrupted or to concede to any act likely to render them conscience-stricken.

There is a number of commendable feats performed by the police other than crime busting. The police hierarchy has consistently reprimanded its men and officers for arbitrary arrest, unlawful detention corruption and extra-judicial killings. Many cases have been exposed and punished by the police authorities. In May, 2005, the former Inspector-General of Police, Mr. Sunday Ehindero handed over to the Chairman and Managing Director of G.U.O Okeke and Sons Group of Companies, the sum of N4.5 million recovered by the police from hoodlums who attacked a luxury bus belonging to his company on May 20, 2003 along Lokaja-Okene road and robbed passengers of their money.

However, police operations in Nigeria, have for many years, been marred by protection of sectional interest by its senior officers. It is unarguable that a good majority of the present crop of policemen have long lost touch with the discipline and professionalism which form the bedrock of model policing in the developed world, all in their aggressive quest for inordinate wealth and display of ego and power of life and death over Nigerian people. But it is even truer than the complexity of the Nigerian society coupled with the insensitivity of the Nigerian government to reforms have, in great measure, contributed to the poor performance of the police.

The present poor public image of the police is not because the force is made up of discontented, ill-tempered and unrepentant non-performers. It is rather because of long neglect by successive governments. As we have observed, political leaders have been more inclined to retaining the colonial form and structure of the force as to be able to accomplish their self-aggrandizement. When the military leaders took over, they used the police with caution and fear. Though the police proved useful to them,

as a tool for particularly dealing with civilian disobedience, they were obviously afraid of the police emerging as a counter-force. To allay this fear, therefore, they kept a foot on the institution and never gave a thought to its reformation. This trend has continued, even under the present political dispensation. Reviewing the situation **MR. TAKIRAMBUDDE** said:

*The United States and Britain has invested millions in police reform initiatives in Nigeria, but police practices have changed little since the end of military rule . . .”*

As a result of the long neglect, professionalism and discipline in the force have continued to decline in quick progression, resulting in the present battered image of the police. To redeem this drowning image and restore dignity in the force, the government should take determined steps to reform the police force. Police management strategy should seek two goals, first to provide a better, more challenging and fulfilling job for all members of the force, and secondly to improve the effectiveness and efficiency of the force thereby improving the quality of service given to the community.

### 3.2 Reforming the Nigeria Police

Policing effectively, a nation covering about 913 x 17264 square kilometers with estimated 165 million population, broken into 36 states and Federal Capital Territory and rates as one of the most corrupt nations in the world by less than 350 000 policemen who are mostly illiterate, ill-equipped, and poorly motivated, is no doubt, a herculean task. It requires the commitment of the government and the people both in terms of moral and financial co-operation. According to **JIDE OJO**, a public affairs analyst:

*“The Nigeria Police deserves our empathy and sympathy. It is impossible to make bricks without straw. The workload on police operatives is far too heavy. They are prime targets of terrorists, and marauders. While men of the force have killed thousands unlawfully so have they lost hundreds in the same manner. Sadly, they are not properly trained, equipped and remunerated. Yet, we summon them at odd hours to come out and confront dare-devil criminals just because they possess some anachronistic weapons. I was shocked to learn that Nigeria Police lack a state-of-the-art forensic laboratory. How then would they solve the tons of criminal cases we rely on them to crack? Nigeria is grossly under-policed due to inadequate manpower and funds. Many a time, the*

police rely heavily on state governors for logistics such as operational vehicles and communication gadgets. . .”

A former Inspector-General of Police, **MR. OGBONNAYA ONOVO** noted during a formal handing over to Mr. Hafiz Ringim that:

“I presided over a force that was fighting crime almost bare-handed . . .

*policing in the face of dire socio-political conditions, as obtained in the country, is a frustrating endeavor.”*

Another former Inspector-General of Police, Sunday Ehindero decried the operational capacity of the Nigerian Police Force. He said that the force lacked the operational capacity to combat rising crime wave and insecurity, especially, the insurgency of the Islamist sect, Boko Haram. According to him, also:

*“the intelligence unit of the police that is critical to handling such serious security challenges is moribund . . . the unit lacks what it takes to gather and monitor intelligence.”*

A report released by the United States government entitled “Country Reports on Terrorism 2010” which provided assessment of trends and events in international terrorism that transpired in Nigeria from January 1, 2010 to August 31, 2011 stated inter alia:

*“Senior police officers are well-educated and able to articulate the fundamentals of police organisation theory and practices, most of the ranks-and-file police personnel lack skills, training and equipment.”*

Mr. Sunday Ehindero traced the deplorable state of the police intelligence unit to the incapacitation of the force by the military through the creation of the National Security Organisation (NSO) which later metamorphosed to State Security Service (SSS).

