



OGUN STATE OF NIGERIA GAZETTE

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Justice and Other Related Matters Law of Ogun State, 2017.

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By the Governor's Command

Barr. Taiwo Adeoluwa

Secretary to the State Government

Abeokuta, 29th of May 2018

ADMINISTRATION OF CRIMINAL JUSTICE AND OTHER RELATED MATTERS LAW
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Ogun State Ministry of Justice

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OGUN STATE OF NIGERIA

THE EIGHTH LEGISLATURE (2015-2019)

ENROLLED HOUSE BILL NO. 18/OG/2017

SPONSOR: HON. OJURI, ADEBOWALE OLADIMEJI (BARR.)

CO-SPONSORS: HON. MAFE, ADEYINKA (ASIWAJU) (BARR.)

HON. FASANYA, VICTOR OLUDOTUN (BARR.)

HON. AINA, N. AKINPELU (BARR.)

HON. OYENUGA, ADEJUWON OLUFOWOBI.

HON. AKINGBADE, JEMILIADI GUN

NO. 18

2017



OGUN STATE OF NIGERIA

SENATOR IBIKUNLE AMOSUN, CON, FCA

Governor, Ogun State

ABILL FOR A LAW TO MAKE PROVISIONS FOR THE ADMINISTRATION OF
CRIMINAL JUSTICE IN THE HIGH COURT AND MAGISTRATES' COURTS OF
OGUN STATE AND FOR OTHER RELATED MATTERS.

*Date of Commencement: 29th May, 2018*Date of
Commencement

Short Title

Interpretation

- BE It ENACTED by the House of Assembly of Ogun State, Nigeria as follows:
1. This Law may be cited as the Administration of Criminal Justice and Other Related Matters Law of Ogun State, 2017.
 2. In this Law, For the purpose of this Law, unless the context otherwise requires:
 - "Adult" means a person who has attained the age of eighteen (18) years or over;
 - "Asylum" includes a mental health asylum, a mental or other hospital, a prison and any other suitable place of safe custody for medical observation;
 - "Attorney General" means the Attorney General of Ogun State;
 - "Charge" means the statement of offence or statements of offences with which a Defendant is charged in a trial whether by way of summary trial or trial by way of information before a High Court or any Court or Tribunal established by Law;
 - "Chief Judge" means the Chief Judge of the High Court of Ogun State;
 - "Child" means a person who has not attained the age of eighteen (18) years;
 - "Child Offender" means an offender who has not attained the age of eighteen (18) years;
 - "Commissioner of Police" means any person discharging the function of such office in Ogun State and includes Officer in the Nigerian Civil Defence Corps;
 - "Complainant" includes any informant or Prosecutor in any Case relating to Summary Trial;
 - "Complaint" includes the allegation that any named person has committed an offence made before a Court or Police Officer for the purpose of moving him to issue process under this Law;
 - "Corporation" means anybody corporate or incorporate in Nigeria or elsewhere;

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"Court" includes the High Court and a Magistrate Court;

"Defendant" means any person or offender against whom a Charge or information is preferred;

"Deported" with its grammatical variations and cognate expression means in the case of a person not a citizen of Nigeria to a place outside Nigeria;

"Director of Public Prosecution" means the Director of Public Prosecutions of Ogun State

"District" means a District into which the State is divided for the purposes of any Law under which a Magistrate Court is established;

"Division" means a Judicial Division of the High Court within the meaning of the Law establishing that Court;

"Federal Law" means any Legislation enacted or deemed to be enacted by an Act of the National Assembly having effect throughout the Federation under the Constitution of the Federation.

"Felony" means an offence on conviction for which a person can, without proof of his having been previously convicted of an offence, be sentenced to death or to a term of imprisonment of not less than three (3) years, or which is specified by Law to be a felony;

"Fine" includes any pecuniary penalty or pecuniary or other forfeiture or pecuniary compensation payable under this Law

"Functions" include powers and duties;

"Future enactment" means any enactment passed after the commencement of this Law;

"Governor" means the Governor of Ogun State

"Guidance" in relation to a Child or young person means the parent or other person having lawful custody of such child or young person, and includes any person who, in the opinion of the Court having cognizance of any case in which such child or young person is concerned, has, for the time being, the Custody, control over, or charge of such child or young person;

"High Court" means the High Court of Ogun State;

"Offence triable on information" means any offence, which on conviction may be punished by a term of imprisonment exceeding two (2) years;

"Indictment" means the filing of an Information against a person in the High Court;

"Infant" means a person who has not attained the age of seven (7) years;

"Judge" means a Judge of a High Court;

"Justice of the Peace" means a person appointed to be a Justice of the Peace under any Law of the State;

"Law Officer" means the Attorney-General and the Solicitor-General of Ogun State and includes the Director of Public Prosecutions or, such other Officers in the Public Service of Ogun State whatever name designated to whom any of the powers of a Law Officer are delegated by Law and may refer to a private Legal Practitioner authorized by the Attorney-General by fiat to appear in that behalf;

"Law of Ogun State" means any Law enacted by the House of Assembly of Ogun State or deemed to be so enacted;

"Legal Guardian" in relation to an Infant, Child or Juvenile Offender; means a person appointed, according to Law to be his guardian by deed or will, or by Order of a Court of competent Jurisdiction;

"Magistrate" means a Magistrate appointed in accordance with the Law of Ogun State;

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"Magistrate Court" means a Magistrate Court established under a Law of Ogun State;

"Medical Officer" means the Medical Officer attached to any mental health asylum or any Medical Officer from whom a Court requires an opinion;

"Misdemeanour" is an offence punishable by imprisonment for not less than six (6) months, but less than three (3) years or which is declared by Law to be a misdemeanour;

"Offence" means an act or omission against any enactment in force in Ogun State;

"Offence Triable Summarily" means any offence which on conviction may be punished by a term of imprisonment of up to two (2) years;

"Officer in Charge of a Police Station" includes the Officer in charge of a Police Station or any Police Officer who acts in the absence of the Officer-in-Charge;

"Open Court" means any room or place in which any Court shall be sitting to hear and determine any matter within its Jurisdiction and to which the public may have access so far as the room or place can conveniently contain them;

"Order" includes any conviction in respect of a summary conviction offence;

"Penalty" includes any pecuniary fine, forfeiture, cost or compensation recoverable or payable under an Order;

"Place of Safety" includes any suitable place, the occupier of which is willing temporarily to receive an infant or child;

"Plea bargain" means the process in criminal Proceedings whereby the Defendant and the Prosecution work out a mutually acceptable disposition of the Case; including the plea of the Defendant to a lesser offence than that charged in the Complaint or information and conformity with other conditions imposed by the prosecution, in return for a lighter sentence than that for the higher charge subject to the Court's approval;

"Police Officer" includes any Member of the Police Force, established by the Police Act and where the context so admits, shall include any Officer of any Law Enforcement Agency established by Law or Act;

"Prescribed" means as provided by rules made under the Authority of this Law;

"Private Prosecutor" does not include any person prosecuting on behalf of the State, a Public Officer prosecuting in his official capacity or a Police Officer;

"Property" includes, in the Case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same has been converted or exchanged and anything acquired by such conversion or exchange, whether immediately or otherwise;

"Reasonable Time" is as defined in Section 35 (5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended);

"Registrar" includes the Chief Registrar and Registrar of the High Court and of Magistrate Court;

"Representative" in relation to a Corporation means person duly appointed by the Corporation to represent it for the purpose of undertaking any act or thing which the Representative of a corporation is by this Law authorized to do, but a person so appointed, be qualified to act on behalf of the Corporation before any Court for any other purpose;

"Rules" means Rules of Court relating to the practice and procedure of the High Court or of the Magistrate Courts in the exercise of their Criminal Jurisdictions;

"Sentenced to imprisonment" shall include Cases where imprisonment is imposed by a Court on any person either with or without the option of a fine or in

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respect of the non-payment of any sum of money, or for failing to do or abstaining from doing any act or thing required to be done or left undone or a Community Service Order and the expression "Sentence of Imprisonment" shall be construed accordingly;

"**Sheriff**" means a Sheriff within the meaning of the Sheriffs and Civil Process Act and includes a Deputy Sheriff and any person authorized by the Sheriff or a Deputy Sheriff to execute process of a Court.

"Simple offence" means all offences other than felonies and misdemeanors; /

"State" means Ogun State of Nigeria;

"**Summary trial**" means any trial by a Magistrate or by a High Court Judge which is commenced by filing of charge or without filing of an information;

"**Summary conviction offence**" means an offence punishable by a High Court or a Magistrates' court on summary conviction and includes any matter in respect of which a High Court or a Magistrates' Court can make an order in the exercise of its summary jurisdiction;

"**Superintendent of Prisons**" has the same meaning as in the Prison Act;

"**Superior police officer**" has the same meaning as in the Police Act;

"**Suspect**" means a person who has been arrested on the suspicion of committing any offence, and who is yet to be formally charged for that offence;

"**Young person**" means a person who has attained the age of 14 and has not attained the age of 17 years.

PART 1**PRELIMINARY**

3. The purpose of this Law is to ensure that the system of administration of criminal justice in Ogun State promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the defendant and the victim. Purpose of the Law
4. The courts, law enforcement agencies and other authorities or persons involved in criminal justice administration in Ogun State shall ensure compliance with the provisions of this Law for the realisation of its purposes. Application.

PART 2**ARREST, BAIL AND PREVENTIVE JUSTICE**

5. A Suspect or a defendant alleged or charged with committing an offence in Ogun State contrary to an Act of the National Assembly or the Laws of Ogun State, shall be arrested, investigated, inquired into, tried or dealt with according to the provisions of this Law except otherwise provided under this Law. Arrest Generally.
6. In making an arrest, the police officer or other persons making the arrest shall actually touch or confine the body of the suspect to be arrested, unless there is a submission to the custody by word or action. How Arrest is Made
7. A suspect or defendant may not be handcuffed, bound or be subjected to unnecessary restraint except: No unnecessary Restraint
 - (a) by order of a Judge, a Magistrate or Justice of Peace or;
 - (b) there is reasonable apprehension of violence or an attempt to escape; or
 - (c) the restraint is considered necessary for the safety of the suspect or defendant.
- 8.(1) Except when the Suspect is in the actual course of the commission of an offence or is pursued immediately after the commission of an offence or has escaped from Lawful Custody, the Police Officer or other persons making the arrest shall inform the Suspect immediately of the reason for the arrest. Notification of Cause Arrest and Rights of Suspect.

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- (2) The Police Officer or the person making the arrest or the Police Officer in charge of a Police Station or any Officer of any Law Enforcement Agency shall inform the Suspect of his rights to:
- Remain silent or avoid answering any question until after consultation with a Legal Practitioner or any other person of his own choice;
 - consult a Legal Practitioner of his choice before making, endorsing or writing any statement or answering any question put to him after arrest; and
 - Refuse to answer any question or make or endorse any statement; and
 - Where applicable, free Legal Representation from the Office of the Public Defender of Ogun State, Legal Aid Council of Nigeria or any such Agency: Provided the Authority having Custody of the Suspect shall have the responsibility of notifying the next of kin or relative of the Suspect of the arrest at no cost to the Suspect.
- 9.(1) No person shall be arrested in place of any other person or to secure the apprehension of such other person but shall not apply to Sureties.
- (2) Where any person is arrested in place of another under this Section, the Court shall, upon an application on notice before it, where it finds that the person ought not to have been arrested, Order the immediate release of the person and also proceed summarily to award adequate damages for such wrongful arrest or apprehension.
- 10.(1) A Suspect shall:
- Be accorded humane treatment, having regard to his right to dignity of his person; and
 - Not be subjected to any form of torture, cruel, inhuman or degrading treatment.
- (2) A Suspect shall not be arrested or arrested and detained merely on a civil wrong or breach of contract nor paraded before the media for any reason.
- (3) Where an arrested person or Suspect paraded before the media is, after trial acquitted of the offence(s) for which he was paraded before he was charged and tried, he shall be entitled to damages in compensation for the publicity before trial, an apology and a retraction of the negative publicity in all the Media before which he was paraded prior to trial by the Agency responsible for the initial publicity.
- (4) A Suspect shall be brought before the Court as prescribed 293 by this Law or any other Law or otherwise released conditionally or unconditionally.
- (5) The arraignment and trial of a Suspect for a Crime shall be in accordance with the provisions of the Constitution (as Amended) and of this Law unless as otherwise stated by Law.
- (6) The provisions of Part V Prohibition of Forcible Occupation of Landed Properties, Armed Robbery, Kidnapping, Cultism, Other Violent and Related Offences Law of Ogun State, 2016 shall be construed as much as applicable as constituting part of this Section of this Law.
- 11.(1) Where a Suspect is arrested by a Police Officer or a private person, the Officer making the arrest or to whom the private person hands over the Suspect:
- May search the Suspect, using such force as may be reasonably necessary for the purpose; and
 - Shall place in safe Custody all articles other than necessary wearing apparel found upon the Suspect.
- (2) Where the arrested Suspect is admitted to Bail which is furnished, he shall not, subject to the provisions of Section 13 of this Law, be searched unless there are

Arrest in
Lieu
Prohibited

Humane
Treatment
of an
Arrested
Suspect.

Search of
Arrested
suspect

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reasonable grounds for believing that he has concealed on his person, any:

- (i) stolen articles;
- (ii) instruments of violence or poisonous substance;
- (iii) tools connected with the kind of offence which he is alleged to have committed; or
- (iv) other articles which may furnish evidence against him in regard to the offence, which he is alleged to have committed.

(3) Where it is necessary to search a Suspect, the search shall be made decently by a person of the same sex unless the urgency of the situation or the interest of due Administration of Justice makes it impracticable for the search to be carried out by a person of the same sex.

(4) Notwithstanding the provisions of this Section, a Police Officer or any other person making an arrest may, in any Case take from the Suspect, any offensive weapon or instrument of violence or poisonous substance which he has on his person.

(5) Where any property has been taken under this Section from a person charged before a Court of competent Jurisdiction with any offence, a report shall be made by the Police to the Court of the fact of the property having been taken from the person charged and of the particulars of the property and the Court shall, if it is of the opinion that the property or any portion of it can be returned consistently with the interests of Justice and with the safe custody of the person charged, direct that the property or any portion of it be returned to the person charged or to any other person as he may direct.

(6) Where any property has been taken from a person under this Section and the person is not charged before a Court but is released on the grounds that there is no sufficient reason to believe that he has committed an offence, any property taken from him shall be restored to him.

(7) When a person is in Lawful Custody by a suspicion of committing an offence of such a nature and alleged to have been committed in such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the offence it shall be Lawful for a qualified Medical Practitioner, acting on the request of a Police Officer to make an examination of the person in Custody as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use a force as is reasonably necessary for that purpose.

(8) If there is no qualified Medical Practitioner available, the Police Officer or any person acting in good faith in aid and under the direction of such Practitioner or Police Officer, as the Case may be may make such examination of the person in Custody as is reasonably necessary in Order to ascertain the facts which may afford such evidence and to use force as is reasonably necessary for that purpose.

12.(1) A Police Officer making an arrest or to whom the private person hands over the Suspect, shall immediately record information about the arrested Suspect and an inventory of all items or properties recovered from him.

(2) An inventory recorded under sub-section (1) of this Section shall be duly signed by the Police Officer and the arrested Suspect, provided that the failure of such arrested Suspect to sign the Inventory shall not invalidate it.

(3) The arrested Suspect, his Legal Representative or such other person as the arrested Suspect may instruct, shall be given a copy of the Inventory.

(4) Where any property has been taken under this Section from an arrested Suspect, a Police Officer may, upon request by either the owner of the property or parties

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- having interest in the property release such property, taken from the arrested Suspect, on bond pending the arraignment of such arrested Suspect before a Court.
- (5) Where a Police Officer refuses to release the property to the owner or any person having interest in the property under sub-section (4) of this Section, the Police Officer shall make a report to the Court of the fact of the property taken from the arrested Suspect and the particulars thereof.
 - (6) The Court to which a report is made under sub-section (5) of this Section, may if it is of the opinion that the property or any part of it can be returned in the interest of Justice to the safe Custody of the owner or person having interest in the said property, direct that the property or such part of it be returned to the owner or to such person(s) having interest in the property on such term or condition as it considers necessary to impose.
 - (7) Where any property has been taken from a Suspect under this Section, and the Suspect is not charged before a Court but is released on the ground that there is no sufficient reason to believe that he has committed an offence, any property so taken from him shall be returned without prejudice to any other Law in connection with dealings in proceeds of crime generally.
13. Where a Suspect is in Lawful Custody on a charge of committing an offence of such a nature alleged to have been committed in such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of such offence, a qualified Medical Practitioner or any certified professional with relevant skill, acting at the request of a Public Officer may make such an examination of the Suspect in Custody as is reasonably necessary in order to ascertain the facts which may afford the evidence, and to use such force as is reasonably necessary for that purpose.
- 14.(1) Where a person or Police Officer acting under a Warrant of Arrest or otherwise having authority to arrest, has reason to believe that the Suspect to be arrested has entered into or is within any house or place, the person residing in or being in charge of the house or place shall, on demand by the Police Officer or person acting for the Police Officer, allow him free access to the house or place and afford all reasonable facilities to search the house or place for the Suspect sought to be arrested.
- (2) Where access to a house or place cannot be obtained under sub-section (1) of this Section, the person or Police Officer may enter the house or place and search it for the Suspect to be arrested and in order to effect an entrance into the house or place, may break open any outer or inner door or window of any house or place, whether that of the Suspect to be arrested or of any other person or otherwise effect entry into such house or place, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.
- (3) Where the Suspect to be arrested enters a house or place in the actual occupancy of another person being a woman, who by custom or religious practice, does not appear in public; the person making the arrest shall:
- (a) Before entering the house or place, give notice to the woman that she is at liberty to withdraw; and
 - (b) Afford her every reasonable opportunity and facility for withdrawing, and may then enter the house or place, but the notice shall not be necessary where the person making the arrest is a woman.

Examination
of Arrested
Suspect.

Search of
Place
entered by
Suspect
sought to be
Arrested.

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15. A Police Officer or any other person authorized to make an arrest, may break out of the house or place in order to liberate himself or any other person, who, having Lawfully entered the house or place for the purpose of making an arrest is detained in the house or place. Power to break out of any House for Purpose of Liberation.
- 16.(1) A Suspect who is arrested, whether with or without a Warrant shall be taken immediately to a Police Station, or other place for the reception of Suspect, and shall, without delay be promptly informed of the allegation against him in the language he understands. Arrested Suspected to be taken immediately to Police station.
- (2) A person who has custody of an arrested Suspect under sub-section (1) of this Section shall give the Suspect reasonable facilities for obtaining Legal advice, access to communication for taking steps to furnish bail and otherwise making arrangements for his defence or release.
- (3) Notwithstanding the provision of sub-section 2 of this Section, any such Communication or Legal advice shall be done in the presence of an Officer who has Custody of the arrested Suspect.
- 17.(1) Where a Suspect is arrested, whether with or without a Warrant, and taken to a Police Station or any other Agency effecting the arrest, the Police Officer making the arrest or the Officer in-charge shall cause to be taken immediately, in the prescribed form, the following record of the Suspect arrested: Record of Arrest
- (a) The alleged offence(s);
- (b) The date and circumstances of his arrest;
- (c) His full name, occupation and residential address; and
- (d) For the purpose of identification:
- (i) his height;
- (ii) his photograph;
- (iii) his full fingerprint impressions; or
- (iv) such other means of bodily identification including marks and other peculiar features.
- (2) The process of recording in sub-section (1) of this Section shall be concluded within a reasonable time of the arrest of the Suspect, but not exceeding forty-eight (48) hours.
- (3) Any further action in respect of the Suspect arrested pursuant to sub-section (1) of this Section shall be entered in the Record of Arrest.
- (4) Where a Suspect who is arrested with or without a Warrant Volunteers to make a confessional statement, the Police Officer shall ensure that the making and taking of such statement shall be in writing and may be recorded electronically on a retrievable video compact disc or such other audio visual means, and if the Suspect so desires, in the presence of a Legal Practitioner of his choice provided that non-compliance with any requirement of this sub-section shall not preclude the admissibility in evidence of any confession otherwise admissible under the relevant provisions of the Evidence Act
- (5) Where recorded on video, the said recording and copies of it shall be produced and tendered in evidence at the trial of the Suspect.
- 18.(1) Subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (as Amended) or any other Federal Enactment for the time being in force, there shall be established at the Nigeria Police Force Headquarters, Ogun State, a Central Criminal Records Registry.(CCRR) Central Criminal Records Registry
- (2) For the purposes of Sub-section (1) of this Section, there shall be established at every Police Station in Ogun State a Criminal Record Registry which shall keep and transmit all such records to the Central Criminal Records Registry.
- (3) It shall be the duty of the State Police Command to ensure that the decisions of

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- the Magistrates and High Courts in Ogun State in all Criminal Trials are transmitted to the Central Criminal Records Registry within thirty (30) days of the Judgement; and of the Attorney General to ensure all such decisions emanating from Ogun State at the Court of Appeal and Supreme Court are so transmitted.
- 19.(1) Where a Suspect is arrested on allegation of having committed an offence, his statement shall be taken, if he so wishes to make a statement or offers his consent upon a request to do so.
- (2) Such statement may be taken in the presence of a Legal Practitioner of his choice, or where he has no Legal Practitioner of his choice, in the presence of an Officer of Legal Aid Council of Nigeria, Official of any Civil Society Organisation, Justice of the Peace or any other person of his choice. Provided that the Legal Practitioner or any other person mentioned in this sub-section shall not interfere while the Suspect is making his statement, except for the purpose of discharging his role as a Legal Practitioner, in the Case of a Legal Practitioner, and as stated in sub-sections (3), (4), and (5) of this Section.
- (3) Where a Suspect requests that his statement will be made in the presence of a Legal Practitioner of his choice or such other person as specified in sub-section (2) above, such other person shall be allowed to record electronically the process of taking the statement of the Suspect.
- (4) The retrievable video compact disc or such other audio visual means referred to in sub-section (3) shall immediately be processed by the recorder in the presence of the Police Officer taking the statement of the Suspect.
- (5) A copy of such retrievable video compact disc or such other audio visual means of the recorded statement of the Suspect shall be given to the Police Officer who took the statement of the Suspect and may be tendered as evidence by the Suspect or any other person at the trial.
- (6) Where any right of a Suspect in sub-sections (3), (4), and (5) of this Section is denied him by the Investigating Police Officer, the Suspect shall have the right to immediately lay a complaint before a Magistrate by way of an Application on notice or in accordance with Part V of the Prohibition of Forcible Occupation of Landed Properties, etc., Laws of Ogun State, 2016.
- (7) Where the Court finds out that any of the provisions of sub-Sections (3) (4) and (5) of this Section have not been complied with, it may direct such statement, tendered at the trial of the Suspect, by the Police to have been made by the Suspect inadmissible.
- (8) Where a Suspect does not understand, speak or write in the English Language, an Interpreter shall record and read over the statement to the Suspect to his understanding and the Suspect shall then endorse the statement as having been made by him and the Interpreter shall attest to the making of the statement.
- (9) The Interpreter shall endorse his name, address, occupation, designation or other particulars on the statement.
- (10) The Suspect referred to in sub-section (1) of this Section shall also endorse the statement with his signature or attestation mark.
- 20.(1) A Police Officer may, without an Order of a Court and without a Warrant arrest a Suspect:
- (a) Whom he Suspects on reasonable grounds of having committed an offence against a Federal Law or against the Law of Ogun State or against the Law of any other State or against the Law of any other Country, unless such Law creating the offence provides that the offender cannot be arrested without a Warrant or would not constitute an offence in Ogun State;

Recording
of statement
of Suspects.Arrest by
Police Officer
without
Warrant

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- (b) Who commits any offence in his presence;
 - (c) Who obstructs a Police Officer while in the execution of his duty, or who has escaped or attempts to escape from Lawful Custody;
 - (d) In whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to the object;
 - (e) Whom he Suspects on reasonable ground of being a deserter from any of the Armed Forces of Nigeria;
 - (f) Whom he Suspects on reasonable grounds of having been involved in an act committed at any place outside of Nigeria or Ogun State which, if committed in the State, would have been punishable as an offence and for which he is, under any Enactment in force in the State, liable to be apprehended and detained in the State;
 - (g) Having in his possession without Lawful excuse, the burden of proving which excuse shall lie on such person, any implement of housebreaking, car theft, firearm or any other offensive, dangerous or noxious weapon, chemical or substance;
 - (h) Whom he has reasonable cause to believe a Warrant of Arrest has been issued by a Court of competent jurisdiction in Nigeria or Ogun State; or
 - (i) Found in the State taking precautions to conceal his presence in circumstances which afford reason to believe that he is taking such precautions with a view to committing an offence .
 - (j) Whose arrest a Warrant has been issued or whom he is directed to arrest by a Judge, Magistrate, Justice of the peace or Superior Police Officer;
 - (k) Whom he reasonably suspects to be designing to commit an offence for which the Police may arrest without a Warrant, if it appears to him that the commission of the offence cannot be otherwise prevented; or
 - (l) Required to appear by a Public Summons issued in this Law or any Law.
- (2) The Authority given to a Police Officer to arrest a Suspect, who commits an offence in his presence, shall be exercisable in respect of offences committed in the Officer's presence notwithstanding that the Law creating the offence provides that the Suspect cannot be arrested without a Warrant
- 21.(1) Where a Suspect, who in the presence of a Police Officer has committed or has been accused of committing an offence triable summarily, refuses on demand of the Officer Address to give his name and residential address, or gives a name or residential address which the Officer has reason, to believe to be false, he may be arrested by the Officer in order that his name or residential address may be ascertained.
- (2) Where the true name and residential address of the Suspect referred to in subsection (1) of this Section have been ascertained he shall be released on his executing a Recognizance, with or without Sureties, to appear before a Magistrate if so required, but if such a person is not resident in the State, the Recognizance shall be secured by a Surety or Sureties resident in the State.
- (3) If the true name and resident of the Suspect cannot be ascertained within twenty-four (24) hours from the time of arrest, or if he fails to execute the Recognizance, or if required to furnish sufficient Sureties, he shall forthwith be brought before the nearest Magistrate having jurisdiction.
- (4) If such Suspect on being brought before the Magistrate still refuses, the Court may deal with him as it will deal with an uncooperative Witness in this Law.
- 22(1). A private person may arrest a Suspect in the State, who commits an offence triable on information in his presence or whom he reasonably Suspects of having

Refusal to
give Name
and Residence
Address

Arrest by
Private
Persons

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- committed an offence for which the Police is entitled to arrest without a Warrant.
- (2) After the arrest of the person under Sub-section (1) of this Section, a Private Person shall not subject the arrested person to torture, inhuman or degrading treatment.
23. A Suspect found committing an offence involving damage to property may be arrested without a Warrant by the owner of the property or his Servants, Agents or persons authorized by him. Arrest by Owners of Property.
24. A Private Person may arrest any Suspect found damaging any public property. Arrest of Suspects doing damage to Public Properties.
- 25(1) A private person who arrests any Suspect without a Warrant shall without unnecessary delay hand over the Suspect arrested to a Police Officer or in the absence of a Police Officer take the person to the nearest Police Station. Treatment and handing over of an Arrested Suspect by a Private Person.
- (2) The Police Officer shall make a note of the name, residential address and other particulars of the Private person making the arrest and the date, time and other circumstances of the arrest and where the arrested Suspect is taken to the Police Station or to the Agency, the Charge Room Officer shall make the entries in the Crime Diary.
- (3) The Police Officer or Official to whom the arrested Suspect is handed over by the Private person shall obtain from the Private person who made the arrest a formal Witness statement setting out the facts and circumstances of the arrest.
- (4) Where there is reason to believe that such arrested Suspect comes under the provisions of Section 20(1) of this Law, a Police Officer shall re-arrest him.
- (5) Where there is reason to believe that the Suspect has committed an offence, and he refuses on the demand of a Police Officer to give his name and residential address, or gives a name or residential address which the Officer has reason to believe to be false, he shall be dealt with under the provisions of Section 21 of this Law. If there is no sufficient reason to believe that he has committed an offence he shall be released immediately.
- (6) Where there is sufficient reason to believe that the Suspect handed over has committed an offence, he shall immediately be re-arrested but if there is no sufficient reason to believe that the Suspect has committed an offence, he shall be released immediately.
- (7) The provisions of Section 17 of this Law would not apply to this Section unless the Suspect arrested and handed over has been re-arrested in accordance with Sub-section (5) of this Section.
26. Where an offence is committed in the presence of a Judge or a Magistrate within the Division or District in which the Judge is sitting or to which the Magistrate is assigned, the Judge or Magistrate may, himself arrest or Order a person to arrest the Suspect and may, subject to the provision of this Law relating to bail, commit the Suspect to Custody. Offence Committed in Presence of a Judge or Magistrate.
- 27.(1) A Judge or Magistrate may, arrest or direct the arrest in his presence of a Suspect whose arrest on a Warrant he could have Lawfully Ordered if the facts known to him at the time of making or directing the arrest had been stated before him on Oath by some other person. (2) Where a Suspect is arrested in accordance with the provisions of Sub-section(1) of this Section, the Judge or Magistrate making or directing the making of such arrest may deal with the Suspect so arrested in the same manner as if the Suspect had been brought before him by or under the directions of any other person. Arrest by a Judge or Magistrate
28. A judge, Magistrate, or Justice of the Peace may arrest or direct the arrest of a Suspect committing an offence in his presence and shall thereupon hand him over to a Police Officer who shall proceed to take necessary action. Arrest for Offence committed in Presence of a Judge, Magistrate or Justice of the Peace.

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29. A person is bound to reasonably assist a Judge, Magistrate, Justice of the Peace, Police Officer or other person reasonably demanding his aid in arresting or preventing the escape of a Suspect whom the Judge, Magistrate, Justice of the Peace, Police Officer or other person is authorized to arrest".
30. A person authorized to effect the arrest of any Suspect may for the purpose of effecting the arrest pursue him into any part of the State or any place in Nigeria.
- 31.(1) The Commissioner of Police and the Head of every Agency authorized by Law to make arrest within the State shall remit to the Office of the Attorney General a record of all arrests made with or without Warrant in relation to offences or arrests within the State within one (1) month of such arrests.
- (2) The report shall contain the full particulars of arrested Suspects as prescribed by Section 17 of this Law.
- (3) A Register of arrests containing the particulars prescribed in Section 17 of this Law shall be kept in the prescribed form at every Police Station or Agency authorized by Law to make arrests, and every arrest, whether made with or without Warrant, within the local limits of the Police Station or Agency, shall be entered accordingly by the Officer in charge of the Police Station or Official in charge of the Agency as soon as the arrested Suspect is brought to the Station or Agency.
- (4) The Attorney General shall establish an electronic and manual database of all Records of Arrests at the State level.
- 32.(1) Where a Suspect has been taken into Police Custody without a Warrant for an offence other than an offence punishable with death, an Officer in charge of a Police Station shall enquire into the Case and release the Suspect arrested on bail subject to Sub-section (2) of this Section, and where it will not be practicable to bring the Suspect before a Court having Jurisdiction with respect to the offence alleged, within twenty four (24) hours after the arrest.
- (2) The Officer in charge of a Police Station shall release the Suspect on bail on his entering into a Recognisance with or without Sureties for a reasonable amount of money to appear before the Court or at the Police Station at the time and place named in the Recognisance.
- (3) Where a Suspect is taken into Custody and it appears to the Police Officer in charge of the Station that the offence is of a capital nature, the arrested Suspect shall be detained in Custody, and the Police Officer may refer the matter to the Attorney General of the State for Legal advice and cause the Suspect to be taken before a Court having Jurisdiction with respect to the offence within a reasonable time.
- 33.(1) Where a Suspect is taken to Custody, and it appears to the Officer that the inquiry into the Case cannot be completed forthwith, he may discharge the Suspect on his entering into a Recognisance, with or without Sureties for a reasonable amount, to appear at the Police Station and at such times as are named in the Recognisance, unless he previously receives notice in writing from the Police Officer in charge of that Police Station that his attendance is not required.
- (2) A Recognisance under Sub section (1) of this Section may be enforced as if it were a Recognisance conditional for the appearance of the said Suspect before a Magistrate where the Police Station named in the Recognisance is situate.
34. (1) Where a Suspect taken into Custody in respect of:
- (a) A non-capital offence is not released on bail after twenty- four(24) hours; or
- (b) Contract or civil wrong is not released unconditionally respect of Civil within twenty four (24) hours of arrest;

When Public is Bound to assist a Judge, Magistrate, Police Officer of Justice of Peace in Arrest.