The target of any police reform in Nigeria should be to revolve effective and efficient policing system dedicated to social justice. The dream police must therefore be seen and accepted as people’s police for it to perform to the expectation of the people. To be seen and accepted as such they must understand that they are servants of the people and not their masters. They must rid themselves of arbitrariness, ethnic bias and mischief in handling individual cases. They must serve the law and not persons, authorities or governments. And they must be sensitive to changing situations and plights of suspected persons. Importantly, they

must be adequately motivated, contented with conditions of their service and well equipped.

Realising the enormity of the task before him, the former Inspector-General of Police, Sunday Ehindero, articulated a ten-point programme aimed at improving service delivery in the Nigerian police. The program, according to him, was to ensure effective crime prevention and control through intelligence-led-policing; combat of violent and economic crimes; conflict prevention and resolution; community policing and police-public partnership; zero tolerance for police corruption and indiscipline; improved career development, salary and welfare packages to motivate police officers and thereby promote better service delivery and discipline; re-organisation of the investigation outfit of the force to ensure prompt and timely investigation of cases; and also to contribute positively to improving the quality of justice delivery in Nigeria. The programme was further intended to empower field officers operationally by devolution of powers to improve the standards, reliability, consistency and responsiveness of the service; and re-orientate the Force PRO to focus on improving public perception image of the police.

The programme was to be all-embracing. When implemented it was expected to achieve a high degree of effective and efficient policing in Nigeria and restore the lost dignity of the police. However, it is one thing to articulate a programme and another to implement it. Implementation requires a great detail of involvement both by the police authorities and the average policeman. Regrettably this whole idea is today history. It reverberated for a while and extinguished with the exit of the conceiver.

The force has long lost public confidence due to its inability to protect life, and property, and failure of the police high command to check the endemic excesses, and large-scale corruption in the force. The indignities members of the public suffer in the hands of policemen on daily basis tend to distance them from the members of the force. The incumbent Inspector-General of Police at the time of this research, Mr. Mohammed D. Abubakar, CRF, during a national Security Submit in 2013 said that “security is everybody’s business”. This means that the police cannot deal with security all alone. They need the support and co-operation of members of the public. To succeed in this regard, therefore, there is the need for trust and mutual respect for the individual citizens. Speaking at this national submit, Professor Ebitimi Alemika posited that participation by the citizenry in our security management can only be guaranteed if there is trust existing between the Law Enforcement agencies and the citizenry.

The police hierarchy must check the uncouth attitude of their men to the public. The process must start from recruitment by ensuring that suitable persons are recruited. Prospective candidates for recruitment must possess a minimum of Secondary School Certificates and selected based on objective criteria which seeks out the best candidates. Police Regulation stipulates that a new recruit must be certified to be of good character and have not been convicted of any criminal offence. Police Regulation No 67 specifically prescribes, among other things, that to be enlisted in the police force, a candidate:

*Must be of good character and must not have been convicted of any criminal offence (other than any offence which the Inspector-General accepts as being of a minor nature)..*

In addition to this, it is also necessary that a candidate must be certified to be psychologically fit and of good family up-bringing. A person found to be highly irascible or a miscreant is not normally suitable to handle rifles. The entrance examination as provided under Regulation No. 70 should include psychological test to determine the suitability of candidates to manage the interface between their personal egos and their responsibilities. The candidate should be tested on routine police duties, personal reaction to some actions, respect for human dignity and sundry issues. A scenario on human rights violation or other police duties may be painted and a question framed on the premise to assess individual disposition of candidates. The essence is to feel his impulse on the various incidents he may encounter in the course of performing his duty and his possible reaction.

After recruitment, random tests should be conducted on officers for psychiatric conditions, alcoholism, drug abuse and other aberrant behaviors.

In a communiqué issued at the end of a 3-day national workshop on Administration of Justice and Human Rights in Nigeria held at the Protea Hotel, Nike Lake Resort, Enugu, from March 9 – 11, 2005, the following suggestions were made for police reform and improvement of human rights protection in Nigeria:

- i. Establishment of human rights desk in every police station to check human rights abuses by the police officers, illegal arrest and detention;
- ii. Provision of adequate equipment and logistics i.e. provision of adequate work tools and communication facilities;
- iii. Improved welfare conditions, transportation, health and other allowances, including increase in salary commensurate with contemporary economic reality, accommodation and allied matters;
- iv. Specialisation in the police force, especially in the areas of investigation, intelligence, prosecution, armory etc.;
- v. Increased police/community relations and partnership;
- vi. Human rights education of all levels of the police, particularly, at the stage of recruitment, police colleagues and police academy (now university), including daily briefing during morning parades;
- vii. Establishment of monitoring groups to check frivolous arrests and detentions as well as corrupt practices.
- viii. Service of court processes on police violation of human rights through the National Rights Commission;
- ix. Increased supervisory role by Area Commander/Senior police officers over the subordinates;
- x. Minimum salary payable to a police constable should not be less than N80 000, per month, excluding other allowances payable to him monthly;
- xi. Concentration of police on investigation while the Attorney-General's chamber is left with the task of prosecution;
- xii. Mass recruitment of graduates, especially lawyers or law graduates or other graduates' literate in law into the police force and then gradually commence the disengagement of primary school leavers from critical investigative assignments;
- xiii. Enforcement and facilitation of personal liability of police officers for human rights violation;
- xiv. Effective networking and partnership with Non-governmental Organisations (NGOs), communities and other agencies in criminal justice system; and
- xv. Training and re-training of officers and the rank and file.

### **3.3 How to Reform the Nigeria Police**

#### **3.3.1 Training**

The police regulation provides that on appointment a cadet officer may be required to undergo a training course of twelve months duration which may include courses in law, foot drill, police work, leadership, citizenship and first aid. Regulation 98 provides that a recruit constable shall, subject to the provisions of these regulations be required to undergo a Recruit Training Course at a Police College of between three months and six months duration, as the Inspector-General shall direct.

The rank and file are guiltier of the poor corporate image of the force and they have continued to retain their awful attitude in spite of consistent public outcry. The reason why they are resistant to change is poor education, improper orientation and lack of enlightenment. Most of these officers lack sound basic education and are largely ignorant of the law they are supposed to enforce.

Police training is directed from headquarters by a Deputy Inspector-General of Police designated as Commander. Recruits are trained at Police Colleges in Oji River, Maiduguri, Kaduna and Ikeja, which also offer training to other security personnel, such as armed immigration officers. The Police College at Ikeja train cadet assistant superintendents and cadet sub-inspectors. There are also in-service training schools, including the Police Mobile Force Training School at Guzuo, southwest of Abuja, the Police Detective College at Enugu, the Police Dogs Service Training Centre, and the Mounted Training Centre. In August, 1989, General Ibrahim Babangida, the then Head of State laid the foundation stone for a Nigeria Police Academy (NPA) in Kano State. This Academy was recently upgraded to a full-fledged university under the administration of Mohammed D. Abubakar as Inspector-General of Police.

The current programme content of the police training seems to be poor and lacking in rich curriculum. Priority should be given to the training and re-training of newly recruited and serving officers. Mr. Odum Kalu once suggested that there was need for humanised training and education for officers. The rank and file need massive training and retraining in civility, law and human rights, using hired professionals from developed foundations, home and abroad, e.g. The United Kingdom, Canada or the United States of America. Such training programs should be aimed at giving the force a new orientation in handling the civil society. The programme should target ridding the force of the ignoble colonial and military colonial disposition which portrays them as punitive and expeditionary force. The usual attitude of treating the civil society with high handedness and without respect for

the international fundamental and Constitutional law principle which presumes a suspect to be innocent until he has been proved otherwise must be eradicated among the rank and file. They must be taught that the police is an instrument of peace and stability and that no policeman has right to torture or take a person's life. They must be informed of their individual liability for any action or omission committed unlawfully and or in excess of their brief. There must be continuous training in the use of fireman for officers and men of the force to ensure that they are up to date in their skills. There is the need also for continual curricular review at police training institutions to introduce new crime combating tactics and new technology.