Pursuit of Suspect into other Jurisdictions. Monthly Report of Arrests to the Attorney-General of the State.

Release on Bail of a Suspect Arrested Without Warrant.

Power to release on Bail before Charge is Accepted.

Remedy of Suspected detained in Custody or Arrested and detained in respect of Civil Wrong or contract.

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a Judge or Magistrate having Jurisdiction with respect to the offence may be notified by application on behalf of the Suspect.

- (2) The Court shall order the production of the Suspect detained and inquire into the circumstances constituting the grounds of the detention and where it deems fit, admit the Suspect to bail.
- (3) An application for bail under this Section shall be made in writing or orally where the Judge or Magistrate so permits.
- 35.(1) An Officer in charge of a Police Station or an Official in charge of an Agency authorized to make arrest shall, on the last working day of every month report to the nearest Magistrate the Cases of all Suspects arrested without Warrant within the limits of their respective Stations or Agency whether the Suspects have been admitted to bail or not. Police to report to Supervising Magistrate
- (2) The Report shall contain the particulars of the Suspects arrested as prescribed in Section (17) of this Law
- (3) The Magistrate shall on receipt of the reports forward them to the Criminal Justice Monitoring Committee which shall analyse them and advise the Attorney General as to the relative trends of arrests, bails and related matters.
- (4) The Attorney General may, upon request by the National Human Rights Commission, Legal Aid Council of Nigeria, Ogun State Citizens Rights Department, or a Non- Governmental Organisation make the report available to them.
- (5) Where no report is made in accordance with Sub-section (1) of this Section the Magistrate shall forward a report to the Chief Judge and the Attorney General of the State for appropriate remedial action.
- 36.(1) The Chief Magistrate, or where there is no Chief Magistrate with in a Police Division, any Magistrate designated by the Chief Judge for that purpose, shall, at least every month, conduct an Inspection of Police Stations or other places of detention within his Territorial Jurisdiction other than the Prison. Chief Magistrate to Visit Police stations every Month.
- (2) During such visits, the Magistrate may:
 - (a) Call for and inspect the record of arrests;
 - (b) Direct the arraignment of the Suspect;
 - (c) Where bail has been refused, grant bail to any Suspect where appropriate if the offence for which the Suspect is held is within the Jurisdiction of the Magistrate.
- (3) An Officer in charge of a Police Station or Official in charge of an Agency authorized to make arrest shall make available to the visiting Chief Magistrate or designated Magistrate exercising his Powers under Sub-Section (1) of this Section:
 - (a) The full Record of Arrest and Record of Bail;
 - (b) Applications and decisions on bail made within the period; and
 - (c) Any other facilities the Magistrate requires to exercise his powers under that Sub-section.
- (4) With respect to other Federal Government Agencies authorized to make arrests, a High Court Judge having jurisdiction shall visit such Detention Facility for the purposes provided in this Section.
- (5) Where there is default by an Officer in charge of a Police Station or Official in charge of an Agency authorized to make arrest to comply with the provisions of Sub-section (3) of this Section, the default shall be treated as a misconduct and shall be dealt with in accordance with the relevant Police Regulation under the Police Act, or pursuant to any other disciplinary procedure prescribed by any provision regulating the conduct of the Officer or Official of the Agency.

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37. Where under a Law there is Power to arrest a Suspect without a Warrant, a Warrant for his arrest may be issued. General Authority to Issue Warrant.
- 38.(1) A. Warrant of Arrest issued in this Law, unless the contrary is expressly provided, under any other Law shall: Form and Contract of Warrant of Arrest,
- (a) Bear the date of issue;
 - (b) Contain all necessary particulars; and
 - (c) Be signed by the Judge or Magistrate by whom it is issued.
- (2) A Warrant shall state concisely the offence or matter for which it is issued and shall name or otherwise describe the Suspect to be arrested, and it shall order the Police Officer or Officers to whom it is directed to arrest the Suspect and bring him before the Court to answer the Complaint or Statement, or to testify or to be dealt with according to the circumstances of the case, and to be further dealt with according to Law.
39. A Warrant of Arrest shall not be issued in the first instance in respect of any Complaint or Statement unless the Complaint or statement is on Oath either by the Complainant himself or by a Material Witness. Warrant issued on Complaint to be on Oath. | Warrant may be issued on any Day. Warrant to Whom Directed and Duration.
40. A Warrant of Arrest may be issued on any day including a Sunday or public holiday.
- 41.(1) A Warrant of Arrest may be directed to a Police Officer by name or to all Police Officers. Warrant of Arrest may in Exceptional Cases be directed to other Persons.
- (2) It is not necessary to make a Warrant of Arrest returnable at any particular time and a Warrant shall remain in force until it is executed or until it is cancelled by a Judge or a Magistrate, as the Case may be.
 - (3) Where a Warrant of Arrest has been executed and the Suspect arrested has been released, the Warrant shall no longer be valid Authority for re-arresting the Suspect.
- 42.(1) A Court issuing a Warrant of Arrest may, where its immediate execution is necessary and no Police Officer is immediately available, direct it to some other person or persons who shall execute the Warrant.
- (2) A person when executing a Warrant of arrest directed to him, shall have all powers, rights, privileges and protection given to or afforded by Law to a Police Officer executing a Warrant of Arrest and shall conform with the requirements placed by Law on a Police Officer.
43. Where a Court has reason to believe, whether after evidence or not that a Suspect against whom a Warrant of Arrest has been issued by itself or by any Court or Justice of the Peace, has absconded or is concealing himself so that the Warrant cannot be executed, the Court may publish a Public Summons in writing requiring that person to appear at a specific place and a specific time not less than thirty (30) days from the date of publishing the Public Summons. Public Summons for Persons Absconding
- 44.(1) A Public Summons shall be published in any of the following ways: Public of Public Summons.
- (a) In a newspaper that enjoys wide circulation or circulated in any other medium as may be appropriate;
 - (b) By affixing it to some conspicuous part of the house or premises or to some conspicuous place in the town or village, in which the person ordinarily resides; or
 - (c) By affixing a copy to some conspicuous part of the High Court or Magistrate Court building.
- (2) A Statement in writing from the Judge of the High Court or a Magistrate to the effect that the Public Summons was duly published on a specified day, shall be

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conclusive evidence that requirement of this Section have been complied with and that the Public Summons was published on such day.

45. (1) A Warrant of arrest may be executed on any day including a Sunday or Public Holiday.
- (2) A Warrant of Arrest may be executed by any Police Officer at any time and in any place within the State other than within an actual Court in which the Court is sitting.
- (3) The Person or Police Officer executing the Warrant of Arrest shall, before making the arrest, inform the Suspect to be arrested that there is a Warrant for his arrest unless there is reasonable cause for abstaining from giving such information on the ground that it is likely to occasion escape, resistance or rescue.
- (4) A Suspect arrested on a Warrant of Arrest shall, subject to the provisions of the Constitution of the Federal Republic of Nigeria and Sections 46 and 47 of this Law be brought before the Court that issued the Warrant of Arrest.
- (5) Where it is shown by way of an application to a Judge that a Warrant or a renewed Warrant of Arrest is being used by any person or Agency to;
 - (a) Frustrate the enjoyment of an earlier Recognisance entered into or bail granted the Defendant; or
 - (b) Prevent the Defendant from preparing for his defence; the Court shall direct the Agency or person responsible for the abuse of the Warrant or renewed Warrant of Arrest to immediately arraign the Suspect within (48) hours, if there is any charge against him, failing which the Court to which an application for revocation of Warrant is made shall, on the return date, revoke the Warrant or renewed Warrant of Arrest and Order immediate release of the Defendant.
46. A Warrant of Arrest may be executed notwithstanding that it is not in the possession of the person executing the Warrant but the Warrant shall, on the demand of the Suspect, be shown to him within twenty-four (24) hours of his arrest.
47. (1) A Court, on issuing a Warrant for the arrest of a Suspect in respect of any matter other than an offence punishable with death, may if it thinks fit by endorsement on the Warrant, direct that the Suspect named in the Warrant be released on bail on his entering into such Recognizance for his appearance as may be required in the endorsement.
- (2) The endorsement shall specify:
 - (a) The number of Sureties, if any;
 - (b) The amount in which they and the Suspect named in the Warrant are, respectively, to be bound, or are to provide as Cash Security on the request of the Surety or Suspect;
 - (c) The Court before which the arrested Suspect is to attend; and
 - (d) The time at which the Suspect is to attend, including an undertaking to appear at a subsequent time as may be directed by any Court before which he may appear.
- (3) Where an endorsement is made, the Officer in charge of a Police Station to which on arrest, the Suspect named in the Warrant is brought, shall discharge him on his entering into a Recognizance, with or without Sureties approved by that Officer, in accordance with the endorsement, stipulating the condition for his appearance before the Court and at the time and place named in the Recognizance.
- (4) Where Security is taken under this Section, the Officer who takes the Recognisance shall cause it to be forwarded to the Court before which the

Procedure
for Execution
of Warrant.

Power to
arrest on
Warrant but
without the
Warrant.

court may
direct
particulars
of security
to be taken
on
execution
of warrant"

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Recognisance shall cause it to be forwarded to the Court before which the Suspect named in the Recognisance is bound to appear.

(5) Subject to the provisions of Section 48 of this Law, Sub-sections (3) and (4) shall not have effect with respect to a Warrant executed or issued outside Ogun State.

48.(1) Where a Warrant of Arrest is executed in the State outside Division or District of the Court by which it was so issued, the Suspect shall, unless Security is taken under Section 47, be taken before the Court within such Division or District in which the arrest was made.

(2) The Court shall, if the arrested Suspect, on such inquiry as the Court deems necessary, appears to be the Suspect intended to be arrested by the Court which issued the Warrant, direct his removal in Custody to that Court, but if the Suspect has been arrested in respect of any matter other than an offence punishable with death and :

(a) He is ready and willing to give bail to the satisfaction of the Court within the Division or District of which he was arrested; or

(b) If a direction has been endorsed under Section 47 on the Warrant and such Suspect is ready and willing to give the Security required by such direction, the Court shall take bail or Security, as the Case may be, and

shall forward the Recognisance, if such be entered into, to the Court, which issued the Warrant.

(3) Nothing in this Section shall be deemed to prevent a Police Officer from taking Security under Section 32.

49. Where a Suspect in lawful Custody escapes or is rescued, the person from whose Custody he escapes or is rescued or any other person may pursue and arrest him in any place in Nigeria.

50. The provisions of Sections 14 and 15 shall apply to arrests under Section 49 of this Law, although the person making such arrest is not acting under a Warrant and he is not a Police Officer with Authority to effect an arrest.

PART 4

PREVENTION OF OFFENCES AND SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

51(1) A Police Officer may intervene for the purpose of preventing, and shall, to the best of his ability, prevent the commission of an offence.

(2) A Police Officer may, of his Authority, intervene to prevent an injury attempted to be committed in his presence to any public property, whether movable or immovable, or the removal of or injury to any public land mark or buy or other used for navigation.

52. A Police Officer receiving information of a design to commit any offence shall communicate the information to the Police Officer to whom he is Subordinate, to any other Officer whose duty it is to prevent or take cognisance of the commission of the offence.

53. Notwithstanding the provision of this Law or any other Law relating to arrest, a Police Officer upon a reasonable suspicion of a design to commit an offence may arrest, without Orders from a Magistrate and without Warrant, the Suspect where it appears to the Officer that the commission of the offence cannot otherwise be prevented.

54(1) A Judge, Magistrate, or any other Public Officer charged with responsibility for maintaining Law and Order may intervene for the purpose of preventing and shall, to the best of his ability, prevent the commission of an offence, for which

Procedure on Arrest of Suspect outside Division or District of court Issuing Warrant

Re-Arrest of Suspect Escaping.

Provision of Sections 14 and 15 to apply to re-arrest under Section 49.

Police to prevent Offences and Injury to Public Property.

Information of Design to Commit Offences.

Arrest by Police to Prevent Offences.

Prevention by other Public Officers of Offences and Injury to Public Property.

Administration of Criminal Justice and Other Related Matters Law of Ogun State, 2017.

- property movable or immovable.
- (2) A person is bound to assist a Judge or Magistrate or Police Officer or any other Public Officer reasonably demanding his aid:
- In preventing, and shall to the best of his ability prevent the commission of an offence for which he is authorized to arrest without a Warrant or any damage to any public property movable or immovable;
 - In the suppression of the breach of the peace or in prevention of any damage to any property, movable or immovable or to any railway, canal, water supply, telecommunication system, oil pipelines, or oil installations, or electrical installations; or
 - In the prevention of the removal of any public landmark or buoy or other mark used for navigation.
- 55.(1) Whenever a Magistrate is informed on Oath that any Suspect is likely to:
- Commit a breach of the peace or disturb public peace or tranquillity; or
 - Do a wrongful act that may likely occasion a breach of the peace or disturb public peace or tranquillity:
- the Magistrate may in manner hereinafter provided, require the Suspect to show cause why he should not be ordered to enter into a Recognisance, with or without Sureties, for keeping the peace for a period not exceeding one (1) year, as the Magistrate deems fit.
- (2) Proceedings shall not be taken under this Section unless the Suspect against whom information is made in Sub-section (1) of this Section is within the Jurisdiction to which the Magistrate is assigned or the place where the breach of peace or disturbance has occurred is within the Jurisdiction to which the Magistrate is assigned.
- 56.(1) Whenever a Magistrate is informed on Oath that:
- A Suspect is taking precautions to conceal his presence within the District of the Magistrate
 - There is reason to believe that the Suspect is taking such precaution with a view to committing an offence: the Magistrate may, in manner herein after provided, require the Suspect to show cause why he should not be ordered to enter into a Recognisance, with Sureties, for his good behaviour for a period, not exceeding one (1) year, as the Magistrate deems fit.
- (2) A Judge of the High Court in addition may exercise Jurisdiction in Sub-section (1) above.
- (3) A Judge of the High Court may exercise any Jurisdiction powers under Sub section (1) and (2) above.
- 57.(1) Where a Magistrate is informed on Oath that a Suspect within the local limits of his Jurisdiction:
- Is by habit an armed robber, a housebreaker, or a thief;
 - Is by habit a receiver of stolen property, knowing the same to have been stolen;
 - Habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property; or
 - Habitually commits or attempts to commit; or aids; or abets the commission of any offence relating to property;
 - Habitually commits or attempts to commit, or aids or abets in the commission of, offence involving a breach of the peace; or
 - Is so desperate or dangerous as to render his being at large without Security hazardous to the Community: such Magistrate may, in manner

Power of
Magistrate
to require
Execution or
Recognisance
for keeping
Peace.

Security for
Good
Behaviour for
Suspected
Person.

Security for
good
Behaviour for
Habitual
Offenders.

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provided in this Law require such Suspect to show cause why he should not be ordered to enter into Recognisance, with Sureties, for his good behaviour for such period, not exceeding three (3) years, as the Magistrate deem fit.

- (2) A Judge of the High Court may exercise Jurisdiction in respect of Sub-section (1) in a Division.
58. Where a Magistrate or Judge acting under Sections 55, 56 or 57 of this Law considers it necessary to require any Suspect to show cause under these Sections, he shall make an Order in writing setting out the:
- (a) Substance of the information received;
 - (b) Amount of the Recognisance to be executed;
 - (c) Time for which it is to be in force; and
 - (d) Number, character and class of Sureties, if any, required.
59. Where the Suspect in respect of whom an Order under Section 56 of this Law is made is present in Court, the Order shall be read over to him or if he so desires, the content in court of the Order shall be explained to him.
- 60.(1) Where the Suspect against whom an Order under Section 56 of this Law is made is not present in Court, the Magistrate or Judge may issue a Summons requiring him to appear or when the person is in Custody, a Warrant directing the Officer in whose Custody he is to bring him before the Court.
- (2) Whenever it appears to the Magistrate or Judge, upon the report of a Police Officer or upon other information, the substance of which report or information shall be recorded by such Magistrate or Judge, that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of the Suspect, the Magistrate or Judge may at any time issue a Warrant for his arrest.
61. A Summons or Warrant of Arrest issued under Section 60 of this Law shall be accompanied by a copy of the Order made under Section 58, and the copy shall be delivered by the summons or Officers serving or executing such Summons or Warrant to the Suspect served with or arrested under the same.
62. The Magistrate or Judge may, if he sees sufficient cause, dispense with the personal attendance of a Suspect called upon to show cause why he should not be Ordered to enter into a Recognisance for keeping the peace and may permit him to appear through a Legal Practitioner or other Bonded Surety.
- 63.(1) Where an Order under Section 58 has been read or explained under Section 59 of this Law to any person in Court, or when any such person appears or is brought before a Magistrate or Judge pursuant to Summons or Warrant issued under Section 60 of this Law, the Magistrate or Judge shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may appear necessary.
- (2) The inquiry shall be made, as nearly as may be practicable, in the manner prescribed in this Law for conducting trials and recording evidence except that the standard of proof shall be that of preponderance of evidence.
- (3) Pending the completion of the inquiry under Sub-section (1), the Magistrate or Judge, if he considers that immediate measures are necessary for the prevention of:
- (a) A breach of the peace or disturbance of Public Peace or tranquillity; or
 - (b) The commission of an offence or for Public Safety; may for reasons to be recorded in writing, direct the Suspect in respect of whom the Order under Section (58) has been made to enter into a Recognisance, with or without Sureties, for keeping the peace or maintaining good behaviour

Order to
Made

Procedure in
Respect of
suspect Present
in Court

Summons or
Warrant against
a Suspect not
Present in
Court

Copy of Order
Under Section (60)
to Accompany
Summons or
Warrant

Power to
Dispense
with Personal
Attendance

Inquiry as
to Truth
of Information

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- until the conclusion of the inquiry, and may detain the Suspect in Custody until the Recognisance is entered into or, in default of execution, until the inquiry is concluded;
- (4) For the purposes of Sub-section (3) of this Section:
- (a) A Suspect against whom Proceedings are not being taken under Section 55 of this Law shall not be directed to enter into a Recognisance for maintaining good behaviour; and
- (b) The condition of such Recognisance, whether as to the amount or as to the provisions of Sureties or the number of Sureties or the pecuniary extent of their liability shall not be more onerous than those specified in the Order under Section 59 of this Law; and
- (c) A Suspect shall be remanded in Custody under the powers conferred by this Section for a period exceeding fifteen (15) days at a time.
- (5) For the purposes of this Section, the fact that a Suspect comes within the provisions of Section 56 of this Law may be proved by Evidence of General Repute, Judicial Notice, Notoriety or otherwise.
- (6) Where two (2) or more Suspects have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate or Judge may think fit.
- 64.(1) Whereon inquiry it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the Case may be, that the Suspect in respect of whom the inquiry is made should enter into Recognisance, with or without Sureties, the Magistrate or Judge shall make an Order accordingly provided that:
- (a) A person shall not be Ordered to give Security of a nature different from or of an amount larger than, or for period longer than that specified in the Order made under Section 58 of this Law;
- (b) The amount of every Recognisance shall be fixed with due regard to the circumstances of the Case and shall not be excessive; and
- (c) Where the Suspect in respect of whom the inquiry is made is a Child, the Recognisance shall be entered into as provided in Section 171 of this Law.
- (2) A Suspect ordered to give Security for good behaviour under this Section may apply by Judicial Review to the High Court in the Case of a Magistrate or may appeal to the Court of Appeal in the Case of a Judge of a High Court.
65. Where, on an inquiry under Section 60 of this Law, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the Case may be, that the Suspect in respect of whom the inquiry is made should enter into Recognisance, the Magistrate or Judge shall make an entry on the record to that effect, and, shall, if the Suspect:
- (a) Is in Custody only for the purpose of the inquiry, release him; or
- (b) If the person is not in Custody, discharge him.

Order to give Security

Discharge of suspect Against Whom Allegation is Made

PART 5**PROCEEDINGS IN ALL CASES SUBSEQUENT TO ORDER TO FURNISH SECURITY**

- 66.(1) Where a Suspect in respect of whom an Order requiring Security is made under Section 58 of this Law is, at the time the Order is made, sentenced to or undergoing a Sentence of Imprisonment, the period for which the Security is required shall commence on the expiration of such sentence.
- (2) In other Cases, such period shall commence on the date of the Order unless the Court for sufficient reason fixes a later date.

Commencement of Period for which Security is Required.

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67. The Recognisance to be entered into by a Suspect under Section 58 of this Law shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission, or attempt to commit or the aiding, abetting, counselling, or procuring the commission, anywhere in Ogun State or within Nigeria of any offence punishable with imprisonment, wherever it may be committed anytime during the continuance of the Recognisance, shall be a breach of the Recognisance. Conditions of Recognisance
68. A Court may reject a Surety or refuse to accept a Surety offered under any of the preceding Sections on the ground that, for reasons to be recorded by it or that the Surety is an unfit person or for any other reason. Power to Reject Sureties-
69. Where a Suspect ordered to give a Security does not give such Security on or before the date on which the period for which the Security is to be given commences, he shall be committed to Prison or if he is already in Prison, be detained in Prison until such period expires or until within such period he gives the Security to the Court, Magistrate or Judge, who made the Order requiring it. Procedure on Failure of Suspect to Give Security
70. Where a Court is of the opinion that a suspect imprisoned for failing to give Security may be released without hazard to the Community, the Court may, if it deems fit order the Suspect to be discharged. Power to Release Suspect Imprisoned for Failure to give Security.
71. The High Court may at any time, for sufficient reasons to be recorded in writing, vary, uphold or cancel any Recognisance for keeping of the peace or for good behaviour executed under any of the preceding Sections by Order of any lower Court. Power of High Court to Vary, Uphold or Cancel Recognisance.
- 72.(1) A Surety for the peaceable conduct or good behaviour of any Suspect may at any time apply to a Court to discharge a Recognisance executed under any of the preceding Sections within the District or Division to which the Court is assigned. Discharge of Sureties.
- (2) On an application being made, the Court shall, if satisfied that there is good reason for the application, issue such Summons or Warrant, as he thinks fit requiring the Suspect for whom such Surety is bound to appear or to be brought before him.
- (3) Where the Suspect appears or is brought before the Court, the Court after hearing such Suspect may discharge the Recognisance and in such event Order the Suspect to give, for the unexpired part of the term of such Recognisance, fresh Security for such unexpired part of the same description as the original Security.
- (4) An Order under sub-section (3) of this Section shall for the purposes of Sections 66 & 67, 68 and 69 of this Law be deemed to be an Order under Section 56.

PART 6**PUBLIC NUISANCE**

73. Where a Court considers, on receiving a Police Report or other information and on taking such evidence, if any, as it deems fit that an offence relating to public nuisance is being committed, the Court may make a Conditional Order requiring the Suspect: Conditional Order for Removal of Nuisance.
- (a) Within a time fixed in the Order to cease committing the offence and to amend or remove the cause of the nuisance in such manners as is specified in the Order; or
- (b) To appear before the Court at a time and place to be fixed by the Order and applied to have the Order set aside or modified in manner hereinafter provided.
- 74.(1) An Order made under Section 73, of this Law shall if practicable be served on the Suspect against whom it is made in a manner provided for in the Service of a Summons. Service of Order.

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- (2) Where an Order referred to in sub-section (1) cannot be served in a manner laid down in that sub-section, it may be served by registered letter through the post addressed to the Suspect against whom it is made at his last known address or, where his last address is not known, by affixing a notice in a conspicuous place in the town or village or near where the nuisance or offence is being committed.

A Suspect against whom an Order under Section 73 of this Law is made Shall;

- (a) Perform, within the time and in manner specified in the Order, the act directed by the Order; or
- (b) Appear in accordance with the Order and apply to have the Order set aside or nullified.

Suspect to whom order is Addressed to Obey or Appear before Court.

76. Where a Suspect against whom an Order under Section 73 of this Law is made does not perform the act specified in the Appear Order or appear and apply to have the Order set aside or, nullified, he is liable, where the Act:

Consequences of Failure to Obey Order or to Appear

- (a) Offends public safety, to a fine of not less than one hundred thousand naira (N100,000.00) for individual and not less than one million naira (N1,000,000.00) in case of a corporate body or imprisonment for a term of six (6) months; or
- (b) Threatens human life, to a fine of not less than two hundred thousand naira (N200,000.00) for individual and not less than two million naira (N2,000,000.00) in case of a corporate body or imprisonment for a term of twelve (12) months.

- 77.(1) Where a Suspect against whom an Order under Section 73 of this Law is made to appear and applies to have the Order set aside or modified, the Court shall take evidence in the matter in the same manner as in a Summary Trial.

Procedure where Suspect Appears

- (2) Where the Court is:

- (a) Satisfied that the Order, with or without modification, is reasonable and proper, the Court shall make it absolute with such modification, if any, as the Court thinks fit; and
- (b) Not satisfied it shall cancel the Order.

78. Where the acts directed by an Order under Section 73 of this Law which is made absolute under Sections 76 or 77 (2)

Consequences of Disobedience to Order Made Absolute

- (a) Of this Law is not performed within the time fixed and in the manner specified in the Order, the Court may cause it to be performed and may recover the cost of performing it either by:
- (a) The sale of any building, goods or other property removed by its Order; or
- (b) Seizure and sale of any other movable property of the person against whom the Order under Section 73 of this Law was made in manner prescribed in this Law for the recovery of a fine.

- 79.(1) Where the Court making an Order under Section 73 of this Law considers the immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, it may issue such further Order to the Suspect against whom the Order was made as is required to obviate or prevent the danger or injury pending the determination of the matter.

Order Pending inquiry.

- (2) In default of the Suspect referred to in sub-section (1) of this Section immediately disobeying the further Order referred to in that sub-section or if notice of the Order cannot, by the exercise of due diligence, be served on him immediately, the Court may use or cause to be used such means as it thinks fit to obviate the danger or to prevent injury.

Prohibition of Repetition or Continuance of Nuisance

80. A Court may, in any Proceedings under this Part or in any Criminal Proceedings in respect of a public nuisance, Order any Suspect not to repeat or continue the

public nuisance.

Limitation
of
period for
bringing a**PART 7****ATTACHMENT WHERE A PERSON DISOBEYS SUMMONS OR WARRANT**

81. A Judge or a Magistrate may, at any time after action has been taken under Section 43 of this Law or an application made in that regard after Summons or Warrant has been issued but disobeyed, order the attachment of any property, movable or immovable or both, belonging to a Suspect the subject of the Public Summons or Warrant. Attachment of Property of a Suspect Absconding
- 82.(1) An Order under Section 81 of this Law shall authorize a Public Officer named in it to attach any property belonging to a Suspect named in the Order as the owner of the property within the area of Jurisdiction of the Judge or Magistrate by seizure or in any other manner by which for the time being the property may be attached by way of Civil Process. Order to Attach Property
- (2) Where a Suspect who is the subject of an Order does not appear within the time specified in the Public Summons, the property under attachment shall be at the disposal of the Court. "
- (3) Any property under attachment shall not be sold until the expiration of three (3) months from the date of the attachment unless it is subject to speedy decay or the Judge or Magistrate considers that the sale would be for the benefit of the owner, in either of which cases the Judge or Magistrate may cause it to be sold whenever he thinks fit.
- 83.(1) Where within one (1) year from the date of the attachment, a Suspect, whose property is or has been at the disposal of the Court under Section 81 of this Law, appears voluntarily or being arrested is brought before the Court and proves to its satisfaction that he: Restoration to Attached Property
- (a) did not abscond or conceal himself for the purpose of avoiding execution of the Warrant; and
- (b) had no notice of the Public Summons or Warrant as to enable him to attend within the time specified therein, that property, so far as it has not been sold, and the net proceeds of any part of it which has been sold shall, after satisfying from the proceeds all costs incurred in consequence of the attachment, be delivered to him.
- (2) Where after one (1) year from the date of the attachment, the Suspect whose property is attached or has been at the disposal of the Court does not appear voluntarily, the property or the net proceed from its sale shall be forfeited to the State Government
- 84.(1) A Court or Justice of the Peace empowered by this Law to issue a Summons for the appearance of a Suspect may, after recording reasons in writing, issue a Warrant for his summons arrest in addition to or instead of the Summons where: Issue of warrant in lieu of or in addition to Summons
- (a) Whether before or after the issue of the Summons, the Court or Justice of Peace sees reason to believe that the Suspect has absconded or will not obey the Summons; or
- (b) At the time fixed for his appearance, the Suspect fails to appear and the Summons is proved to have been duly served in time to allow for his appearance and no reasonable excuse is offered for his failure to appear.
- (2) A Court or Justice of the Peace empowered by this Law to issue a Warrant for the arrest of a Suspect may issue a Summons in the place of a Warrant where he thinks fit.

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85. Where a Suspect for whose appearance or arrest a Summons or Warrant may be issued is present before a Court, the Court may require him to execute a bond, with or without Sureties, for his further appearance before a Court until the matter is disposed off. Power to take Bond for Appearance
86. The provisions contained in this Part relating to Summonses and Warrants and their issue, service and execution shall, so far as maybe, apply to every Summons and every Warrant issued under this Law. Provisions of this Chapter Generally Application summons and Warrant

PART 8**PROVISIONS RELATING GENERALLY TO ALL CRIMINAL TRIALS AND INQUIRIES**

87. The provisions of this Part and Parts 9 to 30 of this Law shall apply, to all criminal trials and Proceedings unless express provision is made therein in respect of any particular Court or form of trial or Proceedings. Application of Part (8)
88. A Court has Authority to cause to be brought before, or to compel the attendance before it of a Suspect who is within the Jurisdiction and is charged with an offence committed within the State, or which according to Law may be dealt with as if the offence had been committed within the Jurisdiction and to deal with the Suspect according to Law. General Authority to bring Suspect before Courts
89. (1) A person may make a report to a Police Officer that an offence has been, is being or is likely to be committed. Duty to Report Offence
- (2) Notwithstanding anything to the contrary contained in any Law, a Police Officer may make a complaint in a Case of assault even though the party aggrieved declines or refuses to make a Complaint.
90. (1) It is not necessary that a Complaint shall be in writing, unless it is required to be so by the Law on which it is founded, or by some other Law, and where a Complaint is not made in writing, the Court or Registrar shall reduce it into writing. Forms of Complaint
- (2) Subject to the provisions of Section 55 of this Law, a Complaint may unless some Law otherwise requires, be made without an Oath.
- (3) A Complaint may be made by the Complainant in person, or by a Legal Practitioner representing him, or by any person authorized in writing in that behalf.
- (4) A Complaint shall be for one offence only, but the complaint shall not be avoided by describing the offence, or any material act relating to it in alternative words according to the language of the Law constituting such offence.
- (5) All Complaints made to the Court directly under this Section may first be referred to the Police for investigation before any action is taken by the Court.
91. A Complaint, Summons, Warrant or any other document laid, issued or made for the purpose of or in connection with any Proceedings before a Court for an offence, shall be sufficient if it contains a statement of the specific offence with which the Suspect is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge. Forms of Document in Criminal Proceedings
92. Any exception, exemption, proviso, condition, excuse, or qualification, whether it does or does not in any enactment creating an offence accompanying in the same Section, the description of the offence, may be proved by the Defendant, but need not to be specified or refuted in the Complaint, and where so specified or refuted, no proof in relation to the matter so specified or refuted shall be required on the part of the Complainant. Rule as to Exception

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93. In every Case where no time is specially limited for making a Complaint for a summary conviction offence in the Law relating to such offence, such Complaint if made other than complaint by a person in his official capacity shall be made within six (6) years from the time when the matter of such Complaint arose, and not after.
- Limitation
of
Period for
Making a
private
Complaint.