Addressing the graduating cadets at the Nigeria Police Academy Wudil in Kano State, the former Inspector-General of Police, Ogbonnaya Onovo promised that his administration would focus on the issue of training and retraining of officers with a view to delivering qualitative service to the people in return for their trust and confidence. He reasoned that without the continuous training of officers, they stand the risk of not measuring up with their international counterparts, pointing out that the world is already a global village in which the Nigeria Police Force cannot afford to be lagging behind. He explained that, that was why the Police was now talking Science and Technology to be inculcated into Police Strategies for fighting crime, because these days close circuit cameras had been installed at strategic locations. Also installed are gadgets that would enable the police obtain information, and transform it into intelligence gathering. The writer is impressed by the recent upgrading of the police academy to full-fledged university. This development is expected to yield positively towards better training and orientation for the Nigeria Police Force.

### 3.3.2 Motivation

There is general low morale in the Nigeria Police Force arising from low pay and poor conditions of service. A police constable is said to earn between N50 000.00 to N75 000.00 per month. It is also discovered that there is no accommodation for over 75 per cent of members of the force. Importantly also, there is poor reward and compensation scheme for officers who suffer injury in active service. Most police personnel are said to be murmuring over their stagnation on a particular rank for years. Some of them claim that they have hung one rank for eight to nine years without promotion. Corruption and poor performance in the force may not be totally eradicated unless there is improvement in the conditions of service of police personnel.

It might be well be the tonic needed to galvanize members of the force to give in their best in combating crime and improving their attitude to

the public. The former Inspector-General of Police, Mr. Sunday Ehindero, heightened the morale of the force by promoting about 13 500 men and officers of the force in 2005 and delegating powers to Commissioners of Police and Assistant Inspectors-General to promote officers under them. The former IG was also instrumental in working out a new salary structure and adjustment of allowances for the force.

Be that as it may, there is still some required improvement in the police reward system. Experts believe that reward system for the force should not be limited to salary increment. There should be generous allowances such as night duty, out-of-station, transfer, risk and sundry. Medical treatment for officers who sustained injury on duty or refunds therefore, where an officer has undertaken his treatment should be handed promptly.

Delay in payment of retirement benefits must stop. It is demoralising for an officer to waste all his life in the force only for his retirement to be delayed for another life-time. Investigation shows that some officers had to wait for as long as six to seven years before their entitlements were paid. Many of them died while awaiting their benefits. The Federal Government in 2005 announced plans to institute a special scheme to be known as “Determined Contribution Scheme” to ensure prompt payment of entitlements to retired officers. It is not clear how this scheme will operate. However, for any arrangement to address the present ugly experience it must be determined to ensure that beneficiaries receive their entitlements not longer than a year after retirement. This will enable retirees resettle for new life after retirement. Special risk fund should be instituted to cover hazards undertaken by officers and to take care of the families of officers who suffered permanent disability or death.

It is estimated that about 25.5 per cent of the total force strength is housed in the barracks. The rest are squatters or residing among the public in the communities. It is observed that very poor lodging allowance is payable to officers and the accommodation provided in the barracks are usually in deplorable conditions.

Housing the police personnel in common quarters has the advantage of ensuring discipline among rank and file, close monitoring by the senior officers and prompt mobilisation of personnel when the need arises. It is therefore important that the government should provide more accommodation in the barracks and expanding the existing ones. However, the cleanliness of the surroundings of the barracks is the responsibility of the inhabitants. The police command should, therefore, mobilise massively for community effort to rid the barracks of filths, abandoned vehicles and over-grown weeds. Good water, drainage

system and other social facilities should be provided in the barracks and turn around maintenance culture should be inculcated in the police authorities.

Officers eligible for promotion should be promoted promptly as they are due. Those who have acquired additional qualification while in service should be upgraded. Merit ought to take place considering officers for promotion conversion and advancement. Prompt promotion, conversion and advancement of deserving officers will encourage others.

### **3.3.3 Discipline**

The image of the police has been battered by a few disgruntled bad eggs in the force. This class of personnel has continued in their ignoble acts without deterrent because the system has continued to tolerate and grant them much latitude. Thus, they have little regard for the dignity and right of the individual citizen. They consider themselves untouchable and above the law because the system has continued to tolerate and treat them with kid gloves. According to **DR. RICHARD GOBLSTONE:**

In any society, there some criminals who think they will not be apprehended or punished and crimes continue to be perpetrated.