PART 9**PLACE OF TRIAL OR INQUIRY**

- 94.(1) An offence shall ordinarily be inquired into and tried by a Court within the local limits of whose Jurisdiction:
- Venue
Generally.
- (a) the offence was wholly or in part committed, or some act forming part of the offence was done;
 - (b) the act was done or where consequence ensues or to be done; or
 - (c) the offence was committed by reference to which the offence is denied; or.
 - (d) a person against whom, or property in respect of which, the offence was committed is found, having been transported there by the Suspector by a person knowing of the offence.
- (2) A Criminal Charge shall be filed and tried in the division where the alleged offence was committed unless it can be shown that it is convenient to do otherwise for security reasons.
- (3) The Commissioner of Police shall ensure that one or more armed Policemen are posted to provide Security during every criminal trial.
- (4) Where it is requested by the Attorney-General, the Commissioner of Police shall provide security for the Attorney-General and for his Officer prosecuting some special class of Suspects.
95. An offence committed while the Suspect is in the course of performing a Journey or voyage may be tried or inquired into by a Court in the State or Division or District of whose jurisdiction the Suspect or the person against whom or the thing in respect of which of the offence was committed resides, is or passed in the course of that journey or voyage.
- Offence
Committed
on a
Journey.
96. Where offence:
- (a) Is commenced in Ogun State and completed in another State; or
 - (b) Is completed in Ogun State after being commenced in another State; it may be dealt with, tried and punished as if the offence had been actually or wholly committed in Ogun State or such other State.
- Offence
Commenced
and
Completed
in different
States.
- 97.(1) An offence may be tried by a Court having Jurisdiction in any Division or District in any of the following circumstances:
- Offence
Committed
in One or
more
District(s)
or
Divisions
within the
State.
- (a) When it is uncertain in which of several Divisions or Districts an offence was committed;
 - (b) When an offence is committed partly in one Division or District and partly in another;
 - (c) When an offence is a continuing one, and continues to be committed in more Divisions or Districts than one; or
 - (d) When it consists of several acts committed in different Divisions or Districts.
- (2) Where any cause is commenced in any Division or District other than that in which it ought to have been commenced, it may notwithstanding, be tried in that Division or District unless the Defendant shall object at or before the time when he is called upon to plead or to state his answer in such cause.
- (3) Where the objection in sub-section (2) of this Section is sustained, the Court

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- shall transfer the hearing of such cause to the Judicial Division or Magisterial District where the matter ought to have been instituted.
98. Without prejudice to Section 97 of this Law, where a question arises as to which of two (2) or more Courts of Ogun State ought to inquire into or try any offence, it shall be decided by the Chief Judge of the State.
- 99.(1) On the application of the Prosecution or the Defendant, the Chief Judge may, where it appears to him that the transfer of a case will promote the ends of Justice or will be in the interests of the Public Peace, transfer any case from one Court to another.
- (2) Where the Chief Judge exercises this power pursuant to a Petition, the Chief Judge shall cause the Petition to be investigated by an independent body of not more than three (3) reputable Legal Practitioners within one (1) week of receipt of such Petition and may refer such Petition to the Nigerian Bar Association Branch or other Judicial Body such as the National Judicial Council.
- (3) The investigation body shall submit its report within two (2) weeks of appointment except otherwise specified.
- (4) Where prosecution has commenced and reached an advanced stage before a Magistrate or Judge who is subsequently transferred to another District or Division, the Chief Judge shall, on the application of the prosecution or counsel to the Defendant, where it appears to him that the transfer of such case will promote the ends of Justice, transfer the case to the Magistrate or Judge who has commenced trial in the matter for continuation or conclusion in his new District or Division.
100. A Court before which a person charged with having committed an offence is brought shall where:
- (a) The offence ought to be properly inquired into or tried by another Court; or
- (b) In the opinion of the Court, the offence ought to be conveniently inquired into or tried by another Court, within a reasonable period not exceeding seven (7) days, send the case and all processes relating to the case to the head of Court for re-assignment to that other Court, and where appropriate, remand the Suspect charged in Custody or require him to give Security for his attendance before that other Court to answer the charges and to be dealt with accordingly.
101. Where any case shall be transferred from one place in a Division or District to another place in the same Division or District or to another Division or District, the case shall be tried and determined at the Division or District which it has been so transferred, and all Recognisances, Subpoenas, and Proceedings in or relating to the case shall thereupon be deemed to be returnable at a latter Division or District and all witnesses who are bound by Recognisances or summoned to attend the trial shall be informed accordingly and shall attend at the latter Division or District.
- 102.(1) Whenever any doubt arises as to the Magistrates' Court in which any offence shall be tried, the Head of the High Court in that Division or District of the Magistrate Court shall, upon the application of a Magistrate or the Suspect decide which Magistrates' Court the offence shall be tried.
- (2) Any such decision in sub-section (1) above shall be final and conclusive except that it shall be open to a Suspect to show that no Magistrates' Court in the State has Jurisdiction in the case.

Chief Judge to decide Question as to Court of Inquiry or Place of Trial
Chief Judge may transfer a Case.

When Cases may be remitted to another Court.

Effect of Change of Venue.

Judge to decide in Case of doubt of Venue.

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103. A Magistrate, in this and in the next Section referred to as the remitting Magistrate, before whom a Suspect who is within the Magisterial District of such Magistrate and is charged with having committed an offence within the Magisterial District of another Magistrate is brought shall, unless he is authorized to proceed in the Case, send the Defendant to the Court within the Magisterial District in which the Offence was committed, or require him to give Security for his surrender to such last mentioned Court, to answer the charge and to be dealt with according to Law.
104. Where an offence has been committed in a District in which one or more Courts shall have Concurrent Jurisdiction, the remitting Magistrate shall unless he is authorized to proceed in the case, send the person charged and in Custody to such one of the Courts having Concurrent Jurisdiction as can most conveniently deal with the cause, or require him to give Security for his surrender to such last mentioned Court, to answer the charges and to be dealt with according to Law.
105. The remitting Magistrate shall send to the Court to which the Suspect is remitted for trial all authenticated copies of the information, Summons, Warrants and all other process or document regarding the case in his possession.
- 106.(1) Where a Suspect is to be remanded into Custody, a Warrant shall be issued by the remitting Court, and that Warrant shall be sufficient Authority to any person to whom it is directed to receive and detain the Suspect named; and (a) produce him and deliver him up to the Court to which the Suspect charged is remitted for trial.
- (2) The person to whom the Warrant is directed shall execute it according to its terms without any delay.
107. Where a Suspect is:
- (a) In Custody and the Court directing a transfer thinks it expedient that the Custody should be continued; Or
- (b) Not in Custody, that he should be placed in Custody, the Court shall, by its Warrant, commit the Suspect to Prison, subject to such Security as it may deem appropriate in the circumstances, until he can be taken before a Court wherein the cause of complaint arose.
- 108.(1) Notwithstanding the provisions of Sections 94 and 99, a Judge or Magistrate of a Division or District in which a Suspect:
- (a) Is arrested and charged with an offence alleged to have been committed in another Division or District;
- (b) Is in Custody on such a charge;
- (c) Has appeared in answer to Summons Lawfully issued charging such offence;
- may, if he considers that Justice would be better served and having regards to the accessibility and convenience of witness, proceed to hear the charge, try and punish the Suspect as if the offence had been committed in the Division or District.
- (2) The offence referred to in Sub-Section (1) of this Section shall for all purposes be deemed to have been committed in that Division or District.
109. Where a Case is commenced in any other Division or District other than that in which it ought to have been commenced, the Court may assume Jurisdiction in accordance with the provisions of Section 103 of this Law and all acts performed and all decisions given by the Judge or Magistrate during the trial or any other Proceedings shall be deemed to be valid in all respects as if the Jurisdiction had been assumed prior to the performance of the said acts and the giving of the said decisions.

A Suspect to
be sent in
another
Magistrate.

Court having
Concurrent
Jurisdiction

Transmission
of document

Removal
under
Warrant

Transfer of
case complaint
has Arisen out
of Jurisdiction of
Court.

Court may
assume
Jurisdiction
Under
Certain
Conditions.

Assumption of
Jurisdiction after
Commencement of
Proceeding

PART 10**POWERS OF THE ATTORNEY-GENERAL**

- 110.(1) The Attorney-General or any Law Officer authorised by him may prefer or exhibit an information or charge in any Court of the State in respect of an offence triable on information created by any Law in the State or in respect of any offence created by an Act of the National Assembly, the Prosecution of which offence or an element of which has been committed in the State. Information by the Attorney-General.
- (2) The Attorney-General may authorise any other Legal Practitioner to exercise any or all of the powers conferred on him under this Section.
111. (a) The Attorney-General may issue Legal advice or such other directives to the Police or any other Law Enforcement Agency in respect of an offence committed in the State against any Law of the State or in respect of any offence created by an Act of the National Assembly. Issuance of Legal Advice and other Directives to Police, Visit and Inspection of Police Cell by the Attorney-General
- (b) Where any proceeding is pending in respect of the offence for which Legal advice or other direction referred to in Subsection (1) of this Section is given, a copy of the Legal advice or direction shall be forwarded by the Attorney General of the State or Director of Public Prosecution to the Court before whom the Proceeding is pending.
- (c) The Attorney General may request from the Police or any other Agency for a certified copy of a Case File in any matter in respect of an offence created by the Laws of the State House of Assembly or any offence triable in the State Courts and the Police or other Agency shall immediately send the Case File as requested.
- (d) The Legal advice issued by the Office of the Attorney-General in respect of any offence committed by any person in Ogun State shall be conclusive.
- (e) The Office of the Attorney-General, upon request of Legal Practitioner to the Defendant, shall, either ensure that a certified copy of the Legal Advice in respect of the Defendant is made available to the Legal Practitioner or immediately sent to the Court before whom the Defendant is arraigned within one (1) week of the request or as soon as practicable.
- (f) Nothing in this Section shall be construed as precluding the Attorney-General from instituting and undertaking Criminal Proceedings against any person before any Court in the State or from delegating his powers to any Law Officer in his Department.
- (2) (a) The Attorney-General or any Law Officer designated by him for that purpose, shall, upon receipt of complaint from the public for any unlawful detention of a person without trial or on his volition regularly or at least once every month, visit and conduct an inspection of cell in police stations or other places of detention within his territorial jurisdiction other than the prison.
- (b) During such visits, the Attorney-General or designated officer may:
- (i) Call for and inspect the record of arrests and persons in police detention;
 - (ii) Direct the arraignment of the suspect within a specified time; and
 - (iii) Where bail has been refused, request the officer in charge of the place of detention to grant bail within a specified time to any suspect where appropriate if the offence for which the suspect is held is ordinarily bail able.
- (c) An officer in charge of a police station or official in charge of an agency

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authorised to make arrest shall make available to the Attorney-General or other designated Law Officer exercising his powers under subsection

(2) (b) of this section:

- (i) the full record of arrest and persons in detention and record of bail;
- (ii) applications and decisions on bail made within the period; and
- (iii) any other facilities or records the Attorney-General requires to exercise his powers under that subsection.

(d) Where there is default by an officer in charge of a police station or official in charge of an agency authorised to make arrest to comply with the provisions of subsection (2)(c) of this section, the default shall be regarded as a misconduct and may be dealt with in accordance with the relevant police regulation under the Police Act, or pursuant to any other disciplinary procedure prescribed by any provision regulating the conduct of the officer or official of the agency.

(e) Notwithstanding any other right of the suspect to the enforcement of his fundamental right under the Constitution of Nigeria 1999 (As Amended), where any Police officer, in charge of a place of detention or police cell, responsible to carry out the directive given by the Attorney-General of Ogun State or other designated Law officer, refuses to carry out the directive, such police officer shall be deemed to be personally liable in punitive damages for the unlawful detention of the suspect beyond the time stipulated in the directive of the Attorney-General to either grant bail or arraign the suspect as well as the cost of litigation in enforcing this provision by the detained suspect.

(3) The application of Subsection (2)(d) and (e) of this Section shall be without prejudice to the application of Part V of the Prohibition of Forcible occupation of Landed Properties, Armed Robbery, Kidnapping, Cultism and other Anti-Violence and Related offences Law, 2016 or such other legislation for time being in force.

112.(1) The Commissioner of Police shall only forward a page by page certified copy of the duplicate Case File to the Attorney-General for the purpose of issuance of Legal advice provided that the Attorney-General, may from time to time exempt Case Files of specified categories of offences from being forwarded for the purpose of Legal advice.

Duty of the Commissioner of Police or any other Investigating Agency to Duplicate case File to the Attorney-General for Legal Advice

(2) Notwithstanding the provisions of sub-section (1) of this Section, the Attorney-General may request for a certified copy of any Case file relating to any offence committed against any Law in the State for the purpose of issuance of Legal advice or taking over prosecution in respect thereof.

(3) Where the facts in a duplicate Case file forwarded to the Office of the Attorney-General in any Proceedings, with respect to any offence against a Law of the State indicate a prima facie Case against any person, the Attorney-General shall inform the Magistrate or Judge in writing by way of legal advice personally or through any Law Officers in his Department or the Prosecuting Police Officer.

* (4) The Commissioner of Police shall forward a page by page certified true copy of the original Case File in respect of any Capital Offence or offence for which bail may not be ordinarily granted by the Court to the Attorney-General not later than fourteen (14) days after the Defendant has been arraigned before a Magistrate Court or bail of the Defendant refused.

113. Subject to the provisions of the constitution, relating to the Powers of Prosecution by the Attorney General, Prosecution of all offences in any Court established in Ogun State shall be undertaken by:

Prosecution of offences.

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- (a) The Attorney General; or a Law Officer in his Department; or
- (b) A Legal Practitioner authorized by the Attorney General; or
- (c) A Legal Practitioner authorised to prosecute by this Law or any other Law of the State House of Assembly or any Act of the National Assembly; without prejudice to the overriding Constitutional Powers of the Attorney General.

PART II**CONTROL OF CRIMINAL PROCEEDINGS BY THE ATTORNEY-GENERAL**

- 114.(1) In any Criminal Proceedings for an offence against a Law of the State or any offence commenced in any Court established for the State and at any stage before Judgment, the Attorney-General may discontinue the Proceedings either by himself or through Officers of his Department by stating in Court or informing the Court in writing that he intends that the Proceeding shall not continue, and the Defendant shall be discharged in respect of the charge or information immediately in accordance with the Law.
- (2) Where the Suspect:
- (a) Has been committed to Prison he shall be released or;
 - (b) Is on bail, the Sureties and/or Recognisances shall be discharged.
- (3) Where the Suspect is not:
- (a) Before the Court when such discontinuance is entered, the Registrar or other proper Officer of the Court shall immediately cause notice in writing of the entry of such discontinuance to be given to the Officer in charge of the Prison or other place in which the Suspect may be detained and such notice shall be sufficient Authority to discharge the Suspect; or
 - (b) In Custody, the Court shall immediately cause such notice in writing to be given to the Suspect and his Sureties and shall in either case cause a similar notice in writing to be given to any Witness bound over to prosecute;
- (4) Where discontinuance is entered in accordance with the provisions of this Section, the discharge of a Suspect shall not operate as a Bar to any subsequent Proceedings against him on account of the same facts.
- 115.(1) In any Trial or Proceedings before a Court, the Attorney- General, or a Law Officer, or Prosecutor on the instruction of the Attorney-General, may, at any stage before judgement is pronounced, or Order of committing is made withdraw the charge against any Defendant or Suspect either generally or in respect of one or more of the offences with which the Defendant or Suspect is charged.
- (2) If such withdrawal is made in the course of a Trial:
- (a) Before the Defendant is called upon to make his defence, he shall be discharged of the offence provided that where an Order of dismissal is made, the Judge or Magistrate shall endorse his reasons for making such Order on the record;
 - (b) After the Defendant has called or began his defence, he shall be acquitted of the offence and when any such Order of Acquittal is made, the Judge or Magistrate shall endorse his reasons for making such Order on the record.
- (3) Where a private Prosecutor withdraws from Prosecution for any offence under the provisions of this Section, the Court may, in its discretion, award costs against such a Private Prosecutor personally.
- (4) A discharge of a Defendant under this Section does not operate as a Bar to subsequent Proceedings against him on account of the same facts except as

Discontinu-
ance of
Criminal
Cases by
Attorney
General

withdrawals
from
Prosecution
in Trials and
Inquiries
before a
Court

PART 12**INSTITUTION OF CRIMINAL PROCEEDINGS**

116. Subject to the provisions of any other Enactment, Criminal Proceedings may in accordance with the provisions of this Law be instituted:
- Methods of instituting Criminal Procedure
- (a) In a Magistrates' Courts by a Charge or a Complaint whether or not on Oath or upon receiving a First Information Report;
 - (b) In the High Court, by information of the Attorney-General subject to Section 110; and
 - (c) By information or charge filed in the Court after the accused has been summarily committed for Perjury by a Court under the provisions of this Law; or
 - (d) By information or charge filed in the Court by any other prosecuting Authority; and
 - (e) By information or charge filed by a Private Prosecutor subject to the provision of this Law and upon Fiat issued by the Attorney General.
- 117.(1) Criminal Proceedings instituted in a Magistrates Court may be instituted :
- Methods of instituting Criminal Proceeding in Magistrates Courts
- (a) By bringing a Suspect arrested without a Warrant before the Court on a charge contained in a Charge Sheet specifying the Name, Address, Age, Sex and Occupation of the Suspect charged, the charge against him and the Time and Place where the offence is alleged to have been committed; and the Charge Sheet shall be signed by any of the persons mentioned in Section 113 of this Law; or
 - (b) upon receiving a First Information Report for the Commission of an offence for which the Police are authorized to arrest without a Warrant and which may be tried by the Court within the Jurisdiction where the Police Station is situated, the particulars in the report shall disclose the offence for which the Complaint is brought and shall be signed by the Police Officer in charge of the Case; or
 - (c) Subject to the provision of Section 90 of this Law, by Complaint to the Court, whether or not on Oath, that an offence has been committed by a Suspect whose presence the Magistrate has power to compel, and an application to the Magistrate, in the manner set out in this Section for the issue of either a Summons directed to, or a Warrant to arrest, the Suspect.
- (2) The charge sheet filed by the Prosecution shall be served on the Defendant within seven (7) days of its being filed or such time as the Court may allow.
 - (3) The Trial of a charge preferred under Sub-Section (1) Paragraphs (a) and (b) of this Section shall commence not later than thirty (30) days from the date of filing the charge, and the Trial of the person brought under the charge shall be completed within reasonable time.
 - (4) Where a charge is preferred under Sub-Section (1) Paragraphs (a) and (b) of this section, and the Trial does not commence within thirty (30) days of bringing the charge, or Trial has commenced but has not been completed after one hundred and eighty (180) days or arraignment on that charge, the Court shall forward to the Chief Judge the particulars of the charge and reasons for failure to commence the Trial or to complete the trials. Provided that the Trial of indictment shall not by this reason be vitiated or in any way invalidated.
 - (5) A Court seized of Criminal Proceedings shall make quarterly returns of all particulars of Cases, including charges, remand and other Proceedings

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- commenced and dealt with in his Court within the quarter, to the Chief Judge.
- (6) In reviewing the returns made by a Court under sub-sections(4) and (5) of this Section, the Chief Judge shall have regard to the need to ensure that:
- Criminal Matters are speedily dealt with;
 - Congestion of Cases in Court is drastically reduced;
 - Congestion of prison is reduced to the barest minimum; and
 - Persons awaiting Trial are, as far as possible, not detained in Prison custody for a length of time beyond that prescribed in Section 308; of this Law.
- (7) The Administration of Criminal Justice Monitoring Committee, shall have power to consider all returns made to the Chief Judge under sub-sections (4) and (5) of this Section for the purpose of ensuring expeditious disposal of Cases, and the National Human Rights Commission set up under the Human Rights Commission Act or Citizens Right Department of the State shall have access to the returns on request to the Chief Judge.
- 118.(1) The Ogun State Comptroller of Prisons shall make returns, every ninety (90) days, to the Chief Judge and the Attorney-General, of all persons awaiting Trial held in Custody in the Nigerian Prisons within the State for a period beyond one hundred and eighty (180) days from the date of arraignment.
- (2) The returns referred to in sub-section (1) of this Section shall be in a prescribed form and shall include:
- The name of the Suspect held in Custody or awaiting Trial Persons;
 - Passport photograph of the Suspect;
 - The Date(s) of his arraignment or remand;
 - The Date(s) of his admission to Custody
 - The particulars of the offence with which he was charged
 - The Courts before which he was arraigned
 - The Name of the Prosecuting Agency; and
 - Any other relevant information
- (3) Upon receipt of such return, the Chief Judge and Attorney-General shall take such steps as are necessary to address the issue raised in the return in furtherance of the objectives of this Law.

Returns by
comptroller
of Prisons in
the State.

PART 13**FIRST INFORMATION REPORT**

- 119.(1) Where a Complainant is brought before a Police Officer in charge of a Police Station concerning the commission of an offence and is:
- One for which the Police are authorised to arrest without a Warrant; and
 - Triable by a Magistrate Court within which Jurisdiction the Police Station is situated, the Police shall, if the Complaint is made orally reduce the complaint or cause it to be reduced into writing in the Police Diary.
- (2) The Complaint, whether given in writing or orally must be reduced in writing into the Police Diary and read or cause to be read over to the Complainant and every such Complaint shall be signed by the Officer receiving the Complaint.
- (3) Where on any other ground the Officer in charge of a Police Station has reason to Suspect the Commission of an Offence referred to in Sub-Section (1) he shall enter or cause to be entered the grounds of his Suspicion in a Police Diary.
- (4) Where the Officer is satisfied that no public interest may be served by prosecuting, he may refuse to accept the Complaint, provided that he notifies the Complainant of his right to Complain to a Court under Section 116 (a) of this Law.

Procedure for
receiving
Complaint
and First
Information
Report

Administration of Criminal Justice and Other Related Matters Law of Ogun State, 2017.

- (5) Notwithstanding the provision of Sub-Section (2) of this Section, the Officer in charge of a Police Station may, if in his opinion, the matter might more conveniently be inquired into by an Officer in charge of another Police Station, refer the Complaint to such other Police Station.
- (6) After complying with the provisions of Sub-Section (3) of this Section, the Officer in charge of the Police (Formation) shall act as follows:
- (a) He shall forthwith proceed, to the scene and investigate the Case and if the Suspect is not in Custody take such steps as may be necessary for the discovery and arrest of the Suspect or he may direct a Police Officer subordinate to him to do so and report to him;
 - (b) In Cases involving death or serious injury to any person, the Officer in charge of the Police shall arrange, with dispatch, for the person to be taken to the nearest Hospital for such further examination as may be necessary.
 - (c) Where the Complaint is given against a person by name and the alleged Offence is not of a serious nature, the Officer in charge of a Police Formation need not make or direct investigation on the spot;
 - (d) In the Case mentioned in Paragraph (c) of this Sub-Section, the Officer in charge of the Police Station shall record in the book referred to in Sub-Section (2) and the First Information Report to the Court his reason for not entering on an investigation or for not making or directing investigation on the spot or not investigating the Case;
 - (e) Where after the investigation, it appears that the Complaints against the Suspect are unfounded, the investigation shall be terminated and this fact shall be recorded in the Police Station Diary mentioned in Sub-Section (2) of this Section; and
 - (f) Where the Officer considers that the Prosecution of the alleged offence will serve the public interest, the Officer shall reduce the Complaint into the prescribed form called First Information Report and the Officer shall take the alleged Suspect with the First Information Report before a Magistrate within whose Jurisdiction the Police Station is Situated.
- (7) Where the Suspect appears or is brought before the Magistrate Court, the particulars of the offence of which he is accused shall be read to him and he shall be asked if he has any cause to show why he should not be tried by the Magistrate.
- (8) Where upon hearing the information, the alleged Suspect admits the Commission of the offence contained in the First Information Report, his admission shall be recorded as near as possible in the words used by him and if he shows no sufficient cause why he should not be convicted the Magistrate may convict him accordingly and in that case it shall not be necessary to frame a formal charge.
- (9) Where the Suspect denies the allegation against him and states that he intends to show cause why he should not be convicted, the Magistrate shall proceed to hear the Complaint and take such evidence as may be produced in support of the prosecution. The Suspect shall be at liberty to cross-examine the witnesses for the Prosecution and if he so does, the Prosecutor may re-examine the Witnesses where necessary.
- (10) Where the evidence referred to in Sub-Section (9) of this Section has been taken or at any stage of the Case, the Magistrate is of the opinion that there is ground that the Suspect has committed an offence triable under this Part, which such Magistrate Court is competent to try and which in the opinion of the Magistrate could be adequately punished, the Magistrate shall frame a charge stating the

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- offence for which the Suspect will either be tried by Court or direct that the Suspect be tried in another Magistrate Court.
- (11) Where in the Proceeding before a Magistrate Court, the Court at any stage before judgment, is of the opinion that the Case is one which ought to be tried by the High Court, he shall refer the matter to the Attorney-General for the purpose of Trial upon a charge or information in accordance with the provisions of this Law.

PART 14**ENFORCING APPEARANCE OF SUSPECT**

120. A Court may issue a Summons or Warrant as provided in this Law to compel the appearance before it of a Suspect alleged of having committed an offence in any place, whether within or outside the State, any offence triable in the State. Compelling Appearance of a Suspect
121. In every Case, the Court may proceed either by way of Summons to the Suspector by way of Warrant for his arrest in the first instance according to the nature and circumstances of the Case. Summons and Warrant.
- 122.(1) Subject to the provision of Section 90 of this Law, a person,; who believes from a reasonable or probable cause that an offence has been committed by any person whose appearance a Magistrate has Power to compel may make a Complaint of the commission of the offence to a Magistrate who shall consider the allegations of the Complainant and may;
- (a) In his discretion, refuse to issue process and shall record his reasons for such refusal; or
- (b) Issue a Summons or Warrant as he shall deem fit to compel the attendance of the Defendant before a Magistrate in the District.
- (2) The Magistrate shall not refuse to issue such Summons or Warrant only because the indictment is one for which an offender may be arrested without Warrant and such refusal may be subject to Judicial Review Proceedings. Making of Complaint and Issue of Process Thereon.

PART 15**ISSUE, FORM AND SERVICE OF SUMMONS**

123. A Summons may be issued or served on any day from Monday to Saturday between the hours of 7:00 a.m. and 6:00 p.m., and Summons served on a Sunday or public holiday shall not be invalid but shall take effect from the next working day. Issue and Service Summons on any Day.
124. Where a charge or Complaint is preferred before a Magistrate as provided in Section 122 of this Law and the Magistrate decides to issue a 'Summons, the Summons shall be directed to the Suspect, stating concisely the substance of the Complaint and requiring him to appear at a certain time and place not less than forty- eight (48) hours after the service of such Summons before the Court to answer to the said Charge or Complaint and to be further dealt with according to Law. Issue of Summons and Contents Thereof.
125. The Court may, if it deems fit and with the consent of the Parties, hear and determine a Complaint notwithstanding the time within which the Defendant was required to appear may not have elapsed. Hearing by consent before Return Date Summons
126. Where on a Complaint being made before a Magistrate as provided in Section, 122 of this Law, the Magistrate decides to issue a Summons, the Defendant may be directed to appear immediately in Cases where an Affidavit is made by the Complainant either at the time of making the Complaint or subsequently that the Defendant is likely to leave the District within (48) hours. Summons with Immediate Return in Special Circumstances

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127. A Judge shall have the discretion in an ex parte application to issue a Summon which shall be in writing, signed by him or by such other Officer as the Chief Judge may specify from time to time. discretion in ex parte application.
128. Any Summons issued by a Court under this Law shall be in Duplicate.
129. A Summons shall be served by a Police Officer or by an Officer of the Court issuing it or other Public Officer, or through a Courier Service Company duly registered with the Chief Judge as a Process Service Agent of the Court in this Law. Summons to be in Duplicate
Service of Summons
130. The person effecting service of a Summons shall effect it by delivering it on:
- (a) An individual, to him personally; or
 - (b) A Firm or Corporation to one of the following:
 - i. to one of the Partners;
 - ii. to a Director;
 - iii. to the Secretary;
 - iv. to the Chief Agent within the Jurisdiction,
 - v. by leaving it at the principal place of business in Nigeria of the Firm or Corporation; or
 - vi. to anyone reasonably appearing to have at the time of service, control of the business of the Firm.
 - (c) A Local Government or Local Council Development Area, in accordance with the Local Governments Law or General Law of effecting service of processes on Corporations;
 - (d) The State Command of the Nigerian Police Force, or the Office of the Commissioner of Police; provided that service in this regards shall be reckoned service on the Nigeria Police Force or Inspector-General of Police or any Subordinate Officer;
 - (e) Any State Government Ministry Department or Agency, on the Head of such Ministry, Department or Agency or the Permanent Secretary thereof;
 - (f) Any arm of the Armed Forces, to the Director of Legal Services of the service or Force concerned.
 - (g) The Nigerian Police Force, or the Office of the Inspector General of Police or the Commissioner of Police of the State;
131. Where service in the manner provided by Section 130 (a) of this Law cannot by the exercise of due diligence be effected, the serving Officer may, with leave of the Court, affix one of the duplicates of the Summons to some conspicuous part of the premises or place in which the individual to be served ordinarily resides or works, and on doing so the Summons shall be deemed to have been duly served. Service where Person Summoned cannot be Found.
132. (1) Where a Public Officer is to be served with a Summons, the Court issuing the Summons may send it in duplicate to the Officer in charge of the Department in which such person is employed for the purpose of being served on such person, if it shall appear to the Court that it may be most conveniently so served. Service on Public Officers
- (2) The Officer in charge of the Department shall on receiving the Summons cause it to be served in the manner provided by Section 130 (a) of this Law and shall return the duplicate to the Court under his signature, with the endorsement required by Section 122 of this Law, which signature shall be evidence of the service.
133. Where the Officer who served a Summons is not present at the hearing of the Case, proof of such service may be done by endorsement on a duplicate of such summons and by an Affidavit showing when and how service was effected. Proof of Service when Serving Officer is not Present

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134. Where a Court issues a Summons to a person outside its Jurisdiction, the Summons shall be sent in duplicate to a Court in whose Jurisdiction the person summoned resides or work or is to be served. Service Outside the local Jurisdiction of Court
- 135.(1) Where a Summons has been served on the person to whom it is addressed or is delivered to any other person, the person to whom it is addressed or the person to whom it is delivered, as the Case may be, shall endorse or acknowledge receipt of same at the back of the duplicate. Receipt of Service of Summons.
- (2) Where service is not effected by delivering the Summons to an individual but by some other method specified by this Law, the person effecting service shall endorse on the duplicate particulars of the method by which he effected service.
136. A person who is required to endorse or sign a receipt on the back of a duplicate Summons to the effect that he has received the Summons and fails to endorse may be arrested by the person serving the Summons or any other person with Power of Arrest under this Law: Person refusing to Indorse or Sign Receipt May be Arrested.
- (a) And taken before the Court which issued the Summons;
- (b) And may be detained in Custody or committed to prison for such time not exceeding Fourteen (14) days as the Court may deem fit.
137. An Affidavit or declaration made before a Court by the serving Officer or by a Witness to the service or return slip of a registered Courier Service Company that a Summons has been served and a duplicate of the Summons endorsed, by the person to whom it was delivered or tendered or with whom it was left is admissible in evidence and the statements made in it is deemed to be correct unless and until the contrary is proved. Proof of Service
138. Where the Court is satisfied that the Defendant or Suspect has been served with a Summons and the Defendant or Suspect does not appear at the time and place stated in and by the Summons and his personal attendance has not been dispensed with under Section 142 of this Law, the Court may issue a Warrant for his arrest and his production before the Court. Warrant may be Issue Where Summons is disobeyed
139. Where a Complaint is before a Magistrate as provided in this Law, and the Magistrate decides to issue a Warrant, in the first instance, the Magistrate shall issue a Warrant to apprehend the person complained against to bring him before the Court to answer the said Complaint and be dealt with according to the Law. Issue of Warrant for Suspect in the First Instance
140. Where a Warrant of Arrest is issued in consequence of a Complaint on Oath as provided under Section 139 of this Law, the provisions of Sections 37 to 48 of this Law shall apply to such Warrant. Application of Section 87 to 88 to such Warrant
141. Notwithstanding the issue of a Summons as provided in Section 124 a Warrant may be issued at anytime before or after the time appointed for the appearance of the Suspect. Warrant may be issue before or after Return. Date of Summons
- 142.(1) Where a Magistrate issues a Summons in respect of any offence for which the penalty is a fine not exceeding Ten Thousand Naira (N10,000.00) or imprisonment for a term not exceeding Six (6) months or both, the Magistrate on the application of the Defendant:
- (a) may dispense with the Personal Attendance of the Defendant where the offence is punishable by fine or imprisonment or both; and
- (b) shall dispense with Personal Attendance of the Defendant where the offence is punishable by fine only if the Defendant pleads guilty in writing or appears and so pleads by his Legal Practitioner. Power to Dispense Personal Attendance of the Defendant in Certain Cases
- (2) The Magistrate trying a case in which the presence of the Defendant has been dispensed with, may in his discretion, at any subsequent stage of the proceedings, direct the Personal Attendance of the Defendant and where necessary, enforce the Attendance by means of the issuance of Warrant to arrest

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- the Defendant and bring him before the Court.
- (3) Where a Magistrate imposes a fine on a Defendant whose Personal Attendance has been dispensed with under this Section, the Magistrate may, at the same time direct that if the fine is not paid within a stated time, the amount shall be recovered by distress or that the Defendant shall be imprisoned for a period calculated in accordance with the provisions contained in this Law for the non-payment of a fine.
 - (4) Where the Attendance of a Defendant is dispensed with and previous convictions alleged against him not admitted in writing or through his Legal Practitioner, the Court may adjourn the proceedings, and direct the Personal Attendance in the same manner as provided in sub-section (2) of this Section.
 - (5) Where the Attendance of a Defendant has been dispensed with, and his Attendance is subsequently required, the cost of any adjournment for that purpose shall be borne by the Defendant.