These unrepentant criminals continue to carry out their acts with reckless abandon all because of the privileged position they occupy and, their connection with the police hierarchy and the powers that be. They Apo killings which was a water-shed in police brutality, impunity and criminal conspiracy is only illustrative of the callous disposition and recalcitrance of these officers; A writer observed thus:

*In the past, according to Nigerian and international human rights groups, such crimes never would have been investigated or exposed. Each year . . . hundreds of people die unlawfully at the hands of police officers with no official acknowledgement or action. But this time because of a brief, desperate cell-phone call made by one of the victims shortly before he was killed, the truth began to emerge and public pressure mounted ultimately cracking . . . an impenetrable wall of official impunity.*

Police Regulation, as we have seen in the preceding chapter, makes exhaustive provision for the punishment of errant officers. For the avoidance of doubt, Regulation 326 provides that in exercise of his powers, or for any act done in excess of his authority. Regulation 359 provides that, nothing in the regulation shall affect or diminish the liability of any member of the force to prosecution before any court of justice for any crime.

Much of these provisions are very clear and capable of curtailing police excesses, it has proved difficult over the years to investigate and prosecute all such excesses due to the hesitation of the police hierarchy to expose and punish its men, particularly, those indicted for extra-judicial killings. Only few notorious cases therefore, have been prosecuted as result of public out-cry.

Regulation 360 stipulates that it's the duty of every officer to report promptly every case of offence against discipline by any police officer which comes to his knowledge. Where this report is however made out of malice or ill-will and without good or sufficient reason or grounds, the officer making such report shall be deemed to be guilty of an offence against discipline,

On the receipt of the report of offence against discipline, the officer in charge of the police division or police district may make such preliminary inquiries and require such information concerning the subject matter as he may deem fit from the alleged offender. If after preliminary investigation made pursuant to the report, the officer-in-charge of an offence, he shall make a minute to that effect on the report and take no further action. Where the officer-in-charge is in doubt whether or not a formal charge should be made he shall send the papers with his comments there on to his immediate superior who mat then make further inquiries on the direction of the Inspector-General.

Regulation 366 makes provision for the investigation of offence against discipline **committed by a junior officer**. Investigation into such offences according to this Regulation, shall be conducted by delegated officer. Upon satisfaction that a junior officer has been guilty of misconduct, the delegated officer may call upon the junior officer to show cause why he should not suffer punishment according to the regulation. In the event that the officer is not able to show cause why he should not be punished, the delegated officer may order that he suffer one or more of the punishments set out in the regulation. We have enumerated these punishments earlier.

From the foregoing, it would appear that discipline and punishments of a police officer for an offence committed by him is largely restricted to internal mechanisms. This is responsible for the ability of the police authorities to protect and shield from the public their officers indicted for crimes. To improve discipline in the police and forestall recidivism, in addition to the internal disciplinary mechanism, there should be an independent external institution, outside of the Police Service Commission to punish discipline and other recalcitrant behaviour in the force. This body should be responsible for investigation of charges. Where, on conclusion of the investigation, there is sufficient evidence to

suggest that the officer has committed an offence; this body should recommend appropriate punishment in accordance with the police Regulation if the offence is merely against discipline. Where the offence constitutes a crime, the body should prosecute the suspect and then dismiss him.

Police officers must keep an all-time close watch on their subordinate and forward report of charges promptly.

### **3.3.4 Police-Public Relations**

The police and the public have always through acts and omissions erected barricades of dissension between them. Members of the public do not need anything good with the police as to induce co-operation between them. They believe that only criminals keep police friends. According to **BASIL MOMODU**, quoting a comment in Nigerian Tribune of 12th of March, 1996:

*Frankly speaking, about 80 per cent of the Nigerian populace would rather prefer not to have anything to do with the Nigeria police.*

This disaffection has continued to grow in spite of efforts made by the police public relations unit to improve the relationship. But for the sake of security this ugly trend cannot continue. Indeed, there is the urgent need to improve police-public relations to stem the growing incidence of crime and improve public perception and image of the police. **SIR ROBERT PEEL** said that:

*“the police should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police”*

The police require the co-operation of the public to succeed. This cannot be achieved unless there is effective communication between the police and the public.