PART 16**MISCELLANEOUS PROVISION REGARDING PROCESS**

143. When a Defendant is before a Court whether voluntarily, or upon Summons, or after being arrested with or without Warrant, or while in Custody for the same or any other offence, the Trial may be held notwithstanding;

Irregularity
in
Summons

 - (a) Any irregularity, defect or error in the Summons or Warrant, or the issuing, service, or execution of the Summons or Warrant; and
 - (b) The want of any Complaint upon Oath; or
 - (c) And any defect in the Complaint, or any irregularity in the arrest or Custody of the Defendant.
- 144.(1) Where a Court or Justice of the Peace, who is not empowered by Law does any of the following things:

Irregularity
which Vitiates
Proceedings

 - (a) attaches and sells property under Section 81 of 4 this Law;
 - (b) demands Security to keep the peace;
 - (c) demands Security for good behaviour;
 - (d) discharges a person Lawfully bound to be of good behaviour;
 - (e) cancels a bond to keep the peace;
 - (f) makes an Order under Section 73 of this Law as to a public nuisance;
 - (g) prohibits under Section 80 of this Law the repetition or continuance of a public nuisance;
 - (h) tries an offender; or
 - (i) decides an appeal;

The Proceedings shall be void and such Court or Justice of Peace in the case of not being a High Court may be subject to the supervisory Proceedings of the High Court in Judicial Review
145. A Variance between the allegation or charge contained in the Summons or Warrant and the offence alleged in the Complaint, or between any of them and the evidence adduced on the part of the Prosecution, shall not affect the validity of any proceedings.

Variance between
Charge and
Complaint or
Warrant.
146. A Summons, Warrant of any description or other process issued under a Law shall not be invalidated by reason of the person who signed the Summons or Warrant being dead, ceasing to hold Office or have Jurisdiction.

Process valid
notwithstanding
Death or Vacation of
Office of Person
Issuing

Administration of Criminal Justice and Other Related Matters Law of Ogun State, 2017.**PART 17****SAVING OF VALIDITY OF PROCESS**

- 147.(1) A Warrant of Commitment shall not be held void by reason of any defect therein, when it is alleged that the Suspect or Defendant has been convicted or Ordered to do or abstain from engaging in an act or a thing required to be done or left undone and there is a good and valid Order to sustain the Warrant.
- (2) A Warrant of Distress shall not be held void by reason of any defect, where it is alleged that an Order has been made, and there is a good and valid ground to sustain the Order, and a person acting under a Warrant of Distress shall not be deemed a Trespasser from the beginning by reason of any defect in the Warrant or of any irregularity in the execution of the Warrant.
- (3) This Law shall not prejudice the right of a person to compensation for any special damage caused by defect or irregularity in the execution of a Warrant of Distress.
- 148.(1) In addition to the provisions of Sections 38 and 42, in respect of Warrant of Arrest, all Summonses, Warrants of every description and processes of whatever description shall be sufficiently addressed for service or execution by being directed to the Sheriff.
- (2) Notwithstanding the provisions of sub-section (1) of this Section, a Warrant or Summons may be addressed to a person by name or to an Officer by his official designation;
- (3) Where a Warrant of Arrest is addressed to the Sheriff the Warrant may be executed by a Police Officer or Officer of a Court.
149. The Provisions contained in respect of Warrants of Arrest, and the provisions contained in this part relating to Summons, Warrants of any description and other process and their issuance, service, enforcement and execution shall, so far as may be, apply to every Summons, Warrant of any description and other process issued in respect of matters within the Criminal Matters Jurisdiction of the Court.

Validity of
Process
Warrant of
Commitment
and Warrant of

General
Address of
Process for
Issuance | and
Execution,

Certain
Provisions
Applicable to
all
Summonses
and
Warrants in
Criminal
Matters.

PART 18**SEARCH WARRANTS**

150. Where an investigation under this Law is being made by a Police Officer, he may apply to a Court or Justice of the Peace within the local limit of whose Jurisdiction he is for the issuance of the Search Warrant.
- 151.(1) Where a Court or Justice of the Peace is satisfied by information on Oath and in writing that there is reasonable ground for believing that there is, in any building, ship, carriage, receptacle, motor vehicle, aircraft or place in the State:
- (a) anything upon or in respect of which any offence has been or is suspected to have been committed; or
- (b) anything which there is reasonable ground for believing will provide evidence as to the commission of an offence; or
- (c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing an offence, the Court or Justice of the Peace may at any time issue a Warrant authorizing an Officer of the Court, Member of the Police Force, or other person named to act in accordance with sub-section (2) of this Section.
- (2) A Search Warrant issued under sub-section (1) of this Section shall authorize the Officer of the Court, a Police Officer, or other person named to:
- (a) to search such building, ship, carriage, receptacle, motor vehicle, aircraft or place for any such object until further trial proceeding before the

Application
for search
Warrant

Cases in which
Search Warrant
may be Issued

Administration of Criminal Justice and Other Related Matters Law of Ogun State, 2017.

- Court issuing the Search Warrant or some other Court to be dealt with according to Law; and
- (b) to arrest the occupier of the house or place where the object was found where the Court deems fit so to direct on the Warrant.
152. Where the Occupier of any building or the person in whose possession an object named in a Search Warrant is found and is brought before a Court or Justice of the Peace and a Complaint is not made that he committed an offence, such Court or Justice of the Peace shall immediately discharge him. Discharge of suspected Person
- 153.(1) A Search Warrant shall be under the hand of the Judge, Magistrate or Justice of the Peace issuing same. Search warrants to be signed by a Judge, Magistrate or Justice of the Peace
- (2) A Warrant shall remain in force until it is executed or until it is cancelled by the Court which issued it. Search warrant to whom Directed
154. A search Warrant may be directed to one or more persons and where directed to more than one it may be executed by all or by any one or more of them. Time to when search warrant May be Issued and executed
155. (1) A Search Warrant may be issued and executed any day, including a Sunday or Public Holiday and may be executed between the hours of 5:00 a.m. and 7:00 p.m. but the Court may, in its discretion, specify by the Warrant the execution of the Warrant at any hour.
- (2) Where a Court authorizes the execution of a search at 7:00 p.m. such authorization may be specified or contained in the Warrant at the time of issue or may be endorsed thereon by any Court at any time thereafter prior to its execution.
- 156(1) Where any building or other thing or place liable to search is closed, a person residing in or being in charge of such building, thing or place shall, on demand by a Police Officer or other person executing the Search Warrant, allow him free and unhindered access to it and afford all reasonable facilities for a search in it. Person in Charge-of Closed Place to Allow Access.
- (2) Where access into the building, thing or place cannot be so obtained, the Police Officer or other person executing the Search Warrant may proceed in the manner-prescribed by Sections 11, 12, 14 and 15 of this Law.
- (3) When any Suspect in or about such building, object or place is reasonably suspected of concealing on his person an article for which search should be made, the Suspect may be searched, and where the Suspect to be searched is a woman she shall be searched by another woman and may be taken to a Police Station for that purpose.
- (4) A Search under this part shall, except the Court or Justice of the Peace owing to the nature of the case or otherwise directs, be made in the presence of two (2) witnesses and the person to whom the search Warrant is addressed may also provide a Witness within the neighbourhood.
- (5) A list of all object found on the person and seized shall be drawn up by the person carrying out the Search and shall be signed or sealed by the person to whom the Search Warrant is addressed, the person executing the Search Warrant, the Witnesses and the witnessed copy of the list shall be delivered to the person searched.
- (6) Where a place to be searched is a building physically occupied by a woman who according to custom or religion doesn't appear in public, the person making the search shall, before entering the building, give notice to the woman that she may withdraw and shall afford her every reasonable facility for withdrawing and may then enter the building.
157. The occupant of a place Searched or some person on his behalf shall be permitted to be present at the search and shall, if he so requires, receive a copy of the list of things seized there, signed or sealed by the Witnesses, if any. Occupant of Place Searched may attend

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158. A person executing a Search Warrant beyond the jurisdiction of the Court or Justice of the Peace issuing it shall, before doing so, apply to the Court within whose jurisdiction Search is to be made and shall act under its directions. Execution of Search Warrant Outside Jurisdiction
159. A Magistrate or Justice of the Peace may direct a Search to be conducted in his presence of any place for the Search for which he is competent to issue a Search Warrant. Magistrate may direct Searching in his presence
- 160.(1) When upon the execution of a Search Warrant anything referred to in Section 151 is recovered, it may be detained by the Police taking reasonable care that it is preserved until the conclusion of the trial or any further proceedings. Detention of Articles Recovered
- (2) A list of all things recovered in the course of Search and of the places in which they are found shall be drawn up by the person carrying out the search in accordance with Section 156, (5) of this Law and a copy of the list forwarded to the Judge, Magistrate or Justice of the Peace who issued the Warrant for his information with indication as in the prescribed form set out in the First Schedule to this Law on the Search Warrant of the things:
- (a) seized that are detained or caused to be detained; and
- (b) that were seized but have been released to the owners.
- (3) Where a Suspect is charged to Court for an offence or no appeal or further Proceedings is pending in relation to an item recovered during a search the Police shall:
- (a) restore to the person who appears to be entitled to them; and
- (b) where he is the Defendant, cause to be restored to him or to his Legal Practitioner or to such other person as the Defendant may direct
- (4) The Police or any other Agency carrying out the Search is authorized or required by Law to dispose of the items seized in accordance with the provisions of this Section of the Law, the Police or Agency shall release the proceeds of the disposal of the seized items to the person entitled to it.
- (5) Any property or a part of the property may be applied to the payment of any cost or compensation directed by the Court to be paid by the Defendant, or person entitled to the property.
161. Where an object seized under a Search Warrant is of a perishable or noxious nature such thing may be disposed of in such manner as the Court may direct. Perishable articles may be disposed by the court
162. Where the object to be searched for under a Search Warrant is gunpowder, arms, ammunition or any other explosive, dangerous or noxious substance or object, the person making the Search shall have the powers and protection as are given by a written Law for the time being in force to a Person Lawfully authorized to search for the object, the object shall be disposed of in the same manner as directed by Law, or, in the absence of the direction, as the Court may either generally or in any particular instance order. Search for and Disposal of Gunpowder Etc.
163. If in consequence of the execution of a Search Warrant, there is brought before any Magistrate any forged Bank Note, Bank Note paper, Counterfeit Currency, instrument, or other object, for Forgery or Counterfeiting, the possession of which, in the absence of Lawful excuse, is an offence, the Court may cause the object to be defaced or destroyed. Disposal of forged Banknotes Counterfeit Currency and Certain other things.
164. Where a Search Warrant is issued in respect of an offence against the Law of any other State of the Federation and a Summons has been issued for that offence by or any person has been charged with that offence before a Court of that State, the Court issuing the Search Warrant may, unless he has disposed of the object in accordance with Section 160 of this Law, transmit anything seized and brought before him to that Court and in relation to anything so transmitted, the Transmission to Court of other State.

functions conferred on a Magistrate by this Law shall be exercised and performed by that Court instead of the Magistrate who issued the said Warrant.

PART 19

PROVISIONS AS TO BAIL AND RECOGNISANCES GENERALLY

165. When a person who is suspected to have committed an offence or is accused of an offence is arrested or detained, or appears or is brought before a Court, he shall, subject to the provisions of this part, be entitled to Bail. General Entitlement to Bail.
- 166.(1) Where a Suspect or Defendant is detained in Prison, Police Station or any other place of detention the Court may, issue an Order to the Officer in charge of the Prison, Police Station or other place to produce the Suspect or Defendant at the time and date specified in the Order before the Court. Power of Court to Order Person in Custody to be Brought Before it
- (2) The Court may, on production of the person or subsequently, make such Order or give such directives, as it considers appropriate in the circumstances in accordance with the provisions of this Law.
- 167.(1) Where a Child is arrested with or without Warrant and cannot be brought forthwith before a Court, the Police Officer in immediate charge for the time being, of the Police Station to which the Child is brought, shall inquire into the case and shall except:
- (a) the Charge is one of homicide;
- (b) the offence charged is punishable with imprisonment for a term exceeding three (3) years;
- (c) it is necessary in the interest of the Child to remove him from association with any reputed Criminal or prostitute. release the Child on a Recognisance entered into by his Parent or Guardian, with or without Sureties. Recognisance by Parent or Guardian of a Child.
- (2) The Parent or Guardian of the Child shall execute a bond for such an amount as will in the opinion of the Officer secure the Attendance of the Child for the hearing of the Charge.
- 168.(1) Where a Suspect is arrested, detained, or charged with an offence punishable with death, the Suspect shall only be admitted to bail by a Judge of the High Court, under exceptional circumstances. Bail where a Suspect is Charged with Capital Offences
- (2) For the purpose of exercise of discretion in Sub-section (1) of this Section:
- (a) ill health of the Applicant which shall be confirmed and certified by a qualified Medical Practitioner employed in the Government Hospital, provided that the Suspect is able to prove that there are no Medical facilities to take care of his illness by the Authority detaining him;
- (b) extraordinary delay in the investigation, arraignment and prosecution for a period exceeding one (1) year; or
- (c) and any other circumstances that the Judge may, in the particular facts of the case, consider exceptional.
169. A Defendant charged with an offence punishable with imprisonment for a term exceeding three (3) years, may, on application to the Court, be released on Bail except in any of the following circumstances: Bail where a Suspect is Charged with Offence Exceeding Three (3) Years imprisonment
- (a) where there is reasonable ground to believe that the Defendant will, where released on bail, commit another offence;
- (b) attempt to evade his trial;
- (c) attempt to influence, interfere with, intimidate witnesses, and or interfere in the investigation of the Case;
- (d) attempt to conceal or destroy evidence;
- (e) prejudice the proper investigation of the offence. or

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- (1) undermine or jeopardise the objectives or the purpose, or the functioning or the Criminal Justice administration, including the bail system.
170. In any other circumstances other than those referred to in Sections 168 and 169 of this Law, the Defendant shall be entitled to Bail, unless the Court finds reasons to the contrary.
171. Where a Defendant is brought before a Court on any process in respect "of any matter not included within Sections 165 - 170 of this Law, the person may, at the discretion of the Court, be released on his entry into Recognisance, in the manner provided in this Law, for his appearance before the Court or any other Court at the time and place mentioned in the Recognisance.
- 172(1) The Securities or Conditions for Bail in any Case shall be at the discretion of the Court, with due regard to the circumstances of the Case and shall not be excessive.
- (2) The Court may require the deposit of a sum of money or any other Security as the Court may specify from the Applicant or Defendant and/or his Surety before the Bail is approved.
- (3) Where money is deposited as Security for Bail, it shall be kept in an interest yielding Account by the Chief Registrar of the Court and at the end or conclusion of the Trial, or on an application by the Surety to the Court to discharge his Recognisance, the money or Security deposited shall be returned to the Defendant or his Surety or Sureties together with any accrued interest or yield.
173. Where in any case, the person in respect of whom the Court makes an Order requiring that a Recognisance be entered into is a Child, the Child shall not execute the Recognisance but the Court shall require a Parent, Legal Guardian or other fit person, with or without Sureties, to enter a Recognisance that the Child shall do what is required under the Court's Order.
- 174.(1) A Defendant admitted to Bail may be required to produce such Surety or Sureties as, in the opinion of the Court, will be sufficient to ensure his appearance as and when required.
- (2) The Defendant or his Surety or Sureties may be required to enter into Recognisance accordingly.
- (3) The Court shall make direction and impose conditions it deems necessary to ensure that the identity, residence and Status of Surety is properly verified.
- (4) No Defendant shall be denied, prevented, or restricted from entering into any Recognisance or standing as Surety or providing any Surety on the ground that the person is a woman or on such grounds reckoned repugnant to good conscience, Public Policy and Equity.
- (5) No Defendant shall be required to provide a Civil Servant or Public Officer of any Grade Level as a Surety except he has such Civil Servant ready and willing to do so on; his behalf.
175. A Judge may, if he thinks fit, admit any person charged before a Magistrate Court to Bail although the Court before which the charge is made has not thought it fit to do so.
176. A Judge of a High Court may, in any Case direct that the:
- (a) Bail conditions required by a Magistrate or Police be reviewed;
- (b) Defendant in Custody within the state be admitted to Bail.
- 177.(1) Where a Defendant has been admitted to Bail and circumstances arise which in the opinion of the Attorney General or a Law Officer would justify the Court in

Bail where a Suspect is Charged with Offence not Exceeding Three (3) Years imprisonment Bail in respect of Matters in other Offences.

Securities or Conditions for Bail.

Recognisance in Respect of a Child.

Sureties.

Admission to Bail after its Refusal.

Judge may Vary Bail fixed by Magistrate Police. Reconsideration of Amount of Bail on the Application of a Law Officer, Police or the Defendant..

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- cancelling the Bail or requiring a greater amount, the Court may, on application being made by the Attorney-General or such Law Officer to the Court which fixed the initial Bail condition, issue a Warrant for the arrest of the Defendant and, after giving the Defendant an opportunity of being heard, may commit him to Prison to await Trial, or admit him to Bail for the same or an increased amount.
- (2) Where a Defendant has been admitted to Bail and it is extremely difficult for him to perfect all or some of the conditions of Bail, the Defendant may by an application made to the Judge who fixed the initial Bail conditions, giving the reasons why the Bail conditions could not be perfected and suggesting likely conditions within the ambit of the Law which the Defendant is capable of fulfilling, apply for a review of the Bail Conditions earlier granted and, after giving the Prosecution an opportunity of being heard on the application, the Court may review the bail conditions on its terms or as suggested by the Defendant if it is satisfied that the conditions are sufficient to enable the Defendant stand his trial.
- (3) Where a Defendant is standing trial before a Judge who has refused an application for bail initially brought by the Defendant or revoked the bail of the Defendant, no such further fresh application for bail shall be brought before any other Court except before the Judge seized of conduct of the indictment.
- 178.(1) The Terms of Recognisance fixed by the Court in respect to any Surety or Sureties shall be processed in that Court.
- (2) The Recognisance as mentioned in sub-section (1) of this Section may be entered into by the Parties before any other Court, any Registrar, Superior Police Officer, Officer in charge of a Police Station or any Superior Official in Charge of a Prison.
- (3) Recognisance entered into as prescribed in sub-section (2) of this Section shall have the same effect as if they have been entered into before the Court.
- 179.(1) As soon as Recognisance has been entered into in accordance with the provisions of Section 171 of this Law or money or other Security deposited in the Registry of the Court:
- (a) The Defendant for whose appearance it has been entered into or Security executed shall be released;
- (b) Where he is in Prison or Police Station or other place of Detention, the Court admitting him to Bail shall immediately issue a written Order of release to the Official in charge of the prison or such other place of Detention and the Official on receipt of the Order shall immediately release him.
- (2) The release Order or any process in relation to it may be served in accordance with the relevant Law regulating service of processes in the Court, or by such person or Courier Company as the Chief Judge may authorize to serve Criminal processes of the Court.
- (3) A release Order to the Official in charge of the Prison or such other place of Detention in respect of a Defendant liable to be or being detained for some matter other than that in respect of which the release Order relates shall not be deemed to require the release of the Defendant; provided the Defendant is properly arraigned in Court, in respect of the other matter within thirty (30) days, after the initial release Order.
- (4) Nothing in this Section, or in any other Section relating to Bail is deemed to require the release of a Defendant being detained in Prison custody for some matter other than that in respect of which the Recognisance was entered into or to which the Bail relates.

Persons
before whom
Recognisance
may be
Executed

Release on
Execution of
Recognisance

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180. Where as a condition for the release of any Defendant, he is required to enter into a Recognisance with Sureties, the Recognizance of the Sureties may be taken separately either before or after the Recognisance of the Principal, and if so taken, the Recognisance of the Principal and Sureties shall be as binding as if they had been taken together and at the same time. Mode of
Entering into
Recognisance
- 181.(1) Where a Defendant is admitted to Bail, the Recognisance may be conditioned for his appearance at every time and place to which, during the course of the proceedings the hearing may be from time to time adjourned. Continuious
Bail
- (2) The Court may, where the circumstances appear just:
- (a) vary the Order of release on Bail of the Defendant at any Subsequent hearing; and
- (b) at any subsequent stage of any proceeding, cause a Defendant who has been released on Bail to be arrested and be committed to Custody: Provided that the Judge shall state in his record the reason for the variation of the Order or committal of the Defendant.
- (3) A release Order to the Official in charge of the Prison or such other place of detention in respect of a Defendant liable to be or being detained for some matter other than that in respect of which the release Order relates shall not be deemed to require the release of the Defendant: Provided the Defendant is properly arraigned in Court, in respect of the other matter within thirty(30) days, after the initial release Order.
- (4) Nothing in this Section or in any other Section relating to Bail is deemed to require the release of a Defendant being detained in Prison Custody for some matter other than that in respect of which the Recognisance was entered into or to which the Bail relates. ?
182. Where an application is made before the Court by information on Oath by Complainant, Surety or other person that a Defendant bound by Recognisance to appear before a Court or Police Officer:
- (a) is about to leave Nigeria;
- (b) for the purpose of evading Justice, is about to leave or has left the Division or District of the Court before which he is to appear or in which he normally resides; the Court may cause him to be arrested and may commit him to Prison until the Trial, where the Court considers it fit to admit him to Bail on further Recognisance. Defendant
bound by
Recognisance
to appear
Police may be
committed to
Prison.
- 183.(1) Where a Defendant who has been admitted to Bail by a Magistrate is indicted for an offence in which may not ordinarily be practised by a Magistrate, the Magistrate shall, on being informed of the fact by any Superior Police Officer or upon Legal Advice from the Office of the Attorney General issue a Warrant for the arrest of the Defendant and commit him to Prison in the same manner as if he had been originally committed for Trial of the offence for which he is indicted. Power to
revoke Bail.
- (2) For the purpose of this Section, a person shall be deemed to be indicted when the Legal Advice in respect of the Defendant has been brought to the notice of the Magistrate or the information against him has been filed in a High Court.
- (3) A Judge or Magistrate shall have the power to revoke the Bail of the Defendant where there is cogent evidence that the Defendant is using the opportunity of his Bail to frustrate his Trial by intimidating, harassing or trying to unduly influence or suborn any Prosecution Witness.
184. Where at any time after a Recognisance has been entered into, it appears to the Court that for any reason the Surety or Sureties is are unsuitable, the Court may issue a Summons or Warrant for the appearance of the Principal, and on his coming to the Court order him to execute a fresh Recognisance with other Surety variation of
a
Recognisance
Where Surety
is unsuitable

- or Sureties as the Case may be.
- 185.(1) All or any of the Sureties to a Recognisance may, at any time apply to the Court which caused the Recognisance to be taken to discharge the bond under subsection (1) of this Section, either wholly or so far as it applies to the Applicant. Discharge of sureties
- (2) On an Application, the Court shall issue a Warrant for the arrest of the Defendant on whose behalf the Recognisance was executed and on his appearance shall discharge the Recognisance either wholly or so far as relate to its Applicant and shall require the Defendant to find other sufficient Sureties or meet some other conditions and if he fails to do so, may make such Order as it considers fit.
186. Where a Surety to a Recognisance becomes insolvent, or dies or where Recognisance is forfeited under the provisions of this Law, the Court may order the Defendant from whom the Recognisance was demanded to furnish fresh Security in accordance with the directions of the original Order and, if the Security is not furnished, the Court may proceed as if there had been default in complying with original Orders. Order of Fresh Security upon Original Order.
- 187.(1) Where it is proved to the satisfaction of the Court by which a Recognisance entered has been taken in or, when the Recognisance bond is for appearance before a Court and it is proved to the satisfaction of the Court, that a Recognisance has been forfeited, the Court shall record the grounds of such proof and may call upon any Person bound by the Recognisance or bond to pay the penalty thereof or to show cause why it should not be paid. Forfeiture of Recognisance.
- (2) Where sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the penalty from a person bound or from his estate if he is dead in the manner laid down in the Law for the recovery of fines.
- (3) A Surety's estate shall only be liable under this Section, if the Surety dies before the Recognisance is forfeited.
- (4) When the penalty is not paid and cannot be recovered in a manner provided in this Law, the person bound shall be liable to imprisonment for a term not exceeding six (6) months.
188. The Court may, at its discretion, remit any portion of the penalty and enforce payment in part only. The Court may, at any time cancel or mitigate the forfeiture, on the Person liable under the Recognisance applying and giving Security, to the satisfaction of the Court, for the future performance of the condition of the Recognisance and paying, or giving Security for the payment of the costs incurred in respect of the forfeiture or on such other conditions as the Court may deem just. Mitigation of Forfeiture
189. Where a Defendant required by a Court to find sufficient Sureties fails to do so, the Court, shall, unless it is just and proper in the circumstances, make some other Order in the Case of a Defendant: Failure to find Surety
- (a) charged with an offence and released on Bail, an Order committing him to Prison until he is brought to Trial, discharged or finds sufficient Sureties, or meets such other conditions as the Court may direct in the circumstances; or
- (b) ordered to give Security for good behaviour, an Order committing him to Prison for the remainder of the period for which he was originally ordered to give Security or until he finds sufficient Sureties.
- 190.(1) Where a Recognisance to keep the peace and to be of good behaviour or not to do or commit some act or thing has been entered into by a Defendant as Principal or as Surety before a Court, a Court, on proof that the Person bound by the Recognisance as Principal has been convicted of an offence which is by Law a breach of the condition of the Recognisance, may Order. Forfeiture or convicted

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- (a) Recognisance be forfeited; and
 - (b) Persons bound by it, whether as Principal or as Sureties or any of such person shall pay the sums for which they are respectively bound.
 - (2) A certified copy of the Judgment of the Court by which the Defendant was convicted of the offence may be used as evidence in Proceedings under this Section and, where the certified copy is so used, the Court shall presume the Defendant committed the offence until the contrary is proved.
191. Where a Recognisance is declared, adjudged or ordered to be forfeited, the Court having Jurisdiction over the matter may, immediately or at any time after such declaration Order, issue a Warrant of Commitment against a Person liable, whether as Principal or Surety under the Recognisance, for any term not exceeding the term prescribed in respect of the like sum in the scale of imprisonment set forth in this Law with or without hard labour, unless the amount due under such Recognisance is paid: Where Recognisance forfeited; Warrant may be issued
192. Where a Defendant who is bound by a Recognisance or bound to appear before a Court or Police Station does not so appear, the Court may issue a Warrant for his arrest. Arrest on Failure to Appear
193. All sums paid or recovered in respect of any Recognisance Order by a Court in pursuance of Section 186 of this Law to be forfeited shall be paid to the treasury and a receipt issued which shall be provided in Court as evidence. Payment in Recognisance
194. An Order of forfeiture made under this Law may be subject to appeal without leave and shall be reckoned as a final Order. Appeal
- 195.(1) The Chief Judge may make regulation for the Registration and licensing of individuals or Corporate Bodies or Persons to act as Bonds persons within the jurisdiction of the Court in which they are Registered. Registration of Bonds person and Revocation of Licence.
- (2) The Regulation referred to in sub-section (1) above shall stipulate the qualification for Registration and grounds for revocation of Licence of any Bonds person.
 - (3) A Person shall not engage in the business of Bail bond services without being duly registered and licensed in accordance with the Provisions of sub-section (1) of this Section.
 - (4) A person who engages in Bail bond services without Registration and Licence or in contravention of the regulation or the terms of his Licence shall be liable to punishment of a fine of not less than One Million Naira (1,000,000:00) Naira or imprisonment for a term of eighteen (18) months or both.
 - (5) On conviction under this Section, the Court shall forward a report to the Chief Judge without prejudice to revocation of any Licence so issued summarily.
 - (6) A Bonds person registered under sub-section (1) of this Section may undertake Recognisance, act as Surety, or guarantee the deposit of money as required by the Bail Condition of a Defendant granted Bail by the Court within the Jurisdiction or district in which the bonds person is registered.
 - (7) A Person or Organisation shall not be registered as a Bonds person unless the Person is, or the Organisation is composed of persons of unquestionable character and integrity, and deposit with the Chief Judge sufficient Bank guarantee in such amount as may be determined by the Chief Judge in the regulation, having regard to the registered class or limit of the Bonds person in addition to procurement of appropriate re-insurance as the Chief Judge may stipulate.
 - (8) A registered Bonds person shall maintain with a Bank or Insurance Company designated in his Licence, such fully paid deposit to the limit of the amount of Bonds or Recognisances to which his Licence permits him to undertake.

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- (9) The Chief Judge may, withdraw the Registration of a Bonds person who contravenes the terms of his Licence summarily.
- 196.(1) A Bonds person shall have the powers to arrest any Defendant or Suspect who is absconding or who he believes is trying to evade or avoid appearances in Court.
- (2) Where a Bondsperson arrests a Defendant or a Suspect who is absconding or who he believes is trying to evade or avoid appearance in Court, he shall, if he cannot bring the Person arrested within Twelve (12) hours of the arrest before a Court, hand the Person arrested over to the Police who shall produce such Person before the appropriate Court.

Bonds person
may arrest
Absconding
Defendant or
Suspect

PART 20**PROVISION RELATING TO PROPERTY AND PERSONS**

197. Where in a Complaint, Summons, Warrant of any Description, Charge Sheet, information or any document whatsoever issued by a Court in the exercise of its Criminal Jurisdiction, it is necessary to refer to the ownership of any property, whether movable or immovable which belongs to or is in the possession of more than one Person, the following provisions shall apply:

Methods of
stating
Multiple
Ownership
of Property

- (a) If the property belongs to or is in the possession of more than one person whether as partners in trade or otherwise, joint tenants, tenants in common or other joint owners or possessors, it may be described in the name of any one of such persons and another or others;
- (b) If the Property belongs to Joint Stock Companies, Company, a Limited Liability Partnership, Association, Club or Society, it may be described subject to the provisions of any other Law as the property of the Official of the Company, Association, Club or Society or as belonging to the Company, Association, Club or Society by its Legal or registered title;
- (c) If property belongs to or is provided for the use of any Public Establishment, Service or Department it may be described as the property of the State, as the Case may be;
- (d) Where it is necessary to state the ownership of a Church, Chapel, Mosque or Building or Place set apart for religious worship or of anything belonging to or being in the place, it may be stated as the property of a person in charge of or officiating in the Church, Chapel, Mosque, or Building or Place or such Thing, without naming him or them;
- (e) Where it is necessary to state the ownership of any money or other property whatsoever in the charge, Custody, or under the control of any Public Officer, such money or property may be stated to be the money or property of the Federation or State as the Case may be;
- (f) Where it is necessary to state the ownership of:
- (i) any work or building made, erected or maintained either wholly or in part, at the expense of the Public Revenue or any part of it;
- (ii) any Township, Town or Village or of any Local Government, or of anything belonging to or being in or used in relation to the same;
- (iii) anything provided for the use of any part or of any Public Institution or Establishment, or of any materials or tools provided or used for repairing any work or Building or any Public Road or Highway; or

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- (iv) any other property whatsoever, whether movable or immovable, as aforesaid, it shall be sufficient to state that such property is the property of the State or of the Township, Town, or Village, or of any Local Government, as the Case may be, without naming any of the inhabitants of any such Area or Jurisdiction;
- (g) If the property belongs to a woman who has contracted a marriage under the Marriage Act or a marriage recognized as a valid marriage under any Law in force in Nigeria, it shall be stated as belonging to the married woman.
- 198.(1) Where in a Complaint, Summons, Warrant of any description, charge sheet, information or any document issued by a Court in the exercise of its Criminal Jurisdiction, it is necessary to refer to a person, the description or designation of that person shall be such as is reasonably sufficient to identify him except as provided under Section 239 of this Law. Description of Persons in Criminal Process.
- (2) It shall not be necessary to state the person's residence, or his abode, style, degree, or occupation, so far as the person has been sufficiently described to identify him.
- (3) Where it is impracticable to give the person's correct and exact description or designation because the name or the description or designation of the person is not known or for any other reason, the description or designation shall be given as is reasonably practicable in the circumstances, such person may, subject to sub-section 4 of this Section be described as "person Unknown".
- (4) A Defendant who is accused of an offence shall not be described as "a person unknown" except in the case of a verdict founded upon a coroner's inquisition.
199. A woman who has contracted a valid marriage shall have in her own name against all person whatsoever, including the husband of such marriage, subject to the provisions of any other Law the same remedies and redress by way of Criminal Proceedings for the protection and security of her person or her own separate property as if such property belonged to her as an unmarried woman. Remedies of a Married Woman against her Husband and Of a Person or Property. Respect of her Husband and Wife. Competent as Witnesses.
200. In any proceedings taken under the provisions of Section 199, husband and wife shall be competent and compellable Witnesses in accordance with the provisions of the Evidence Act, 2011 or other Law for the time being in force.

PART 21**THE CHARGE**

201. A charge may be as in the Forms set out in the Second Schedule of this Law and may be modified in such respect as may be necessary to adapt to the circumstances of each Case. Form of Charges in Second Schedule to be used and adapted.
- 202.(1) A Charge shall contain the following:
- (a) the offence with which an Defendant is charged;
- (b) where the Law creating the offence gives it any specific name, the offence shall be described in the charge by that name only; Offence to be stated in Charge.
- (c) where the Law which creates the Offence does not give it any specific name so much of the definition of the offence must be stated as to give the Defendant notice of the particulars of the Offence with which he is charged; and
- (d) the Law, the Section thereof and may state the punishment in Section of the Law against which the offence is said to have been committed;
203. The fact that a charge is made is equivalent to a statement that every legal condition required by Law to constitute the Offence charged was fulfilled in the Legal Presumption of Charge

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- particular case.
- 204(1) The Charge shall contain such particulars as to the time, date and place of the alleged offence and the Defendant, if any, against whom or the object, if any, in respect of which it was committed as are reasonably sufficient to give the Defendant notice of the Offence with which he is charged.
- (2) A Charge sheet shall be filed with the photograph of the Defendant and his finger print impression, provided that where the photograph and the finger print impression are not available, it shall not invalidate the charge.
- 205(1) Where the Defendant is charged with Criminal breach of trust or fraudulent appropriation of property, it shall be sufficient to specify the gross sum in respect of which the Offence is alleged to have been committed and the dates between which the Offence is alleged to have been committed without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one single offence.
- (2) Where a Defendant is charged with falsification of account, fraudulent falsification of account, or fraudulent conversion, it shall be sufficient to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud or any particular day on which the offence was committed.
206. Where the nature of the Offence is such that the particulars required by Sections 202, and 204 of this Law do not give the Defendant sufficient notice of the Offence with which he is charged, the charge shall also contain such particulars of the manner in which the Offence was committed as will be sufficient for that purpose.
- 207(1) In a charge, words used in describing an Offence are deemed to have been used in the sense attached to them, respectively, in the Law creating such Offence.
- (2) Figures, expressions and abbreviation may be used for expressing anything which is commonly expressed by those figures, expressions or abbreviation.
- 208(1) The description of property in a charge shall be in ordinary language indicating with sufficient clarity, the property referred to and where the property is so described, it shall not be necessary, except when required for the purpose of describing an Offence depending on any special ownership of property or special value of property, to name the person to whom the property belongs or the value of the property.
- (2) Where property is vested in more than one person and the owners of that property are referred to in the charge, the property may be described as being owned in accordance with the appropriate provisions set out in Section 197.
- (3) Where the owner of any property is a Company, Association, Club or Society, proof of the registration of the Company, Association, Club or Society shall not be required unless the Court decides that proof shall be given, in which case, the further hearing may be adjourned for the purpose or the Court may, in its discretion, amend the proceedings by substituting the name of some person or persons for the registered title.
- 209(1) Any Bank or Currency Notes may be described as money, and any averment as to money, regarding the description of the property, shall be sustained by proof of any amount of coin or Currency Note of any Bank, although the particular species of Currency of which the amount was composed or the particular nature of the Bank or Currency Note need not be proved.
- (2) In a Case of stealing and defrauding by false pretences, the Bank or Currency note may be Described by proof that the Defendant dishonestly appropriated or obtained any coin or Currency Note of any Bank, or any portion of its value.

Particulars of a Charge.

Charge of Criminal Breach of Trust or Criminal Falsification of Accounts.

Charge may Contain the Manner in which the Offence was Committed.

Sense of Words Used in Charge.

Owner or Joint Owners and Value of Property need not be named unless Specifically required.

Description of Bank or Currency Notes

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- although the coin or Currency note of any Bank may have been delivered to him in Order that some part of its value should be returned to the Party delivering it or to any other person, and that part should have been returned accordingly.
- 210.(1) Where a Law constituting an Offence states the Offence to be the omission to do any one of different acts in the alternative, or the doing or the omission to do any act in any one of different capacities, or with any one of the different intentions, or states any part of the Offence in the alternative, the act, omission, capacity, or intention, or other matter stated in the alternative in the Law, may be stated in the alternative in the charge.
- (2) It shall not be necessary in any charge where the Offence is one constituted by a Law to negate any exception or exemption from or qualification to the operation of the Law creating the Offence.
211. The description or designation of the Defendant in a charge or of any other person to whom reference is made therein may be described in the manner set forth in Section 198 of this Law.
212. Where it is necessary to refer to document or an instrument in a charge, it shall be sufficient to describe it by any name or designation by which it is commonly known, or by the purport of the document, without setting out the content or attaching a copy of such document to the charge.
213. Subject to any other provisions of this Law, it shall be sufficient to describe any place, time, thing, matter, act or mission whatsoever to which it is necessary to refer in a charge in ordinary language in such a manner as to indicate with reasonable clearness and clarity, the place, time, thing, matter, act or omission referred to.
214. It is not necessary in stating an Intent to defraud, deceive or injure to state an intent to defraud, deceive or injure any particular person where the Law creating the Offence does not make an intent to defraud, deceive or injure a particular Person an essential Ingredient of the Offence.
215. The following Suspects or Defendants may be charged and tried together:
- (a) when two (2) or more Suspects are charged with the same Offence or of different Offences committed in the Course of same transaction; or
 - (b) when a Suspect is accused of committing an Offence and another of abetting or being accessory or attempting to commit such offence; or
 - (c) when a Suspect is accused of any offence, which includes theft, Criminal Misappropriation, Criminal breach of trust and another of receiving or retaining or assisting in the disposal or concealment of the subject matter of such offence; or
 - (d) when two (2) or more Suspects committed an Offence of same or similar character and such Offence is committed by them jointly;
 - (e) when the Suspects dishonestly received stolen property and or assisted in concealing the stolen property, or in respect of stolen property the possession of which has been transferred by one Offence; and another accused of Offences committed during a fight or series of fights arising out of another fight, and persons accused of abetting any of these Offences.
 - (f) when two (2) or more Suspects committed different Offences in the course of the same transaction.
216. For every distinct Offence with which a Defendant is accused, there shall be a separate charge and every such charge shall be tried separately.
217. Offences may be charged and tried together as the Court may deem fit in the following circumstances

Provision
as to
Statutory
Offences.

Description
of Persons

Description
of Document.

General Rule
as to
description

statement
of intent.

Suspects or
Defendants
who may be
Charged
Jointly.

Separate
charges for
distinct offences

When Offences
may be Charged
Together.

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- (a) any Three (3) Offences committed by a person within Twelve (12) months whether or not they are of the same or similar character or whether or not they are in respect of the same person or persons; or
- (b) any number of the same type of offence committed by a Defendant; or
- (c) Any number of Offences committed by a Defendant in the course of the same transaction having regard to proximity of the time and place, continuity of action and community of purpose; or
- (d) cases mentioned in Sections 218 to 223 of this Law
218. An Offence is deemed to be an Offence of the same kind as an attempt to commit that Offence where the attempt is itself an Offence. Attempt same as Substantive Offences.
219. Where in one (1) series of Acts or Omissions so connected together as to form the same transaction or which form or are part of a series of Offences of the same or a similar character, more Offences than one (1) are committed by the same Defendant, charges for the Offences may be joined and the Defendant accused tried for the Offences at one (1) Trial. Trial for more than One (1) Offence.
220. Where the Acts or Omissions alleged constitute an Offence falling within two (2) or more separate definitions in any Law for the time being in force under which Offences are defined or punished, the Defendant accused of them may be charged with and tried at one trial for each of those Offences. Offences falling within Two (2) Definitions
221. Where several acts or omissions of which one (2) or more than one (1) would by itself or themselves constitute an Offence, constituted when combined with a different Offence, the Defendant accused of them may be charged with and tried at one (1) trial for the Offence constituted by those Acts or Omission when combined or for any Offence constituted by any one or more of those Acts. Acts constituting One (1) Offence but constitute a Different Offence has when Combined
222. Where a single Act or Omission or series of Acts or Omissions is of such a nature that it is doubtful which of several Offences, the facts of which can be proved, will constitute the Offence with which the Defendant may be charged with having committed all or any of those Offences and any number of those charges may be tried at once or he may be charged in the alternative for having committed any of those Offences. Where it is doubtful which Offence has been Committed.
223. Where a single Act or Omission the fact or combination of facts constitutes more than one (1) Offence, the Defendant may be charged and tried at one (1) Trial for one or more of those offences. Incidental Offences with the same Transaction

PART 22**ALTERATION OR AMENDMENT OF CHARGES**

- 224.(1) A Court may permit an Alteration or Amendment to a charge or framing of a new charge at any time before judgment is pronounced. Alteration and Amendment of Charge by Permission of Court
- (2) An alteration or Amendment of a new charge shall be read and explained to the Defendant and his plea to the Amendment of new charge shall be taken.
- (3) Where a Defendant is arraigned for trial on an imperfect or erroneous Charge, the Court may permit or direct the framing of a new Charge or an amendment to, or the alteration of the original Charge.
- (4) The Prosecution may apply to alter or add to any Charge or frame a new Charge at any time before judgment is given or verdict returned.
- 225.(1) Where a new Charge is framed or alteration made to a Charge under the provisions of Section 224 of this Law the Court shall call on the Defendant to plead to the new or altered Charge as if he has been arraigned for the first time. Procedure on Alteration of Charge
- (2) The Court shall proceed with the trial as if the new or altered Charge had been the original Charge.
- (3) Where a Charge is so amended, a note of the Order of Amendment shall be

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- endorsed on the Charge, and the charge shall be treated for the purpose of all proceedings in connection therewith as having been filed in the amended form.
- (4) Where the Charge is altered or amended and the Defendant declares that he is not ready, the Court shall consider the reasons he may give and if proceeding immediately with the Trial is not likely in the opinion of the Court to prejudice the Defendant in his defence or the Prosecutor, as the case may be, in the conduct of the Case, the Court may, in its discretion forthwith proceed with the Trial as if the new or altered Charge had been the original Charge.
- (5) If the New or Altered Charge is such that proceeding immediately with the Trial will likely, in the opinion of the Court, to prejudice the Defendant or the Prosecutor, the Court may either direct a New Trial or adjourn the Trial for such date as the Court may consider necessary.
226. Where a Charge is altered, amended or substituted by the Court after the commencement of Trial, the Prosecutor and the Defendant shall be allowed to recall or Re-Summon and examine any Witness who may have been examined and re-examined or cross examined and to call any further Witness, provided such examination shall be limited to the Alteration, Amendment or Substitution made.
227. An Error in stating the Offence or the particulars required to be stated in a Charge or an Omission to state the Offence or those particulars, or any duplicity, misjoinder or non-joinder of the particulars of the Offence shall not be regarded at any stage of the Case as material unless the Defendant was in fact misled by such Error or Omission.
228. Objections shall not be taken or entertained during Proceeding or Trial on the ground of an imperfect or erroneous Charge.
- 229(1) Where an appellate Court is of the opinion that a Defendant convicted of an Offence was misled in his defence by the absence of a Charge or by an Error in the Charge, which has occasioned a miscarriage of Justice, it may direct that the trial be recommenced on another Charge.
- (2) Where the Appellate Court is of the opinion that the facts of the Case are such that no valid charge could have been preferred against the Defendant in respect of the facts proved, it shall quash the conviction.

Recall of
Witness when
Charge is
Altered

Effect of Error

Objection to a
ChargeEffect of
Material Error**PART 23****CONVICTION WHEN CHARGED WITH ONE OF SEVERAL OFFENCES OR OF ANOTHER OFFENCE**

230. Where a Defendant is charged with one (1) Offence and it appears in evidence that he committed a similar or other Offence with which he might have been charged under the provisions of this Law, he may be convicted of the Offence, which he is shown to have committed although he was not charged with it.
231. Where a Defendant is charged with an Offence but the evidence establishes an attempt to commit the Offence, he may be convicted of having attempted to commit that Offence although the attempt is not separately charged.
232. Where a Defendant is charged with an attempt to commit an Offence but the evidence establishes the commission of the full Offence, the Defendant shall not be entitled to an Acquittal but may be convicted of the attempt and punished accordingly without prejudice to the application of Section 230 this Law.
233. Where a Defendant has been convicted of an attempt under either Section 231 or 232 of this Law, such person shall not subsequently be liable to be prosecuted for the Offence of which he was convicted of attempting to commit.
234. Where a Defendant is charged with an Offence and the evidence establishes that he is an accessory after the fact to that Offence or to some other Offence of which

Where
Defendant
Charged with
One (1) Offence
may be
Convicted
of another
Full Offence
Charged
Attempt
ProvedAttempt
Charged for
Offence
ProvedLiability to
further
ProsecutionOn Charge of
an Offence

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- a Defendant charged with the first mentioned Offence, maybe convicted by virtue of any of the provisions of this Law, he may be convicted as an Accessory after the fact to that Offence or that other Offence, as the Case may be and be punished accordingly.
- 235(1) Where on the Trial of a Defendant for any Misdemeanour or simple or lesser Offence, it appears that the facts proved in evidence amount in Law to a Felony or higher Offence not charged, the Defendant shall not by this reason be acquitted of such Misdemeanour, or simple Offence.
- (2) The Defendant referred to in sub-section (1) of this Section is not liable afterward to be prosecuted for Felony or higher offence proved on the same facts, but the Court may in its discretion stop the trial of the lesser Offence or direct that the Defendant be charged and tried for the Felony or higher Offence, in which Case the Defendant may be dealt within all respects as if he had not been put to Trial for the Misdemeanour, or lesser or simple Offence.
- (3) Where a Charge is brought for the higher Offence pursuant to this Section, the Defendant shall be tried before another Court.
236. Where a Defendant is charged with an Offence relating to property and the evidence establishes the commission by him with respect to the same property of another Offence, he may be convicted of that other Offence although he was not charged with it.
237. Where on Trial for burglary, housebreaking or related Offence, the facts proved in evidence justify a conviction for some other Offences and not the Offence with which the Defendant is charged, he may be convicted of the other Offence and be punished as if he had been convicted on a Charge or an information charging him with the Offence.
238. Where a Defendant is on a trial for rape, but the facts proved establish Defilement or Incest or Unnatural or Indecent Offences or Indecent Assault the facts proved in evidence at the Trial can ground a conviction for Defilement or Incest or Unnatural or Indecent Offences or Indecent Assault and not the Offence with which the Defendant is charged, as if he had been convicted on a Charge or an information charging him with the Offence of Defilement or Incest or Unnatural or Indecent Offences or Indecent Assault and vice - versa.
- 239(1) A Trial for the Offences referred to in Sub-Section (4) of this Section may not, where the Court so determines, be held in an open Court.
- (2) The names, addresses, telephone numbers and identity of the victims of such Offences or Witnesses shall not be disclosed in any record or report of the Proceedings and it shall be sufficient to designate the Names of the Victims or Witnesses with a combination of alphabets.
- (3) Wherein any Proceedings the Court deems it necessary to protect the Identity of the Victim or Witness, the Court may take any or all of the following measures:
- receive evidence by video link;
 - permit the Witness to be screened or masked;
 - receive written deposition of expert evidence; and
 - any other measure that the Court considers appropriate in the circumstance.
- (4) The provision of this Section shall apply to:
- Offences under Section 238 of this Law;
 - Offences under the Terrorism (Prevention) Amendment Act;
 - Trafficking in Persons and related Offences; and
 - any other Offence in respect of which a Law of the State House of Assembly or Act of the National Assembly permits the use of such protective

Conviction
Accessory
after the Fact
to that or
Connected
Offence may
Follow

Defendant
Misdemeanour
or lesser
Offence but
at higher
Offence is
Proved

Conviction
of Kindred
Offences
relating to
Property.

Defendant
charged with
Burglary may
be Convicted
of Kindred
Offence.

On Charge of
Rape,
Conviction
for

Defilement,
Incest,
Unnatural or
Indecent
Assault may
follow.

Procedure for
Trial on
Charge for
Certain
Offences

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measures, or as the Judge may consider appropriate in the circumstances.

- (5) Any contravention of the provisions of sub-section (2) of this Section, shall be an Offence and liable on conviction to a minimum term of one (1) year imprisonment.
240. Where on a Trial for an Offence of Defilement, the facts proved in evidence warrant a conviction for an Indecent Assault and not the Offence with which the Defendant is charged, the Defendant may be convicted of Indecent Assault although he was not charged with that Offence.
241. Where a Defendant is charged and tried for the Murder of a Child or for Infanticide and it appears on the evidence that the Defendant is not guilty of Murder or of Infanticide, as the case may be, but is guilty of the Offence of Concealment of Birth the Defendant may be convicted of that offence.
- 242(1) Where a Defendant is charged and tried for the Murder of a Newly-Born Child and it appears from the evidence that the Defendant is not guilty of Murder but is guilty of Infanticide, the Defendant be convicted of Infanticide.
- (2) Nothing in sub-section (1) of this Section shall prevent a Defendant who is tried for the Murder of a Newly-Born Child from being:
- convicted of manslaughter; or
 - found guilty of concealment of Birth ; or
 - Acquitted on the ground that by virtue of an applicable Law he was not criminally responsible, and dealt with accordingly or in accordance with this Law or any other Act.
- 243(1) Where a Defendant is charged with an Offence consisting of several particulars, a combination of some of which constitutes a lesser Offence in itself and the combination is proved but the remaining particulars are not proved, he may be convicted of or plead guilty to the lesser Offence although he was not charged with it.
- (2) Where a Defendant is charged with an Offence and facts are proved which reduce it to a lesser Offence he may be convicted of the lesser Offence although he was not charged with it
- 244(1) Where more than one (1) Charge is made against a Defendant and a conviction has been had on one (1) or more of them, the Prosecutor may, with the consent of the Court, withdraw the remaining Charge or Charges or the Court, of its own motion, may stay the Trial of the Charge or Charges.
- (2) A Withdrawal shall have the effect of an Acquittal on the Charge or Charges unless the conviction which has been had is set aside in which Case, subject to any Order, of the Court setting aside such conviction, the Court before which the Withdrawal was made may, on the request of the Prosecutor, proceed on the Charge or Charges so withdrawn.

On a Charge of Defilement Conviction of Indecent Assault may follow.

Where Murder or Infanticide is Charged and Concealment of Birth is proved. Where Murder is Charged and Infanticide is proved.

Where Offence proved is not included in Offence Charged.

Withdrawal of Remaining Charges of Conviction of One (1) of Several Charges.

PART 24**PREVIOUS ACQUITTALS OR CONVICTIONS**

- 245(1) Without prejudice to Section 233, a Defendant charged with an Offence shall not be liable to be tried for that Offence, if it is shown that he has previously been:
- convicted or acquitted of the same Offence by a competent Court; or
 - convicted or acquitted by a competent Court on a Charge on which he might have been convicted of the Offence charged.
 - convicted for acquitted of an Offence by a competent Court other than the Offence charged, being an Offence for which, apart from this Section he might be convicted by virtue of being charged with the

Defendant Convicted or Acquitted not to be tried again for same or related Offence

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- Offence charged.
- (2) Nothing in sub-section (1) of this Section shall prejudice the operation of any Law giving power to a Court, on an appeal, to set aside a verdict or finding of any other Court and Order a re-Trial.
246. A Defendant acquitted or convicted of an Offence may, afterwards be tried for a distinct Offence for which a separate Charge might have been made out against him on the previous Trial under the provisions of Section 219.
247. A Defendant acquitted or convicted of an Offence constituted by any act or Omission causing consequences which together with that act or omission constitute a different offence from that for which he was acquitted or convicted may afterwards be tried for the last mentioned offence if the consequences had not happened or were not known to the Court to have happened at the time when he was acquitted or convicted when the consequences creates the Offence for Murder or Manslaughter.
248. A Defendant acquitted or convicted of any Offence constituted by any Act or Omission may, notwithstanding such Acquittal or Conviction, be subsequently charged with and tried for the same or any other Offence constituted by the same Acts or Omissions if the Court by which he was first tried was not competent to try the Offence with which he was first charged at the time he was charged.

Defendant
Acquitted or
convicted may
be tried again
on a separate
charge in
certain cases

Consequences
Supervening or
not known at
previous Trial

Where court at
First Trial was
not
competent

PART 25**WITNESSES: COMPELLING ATTENDANCE AND TAKING OF OATH OR MAKING OF AFFIRMATION**

- 249(1) The Court may, on application of the Prosecution or the Defence, issue a Summons or a Writ of Subpoena on a Witness, requiring him to attend Court to give evidence in respect of the Case, and to bring with him any specified documents or things and any other documents or things relating to them which may be in his possession or power or under his control.
- (2) Where the Prosecutor is not a Public Officer, the Person to whom the Summons is addressed is not bound to attend unless his traveling expenses are paid to him.
- 250.(1) A Court with Criminal Jurisdiction shall have a Process Server specifically assigned to it by the Commissioner of Police of the State.
- (2) The Process Server has the responsibility amongst others to effect due efficient Service of Witness Summons, the Defendant Production Orders, Writs and all other Court processes issued in the Court in respect of all Criminal Matters.
- (3) A Summons or other process shall be served on the Person to whom it is directed in the same manner as is set out in Sections 129 or 130 of this Law or, with leave of the Court, Section 131 and the provisions of Sections 133 to 137 shall apply to such Summons.
- (4) Service of processes may be effected by registered reputable Courier Companies, recognised and authorized by the Chief Judge in accordance with the provisions of this Law and the registered Courier Companies may be assigned to a Court with Criminal Jurisdiction as a process Server in accordance with sub-section (1) of this Section.
- (5) The Attorney General of the State or a person authorized by him or the Police, may serve on a person whom the Prosecutor wishes to call as Witness, a Witness Summons or Writ of Subpoena.
- (6) Proof of service of a process or document shall be endorsed by the process server effecting the service, and shall be filed in the Court file.

Issue of
Summons for
Witness

Service of
summons and
other
Processes on
Witness

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251. Where a Witness summoned to give evidence does not;
 (a) attend Court at the time and place mentioned on the Summons: and
 (b) provide any reasonable excuse for Non-attendance; then after proof to the satisfaction of the Court that Summons was duly served on him or that the person to whom the Summons is directed wilfully avoids service, the Court may issue a Warrant to arrest and to bring him before the Court to testify. Warrant for Witness after Summons
252. Where the Court is satisfied in the first instance, by proof on Oath, that a person likely to give material evidence, either for the Prosecution or for the Defence, will not attend to give evidence without being compelled to do so, then, instead of issuing Summons, it may issue a Warrant, in the first instance, for the arrest of the person. Issue of Warrant for Witness in first Instance
- 253(1) A Witness arrested under a Warrant shall if practicable and where the hearing of the Case for which his evidence is required is fixed for a time which is more than twenty-four (24) hours after the arrest, be taken before a Magistrate and the Magistrate:
 (a) may on the Witness furnishing security by recognisance to the satisfaction of the Magistrate for his appearance at the hearing, Order him to be released from Custody; or
 (b) Shall, on the Witness failing to furnish the Security, order him to be detained for production at the hearing. Mode of Dealing with Witness arrested under Warrant
- (2) The provisions of this Law relating to Bail, Summons and Warrants in respect of the Defendant shall apply to Witnesses.
- (3) A Witness arrested or detained under this Section shall not be kept in the same room or place as the Defendant, if the Defendant is in Custody and the Defendant shall not be allowed to make any contact with the Witness
- 254(1) A Witness who:
 (a) refuses or neglects, without reasonable cause, to attend Court in compliance with the requirements of a Summons duly served in the manner prescribed by Law; or
 (b) departs from the premises of the Court without the leave of the Judge or Magistrate hearing the Case is liable, on summary conviction, to a penalty not exceeding Ten Thousand Naira (N10,000.00) or to imprisonment for a term not exceeding Two (2) months. Penalty on Refusing to Attend.
- (2) A Complaint shall not be made for an Offence under this Section except by the Order of the Court made during the hearing of the Case for which the evidence of the Witness is required.
255. A Witness who is present when the hearing or further hearing of a case is adjourned, or who has been duly notified of the time and place to which such hearing or further hearing is so adjourned, shall be bound to attend at such time and place, and if he defaults, he may be dealt with in the same manner as if he had refused or neglected to attend the Court in obedience to a Summons to attend and give evidence. Non - Attendance of Witness on adjourned Hearing
256. A person present in Court and compellable as a Witness, whether a Party or not, in a cause, may be compelled by the Court to give evidence, and produce any document in his possession, or in his power, in the same manner and subject to the same Rules as if he had been summoned to attend and give evidence, or to produce such document and may be punished in like manner for any refusal to obey the Order of the Court. Persons in court may be required to give Evidence though not summoned.
257. A Witness shall take an Oath or make a solemn affirmation in such a manner as Manner of Taking Oath or Affirmation

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the Court considers binding on his conscience.

- 258.(1) When a person attending Court and who is required to give evidence, without any sufficient excuse or reason:
- (a) refuses to be sworn or to affirm as a Witness; or
 - (b) having been sworn or having taken affirmation refuses to answer any question put to him; or
 - (c) refuses or neglects to produce any document or anything which he is required by the Court to produce; the Court may adjourn the hearing of the Case and may in the meantime by Warrant, commit the person to Prison or other place of safe Custody for a period not exceeding Thirty (30) days.
- (2) Nothing in this Section shall:
- (a) affect the liability of the person to any other punishment for refusing or neglecting to do what is so required of him; or
 - (b) prevent the Court from disposing of the case in the mean time according to any other sufficient evidence taken by it.
259. A Defendant who is bound by Recognisance to attend at any Criminal Session as a Witness, whether for the Prosecution or for the Defence, in any Case to be tried at such session, shall, if he has received a Subpoena or Notice, be bound to attend the Court on the date appointed for the Trial of such Case and on subsequent dates of the Sessions, until the Case has been disposed of or until he has been discharged by the Court from further Attendance.
260. If any person who has been bound by Recognisance to attend as a Witness, whether for the Prosecution or for the Defence, at the trial of any Case does not attend Court on the day appointed for the Trial of such Case after having been served with Notice of Trial, and no reasonable excuse is offered for such Non-attendance, the Court may issue a Warrant to arrest such person and bring him, at a time to be mentioned in the Warrant, before the Court in order to give evidence on behalf of the Prosecution or of the Defence, as the Case may be.
261. Every person whose Attendance as a Witness, whether for the Prosecution or for the Defence, is required in any Case, and who has not been bound by Recognisance to attend as a Witness at the Criminal Sessions in which such Case is to be tried, may be summoned by a Writ of Subpoena.
262. The Registrar, on being furnished with the name and ~~placed~~ ^{place of abode} of any Witness on behalf of the Prosecution or Defence whose Attendance is required to be secured by Subpoena, shall prepare and deliver to the Sheriff for service, a Writ or Writs of Subpoena directed to such Witnesses, together with as many copies of it as there may be Witnesses named in such Writ or Writs and when application shall be made to postpone any trial by reason of the absence of any Witness stated to be material, it shall be taken as prima facie evidence that the party applying for such postponement has not exercised all due and necessary diligence to secure the attendance of such Witness, if it shall appear that no Subpoena to such Witness was issued out at least four (4) clear days before the first day of the Criminal Sessions.

Witness
refusing to
be
sworn or
Produce
Document

Attendance
of witness
bound by
Recognisance

Warrant for
arrest of
Witness not
attending on
Recognisance

Writs of
Subpoena.

Service of
Subpoena.

PART 26**EXPENSES OF WITNESSES**

263. Where a person attends Court on Summons as a State Witness to give evidence against any Defendant, the Witness shall be entitled to payment of such reasonable expenses as may be prescribed and approved by the Director of Public Prosecutions.

Expenses of
Witness for
the
Prosecution

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264. The Court may, in its discretion, at the request of any person who appears before such Court on Summons, Recognisance or by virtue of a Warrant to give evidence on behalf of the Defendant, Order payment by the Registrar, in accordance with the provisions of any Rules of Court, to such Witness of such money as the Court deems reasonable and sufficient to compensate him for the expenses, trouble and loss of time which he incurred or sustained in appearing before the Court. Expenses of Witness for the Defence
265. The Court may permit on application of a Party, for an Adjournment of the Proceedings and in so doing, may order the Party seeking the Adjournment to pay to a Witness present in Court and whose evidence it has not been possible to take owing to the Adjournment, such sum in the amount payable to a Witness in accordance with Sections 264 of this Law or such sums as the Court may fix. Adjournment may be granted subject to witness cost.
- 266.(1) The amount of the expenses payable to a Witness appearing for the Prosecution pursuant to Section 263 of this Law shall be processed and paid by the Director of Public Prosecutions in consultation with the Attorney General. Payment of Witness expenses
- (2) The amount of the expenses payable to a Witness pursuant to Section 264 of this Law shall be processed and paid by the Registrar of the Court to the Witness out of the relevant vote as appropriated by the Judiciary. Provision of Interpreter
267. It shall be the duty of the Court to provide for an Interpreter where the Defendant or any Witness either for the Prosecution or Defendant does not understand the language of the Court.