The former Inspector-General of Police, Sunday Ehindero initiated some laudable programmes to achieve good relationship between the force and the public. One of such programmes was community-policing initiative. Under the program, the force Public Relation Officer was empowered to go to higher institutions to sensitize youths, students and other members of the community about the need to foster mutual relationship between them and the police.

The second programme also aimed at restoring public confidence in the police is the renaming of “Operation-fire-for-fire”. The new name to replace it was “Policing with integrity”. By this singular act, the police authorities attempted to evoke the feeling of humanity among policemen. The motive was further to make police officers realise that it is wrong to violate the sanctity of innocent lives or treat fundamental human rights of fellow citizens with callous indifference by reason of their privilege of being officially armed.

Another programme he initiated to redeem the image of the police battered under the predecessors was integrated in the ten-point programme of the former Inspector-General. The programme was to re-orientate the Force PRO to focus on improving public perception and image of the police.

In spite of all these efforts, by Ehindero and his successors, there is still the need for police personnel to undergo a thorough re-orientation to understand that it has to be society friendly. Besides, the Force Order No. 237 derived from Decree No. 28 of 1986, which gives legal backing to police to use force and live ammunition to quell riots should be repealed. It is inimical to police-public cordial relations.

Changing social patterns have dictated that organised police community relation must be employed in order that contacts can be made in an atmosphere conducive to good will, co-operation and mutual understanding.

The Nigeria police should pursue a meaningful contact with the media and the public. It has been suggested that the police should set up a news bureau in each zonal command in the country. The bureau should receive information from the divisional police commands and channel it to radio, newspapers television stations and other national wireless services.

It takes many years of training and experience before a police officer reaches his maximum effectiveness. But the public does not understand this. They do not understand how difficult it is to be police officer. It is the duty of the police authorities to make concerted effort to make them understand it. They are to make the public know what information is helpful to them and what co-operation they need. A police force must create a receptive attitude for principles of co-operation and acceptance. It is hoped that by stimulating communication with the public and changing the attitude of the police to citizens, the hitherto, lack of understanding and widespread mistrust between the police and the public can be remedied by the police. It is only then that the public will begin to understand that the police are not law unto themselves but

rather act on the will of the people. They will realise that the police have some handicaps which the public need to appreciate.

### **3.3.5 Proper Equipment**

Crime rate in Nigeria has risen in recent times and has continued to climb progressively. Criminals have acquired sophisticated weapons as against the weapons possessed by the police. To be able to burst crimes and match the quality of operational weapons carried by criminals, there should be complete re-armament of the police with modern assault weapons and state-of-the-art no-lethal weapons for crowd and riot control. The police must also have a surplus of bullet proof vests.

The uniform and kitting of an average policeman portrays him as rag-tag and ill-tempered in appearance. To improve this awful situation, the policeman should be supplied with uniforms and kitting that will add great respect to his image. Operation facilities, such as vehicles, communication gadgets – phones, fax machine, facilities, wireless sets, computers, inter-connectivity facilities, sophisticated arms, etc. should not be lacking in police divisions. It is believed that the performance of the police will increase reasonably if each police division in the country is supplied all the above in addition to three (3) trucks, (hillock), one (1) jeep, two (2) saloon cars and four motor-cycles.

Every police division should have in constant supply, basic working materials such as statement form, bail bonds, case file jackets, police diaries, notebooks and other basic stationery. Station offices should also be furnished with good furniture, air-conditioners, refrigerators, computers, photo-copiers and other important facilities to make life comfortable and operations more effective. For improved performance and to meet the international standard on state-of-the-art technology, the police needs to install equipment like fit-for purpose laboratories and train competent forensic technicians and DNA analysis and modern finger printing experts.

### **3.3.6 Funding**

The Nigeria Police Force operating budget between 1984 and 1988 remained in the N360 million to N380 million range. In 1988, it increased to N521 million. More notable were large capital expenditure infusion of N206 million in 1988 and N260.3 million in 1988, representing 3.5 and 2.5 per cent of total federal capital expenditure in those years. These increases were used to acquire new communications equipment, transport, and weapons to combat the rising crime wave, such as 100 British Leyland DAF Comet trucks delivered in 1990. However, despite these purchases, a recent study of Nigeria Police Force

in 1990 shows that the Force's budget must double to meet its needs to live up to expectation in crime detection and prevention.