PART 27**EXAMINATION OF WITNESSES**

268. Subject to the provisions of any other Law, the examination of Witnesses shall be in accordance with the provisions of the Evidence Act. Application of the Evidence Act.
269. The Court may at any stage of any Trial, Inquiry or other Proceedings in this Law, either of its own motion or on application of either Party to the proceeding call any person as a Witness and examine such person or recall and re-examine a person already examined where his evidence appears to the Court to be essential to the just decision of the Case. Power to call or Recall Witnesses
270. A Certificate signed by any of the Officers named in Section 55 of the Evidence Act, shall be admissible in evidence in Government accordance with the relevant provisions of the Evidence Act. Certificate of certain Government Technical officers.
271. In a Case where the right of reply depends on the question whether evidence has been called for the Defence, the fact that the Defendant charged has been called as a Witness shall not of itself confer on the Prosecution the right of reply, but a Law Officer or State Counsel, who is appearing as Counsel for the Prosecution shall in all Cases have the right of reply. Right of Reply.
- 272.(1) Subject to the provisions of Sections 239, 273 and 275 of this Law and of any other written Law specifically relating, there to the room or place in which a trial is to take place in this Law, shall be an open Court to which the public generally may have access as far as it may be convenient and conducive for due process. Public to have Access to Hearing
- (2) Notwithstanding the provisions of Sub-Section (1) of this Section, the Judge or Magistrate presiding over a Trial may, in his discretion, exclude the public at any stage of the hearing on the grounds of Public Policy, Decency or Expedience.
- (3) Where the Court is sitting in a place other than in a building, the Authority given in sub-section (2) of this Section to exclude the public shall be construed as being Authority to prevent the public from approaching so near to where the Court is sitting, as in the opinion of the Judge or Magistrate, to be able to hear

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- what is taking place at the Trial and to be able to communicate with a person allowed to be present there.
273. Where a person who in the opinion of the Court has not attained the age of Seventeen (17) is called as Witness in any Proceedings in relation to an Offence against or any conduct contrary to decency or morality, the Court may direct that all or any persons not being:
- (a) members or Officers of the Court: or
 - (b) parties to the Case, their Legal Practitioners or persons otherwise directly concerned in the Case, be excluded from the Court during the taking of the evidence of such person.
- 274(1) An Order made under either Sections 272 or 273 excluding the Public from a Court shall not unless specifically stated:
- (a) authorize the exclusion of bonafide Representatives of a Newspaper or News Agency; or
 - (b) apply to Messengers, Clerks and other persons required to attend the Court for purposes connected with their employment.
- (2) Where such an Order is made the Judge or Magistrate, as the Case may be shall record the grounds upon which such Order is made.
275. An Infant other than an Infant in the arms of parent or guidance, or child shall not be permitted to be present in Court during the Trial of a Defendant charged with an offence or during any Proceedings preliminary to the trial and if so present, shall be ordered to be removed except:
- (a) he is the Defendant charged with the alleged offence: or
 - (b) his presence is required as a Witness or otherwise for the purposes of Justice in which Case he may remain for so long as his presence is necessary.
- 276(1) Where it appears to the Court that in the interest of Justice, the Court should have a view of any place, person or thing connected with the Case, the Court shall, where the view relates to a place, either adjourn the Court to that place and there continue the Proceedings or adjourn the Case and proceed to view the place, person or thing concerned.
- (2) The Defendant shall be present at the viewing of place, person or thing concerned.
 - (3) At the Locus, the Court shall give such directions as it shall deem fit for the purpose of preventing communication between the Witnesses and the Defendant.
 - (4) A breach of directions, given under sub-section (3) of this Section shall not affect the validity of the Proceedings unless the Court otherwise directs.
- 277(1) Where the age of a person is in issue in any Criminal Proceedings, the Court shall make due inquiry as to the age of that person by taking into account one or both of the following:
- (a) the apparent physical appearance of the person concerned:
 - (b) any evidence, in relation to the age of the person concerned, received by the Court in accordance with the provisions of the Evidence Act, the Child Rights Law, or any other Law for the time being in force.
- (2) The evidence of a Witness, who is not an expert within the meaning of Section 68 of the Evidence Act, 2011, shall be admissible for the purpose of this Section.
- (3) An Order or Judgment of the Court shall not be invalidated by any subsequent proof that the age of the person has not been correctly stated to the Court, and the age presumed or declared by the Court to be the age of that person shall, for the purpose of this Law, be deemed to be the true age of that person.
278. Where in a charge for an Offence, it is alleged that the person by or in respect of

Court may be Cleared Whilst Child or Young Person is Giving Evidence in Certain Cases.

Order under Section 272 or (273) not to Apply to Press and Certain Others.

Prohibition of Children being Present in Court during the Trial of Other Persons.

Visit by Court to; Locus.

Determination of Age

Age in Relation to Offences

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whom the Offence was committed is a child or is under or above any specified age, and he appears to the Court to have been at the date of the commission of the alleged Offence a child under or above the specified age, as the Case may be, he shall, for the purposes of this Law, be presumed at that date to have been a child or to have been under or above that age, as the case may be, unless the contrary is proved.

- 279 A Defendant shall subject to Section 142 of this Law, be present in Court during the whole of his trial unless:
- (a) he misconducts himself in such a manner as to render his continuing presence impracticable or undesirable; or
- (b) at the hearing of an Interlocutory Application.
- 280.(1) Where the Defendant is in Custody or on Remand, he shall be allowed access to his Legal Practitioner at all reasonable times.
- (2) Where the Defendant elects to defend himself in person, the Court shall inform him of his Rights within the Trial and the consequence of his election.
- (3) The Court shall ensure that the Defendant is represented by a Counsel in Capital Offences provided an Defendant who refuses to be represented by Counsel shall, after being informed under Section 362 (6) of this Law of the risks of defending himself in person, be deemed to have elected to defend himself in person and this shall not be a ground to void the Trial.
- 281.(1) Where a private Legal Practitioner prosecutes on behalf of the Attorney-General or a Law Officer prosecuting in his Official capacity in any Criminal Proceedings, the private Legal Practitioner or other Law Officer shall prosecute subject to such direction as maybe given by the Attorney-General.
- (2) Where a proceeding in respect of an Offence is instituted by a Police Officer, it shall be in the name of the Commissioner of Police.
- (3) Where a proceeding in respect of an Offence is instituted on behalf of the Attorney General of the State, it shall be in the name of the State or the Attorney General of Ogun State.
- (4) Where the Attorney- General of the Federation delegates any power conferred on him by Section 268, of the Administration of Criminal Justice Act, 2015 or the Constitution of the Federal Republic of Nigeria 1999 (as Amended) with respect to any Offence or Class of Offences, such powers so delegated to the Attorney - General of the State, may be exercised directly by him or any Officer in his Ministry or Department.
282. Where a Defendant appears before a Court on a Summons, he shall be required to enter the Dock, to stand or sit in it, except where the circumstances do not permit or as may be ordered by the Court.

Presence of the Defendant at the Trial.

Conduct of Cases by Legal Practitioner for the Prosecution and for the Defendant.

General control of the Prosecution by the Attorney-General.

Position of the Defendant Summoned to Court.

PART 28**PLEA BARGAIN AND PLEA GENERALLY**

- 283.(1) Notwithstanding anything in this Law or in any other Law, the Prosecutor may:
- (a) receive and consider a plea bargain from a Defendant charged with an offence either directly from that Defendant or on his behalf;
- (b) offer a plea bargain to a Defendant charged with an Offence.
- (2) The Prosecution may enter into plea bargaining with the Defendant, with the consent of the Victim or his Representative during or after the presentation of the evidence of the Prosecution, but before the presentation of the evidence of the Defence, provided that all the following conditions are present:
- (a) the evidence of the Prosecution is insufficient to prove the offence charged beyond reasonable doubt

Defendant May Plead Guilty to Lesser Offence than Offence Charged

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- ✓ (b) where the Defendant has agreed to return the proceeds of the crime or make restitution to the victim or his Representative, or
- ✓ (c) where the Defendant in a Case of conspiracy has fully cooperated with the Investigation and Prosecution of the Crime by providing relevant information for the successful Prosecution of other Offenders.
- (3) Where the Prosecutor is of the view that the offer or acceptance of a plea bargain is in the interest of Justice, the Public Interest, Public Policy and the need to prevent abuse of Legal Process, he may offer or accept the Plea Bargain.
- ✓ (4) The Prosecutor and the Defendant or his Legal Practitioner may before the Plea to the Charge, enter into an Agreement in respect of:
 - (a) The term of the Plea Bargain which may include the sentence recommended within the appropriate range of punishment stipulated for the Offence or a Plea of Guilty by the Defendant to the Offence(s) charged or a lesser Offence of which he may be convicted on the Charge; and
 - (b) An appropriate sentence to be imposed by the Court where the Defendant is convicted of the Offence to which he intends to plead guilty.
- (5) The Prosecutor may only enter into an Agreement contemplated in sub-section (3) of this Section:
 - (a) after consultation with the Police responsible for to investigation of the Case and the Victim or his Representative, and
 - (b) with due regard to the nature of and circumstances relating to the Offence, the Defendant and public interest: provided that in determining whether it is in the public interest to enter into a Plea Bargain, the Prosecution shall weigh all relevant factors, including:
 - (i) the Defendant's willingness to cooperate in the Investigation or Prosecution of others;
 - (ii) the Defendant's history with respect to Criminal activity;
 - (iii) the Defendant's remorse or contrition and his willingness to assume responsibility for his conduct;
 - (iv) the desirability of prompt and certain disposition of the Case;
 - (v) the likelihood of obtaining a conviction at trial, the probable effect on Witnesses;
 - (vi) the probable sentence or other consequences if the Defendant is convicted;
 - (vii) the need to avoid delay in the disposition of other pending Cases; and
 - (viii) the expense of Trial and Appeal.
 - (ix) the Defendant's willingness to make Restitution or pay Compensation to the Victim where appropriate.
- ✓ (6) The Prosecution shall afford the Victim or his Representative the opportunity to make Representations to the Prosecutor regarding:
 - (a) The content of the Agreement; and
 - (b) The inclusion in the Agreement of a Compensation or Restitution Order.
- (7) An Agreement between the Parties contemplated in sub-section (3) shall be reduced to writing and shall:

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- (a) state that, before conclusion of the Agreement, the Defendant has been informed:
 - (i) that he has a right to remain silent;
 - (ii) of the consequences of not remaining silent; and (Hi) that he is not obliged to make any confession or admission that could be used in evidence against him.
- (b) State fully, the terms of the Agreement and any Admission made; and
- (c) Be signed by the Prosecutor, the Defendant, the Legal Practitioner and the Interpreter, as the case may be.
- (d) Forward a copy of the Agreement to the Attorney-General of the State.
- (8) The Presiding Judge or Magistrate before whom the Criminal Proceedings are pending shall not participate in the discussion contemplated in sub-section (3) of this Section.
- (9) Where a plea Agreement is reached by the Prosecution and the Defence, Prosecutor shall inform the court that the parties have reached an Agreement and the Presiding Judge or Magistrate shall then inquire from the defendant to confirm the correctness of the Agreement.
- (10) The Presiding Judge or Magistrate shall ascertain whether the Defendant admits the allegation in the Charge to which he has pleaded guilty and whether he entered into the Agreement voluntarily and without undue influence and may where:
 - (a) satisfied that the Defendant is guilty of the Offence to which he has pleaded guilty, convict the Defendant on his plea of guilty to that Offence, and shall award the compensation to the Victim in accordance with the term of the Agreement which shall be delivered by the Court in accordance with Section 321 of this Law.
 - (b) he is for any reason of the opinion that the Defendant cannot be convicted of the Offence in respect of which the Agreement was reached and to which the Defendant has pleaded guilty or that the Agreement is in conflict with the Defendant's right referred to in sub-section 6 of this Section, he shall record a Plea of not guilty in respect of such Charge and order that the Trial proceed.
- (11) Where a Defendant has been convicted in terms of sub-section (10) (a), the presiding Judge or Magistrate shall consider the sentence as agreed upon and where he is:
 - (a) satisfied that such sentence is appropriate sentence, impose the sentence; or
 - (b) of the view that he would have imposed a lesser sentence than the one agreed, impose the lesser sentence; or
 - (c) of the view that the Offence requires a heavier sentence than the one agreed upon, he shall inform the Defendant of such heavier sentence he considers to be appropriate.
- (12) The presiding Judge or Magistrate shall make an Order that any money asset or property agreed to be forfeited under the Plea Bargain shall be transferred to and vest in the Victim or his Representative or any other person as may be appropriate or reasonably feasible.
- (13) Notwithstanding the provisions of the Sheriffs and Civil Process Act, the Prosecutor shall take reasonable steps to ensure that any money, asset or property agreed to be forfeited or returned by the Offender under a Plea Bargain are transferred to or vested in the Victim, his Representative or other person Lawfully entitled to it.

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- (14) Any person who wilfully and without just cause obstructs or impedes the vesting or transfer of any money, asset or property in this Law shall be guilty of an Offence and liable to imprisonment for Seven (7) years without an option of Fine.
- (15) Where the Defendant has been informed of the heavier sentence as contemplated in sub-section (11) (c) above, the Defendant may:
- abide by his plea of guilty as agreed upon and agree that, subject to the Defendant's right to lead evidence and to present argument relevant to sentencing, the presiding Judge or Magistrate proceed with the sentencing; or
 - withdraw from his Plea Agreement, in which event the Trial shall proceed de novo before another presiding Judge or Magistrate, as the case may be.
- ✓ (16) Where a Trial proceeds as contemplated under sub-section (15) (a) or de novo before another presiding Judge, or Magistrate, as contemplated in sub-section (15)(b):
- No references shall be made to the Agreement;
 - No admission contained therein or statements relating thereto shall be admissible against the Defendant; and
 - The Prosecutor and the Defendant may not enter into a similar Plea and Sentence Agreement.
- (17) When a person is convicted and sentenced under the provisions of sub-section (1) of this Section, he shall not be charged or tried again on the same facts for the greater Offence earlier charged to which he had pleaded to a lesser Offence.
2. (18) The Judgment of the Court contemplated in sub-section 10(a) of this Section shall be final and no appeal shall lie in any Court against such Judgment, except where fraud is alleged.
- (19) References to Prosecutor in this Section shall be construed as reference to the Attorney General
- 284.(1) Before a Defendant takes his Plea, the Court shall inform him of his rights under the provision of Section 282 of this Law.
- (2) The Defendant to be tried on a Charge or an information shall be:
- placed before the Court unfettered unless the Court shall direct otherwise and the Charge or information shall be read over and explained to him in the language he understands to the satisfaction of the Court by the Registrar or other Officer of the Court or where applicable in the presence of a Legal Practitioner representing the Defendant.
 - called upon to plead instantly to the Charge unless where the person is entitled to service with a copy of the information. he objects to the non-service and if the Court finds that he has not been duly served.
- (3) The Court shall record the fact that the Defendant understands the Charge or information read over and explained to him in the language he understands, and shall record the plea of the Defendant to the Charge or information as nearly as possible in the words used by him.
285. Proof of previous conviction where the fact of a previous conviction of a Defendant is a fact in issue, the Prosecution shall prove the same in accordance with the provisions of the Evidence Act.
286. Effect of plea of not guilty a Defendant who pleads not guilty shall be deemed to have put himself up for Trial.
- 287.(1) Where a Defendant pleads guilty to an Offence with which he is charged, the Court shall:

Plea to
Information
or ChargeProof of
previous
ConvictionEffect of plea
not GuiltyEffect Plea
Guilty

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- (i) record his Plea as nearly as possible in words used by him;
- (ii) invite the Prosecution to state the facts of the Case; and
- (iii) enquire from the Defendant whether his Plea of Guilty is to the facts as stated by the Prosecution; or
- (2) Where the Court is satisfied that the Defendant intends to admit the truth of all the essential elements of the Offence for which he has pleaded guilty, the Court shall convict him of that Offence and pass sentences upon him or make such Order as may be necessary, unless there shall appear sufficient reason to the contrary.
- (3) Where the Defendant pleads guilty to a Capital Offence; a plea of not guilty shall be recorded for him.
288. Without prejudice to other provisions of this Law, where the Defendant pleads guilty to an Offence not contained in the Charge or information on which he was arraigned, the Court shall direct the Prosecution to amend the Charge or information accordingly to include the admitted Offence in which Case a fresh Plea of the Defendant shall be taken on the amended Charge or information. Plea When Offence Admitted is not Included in Offence Charged
- 289.(1) Where the Defendant, when called upon to take his Plea remains silent or stands mute or refuses to answer or cannot answer directly when called upon to plead to the Charge, the Court shall enter a Plea of Not Guilty on his behalf and the Plea so entered shall have the same force and effect as if such Defendant had actually pleaded the same. Failure to Plea Due to Malice or Otherwise
- (2) The Court may inquire into the mental state of the Defendant, and if the Court is satisfied that the Defendant is of sound mind, the Court shall proceed with his Trial.
- (3) Where the Court finds that the Defendant is of unsound mind, the provisions of this Law in relation to persons of unsound mind shall apply.
- 290.(1) A Defendant against whom a Charge or information is filed may plead that;
- (a) by virtue of Section 245 of this Law, he is not liable to be tried for the Offence with which he is charged; or
- (b) he has obtained a pardon for his Offence. Plea: Autrefois Acquit or Convict, or Pardon.
- (2) Where either of the pleas under sub-section (1) of this Section is raised in any Case and denied to be true in fact, the Court shall determine whether such Plea is true in fact or not.
- (3) Where the Court holds that the facts alleged by the Defendant do not prove the Plea, or if it finds that it is false in fact, the Defendant shall be required to plead to the Charge or information.
- (4) Nothing in this Section shall prevent a Defendant from pleading that, by virtue of some other provisions of Law he is not liable to be prosecuted or tried for any Offence with which he is charged.

PART 29**PERSONS OF UNSOUND MIND**

- 291.(1) Where in the course of a Criminal Trial, the Court has reason to Suspect the mental capacity or soundness of mind of the Defendant, by virtue of which he is unable to stand trial or defend himself, the Court shall order the mental examination of the Defendant for soundness of mind. Procedure when Defendant is Suspected to be of Unsound Mind
- (2) An Investigation under sub-section (1) of this Section may be held in the absence of the Defendant where the Court is satisfied that owing to the state of mind of the Defendant it would be in the interest of his safety or of other persons or in the Interest of Public Decency that he should be absent.
- (3) Where the Court is not satisfied that the Defendant is capable of making his

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Defence, the Court shall adjourn the Trial or Proceedings and shall remand the person for a period not exceeding one (1) month to be detained for observation in a mental health asylum at the expense of the State.

- (4) A Defendant detained in accordance with sub-section (3) of this Section shall be kept under observation by a Medical Officer during the period of his remand and before the expiration of that period:

- (a) give to the Court his opinion in writing as to the state of mind of that person: and
- (b) where is unable within the period to form any definite opinion, he shall so certify to the Court and ask for a further remand and such further remand may extend to a period of Three (3) months.

- (5) Where further period of remand is granted under sub-section (4) of this Section, the Case shall be fixed returnable by the Court at the expiration of the period granted under sub-section (4) (b) of this Section.

- (6) A Court, before which a Defendant suspected to be of unsound mind is accused of any Offence may, on the written application of the Attorney-General made at any stage of the Proceedings prior to the Trial, order that the person be sent to an asylum or such other suitable place for observation at the expense of the State.

- (7) The Medical Officer in Charge of the asylum or such other suitable place shall, within a period not exceeding one (1) month in the first instance or on an application to the Court for a further period of Three(3) months, submit to the Court a Report in writing containing his opinion on the soundness of mind of the Defendant.

- (8) The Court may receive as evidence a certificate in writing signed by a Medical Officer to the effect that such Defendant is in his opinion of unsound mind and incapable of making his Defence or is a proper person to be detained for observation in a Mental Health Asylum, or the Court may, if it deems fit, take oral evidence from a Medical Officer on the state of mind of such Defendant.

292. Where the Medical Officer or such Officer in charge of the asylum or other suitable place to which the Defendant is referred for observation under the provisions of this Section fails to submit a Report as provided in Sub-Sections (4) and (7) of Section 291 of this Law within the period stipulated in those sub-sections, the Court may discharge the person or shall release him on Bail in accordance with the provisions of this Law relating to Bail.

Report from
Medical
Officer

- 293.(1) Where the Medical Officer certifies that the Defendant is of:

- (a) sound mind and capable of making his Defence, the Court shall, unless satisfied by the Defence that the Defendant is of unsound mind, proceed with the Trial: or
- (b) Unsound mind and incapable of making his defence, the Court shall, where satisfied of the fact postpone the Trial or Proceedings.

Certificate of
Medical
Officer

- (2) The Trial of the issue as to whether or not the Defendant is of unsound mind and incapable of making his Defence shall, where the finding is that he is of sound mind and capable of making his Defence, be deemed to be part of his Trial before the Court.

- (3) The Certificate issued by the Medical Officer shall be receivable as evidence under this Section even in the absence from Court of the Medical Officer provided there is sufficient explanation for his absence.

- (4) Where the Defendant is certified to be of unsound mind and incapable of making his Defence, it shall not be necessary for him to be present in Court during Proceedings under this Section.

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- 294.(1) Where a Defendant is found to be of unsound mind and incapable of making his Defence, the Court, if the Offence charged is bailable, may in its discretion, release him on Pending sufficient Security being given:
- (a) that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person; and
- (b) for his appearance when required before the Court or such Officer as the Court appoints in that behalf.
- (2) Where such a Defendant is before a Magistrate charged with an offence which is Bail able by a Judge but not by a Magistrate, or if the Offence is bailable by a Magistrate but he refuses to grant Bail, the Magistrate shall inform the Defendant of his right to apply to a Judge for Bail.
- (3) If a Judge has refused Bail under sub-section (1) of this Section or after an application made under sub-section (2) of this Section or where sufficient Security is not given or where no application is made for Bail, the Judge shall report the case to the Attorney-General, who after consideration of the report may, in his discretion, recommend to the Governor to order the Defendant to be confined in a mental or lunatic or health Asylum or other suitable place of safe Custody and the Judge shall give effect to the Order.
- (4) Where the Order is not given within Two (2) months, the Court may discharge the Defendant or release him on Bail on satisfaction that doing so will not endanger the life of the Defendant or the life of anyone else.
- (5) Pending the Order of the Attorney-General of the State, the Defendant may be committed to an Asylum or other suitable place of Custody for safe Custody.
295. Where a Proceeding or Trial is postponed or suspended under Sections 291 and 292 of this Law, the Court may at any time re-open or commence the Trial de novo and require the Defendant to appear or be brought before the Court.
296. Where the Defendant has been released under Section 294 of this Law, the Court may, at any given time require the Defendant to appear or be brought before it and may, again proceed with the Proceeding or Trial.
297. Where the Defendant appears to be of unsound mind, at the time of any remand or similar Pre-trial Proceedings before a Court, and the issue of the state of soundness of mind of the Defendant is in issue, being a Defence to the main offence for which he is arrested relating to insanity or intoxication, the Court shall proceed to deal with the Defendant in accordance with Sections 291 to 304 of this Law and shall not make any finding of fact in relation to such Defence that the Defendant is open to plead at this Trial for the Offence.
298. Where the finding states that the Defendant committed the act alleged, the Court before which the Trial has been held shall, where the act would have but for the finding of incapacity constituted an Offence, order the person to be kept in safe Custody in such place and manner as the Court deems fit and shall within thirty one (31) days of the Order, report the Case for an Order of the Governor on the recommendation of the Attorney General of the State.
- 299.(1) The Governor upon the recommendation of the Attorney-General of the State may at his discretion order the Defendant to be confined pursuant to Section 298 in a Mental Health Asylum prison or other suitable place of safe custody.
- (2) In exercising this discretion, the Governor shall ensure that the Defendant is placed in such facility as to afford him adequate care at the expense of the State.
300. A Where any Defendant is confined under Sections 294(3) and (5) 298 or 299 of this Law, the Medical Officer of the Prison where such Defendant is confined in a Prison, or the Medical Officer attached to the Mental Health Asylum, or such facility where he is confined in any Asylum, or such shall keep him under

Release of
Defendant
of
unsound
mind
Pending
investiga-
tion Trial.

Resumption
of
Proceedings
or Trial

Resumption
of
Proceedings
After release
under
Section 294

where
Defendant
appears to
have been of
Unsound
Mind.

Safe Custody
Defendant
Acquired of
Discharged

Order of the
Governor in
pursuant to
Section 298

Observation of
Prisoner of
Unsound
Mind.

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observation in order to ascertain his state of mind and such Medical Officer shall make a special report for the information of the Attorney-General as to the state of mind of such person at the time or times as the Attorney-General shall require; and it shall be the duty of the Attorney-General to consult with the Governor.

- 301 Where a Defendant is, under the provisions of Section 292 of this Law, confined in a Prison, Asylum or other facility and is certified by the Medical Officer to whom the case is referred for his report to be capable of making his Defence, the Defendant shall be taken before the Court at such time as the Court appoints, and the Court shall proceed with the Trial or Proceeding, as the case may be, and the certificate shall be receivable as evidence.

Procedure when Defendant of Unsound Mind is reported to be able to make His Defence.

- 302(1) Where the Medical Officer of a Prison or the medical Officer attached to an Asylum or other facility in which a Defendant is confined under Sections 294, 298 or 299 of this Law certifies that the Defendant in his judgement may be discharged without the danger of him causing injury to himself or to any other person, the Governor upon recommendation of the Attorney General may, on the receipt of that report order the Defendant to be discharged or to be detained in Custody or in Prison or to be in Custody or to be transferred to an Asylum where he has not already been sent to an Asylum.

Procedure Where Defendant of Unsound Mind reported Fit for Discharge

- (2) Where the Governor Orders a Defendant to be transferred to an Asylum, he may appoint two Medical Officers to report on the state of mind of the Defendant and on any other facts the Court may require, and on receipt of the Report, the Court may order his discharge or detention as it deems fit.

303. Where a Defendant is confined in a prison or a Mental Health Asylum, the Attorney General of the State may direct his transfer from one Prison or a Mental Health Asylum to any other Prison or a Mental Health Asylum as often as may be necessary or may at any time order for his release from detention as he may consider necessary notwithstanding the provisions of Section 299 of this Law.

Transfer from One Place of Custody to Another

- 304(1) Where a relative or friend of a Defendant confined under Section 294 or 299 of this Law desires that Defendant be delivered over to his care and Custody, the Court may, upon the application of the relative or friend and on his giving Security to the satisfaction of the Court that the Defendant delivered shall be:

Delivery of Defendant of Unsound Mind to Care of Relative.

- (a) properly taken care of; and
(b) prevented from doing injury to himself or to any other person
(c) The Judge may, in his discretion order such person to be delivered to such relative or friend and on condition that the Defendant shall be produced for the inspection of such Officer and at such times as the Court may direct.

- (2) Where a Defendant delivered to a relative or friend under sub-section (1) of this Section is confined under the provisions of Section 298, the Court may further require the relative or friend to give satisfactory Security that if at any time it appears to the Court that the Defendant is capable of making his Defence, the relative or friend shall produce the Defendant for Trial.

- (3) Sections 294 and 300 of this Law shall apply, with any necessary modification, to a Defendant delivered to the care and Custody of a relative or friend under this Section.

- 305 Where it is necessary to remove a Prisoner to a Prison or Mental Health Asylum under the provisions of this Part of the Law, an Order for the removal given under the provisions of this Part shall be sufficient Authority for the removal and the Detention of the Prisoner in any Prison or such other place of Detention within the State or the Federation.

Removal of a Prisoner to Another State.

PART 30**DETENTION TIME LIMITS**

- 306.(1) A Suspect arrested for an Offence which the Magistrate Court has no Jurisdiction to try shall, within a reasonable time of arrest be brought before the Magistrate Court for Remand. Application for Remand or Other Interlocutory Proceedings.
- (2) An Application for Remand under this Section shall be made ex parte and shall:
- be made in prescribed form;
 - be verified on oath and contain reasons for the Remand request
- 307.(1) Where the Court after examining the reason for the arrest and for the request for Remand In accordance with the provisions of Section 306 of this Law is satisfied that there is probable cause to remand the Suspect pending the receipt of Legal Advice from the Attorney-General and arraignment of the Suspect before the appropriate Court, as the Case may be, may Remand the Suspect in Prison. Court May Remand Defendant in Prison Custody
- (2) In considering whether the Remand of a Suspect pursuant to sub-section (1) of this Section, the Court may take into consideration the following:
- the nature and seriousness of the alleged Offence;
 - reasonable grounds to Suspect that the Suspect has been involved in the commission of an alleged Offence;
 - reasonable grounds for believing that the Suspect may abscond or commit further offence where he is not committed to Custody; and
 - any other circumstances of the Case that justifies the request for Remand
308. The Court may, in considering an application for Remand brought under Section 306, grant bail to the Suspect brought before it, taking into consideration the provisions of Sections 165 to 196 of this Law relating to Bail. Court may grant Bail in Remand Proceedings.
- * 309.(1) Where an Order of Remand of the Suspect is made pursuant to Section 306 of this Law, the Order shall be for a period not exceeding Sixty (60) days in the first instance, and the Case shall be returnable within the same period. Time, Protocol to Remand Orders
- (2) Where, on application in writing, good cause is shown why there should be an extension of the Remand period, the Court may make an Order for further Remand of the Suspect for a period not exceeding fourteen (14) days and make the Proceedings returnable within the same period.
- (3) Any Remand Order under sub-sections (2) and (3) may be reviewed by the same Magistrate Court by application on notice brought by the Suspect within twenty one (21) days of the Remand Order.
- (4) Where the Suspect is still in Custody on Remand at the expiration period provided for under sub-section (1) or (2) of this Section, the Court may, on application of the Suspect grant Bail in accordance with the provisions of Sections 165; to 196) of this Law.
- (5) At the expiration of the Remand Order made pursuant to sub-section (1) or (2) of this Section, and where the Suspect is still remanded with his Trial having not commenced, or Charge having not been filed at the relevant Court having Jurisdiction, the Court shall issue a Hearing Notice on:
- the Commissioner of Police, Inspector General of Police or the Attorney-General of the State or Federation, as the case may be; or
 - any relevant Authority in whose Custody the Suspect is or at whose instance the Suspect is remanded, and adjourn the matter within a period not exceeding Fourteen (14) days of the expiration of the period of the Remand Order made under sub-section (1) or (2) of this Section,

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to inquire as to the position of the Case and for the Inspector-General of Police or the Commissioner of Police or the Attorney-General of the State or Federation to show cause why the Suspect remanded should not be unconditionally released.

- (6) Where the Inspector-General of Police or the Commissioner of Police or the Attorney-General of the State or Federation show good cause pursuant to sub-section (4) of this Section and make a request to that effect, the Court:

- (a) may extend the Remand of the Suspect for a final period not exceeding fourteen (14) days for the Suspect to be arraigned for Trial before an appropriate Court or; and
- (b) shall make the Case returnable within the said period of fourteen (14) days from the date the Hearing Notice was issued pursuant to sub-section (4) of this Section.

- (7) Where good cause is not shown for the continued remand of the Suspect pursuant to sub-section (4) of this Section, or where the Suspect is still on remand Custody after the expiration of the extended period under Sub-Section (5), the Court shall, with or without an application to that effect, forthwith discharge the Suspect and the Suspect shall be immediately released from Custody.

- (8) No further application for Remand shall be entertained by any Court after the Proceeding in sub-section(6) of this Section.

- 310.(1) The powers conferred on the Court under this part may be exercised by the Court:

When Court
may Exorcise
Power Remand.

- (a) whether the Suspect remanded is present in Court or not; and
- (b) on its own motion or on application, including an application by a person in charge of the prison or other place of Custody where the Suspect remanded is detained.