Reforming the police requires considerable government commitment in funding. Government should support growth and development in the Nigeria police by investing heavily in the force. Police work is driven by intelligence, and therefore, requires large funds for training, equipment and improved conditions of work. Critics have often accused the police authorities of misappropriating money voted for security over the years. They argue that if huge sums of money voted for security annually, was used judiciously, the police would be enough prepared to combat and, even deal with the Boko Haram insurgency. Records of appropriation for security over the past years seem to justify this argument. So much money has been expended on security in recent years that Nigerian can no longer tolerate excused for non-performance of the security agencies. Regrettably however, it is observed that currently, money voted for the police never seems to trickle down to the station unit level, leaving them impoverished, dirty, poorly furnished, lacking equipment and resulting in officers wearing different shades of uniform. Investigation by the writer reveals that station offices of Divisional Police Officers are furnished by their occupants and only about N10 000 is allocated to them quarterly for stationery and General Maintenance.

In order to ensure that funds released to the police impact on all ramifications of the force, however, it is submitted that subsequent releases should be structured in such a way that every senior officer in a command chain should have knowledge of amount released to the command for operation. This will also reduce excessive extortion by police officers who, hitherto, rely on bribery and extortion for materials needed for routine operations.

## 4.0 CONCLUSION

In this unit we have been able to consider repositioning the Nigeria police force. We also considered reforming the Nigeria police for a better law enforcement and how best the Nigeria police will be reformed to perform optimally in their role of law enforcement. Issues of training, motivation discipline, good police-public relations, proper equipments, proper funding were all considered as the means in which the Nigeria police force will be reformed for optimally performance in their role of law enforcement in Nigeria.

## 5.0 SUMMARY

It obvious that the Nigeria police has been slack in their duty of crime detection, crime prevention and law enforcement generally. This slack and inefficiency in law enforcement has been caused by lack of public

cooperation which is caused by poor or negative police-public relations which was further triggered by harassments, human abuse and violations by the Nigeria police. It becomes of necessity to reposition and reform the Nigeria police for optimally performance of their role of law enforcement. This reformation will be achieved by training and re-training the police officers, motivating the police force because most of them are already de-motivated because of poor salary and poor working conditions coupled with stressful and strenuous job descriptions. For the public to have good image of the Nigeria and trust them again, good police-public is a prerequisite, the police divisions need to properly equipped with modern technology driven facilities and must be properly funded.

## **6.0 TUTOR-MARKED ASSIGNMENT**

1. How do you think the Nigeria police force can be repositioned?
2. Amidst the current image of the Nigeria police, do think the police can be reformed?
3. List and explain how Nigeria police can effectively be reformed.

## **7.0 REFERENCES/FURTHER READING**

Aremu, A.O. (2009). Understanding Nigerian Police: Lesson from Psychological Research. Ibadan: Spectrum Books Limited.

Dambazau, A.B. (2011). Criminology and Criminal Justice. Ibadan: Spectrum Books Limited.

Henry, M. W. & Karen, M.H. (2000). An Introduction to Law Enforcement and Criminal Justice. (6th ed.). United States of America: Thompson Wadsworth

John, S.D. & Linda, S.F. (2008). An Introduction to Policing. (4th ed.). United States: Thompson Wadsworth

Kunle, A. (2014). The Nigerian Police Law with Police Act and Code of Conduct. (1st ed.). 2014. Lagos: Princeton and Associates Publishing Company Ltd.

Ojomo, F.Y. (2011). Policing in a Corrosive Environment. Ibadan: Kolaak Enterprises

Okoro, B.C. (2013). The Police, Law and your rights. With Police Act and Regulation, Code of Conduct, 2012. (1st ed.). Lagos: Princeton Publishing Co.

Roger, G.D. & Geoffrey, P.A. (2001). Critical Issues in Policing. Contemporary Readings. Illinoise: WaveLand Press, INC.

Ugwuoke, C.U (2010). Criminology: Explaining Crime in the Nigerian Context. Nsukka: Great AP Express Publishers Ltd.

Ugwuoke, C.U. (2015). Criminology: Explain Crime in the Nigeria Context. Second Edition. With an Update on Terrorism/Boko Haram. Nsukka: Great AP Express Publishers Ltd.