- (2) The Legal Advice of the Attorney General shall, in all Cases be copied to the Court, and the Court may act only on the copy of the Advice to make any Order that may be necessary in the circumstances.

- (3) Where the Legal Advice of the Attorney-General indicates that the Suspect remanded has no Case to answer, the Court shall release the Suspect immediately.

311. Court may bring up person remanded or make any Order

Court may bring
up Person
remanded or
make any order
during Remand.

- (1) During Remand, the Court may, nevertheless order the suspect remanded to be brought before it.
- (2) The Court may order that the suspect remanded be transferred to a Hospital, Asylum or any suitable place for the purpose of giving him medical treatment, or may make an Order that it considers necessary to make at any time during Remand period.

312. A Suspect committed to Prison under this Law shall be' remanded in any Prison or other place of safe custody as the Court may otherwise direct.

Place of
Remand

PART 31**PRESENTATION OF CASE BY PROSECUTION AND DEFENCE**

- 313.(1) After a Plea of not guilty has been taken or no Plea has been made, the Prosecution may open the Case against the Defendant stating briefly by what evidence he intends to prove the guilt of the Defendant.

Opening of
Case for the
Prosecution

- (2) The Prosecutor shall then examine the Witnesses for the Prosecution who may be cross-examined by the Defendant or his Legal Practitioner and thereafter be re-examined by the Prosecutor, where necessary.

314. After the Case of the Prosecution is concluded, the Defendant or the Legal Practitioner representing him, if any, is entitled to address the Court to present

Defendant

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his Case and to adduce evidence where so required.

315. The Court may, on its own motion or on application by the Defendant, after hearing the evidence for the Prosecution, where it considers that the evidence against the Defendant or any of several Defendants is not sufficient to justify the continuation of the Trial, record a finding of not guilty in respect of the Defendant without calling on him or them to enter his or their Defence and the Defendant shall accordingly be discharged and the Court shall then call on the remaining Defendant, if any, to enter his Defence. No Case Submission at the Instance of the Court.
- 316.(1) Where the Defendant or his Legal Practitioner makes a No Case Submission in accordance with the provisions of this Law, the Court shall call on the Prosecutor to reply. No Case Submission by the Defence and Replies.
- (2) The Defendant or his Legal Practitioner has the right to reply to any New Point of Law raised by the Prosecutor, after which, the Court shall give its ruling.
- (3) In considering the application of the Defendant under this Section, the Court shall, in the exercise of its discretion, have regard to the following:
- (a) whether an essential element of the Offence has been proved;
 - (b) whether the evidence so far led is such that no reasonable Court or Tribunal would convict on it;
 - (c) Whether there is evidence linking the Defendant with the commission of the Offence with which he is charged; and
 - (d) any other ground on which the Court may find that a *prima facie* Case has not been made out against the Defendant for him to be called upon to answer. Defence and Prosecution Replies.
- 317.(1) After the Case for the Prosecution is concluded, the Defendant or the Legal Practitioner representing him, if any, is entitled to address the Court at the commencement or conclusion of his Case, as he thinks fit, and if no Witnesses have been called for the Defence than the Defendant himself or Witnesses solely as to character of the Defendant and no document is put in as evidence for the Defence, the Prosecution shall not be entitled to address the Court a second time but if in opening the Case for the Defence, the Legal Practitioner appearing for the Defendant introduced a new matter without supporting it by evidence the Court, in its discretion may allow the Prosecution to reply. Reference to the Court of Appeal.
- (2) Where any Witness, other than the Defendant himself or Witnesses solely as to the Defendant put in as evidence for the defence, the Legal Practitioner appearing for the Defendant is entitled after evidence has been adduced to address the Court a second time on the whole Case and the Prosecution shall have a right to reply.
- (3) The provision of this Section shall not affect the right of reply by a Law Officer.
- 318(1) Where a question as to the Interpretation of the Constitution of the Federal Republic of Nigeria arises in the course of a trial and is referred to the Court of Appeal under the provisions of the Constitution, the Court before which the question arose may, in its discretion:
- (a) adjourn the Trial until such question shall have been considered and decided; or
 - (b) conclude the trial and postpone the verdict until such time as the question has been considered and decided; or
 - (c) conclude the Trial, pass sentence and suspend execution until such time the question has been considered and decided, and in any such Case the Court in its discretion shall commit the Defendant or Convict to Prison or admit him to Bail in accordance with the provisions of Part 19 of this Law.
- (2) When the question referred to in sub-section (1) (a) of this Section has been

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- decided by the Court of Appeal, the Court shall;
- (a) continue the trial or discharge the Defendant; or
 - (b) acquit or convict the Defendant; or
 - (c) order the execution of the sentence, as the circumstances may require.
- 319.(1) Subject to the provisions of the Constitution of the Federal Republic of Nigeria, an application for Stay of Proceedings in respect of any Criminal Matter brought before the Court shall not be entertained until Judgment is delivered. Stay of Proceedings.
- (2) Where there is evidence that an Appeal has been entered in respect of any Criminal Matter at the close of Trial but before the Final Judgement or a Ruling on a No Case Submission is delivered, the trial Court may conclude the Trial and postpone the delivery of its decision in the Final Judgement or Ruling on a No Case Submission until such time as the question, the subject matter of the Appeal has been considered and decided.
- (3) When an Appeal referred to in sub-section (2) of this Section has been decided by the Court of Appeal, the Court shall then render its final decision as the circumstances of the Case may require. Where entertained, no decision therein shall be rendered before the Final Judgement.
- 320.(1) When the Case for both sides is closed, the Court shall consider its verdict and for this purpose may adjourn the matter for Judgment. Consideration of Case by Court and Announcement of finding. Judgement to be in Writing.
- (2) After the Court has made its Findings, the Court shall pronounce that Finding in an open Court.
321. The Judge or Magistrate shall record his Judgment in writing and every such Judgment shall contain the point or points for determination, the decision and the reasons for the decision and shall be dated and signed by the Judge or Magistrate at the time of pronouncing it.
322. Where the Court finds the Defendant not guilty, he shall immediately discharge him and record an Order of Discharge and Acquittal accordingly. Defendant to be Discharged where Found not Guilty Defendant to be Asked Whether He has anything to say before Sentence.
- 323.(1) Where the finding is guilty or the Defendant pleads guilty, Defendant to be asked whether he has anything to say before sentence the Convict shall, where he has not previously called any Witnesses to character, be asked whether he wishes to call any Witnesses and after the Witnesses, if any, have been heard he shall be asked whether he desires to make any statement or produce any necessary evidence or information in Mitigation of Punishment in accordance with Section, 324 (3) of this Law.
- (2) After the Defendant has made his statement, if any in Mitigation of Punishment the Prosecution shall, unless such evidence has already been given, produce evidence of ~~any~~ previous convictions of the Defendant.
- 324.(1) Where the provisions of Section 323 of this Law have been complied with, the Court may pass sentence on the Convict or adjourn to consider and determine the sentence and shall then announce the sentence in open Court. Sentence and Sentencing Hearing.
- (2) The Court shall, in pronouncing sentence, consider the following factors in addition to Sections 246 and 247 of this Law:
- (a) the objectives of sentencing, including the principles of reformation and deterrence;
 - (b) the interest of the Victim, the Convict and the Community;
 - (c) appropriateness of Non-Custodial Sentence or treatment in lieu of imprisonment;
 - (d) previous conviction of the Convict.
- (3) A Court, after conviction, shall take all necessary aggravating and mitigating evidence or information in respect of each Convict that may guide it in deciding the nature and extent of sentence to pass on the Convict in each particular Case.

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even though the Convicts were charged and tried together.

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| 325 | The Court may, in any Case in recording sentence, make a Recommendation for Mercy and shall give reasons for its recommendation where it so makes such Recommendation. | Recommendation for Mercy. |
| 326(1) | Where a Defendant is found guilty of an Offence, the Court may, in passing sentence take into consideration any other charge then pending against him. where the Defendant admits the other Charge and desires that it be taken into consideration and if the Prosecutor of other Charge consents. | Conviction on other Charges Pending. |
| (2) | Where a desire is expressed under sub-section (1) of this Section and consent given, the Court shall: | |
| | (a) make an entry to that effect on the record book; and | |
| | (b) the Prosecution shall state the facts in accordance with Section 313 of this Law | |
| (3) | Where the other Charge pending against the Defendant is considered in accordance with sub-sections (1) and (2) of this Section and sentence passed on the Defendant with consideration or in respect of the other pending Charge, the Defendant shall not, subject to the provisions of Sections 243 to 244 of this Law, or unless the conviction has been set aside, be liable to be charged or tried in respect of any such Offence so taken into consideration. | |
| 327(1) | Notwithstanding the limit of its Civil or Criminal Jurisdiction, a Court has power in delivering its Judgment to award to a Victim commensurate Compensation by the Defendant or any other person or the State. | Compensation to Victim in Judgement. |
| (2) | The Court, in considering the Award of the Compensation to the Victim may call for additional evidence to determine the Quantum of Compensation to award in sub-section (1) of this Section. | |
| (3) | Any Compensation to a Victim of a Crime shall be made having regard to assets of the Convict or any interest in any movable or immovable asset ordered to be forfeited to the Government of the State. | |
| 328. | Where a Judge or Magistrate having tried a Case is prevented by illness or other unavoidable cause from delivering his Judgment or Sentence, the Judgment or the Sentence, if it has been reduced into writing and signed by the Judge or Magistrate, may be delivered and pronounced in open Court in the presence of the Defendant by any other Judge or Magistrate. | Delivery of Judgement When Judge or Magistrate is Unavoidably Absent. |
| 329. | Where a Sentence or Conviction does not order the payment of money but orders the Convict to be imprisoned, the Court shall issue a Warrant of Commitment accordingly. A | Warrant of Commitment. |
| 330 | Warrant under the hand of the Judge or Magistrate by whom a Convict has been sentenced or committed to Prison for non-payment of a penalty or fine, grants full Authority to the Officer in charge of any Prisons and to all other persons for carrying into effect the sentence described in the Warrant not being a sentence of death. | Authority for Carrying Out Non-capital Sentences. |
| 331. | The Court may, at any time amend any defect in an Order or Warrant of Commitment and no: | Error or Omission not to Affect Legality of Act. |
| | (a) omission or error as to time and place; or | |
| | (b) defect in form in any Order or Warrant of Commitment given under this Law. shall be held to render void or unlawful any act done or intended to be done by virtue of the Order or Warrant if it is mentioned or may be inferred, that it is founded on a Conviction or Judgement sufficient to sustain it. | |

PART 32

COSTS, COMPENSATION, DAMAGE AND RESTITUTION

- 332(1) A Court may, within the Proceedings or while passing Judgements, Order the Defendant or Convict to pay a sum of money:
- (a) as Compensation to any person injured by the Offence, irrespective of any other fine or other punishment that may be imposed or that is imposed on the Defendant or Convict, where substantial Compensation is in the opinion of the Court recoverable by Civil Suit;
 - (b) in compensating a bona fide Purchaser for value without notice of the defect of the title in any property in respect of which the Offence was committed and has been compelled to give it up.
 - (c) in defraying expenses incurred on Medical Treatment of a Victim injured by the Convict in connection with the Offence.
- (2) Where the fine referred to in sub-section (1) of this Section is imposed in a case which is subject to Appeal, no payment additional to the fine shall be made before the period allowed for presenting the Appeal has elapsed or, where an Appeal is presented, before the decision on the Appeal.
- (3) Order for Cost or Compensation may be made under this Section irrespective of the fact that no fine has been imposed on the Defendant in the Judgement.
- 333(1) At the time of awarding Compensation in any subsequent Civil Suit relating to the same matter, the Court shall take into consideration any sum paid or recovered as compensation under this Section.
- (2) The pendency of Criminal Proceedings shall not be a bar or impediment to a Civil Action in respect of the same subject matter.
334. A Court after Conviction may adjourn Proceedings to consider and determine sentence appropriate for each Convict:
- (a) In addition to or in lieu of any other penalty authorized by Law, order the Convict to make Restitution or pay compensation to any Victim of the Crime for Which the Offender was convicted, or to the Victim.
 - (b) Order for the Restitution or Compensation for the loss or destruction of the property of the victim or direct the Convict:
 - (i) to return the property to the owner or to a person designated by the owner;
 - (ii) where the return of the property is impossible or impracticable, to repay an amount equal to the value of the property; or
 - (iii) where the property to be returned is inadequate or insufficient, to pay an amount equal to the property calculated on the basis of what is fair and just.
- 335(1) The Court may, in a proceeding instituted by a Private Prosecutor or on a Summons or on a Complaint of a private person, on Acquittal of the Defendant, order the Private Prosecutor or person to pay to the Defendant such reasonable costs as the Court may deem fit, and the payment of such costs or any part of it may be ordered by the Court to be made out of any money taken from such person on his arrest or may be recovered by distress.
- (2) No order as to costs as foresaid may be made if the Court considers that the Private Prosecutor had reasonable grounds for making his complaint.
- 336(1) Where a person causes the arrest, or arrest and Charge of a Defendant or Defendants and it appears to the Court that there was no sufficient ground for causing the arrest, or that the accusation is false, vexatious or frivolous, it may

Power of Court to Order Payment of Expenses or Compensation.

Payment to be Taken into Consideration in Subsequent

Power of Court to Order Restitution

Costs Against Private Prosecutor

Compensation in Cases of False and Vexatious Accusation or Charge

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for reason recorded, order the person to pay reasonable compensation to the Defendant or Defendants arrested and charged.

- (2) The Court may, in default of payment of such Compensation or any part of it, award a term of Imprisonment against the person against whom the Order was made, for any term not exceeding the term prescribed in respect of a like sum in the scale of Imprisonment set out in this Law or the Court may sentence the person to Community Service in accordance with Section 478 of this Law.
- (3) Subject to the provisions of the Constitution relating to Appeals, a person against whom an Order for payment of Compensation is made under this Section may appeal against the Order as if he had been convicted after Trial by the Court that issued the Order.

337. Injured person may refuse to accept Compensation; but payment of Compensation is bar to further liability

Injured Person may Refuse to accept Compensation, but Payment of Compensation is Bar to further Liability

- (1) The person to whom Compensation is awarded may refuse to accept the Compensation.

- (2) Where he receives Compensation or where the Convict, having been ordered to pay Compensation, suffers imprisonment for non-payment, the receipt of Compensation or the undergoing of Imprisonment as the case shall be, shall be bar to any further action for the same injury.

- (3) Before making an Order for Compensation under this Law, the Court shall explain the full effect of this sub-section to the person to whom Compensation is payable.

338. Any Compensation ordered to be paid under this Law or any other Law relating to any Criminal Proceedings may be enforced as if it were a fine.

- 339(1) Where a convict is ordered to pay fine or a Defendant is ordered to pay Compensation to another person or a person under Section 334 of this Law, or a person is subject to recovery of penalty for forfeiture of a bond under this Law the Court passing the sentence or making the Order may, notwithstanding that in default of the payment of the fine or compensation or penalty, the Convict or Defendant may be imprisoned, issue a Warrant for the levy of the amount by any means permitted by Law, including:

Monies paid as Compensation, Recoverable as Fines. Warrant for Levy of Fine.

- (a) seizure and sale of any movable property belonging to the Defendant or Convict,

- (b) attachment of any debts due to the Defendant or convict; and

- (c) attachment and sale of any immovable property of the Convict situated within or outside the Jurisdiction of the Court subject to the Land Use Act or other applicable or relevant Law for the time being in force.

- (2) A Warrant for seizure and sale of the movable property of a person under this Section shall be addressed to the Court within whose jurisdiction it is to be executed.

- (3) Where Execution of a Warrant is to be enforced by attachment of debts or sale of immovable property, the Warrant shall be sent for execution to any Court competent to execute Orders for the payment of money in Civil Suits and the Court shall follow the procedure for the time being in force for the execution of such Orders.

- 340(1) Where a Convict has been ordered by Court to pay fine with or without a sentence of Imprisonment in default of payment of the fine, the Court authorized by Section (339) of this Law to issue a Warrant may exercise the following powers:

Power of Court when Convict is Sentenced to only Fine

- (a) allow time for payment of the fine;

- (b) direct that the fine be paid in instalments;

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- (c) postpone the issue of Warrant under Section 339, of this Law;
 - (d) without postponing the issue of a Warrant under Section 339 of this Law, postpone the sale of any property seized under the Warrant;
 - (e) postpone the execution of the sentence of Imprisonment in default of payment of fine.
- (2) An order made in the exercise of the powers referred to in sub-section (1) of this Section may be made subject to the Convict giving such Security as the Court may consider fit, by means of a bond with or without Sureties, in which Case, the bond may be conditioned either for the payment of the fine in accordance with the Order or for the Appearance of the Convict as required in the bond or both.
- (3) The Court may also, in the exercise of the powers referred to in sub-section (1) of this Section, order that the execution of the sentence of imprisonment on a Convict who has been committed to Prison in default of payment of a fine, be suspended and that he be released but only subject to the Convict giving Security as specified in sub-section (2) of this Section.
- (4) Where the fine or any instalment of the fine is not paid in accordance with an Order under this Section, the Authority making the Order may enforce payment of the fine or of the balance outstanding, by any means authorized in this Law and may cause the Offender to be arrested and may commit or re-commit him to Prison under the Sentence of Imprisonment in default of payment of the fine.
- 341.(1) Where in a Charge of an Offence relating to property and the Court is of the opinion that the evidence is insufficient to support the Charge, but that it establishes wrongful conversion or detention of property, the Court may order that such property be restored and may also award reasonable damages to the person entitled to the property.
- (2) The damages awarded under this Section shall be recovered in like manner, as prescribed in Section 338 of this Law.

Wrongful
Conversion or
Detention of
Property and
Award of Damages.

PART 33**CUSTODY, DISPOSAL, RESTORATION OF PROPERTY**

342. In this Part, Property includes not only the Property as has been originally in the possession or under the control of a Party but also any Property into or for which that same Property has been converted or exchanged and anything acquired by the conversion or exchange, whether immediately or otherwise.
343. Where any Property with which an Offence appears to have been committed or which Appears to have been used for the commission of an Offence is produced before a Court during an inquiry or a trial, the Court:
- (a) may make such Order as it thinks fit for the proper Custody of that Property pending the conclusion of the Proceedings or Trial; and
 - (b) where the Property is subject to speedy decay, may, after recording such evidence as it thinks necessary, Order it to be sold or otherwise disposed of, and the proceeds dealt with as the Court may direct.
- 344.(1) At the conclusion of any Trial, the Court may make such Order as it thinks fit for the disposal whether by way of forfeiture, confiscation or otherwise of any movable or immovable Property produced before it with respect to which any Offence appears to have been committed or which has been used for the commission of any Offence and in Case of any immovable Property, the Production of Title Document, deed, certificate of occupancy or receipt of purchase of such Property shall be deemed as production of the property itself before the Court for the purpose of the exercise of the power of forfeiture, confiscation or otherwise conferred by this Section.

Meaning of
Property in this

Order for
Custody and
Disposal of
Property
Pending Trial.

Order for
Disposal of
Property
after Trial.

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- (2) The power conferred upon the Court by sub-section (1) of this Section shall include the power to make an Order for the forfeiture or confiscation or for the delivery of any Property to a person appearing to be entitled to the possession of the property, on his executing a Bond, with or without Sureties to the satisfaction of the Court, undertaken to restore the Property to the Court and subject to any special provisions regarding forfeiture, confiscation, destruction, detention or delivery contained in the Law under which the conviction was had or any other Law applicable in the Case.
- (3) An Order made under this Section may be appealed against as if it is a decision in the Final Judgement of the Court giving the direction.
- 345.(1) Where the Court Orders the forfeiture or confiscation of any Property as provided in sub-section (1) but does not make an Order for its destruction or for its delivery to any person, the Court may direct that the Property be kept or sold and that the same, if sold, the proceeds shall be held as it directs until some person establishes to the Court satisfaction, a right to the Property. Custody or Sale of Property
- (2) Where no person establishes a right within Six (6) months from the date of forfeiture or confiscation or sale of such Property, the proceeds shall be paid into and form part of the Consolidated Revenue Fund of Ogun State.
- (3) Where an Order is made under this Section in a Case in which an Appeal lies, the Order shall not, except when the Property is livestock or is subject to speedy and natural decay, be carried out until the period allowed for presenting the Appeal has passed or resultant Appeal entered, until the disposal of the Appeal.

PART 34**SEIZURE, FORFEITURE, CONFISCATION AND DESTRUCTION OF INSTRUMENTALITY OF CRIME**

346. The Court may:
- (a) order the seizure of any instrument, material or thing which there is reason to believe are provided or commissioned prepared, or being prepared, with a view to the commission an Offence triable by the Court; and Seizure of Things Intended to be used in Commission of Offence
- (b) direct the same instrument, material or thing to be forfeited, confiscated, held or otherwise dealt with in the same manner as Property under Section 349 of this Law.
- 347.(1) On a Conviction for Offences relating to Obscene or Seditious Publication, the Court may order the Confiscation and Destruction of all the copies of the Publication or thing obscene including those that remain in the possession or power of the Convict. Deduction of Seditious Prohibited or Obscene Publication and of Obscene Charges
- (2) The Court shall, in like manner on a Conviction for an Offence for exposing or for sale of adulterated or things unfit for food, drink or drug, order the food, drink or drug in respect of which the Conviction was made and also all other unfit or adulterated food, drink or drug which remain in the possession or power of the person convicted to be destroyed or forfeited to the State Government. Search Warrant Shall be Used to Search for Things in Sections 346 and 347
348. Where a Court is satisfied by information on Oath, that there is reasonable ground for believing that there is in the State in any building, ship, carriage, motor vehicle, aircraft, receptacle or place anything in respect of which an Order may be made under Sections 346 or 347 of this Law, the Court may issue a Search Warrant to search for the object and where the object is found, it shall be brought before a Court and dealt with as the Court may deem proper.
- 349.(1) Where a Defendant is convicted of an Offence involving the use of force and it appears to the Court that by the force, a victim has been dispossessed of any immovable Property, the Court may, if it deems fit, order possession of the Restoration of Possession of Immovable Property

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- Property to be restored to the Victim.
- (2) An Order under this Section shall not prejudice any right or interest to or in immovable Property which a Victim, including the Convict, may be able to establish in a Civil Suit.
- 350.(1) The Seizure by the Police of Property taken during arrest or investigation under this Law, or alleged or suspected to have been stolen or found in circumstances which create a suspicion of the commission of an Offence, shall, within a period not exceeding Forty-Eight (48) hours of the taking of the Property or thing be reported to a Court and the Court shall make an Order in respect of the disposal of the Property or its delivery to the person entitled to its possession or such other Orders as it may deem fit in the circumstances.
- (2) Where the person entitled to the possession of Property referred to in sub-section (1) of this Section is unknown, the Court may detain it and shall issue a Public Notice specifying the articles of which the Property consists and requiring any person who may have a claim to it to appear before the Court and establish his claim within six (6) months from the date of the notice.
- (3) Any Property coming into the possession of the Police or any other Authority in respect of any Crime committed against any Law of the State or in accordance with sub-section (1) of this Section is deemed to be Property belonging to the Ogun State Government unless such Property is released to the owner or the Defendant at the conclusion of Investigation or Trial by the Court or Police.
- (4) Any Property seized by or coming into possession of the Police in accordance with sub-sections (2) and (3) of this Section shall not be disposed of under any circumstance by the any Police Authority or any other Authority in the State except upon a Court Order, which, shall, if satisfied that the seized Property be sold, direct that such sale be carried out in accordance with the directives of the Attorney General and that the proceeds of such sale be paid into the consolidated revenue fund of Ogun State.
- 351.(1) Where no person within the period referred to in Section 350 of this Law establishes his claim to Property referred to in that Section and where the person in whose possession the Property was found is unable to show that it was Lawfully acquired by him, the Property shall be at the disposal of the Court and may be sold in accordance with the Order of the Court and proceeds forfeited to the Ogun State Government.
- (2) At any time within six (6) years from the date of the Property coming into the possession of the Police, the Court may direct that the Property or the proceed of the sale of the Property be delivered to any person proving his title to it, on payment by him, of any expenses incurred by the Court in the matter.
352. Where the person entitled to the possession of the Property referred to in Section 350 of this Law is unknown or absent and the Property is subject to speedy decay or, for the benefit of the owner, the Court may, at any time direct it to be sold and the provisions of Sections 350 and 351 of this Law shall, as nearly as may be practicable, apply to the net proceeds of the sale.
353. When a Defendant is convicted of an Offence which includes or amounts to stealing or receiving stolen Property and it is proved that a person has bought the stolen Property from him without knowing or having reason to believe that the Property was stolen, and that money has, on the arrest of the convicted person been taken out of his possession, the Court may:
- (a) on the Application of the Purchaser; and
- (b) on the Restitution of the stolen Property to the person entitled to the possession, order that out of such money, a sum not exceeding the price

Procedure on
Seizure of
Property
Stolen or
taken during
Arrest or
Investigation.

Procedure
where Owner
of Property
Seized is
Unknown

Power to sell
Perishable
Property

Payment to
Innocent
Person of
Money Found
on Defendant

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paid by the Purchaser shall be delivered to him.

354. Where, on the arrest of a Defendant charged with an Offence, any Property, other than that used in the commission of the Offence, is taken from him, the Court before which he is charged may order that the Property or any part of it:
- (a) Be restored to the person who appears to the Court to be entitled to it, and, where he is person charged, that it be restored either to him or to such other person as he may direct; and or
- (b) Be applied to the payment of any costs or Compensation directed to be paid by the person charged.
- 355(1) Where a Defendant is convicted of having stolen or of having received stolen Property, the Court convicting him may order that the Property or a part of it be restored to the person who appears to it to be the owner of it, either on payment or without payment by the owner, to the person in whose possession the Property or a part of it then is, of any sum named in the Order.
- (2) This Section shall not apply to:
- (a) a valuable Security which has been paid or discharged in good faith by a person liable to pay or discharge the instrument; or
- (b) a negotiable instrument which shall has been received in good faith by transfer or delivery by a person for a just and valuable consideration without notice or without any reasonable cause to suspect that it had been stolen.
356. Where a Defendant is charged with an Offence relating to Counterfeit Currency and in that Defendant's possession was found, a Counterfeit Currency or thing intended to be used for the purpose of making Counterfeit Currency, then, whether the Charge proceeds to conviction or not, the currency or object shall not be returned to the Defendant charged or to the person from whom it was taken but shall be destroyed in such a manner as the Court may order.
- 357.(1) Where a person comes into possession of a currency which he believes to be Counterfeit or, a thing which in his opinion is to be used for the purpose of making Counterfeit Currency, he may hand the Currency or thing to any Officer of the Central Bank of Nigeria designated by the Bank to receive it, or to any Police Officer not below the rank of an Inspector, and the Officer of the Central Bank of Nigeria or the Police Officer, if satisfied that the Currency is:
- (a) not counterfeit or that the object is not intended to be used for the purpose of making Counterfeit Currency shall return the Currency or thing to the person purporting to be the owner of it, if known; and
- (b) Counterfeit or the thing is intended to be used for the purpose of making Counterfeit Currency and if no charge is to be, preferred against a person in connection with the Currency or thing, may destroy or cause to be destroyed the Currency or thing in such manner and by such persons as may be approved by the Central Bank of Nigeria.
- (2) Notice of an action to be taken under sub-section (1) (a) of this Section shall have been given to the person who appears to be the owner of the Currency or thing, where the person is known and can easily be found, that the Currency or thing will be destroyed at the end of a specified number of days unless the owner shows that the Currency is not Counterfeit or that the thing is not intended to be used for the purpose of making Counterfeit Currency.
- (3) A reasonable time shall be allowed for the person to provide proof that the Currency is not Counterfeit or that the thing is not intended to be used for the purpose of making Counterfeit Currency.
- (4) The person who alleges that he is the owner of or otherwise entitled to the

Restitution
and
Disposi-
tion of
Property
Found
Defendant.

Restitution
Property
Stolen.

Destruction
of Articles
Relating to
Counterfeit-
ing where
Charge is
Laid.

Destruction
of Articles
relating to
Counterfeit-
ing where
no Charge
is Laid.

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Currency or thing shall have no claim against the Officer of the Central Bank of Nigeria, Police Officer or the State Government in respect of the Currency or thing if so destroyed.

- 358.(1) Subject to the provisions of this Section, Sections 356 and 357 of this Law shall apply in relation to notes purporting to be Legal Tender in Nigeria as those Sections apply in relation to-Currency.
- (2) Any Currency, matter or object shall not be destroyed by virtue of the provisions of this part except:
- (a) a Court orders its destruction, in connection with a conviction for an Offence;
 - (b) it appears to the Court having Jurisdiction, in accordance with the rules of Court that the existence of the Currency, matter or object involves a breach of the Law and the Court makes an Order for its forfeiture and Destruction; or
 - (c) in the absence of conviction for an Offence in respect of the Currency, matter or thing and any pending Prosecution for the Offence, and of an Order pending application for an Order for its forfeiture, the Currency, matter or object:
 - (i) has been voluntarily surrendered by the person having possession of it, to the proper Official of the Central Bank of Nigeria or a superior Police Officer; or
 - (ii) is discovered in a lodgement made with the Central Bank of Nigeria by a Commercial Bank.
359. Subject to the express provision of any Law an article, not pecuniary, Forfeited in respect of a Summary Conviction Offence or the Seizure, Forfeiture or Disposition of which may be enforced by the Court may be sold or disposed of in such manner as the Court may direct, and the proceeds of the sale shall be applied in the like manner as if the proceeds were a penalty imposed under the Law in which the proceedings for the Forfeiture is founded.

Detention
and
Destruction
of
Counterfoil
Currency,
etc.

Mode of
dealing
With Non-
pecuniary
Forfeiture.

PART 35**SUMMARY PROCEDURE IN PERJURY**

- 360.(1) Where it appears to a Court that a person has committed perjury in any proceedings before it, the Court, subjected to the provisions of sub-sections (2) and (3), of this Section may:
- (a) commit him for trial upon information of perjury and bind any person by Recognisance to give evidence at his trial; or
 - (b) try him Summarily in like manner for contempt of Court and where he is found guilty, commit him to Prison for a period not exceeding six(6) months or fine him in such sum in accordance with the scale of fine in the Fourth Schedule to this Law.
- (2) Where a Court decides to try a person Summarily under sub-section (1) of this Section for contempt of Court, the Court shall:
- (a) specify the perjury alleged and shall direct the attention of the person to be charged to the inconsistencies on which the Charge is based; and
 - (b) require him to give his explanation to the inconsistencies and record explanation.
- (3) Where a Court Orders a person to be imprisoned or to pay a fine under sub-section (1) of this Section, it shall:
- (a) Not issue Warrant of Commitment or make an Order for imprisonment for non-payment of the fine but shall either Remand the person or release

Summary
Procedure
in Perjury.

- him on a Recognisance with or without Sureties, to come up before the Court when called upon; and
- (b) immediately forward to the Chief Judge or such Judge as the Chief Judge may direct a certified copy of the Proceedings.
- (4) The Chief Judge or Judge to whom a certified copy of the Proceedings is forwarded pursuant to sub-section (3) of this
- (a) may, without hearing argument and in the absence of the person concerned, set aside or confirm the Order or reduce the sentence of imprisonment or the amount of the fine; and
- (b) shall inform the Court immediately of his decision.
- (5) Where the Chief Judge or Judge does not wholly set aside the Court Order he shall issue his Warrant of Commitment or make the necessary Order for payment of the fine in accordance with the term of the Chief Judge or Judge.
- (6) An imprisonment or a fine ordered or imposed under this Section is a bar to any other Proceedings for the same Offence except where the Order of the Court has been wholly set aside.

PART 36**TRIALS AND SUMMARY TRIALS GENERALLY**

- 361.(1) Trials shall be held in the High Court on information or Charge filed:
- (a) by the Attorney General of the State or a Law Officer in his Office;
- (b) by a Legal Officer of any Prosecuting Agency;
- (c) by a Private Prosecutor; or
- (d) summarily, in accordance with the provisions of this Law.
- (2) Trials shall be held in the Magistrate Court or any other Court or Tribunal exercising Criminal Jurisdiction in accordance with the provisions of this Law relating to Summary Trial.
- 362.(1) Where a Defendant charged before the Court is not represented by a Legal Practitioner, the Court shall:
- (a) inform him of his rights to a Legal Practitioner of his choice; and
- (b) enquire from him, whether he wishes to engage his own Legal Practitioner, or a Legal Practitioner engaged for him by way of Legal Aid.
- (2) Where the Legal Practitioner who had appeared on behalf of the Defendant ceases to appear in Court in two (2) consecutive sessions of the Court, the Court shall enquire from the Defendant if he wishes to engage on his own another Legal Practitioner or a Legal Practitioner engaged for him by way of Legal Aid.
- (3) Where the Defendant wishes to engage another Legal Practitioner of his choice, the Court shall allow him reasonable time but not exceeding a period of twenty one (21) days to do so.
- (4) Where the Defendant fails, or is unable to secure a Legal Practitioner arranged by him after a reasonable time, the Court may direct that a Legal Practitioner arranged by way of Legal Aid to represent the Defendant.
- (5) The Court may assign to any Legal Practitioner whose place of practice is within the Jurisdiction of the Court, any Case of a Defendant who has no Legal Representation, and the Legal Practitioner shall undertake the Defence of the Defendant with all due diligence, in which Case, the Legal Practitioner shall not pay any Filing Fee or Service fee in respect of the Case so assigned.
- (6) Where the Defendant chooses to represent himself, the Court shall:
- (a) inform him of all his rights under the Constitution of the Federal Republic of Nigeria and this Law; and
- (b) indicate the fact of having so informed the Defendant on the record, but

Trials

Non -
Appearance
and
Non-
Representa-
tive
of Legal
Practitioner

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a Defendant charged with a Capital Offence or an Offence punishable with life imprisonment shall not be allowed to represent and defend himself.

- (7) A Legal Practitioner other than a Law Officer, engaged in any matter shall be bound to conduct the Case on behalf of the prosecution or Defendant until final Judgment, unless allowed, for any special reason, to cease from acting by the Court of its own motion or upon Application by the Legal Practitioner.
- (8) Where a Legal Practitioner intends to disengage from a matter, he shall notify the Court, not less than three (3) days before the date fixed for hearing and such notice shall be served on the Court and all Parties.
- (9) "Legal Aid" in this Section shall have the meaning or context of Sections 7 (4) and 19 of the Legal Aid Act Cap L9 LFN, 2004 or such other Law for the time being in force.
- 363(1) Trial shall be held summarily:
- (a) in the High Court in respect of perjury;
 - (b) in respect of an Offence which by an Act of National Assembly or a Law of the State House of Assembly is triable Summarily; and
 - (c) in respect of a trial for an Offence punishable with less than three (3) years imprisonment in the Magistrates Court or Tribunal.
- (2) In a Trial in the Magistrates Court or Tribunal, the Prosecution shall provide the Defendant all materials that the Prosecution intends to rely on at the Trial, before or at the Commencement of the Trial.
- 364.(1) When the Case is called, the Defendant appears voluntarily in obedience to the Summons or is brought before the Court under a Warrant, and the Complainant, having to the satisfaction of the Court, had due notice of the time and place of hearing, does not appear in person or in the manner authorized by any Law, the Court may dismiss the Complaint.
- (2) Where the Court receives a reasonable excuse for the Non-Appearance of the Complainant or his Representative or for other sufficient reason, it shall adjourn the hearing of the Case to some future date upon such terms as the Court may deem just.
- 365.(1) Where a Case is called in which Summons has been issued and the Defendant does not appear, or pleads guilty under the provisions of Section 142 of this Law, and no sufficient excuse is offered for his absence, then the Court:
- (a) where satisfied that the Summons, if any has been duly served, may issue a Warrant, called Bench Warrant, for his arrest; or
 - (b) where not satisfied that the Summons has been duly served, or where a Warrant has been issued, in the first instance, for the arrest of the Defendant, shall adjourn the hearing of the case to some future date, in order that proper service may be effected or, until the Defendant is arrested, as the case may be.
- (2) Where the Defendant is afterward arrested on a Bench Warrant or other Warrant as the case may be, he shall be brought before the Court immediately which may then commit him by Warrant to Prison or to such other place of safe Custody as it deems fit, and order him to be brought at a certain date and place before the Court.
- (3) The Complainant shall by direction of the Court, be served due notice of the time and place ordered under sub-section (2) of this Section.
- (4) Where the Court in exercise of its discretion has granted bail to the Defendant and the Defendant in disregard for the Court Orders, fails to surrender to the Order of the Court or fails to attend Court without reasonable explanation, the

When
summary Trial
shall be
Held

Non-Appearance
of
Complainant

Non-appearance
of
Defendant

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- Court shall continue with the Trial in his absence and Convict him unless the Court sees reasons otherwise, provided that Proceedings in the absence of the Defendant shall take place after two (2) Adjournments or as the Court may deem fit.
- (5) The Court shall impose a sentence only when the Defendant is arrested or surrenders to the Custody of the Court
- 366.(1) Where the Case is called and neither Prosecutor nor the Defendant appears, or the Defendant appears but the Prosecutor does not appear the Court shall make such Order as the Justice of the Case requires. Non Appearance of Both Parties
- (2) The Court may, in the Order, include such discretion as to the payment of costs as the Court considers fit, and the payment of the costs may be as if it were a fine.
367. When the Case is called and both the Complainant and the Defendant appear, the Court shall proceed to hear and determine the Case. Appearance of Both Parties
368. Where a Complainant at any time before a final Order is made in a Case, satisfies the Court that there are sufficient grounds for permitting him to withdraw his Complaint, the Court may permit him to withdraw the Complaint and shall there upon, acquit the Defendant. Withdrawal of Complainant
- 369.(1) 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. Manner of Hearing
- (2) Where the Defendant pleads guilty and the Court is satisfied that he intends to admit the Offence and shows no cause or no sufficient cause why sentence should not be passed, the Court shall proceed to sentence.
- (3) Where the Defendant pleads not guilty, the Court shall direct all Witnesses to leave the Court and upon the direction, the provisions of Section (212) of the Evidence Act, 2011 shall apply, but failure to comply with the provisions of this sub-section shall not invalidate the Proceedings but would affect the weight of evidence given by that Witness who fails to leave the Court on the direction being given.
- (4) Notwithstanding the provisions of sub-sections (1), (2) and (3); in capital offences the Court shall proceed with the Trial irrespective of the plea by the Defendant.
- (5) The Court shall then proceed:
- (a) to hear the Prosecutor and such Witnesses as he may call and such other evidence as he may adduce in support of the Charge;
 - (b) also to hear the Defendant and such Witnesses as he may call and such other evidence as he may adduce in his Defence; and
 - (c) also, where the Court deems fit, to hear such Witnesses as the Prosecutor may call in reply if the Defendant has called any Witnesses or given any evidence.
 - (6) The Prosecutor and the Defendant may put questions to each Witness called by the other side and where the Defendant gives evidence he may be cross-examined.
- (7) Where the Defendant is not represented by a Legal Practitioner, the Court shall, at the close of the examination of each Witness for the Prosecution ask the Defendant whether he wishes to put any questions to that Witness, and shall record the Defendant.
- (8) The Defendant shall take his Plea in the Dock, except the Judge directs otherwise
- 370(1) Where at the close of the evidence in support of the Charge, it appears to the Court that a Case is not made out against the Defendant sufficiently to require Discharge of Defendant When No Case to Answer

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him to make a Defence, the Court shall discharge him in respect of that particular Charge guided by Section 315 of this Law.

(2) Where the Defendant is represented by a Legal Practitioner, he shall by application invoke the provision of sub-section (1) of this Section.

(3) Where the Defendant is not represented by Legal Practitioner, the Court shall discharge him after hearing the Prosecution on the issue consider, if the provision of sub-section (1) of this Section avails the Defendant.

371.(1) At the close of the evidence in support of the Charge, where it appears to the Court that a prima facie Case is made out against the Defendant sufficiently to require him to make a Defence, the Court shall call on him for his Defence and where the Defendant:

Defence.

(a) is not represented by a Legal Practitioner, the Court shall inform him that he has three (3) alternatives open to him, namely, that he may:

(i) make a statement without being sworn, from the place where he then is, in which case he will not be liable to cross-examination; or

(ii) give evidence in the Witness box, after being sworn as a Witness, in which case he will be liable to cross-examination; or

(iii) not say anything at all, if he so wishes, and in addition the Court shall ask him if he has any Witnesses to examine or other evidence to adduce in his Defence and the Court shall then hear the Defence and his Witnesses and other evidence, if any; and

(b) Where the Defendant is represented by a Legal Practitioner, the Court shall call on the Legal Practitioner to proceed with the Defence.

372.(1) The Defendant may apply to the Court to issue a process for compelling the Attendance of a Witness for the purpose of examination or the production of a document or any other thing.

Process for Compelling Production of Evidence at the Instance of the Defendant

(2) On an application by the Defendant under sub-section (1) of this Section, the Court shall issue the process unless for reasons to be recorded by it in writing it considers that the application is made for the purpose of vexation or delay or of defeating the aims of Justice.

373. Failure to comply with the requirements of Section 371 (a) of this Law shall not of itself vitiate the Trial where the Court:

Savings as to Section 371 (a)

(a) called on the Defendant for his Defence;

(b) asked the Defendants he had any Witness; and

(c) heard the Defendant and his Witnesses and other evidence, if any.

Evidence in Reply

374. Where Defendant adduces in his Defence a new matter, which the Prosecution could not foresee, the Prosecution may, with Leave of Court, adduce evidence to rebut the new matter or such mentioned evidence.

375.(1) In certain exceptional circumstances, where the evidence of a Technical Professional or Expert Witness would not ordinarily be contentious as to require cross-examination, the Court may grant leave for the evidence to be taken in writing or by electronic recording device, on Oath or affirmation of the Witness, and the deposition shall form part of the record of the Court.

Power to take Depositions in Certain Cases

(2) Where it appears to the Court that any person who is seriously ill or hurt that he may not recover, but is able and willing to give material evidence relating to an Offence and it is not practicable to take the evidence in accordance with provisions of this Law, the Judge or Magistrate shall:

(a) take in writing the statement on Oath or affirmation of the person and subscribe the statement and certify that it contains accurately the whole

of the statement made by the person: and

(b) he shall add a statement of his reason for taking the statement, the date and place when and where the same was taken, and shall preserve the statement and file it for record.

- (3) The Court shall cause reasonable notice of the application to take the deposition in accordance with sub-sections (1) and (2) of this Section and of the time and place where it is to be taken to be served on the Prosecutor and Defendant and if Defendant is in Custody and his presence is required for the Deposition, he shall be brought by the person in whose Custody he is, to the place where the statement will be taken, under an Order in writing of the Court.

When
Statement may
be used in
Evidence.

- 376(1) A Statement taken under Section 1375) of this Law may afterward be used in evidence at the Trial of a Defendant accused of an Offence to which the Statement relates in accordance with the provisions of Section (46) of the Evidence Act.

- (2) The Signature and Attestation of the Judge or Magistrate shall be sufficient prima facie proof of the content of the Statement, and that the Statement was taken in all respects according to Law and the Attestation and Signature shall be admitted without further proof unless the Court sees reason to doubt the genuineness.

- 377(1) Without prejudice to Section 361(2) of this Law, Court Proceedings may be recorded Electronically and Verbatim such that at the end of each day's proceeding a transcript of such recording shall be printed to enable certification or authentication by the Judge or Magistrate who conducted the Proceedings.

Notes of
Evidence to
be taken or
Recorded
Electroni-
cally or in
Writing.

- (2) Where Court Proceedings are not recorded as stated in sub-section (1), the Court shall in every Case take notes in writing of the Oral Evidence it considers material, in a book to be kept for that purpose and such book shall be signed by the Judge or Magistrate at the conclusion of each day's Proceedings.

- (3) The Transcript of the recordings of the Court shall be signed or otherwise authenticated by the presiding Judge at an Adjournment of the Case or at the conclusion in a manner authorized from time to time by the Chief Judge in accordance with such condition as may be imposed by the Rules of Court, and the signed Transcript shall be taken as part of the Record of the Proceedings.

- (4) A person is not entitled, as of right, to inspection of or to a copy of the record so kept except as may be expressly provided for by the Rules of the Court or any other Law.

- (5) The record so kept as the case may be or a copy of it purporting to be signed and certified as a true copy by the Judge or Magistrate shall at all times, without further proof, be admitted as evidence of such Proceedings and of the Statements made by the Witnesses.

378. A Court trying a Case summarily shall make or cause to be made such Local Inspection as the circumstances of the case may require. o

Local
Inspection.

379. Where a Complaint is made by one or more Parties against another Party or Parties and there is a Cross Complaint by the Defendant or Defendants in the first named Case, the Court may, where it deems fit, hear and determine the Complaints in the same Proceedings.

Cross
Complaints.

380. Where two (2) or more Complaints are made by one (1) or more Parties against another Party or Parties and the Complaints refer to the same matter, the Court may, where it deems fit, hear and determine the Complaints in the same Proceedings.

Joinder of
Complaints.

381. On the conclusion of the hearing, the Court shall either at the same or at an adjourned sitting give its decision on the Case, either by dismissing or convicting the Defendant and may make such other Orders as may seem just.

Giving of
Decision
upon
Conclusion of
Hearing.

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- 382(1) In a Summary Trial, the Court may, whether the Charge or Complaint dismissed or not, by Order bind over either the Complainant or Defendant or both, with or without a Surety or Sureties, to be of good behaviour. Power to Bind Parties to be of Good Behaviour.
- (2) A person who breaches an Order made pursuant to sub-section (1) of this Section may be imprisoned for a term not exceeding three (3) months, in addition to any other punishment to which such person is liable.
- (3) Before a Binding Order pursuant to Sub-Section (1) of this Section or an Order for imprisonment or any other punishment under sub-section (2) of this Section is made, the person to be affected by the Order shall be given an opportunity to be heard.
- 383.(1) Where a Charge is dismissed and such Dismissal is stated to be on the merits, such Dismissal shall have the same effect as an Acquittal. Effect of Judgement of Dismissal on Merits "not on Merits and without prejudice"
- (2) Where a charge is dismissed and such Dismissal is stated to be not on the merits or to be without prejudice such Dismissal shall not have the same effect as an Acquittal.
384. Where a Child is proceeded against before a Court for an Offence, the Court shall have regard to the provisions of the Child Rights Law of Ogun State. summary Trial of Child by Magistrate
385. Without prejudice to any other Power which a Magistrate may possess, he may, for the purposes of ascertaining whether it is expedient to deal with the Case Summarily, either before or during the hearing of the Case, adjourn the Case and Remand the person charged for a period not exceeding forty-eight (48) hours or release him on Bail. Power to Remand
- 386.(1) A Law Officer, in a Case where a Charge of an indictable offence is being proceeded with Summarily by a Magistrate, may, at any time before Judgment, request the Magistrate to deal with the Case as one for Trial on information. Law officer may require Case to be Adjourned or Deal with specially.
- (2) On receipt of the request, the Magistrate shall adjourn the proceeding until such a time as information or Charge is filed in the High Court, provided that the information shall be filed within a period of sixty (60) days of the date of the Order granting the request not exceeding sixty-two (62) days from the date of the grant of the request.
- (4) Where at the end of the period of sixty (60) days provided in sub-section (2) of this Section, the information or Charge against the Defendant has not been filed at the High Court, the Magistrate may grant the Law Officer reasonable time to enable him file the information and thereafter shall proceed on the return date to try the Charge Summarily where he has Jurisdiction, or may make an Order releasing the Defendant on bail pending his arraignment on the information or Charge as requested by the Law Officer.
- 387.(1) Where a Charge for an Offence is being tried Summarily by a Magistrate, he shall, at the request of a person in Charge of the Prosecution made at any time before Judgment, adjourn the hearing of the Charge for consultation with a Law Officer with a view to obtaining a request to proceed in accordance with Section 380 of this Law. Adjournment to Law Officer
- (2) The request of the Law Officer so consulted shall be filed within fourteen (14) days of the date the Magistrate grants the request of the person prosecuting, failing which the Magistrate shall proceed to try and conclude the Case Summarily.
- (3) Where the Magistrate grants an adjournment at a request under sub-section (1) of this Section, the Adjournment shall not be for a period exceeding thirty (30) days, and the Magistrate may accordingly grant the Defendant bail.
- 388.(1) A Defendant convicted of an Offence tried Summarily may, instead of, or in addition to any prescribed punishment, be Ordered to enter into his own Security for Peace in Cases Tried Summarily.

Recognisance, with or without Sureties, in such amount as the Court thinks fit that he shall keep the Peace and be of good behaviour for a reasonable period fixed by the Court.

- (2) The convict may be ordered to be imprisoned until the Recognisance is entered into, but the imprisonment shall not:
- extend for a term longer than one (1) year; and
 - together with the fixed term of imprisonment, if any extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine for the Offence which he was convicted.
- 389.(1) Where an Offence for which the Magistrate Court has no Jurisdiction to try is preferred against a Defendant, the Police shall at the end of investigation submit the original or the certified copy of the original Case file to the Office of the Attorney-General. Case Files, Legal Advice, and Related Proceedings.
- (2) The Attorney-General shall within ninety (90) days of the receipt of the Police Case file, issue and serve his Legal Advice indicating whether or not there is a prima facie Case against the Defendant for which he can be prosecuted.
- (3) Where the Attorney-General is of the opinion as contained in the Legal Advice that the Suspect has no prima facie Case to answer, he shall serve a copy of the Legal Advice on:
- The Police or the head of the Police Legal Unit through whom the Police Case file was sent to the Attorney-General;
 - The Court before whom the suspect was remanded in Prison, where he is in Remand-Custody, or before whom the Suspect was granted bail, where he is on Bail; and
 - The Suspect in respect of whom Legal Advice is preferred through the Prison Authority, where the Suspect is remanded in Custody, or through his Legal Representative, if any.
- (4) Where the Offence is one for which a Magistrate Court has Jurisdiction to try, the Prosecutor shall file the Charge at the Magistrate Court, accompanied with:
- The list of Witnesses;
 - The list of exhibits
 - Statements of the Witnesses and of the Defendant; and
 - Any Report, document or material that the Prosecution intends to rely on at the Trial of the Offence, but the Prosecution may, with Leave of the Court, file and serve any additional document.
- (5) The Police in whose Custody the Suspect is remanded shall on receipt of the Legal Advice release the Suspect immediately from Detention where there is no Case to answer.
- (6) The Court referred to in sub-section (4) (b) of this Section, shall, on receipt of the Legal Advice, dismiss the Charge against the Suspect and accordingly discharge the Suspect.
- (7) The Attorney-General may instruct a Law Officer in his Department to the Court where the Order of Remand was made and ensure the discharge of the Remand Order and the Suspect.
- (8) Where the Attorney-General is of the opinion as contained in the Legal Advice that the Suspect has a prima facie Case to answer, he shall file and serve the Charge or information in accordance with the provisions of this Law.

PART 37

TRIALS BYWAY OF INFORMATION

390. An information shall be in the form set out in Form No.23 in the First Schedule

Form of
information

Administration of Criminal Justice and Other Related Matters Law of Ogun State, 2017.

to this Law with such modifications as may be necessary to adapt it to the circumstances of each Case.

391.(1) An Information shall contain:

Contents of
Information

- (a) A description of the Offence charged in the information or, where more than one (1) Offence is so charged, of each Offence so charged, and each Offence charged shall be set out in a separate Paragraph known as a count.
 - (b) A Count of an Information shall commence with a Statement of the Offence charged.
 - (c) The Statement of Offence which shall, briefly describe the Offence charged in ordinary language, avoiding where possible the use of technical terms and all the essential elements of the Offence, and, where the Offence charged is one created by a Law, shall contain a reference to that Law;
 - (d) The Particulars of the Offence in ordinary language;
 - (e) The Law and the Section of the Law against which the offence is alleged to have been committed
 - (f) Where the Law that creates the offence does not give it any specific name, such definition of the offence may be made to give the Defendant notice of the Offence with which he is charged; and
- (2) A Charge is presumed to have fulfilled every condition required by Law to constitute an Offence, however, where a Law limits the Particulars of an Offence which are required to be given in an Information, nothing in this Section shall require any more Particulars to be given than so required.
- (3) Where an Information contains more than one count, the counts shall be numbered consecutively.
- (4) The Forms set out in the Third Schedule to this Law or Forms conforming to them as nearly as possible, may be used in the Cases to which they are applicable.
- (5) In other Cases, Forms to the like effect conforming to them as nearly as may be used, where applicable.
- (6) A Statement of Offence and the Particulars of the Offence may be varied according to the circumstances of each Case

392(1) An Information shall be filed in the Registry of the High Court before which the Prosecution seeks to prosecute the Offence, and shall include the proof of evidence, consistin of:

Other Parts of
Information.
Proof of Evidence,
etc.

- (i) the list of Witnesses;
- (ii) the list of exhibits to be tendered;
- (iii) Summary of Statements of the Witnesses;
- (iv) copies of Statements of the Defendants;
- (v) any other Document, Report, or Material that the Prosecution intends to use in support of its Case at the Trial;
- (vi) particulars of bail or any Recognisance, bond or cash deposit, if Defendant is on Bail;
- (vii) particulars of place of Custody, where the Defendant is in Custody;
- (viii) particulars of any Plea Bargain arranged with the Defendant;
- (ix) particulars of any previous Interlocutory Proceedings, including remand Proceedings, in respect of the Charge;
- (x) any other relevant documents as may be directed by the Court; and

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- (2) The Prosecution may at any time before Judgment File and serve notice of additional evidence.
- (3) The Information and all accompanying processes shall be served on the Defendant or his Legal Representative, if any.
393. The provisions relating to Charges in this Law shall apply to the Counts of an Information.
394. An Information may be filed by:
- the Attorney-General or Law Officers of his Department; or
 - A Private Legal Practitioner authorised by the Attorney-General;
 - A Private Person, provided the information is endorsed by the Attorney-General that he has seen such information and declined to prosecute at the public instance and the private person enters into a bond to prosecute diligently and to a logical conclusion.
395. From the commencement of this Law, the requirement of consent of a Judge to the filing of an Information in Criminal Trial in Ogun State is hereby abolished and Section 340 (2) of the Criminal Procedure Law of Ogun State, 2006 specifically repealed.
- * 396(1) Where an Information has been filed in the Court, the Chief Judge shall take appropriate steps to ensure that the Information filed is assigned to a Court for trial within fifteen (15) working days from the date of its filing.
- (2) On assigning the Information, the Court to which the Information is assigned shall within Ten (10) working days of assignment issue Notice of Trial to the Witnesses and the Defendant on a Production Warrant properly endorsed by the Judge in respect of the Defendant charged, where he is in Custody, for the purpose of ensuring his appearance on the Date of Arraignment, and the Chief Registrar shall ensure the prompt Service of the Notice and Information not more than five (5) days from the date they are issued.
- (3) Where the Defendant named in the Information is in Custody, the Notice of Trial and the Information shall be delivered to him through the Officer in Charge of the Prison in which he is detained, and the Warrant for his production shall be served on the Officer of the Prison.
- (4) Where the Defendant is not in Custody, the Notice of Trial and the Information shall be served on him personally.
- (5) Where it is impossible or impracticable to effect personal service of the Notice of Trial and Information on the Defendant, they may be served on him, with leave of Court, through his Legal Practitioner, if any, or on his Surety or Sureties, or on an adult in his household or in such other manner as the Court shall deem fit and the service shall be deemed to be duly served on the Defendant.
- (6) Nothing in this Section shall prevent the Defendant from being tried by reason only that the Notice of Trial and Information were served on him less than five (5) days before the Date of Trial where he consents to being so tried.
- 397(1) The Registrar shall receive an Information from a private Legal Practitioner where:
- The Information is endorsed by the Attorney-General of the State or a Law Officer acting on his behalf stating that he has seen the Information and has declined to prosecute the Offence set out in the Information: and
 - The private Legal Practitioner shall enter into a Recognisance in:
 - such sum as may be fixed by the Court, with a Surety, to prosecute the Information to conclusion from the time the Defendant shall be required to appear.

Application
of Rules
relating to
Charges.

Filing of
Information.

Abolition of
the
Requirement
of the Consent
of a Judge to
the Filing of
Information in
Criminal
Trials.

Assignment
of issuance
of Notice
of Trial.

Information
by Private
Person

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- (ii) pay such costs as may be Ordered by the Court; or
- (iii) deposit in the Registry of the Court such sum of money as the Court may fix.
- (2) Where an Application for consent to prosecute is made to the Attorney-General by private Legal Practitioner and the Attorney-General declines to grant such consent, he shall give his reason(s) for doing so in writing within fifteen (15) working days from the date of the receipt of the Application.
- 398 Where a Private Legal Practitioner has complied with the provisions of Section 397 of this Law, the Information shall be signed by such private Legal Practitioner who shall be entitled to prosecute the Information and he shall disclose all reason pursuant to Sub-section (2) of Section 397 of this Law as applicable. Conditions for Private Prosecutors
399. The Place of Trial shall be determined in accordance with provisions of this Law. Venue
400. Notwithstanding the provisions of Section 399 of this Law:
- (a) where a cause is commenced in any other Division than that in which it ought to have been commenced, it may notwithstanding, be tried in that Division in which it was commenced, but where the Defendant objects, the Court may, where it considers the objection reasonable, transfer the Case to the proper Division in which it ought to have been commenced; and Change of Venue.
- (b) the Prosecutor or the Defendant may, whenever he considers that the end of Justice so require in any Case, apply to the Court either to transfer the hearing from one Division to another or from one part of the Division to another part of the same Division.
- (c) no appeal shall lie from any Order of transfer made under this Section.
401. Where a Case is transferred from one place in a Division to another place in the same Division or to another Division, the Case shall be tried and determined at the place or in the Division to which it has been transferred; and all Recognisance, Subpoenas, and Proceedings in or relating to the Case are deemed to be returnable at the latter place or Division and all Witnesses who are or summoned to attend the Trial shall be informed accordingly and shall attend at such latter place or Division. Effect of Change of Venue
402. The Registrar or his Deputy, or any other person directed by the Court, shall endorse on, or annex to, every Information and every copy delivered to the Sheriff or proper Officer, for service, a Notice of Trial, such notice shall specify the particular sessions at which the Party is to be tried on the Information shall be in the following form or as near to it as may be possible:
- TAKE NOTICE that you will be tried on the Information of which this is a true copy, at the Sessions to be held at.....on th.....day of.....20.....
403. The Registrar or other proper Officer shall deliver, or cause to be delivered, to the Sheriff or proper Officer serving the Information, a copy, with the Notice of Trial endorsed on or annexed to it, and where there are more Parties charged than one (1) then as many copies as there are Parties, together with a similar Notice for Service on each Witness bound to attend the Trial. Form of Notice of Trial
404. The Sheriff or other proper Officer shall on receipt of the Information and Notice of Trial, serve the person named in the Notice at least seven (7) working days before the date specified on the Notice. Copy of Information and Notice of Trial to be Delivered to Sheriff Time and Mode of Summoning Parties on Information
405. Notice of Trial at the same time shall be served on all Witnesses, and the Service of Notice on the Witnesses shall be in the like manner as Service on a Defendant who is not in-custody. Service of Notice of Trial on Witnesses
406. The Chief Judge may engage the Services of a reputable Courier Company for the purpose of undertaking Service of Criminal Processes, and such Company may Serve processes. Registered Courier Companies may Serve processes

shall serve processes in accordance with this Law.

407. The Officer of such Courier Company serving the Copy of Information and Notices shall immediately make to the Registrar or other proper Officer a return of the mode of Service with the necessary Endorsement of Service on the person named for Service on the Notice or Information. Return of service
408. Where a Defendant against whom Information has been duly preferred, and on whom the Information and Notice of Trial have been duly served, does not appear to plead to such Information, whether he is under Recognisance, to appear or not, the Court may issue a Warrant for his arrest. Bunch warrant
Where the defendant does not
409. Where a Defendant is charged with Capital Offence or Offence punishable by Life Imprisonment, the State shall be and Defence in represented by a Law Officer or a Legal Practitioner and where the Defendant is not defended by a Legal Practitioner, the Court shall assign a Legal Practitioner for his defence. Appear Law Officer or Counsel for State and capital Offences.
- 410.(1) The Defendant to be tried on an Information or charge shall be arraigned in accordance with the provisions of this Law relating to the taken of pleas and the procedure on it. Arraign-ment, Time for Raising Certain Objection and Trial
- (2) After the Plea has been taken, the Defendant may raise any objection to the validity of the Charge or the Information at anytime before Judgment provided that any such objection, except it relates to the Jurisdiction of the Court, shall only be considered along with the substantive issues and a ruling thereon made at the time of delivery of Judgment.
- (3) Upon Arrangement, the Trial of the Defendant may proceed from day-to-day until the conclusion of the Trial.
- (4) Notwithstanding the provision of any other Law to the contrary, a Judge of the High Court who has been elevated to the Court of Appeal shall have dispensation to continue to sit as a High Court Judge only for the purpose of concluding any part-heard Criminal Matter pending before him at the time of his elevation and shall conclude the same within a reasonable time provided that this sub-section shall not prevent him from assuming duty as a Justice of the Court of Appeal.
411. A Person who is summoned to attend as a Witness, whether for the Prosecution or for the Defence, shall be bound to attend the Court on the day fixed for the Trial of the Case and on subsequent dates until the conclusion of the Case or until he has been discharged by the Court from further Attendance. Attendance of Witness Bound by Recognisance to Attend.
412. Where a person who has been summoned to attend as a Witness, whether for the Prosecution or for the Defence, does not attend a Court on the date fixed for Trial of the Case or on any further adjourned date, and he offers no reasonable excuse for his absence despite the fact that he was duly served with the Notice of trial, the Court may issue a bench Warrant that the person be arrested and be brought before the Court, at a time to be mentioned in the Warrant, in Order to give evidence on behalf of the Prosecution or of the Defence, as the Case may be. Warrant of Arrest of Witness not Attending on Recognisance
413. Where a person named on a Summons or Writ of Subpoena wilfully refused to accept service of the Summons or Writ of Subpoena, the Court shall issue a Warrant for the person to be arrested and be brought before the Court at a time to be mentioned in the Warrant in accordance with the Summons or Writ of Subpoena. Warrant for Arrest of Witness Disobeying summons
414. A Witness who fails to attend as Witness in either of the Cases mentioned in Sections, 411 and 412 of this Law is liable, on the Summary Order of the Court, to a fine in a reasonable sum to be fixed by the Court, but not less than five thousand naira (N5,000.00) and, in default of payment, to Imprisonment for a term corresponding to the fixed sum, but the period of imprisonment shall not exceed a period of one (1) month. Fine for Non-Attending of Witness

PART 38**PROVISIONS RELATING TO SENTENCES**

- 415.(1) Subject to the provisions of any Law relating to any specific Offence or class of Offence and to the Jurisdiction conferred on any Court or on a person presiding over the Court, the provisions in this part shall apply to Sentences of Death, Imprisonment, fine and other Non-Custodial Sentences. Construction of Provision Relating to Punishment
- (2) In determining a Sentence, the Court shall have the following objectives in mind, and may decide in each Case the objectives that are more appropriate or even possible:
- (a) prevention, that is, the objective of persuading the Convict to give up committing offence in the future, because the consequences of crime is unpleasant;
 - (b) restraint, that is, the objective of keeping the Convict from committing more offence by isolating him from society;
 - (c) Rehabilitation, that is, the objective of providing the Convict with treatment or training that will make him a reformed citizen;
 - (d) deterrence, that is, the objective of warning others not to commit offence by making an example of the Convict;
 - (e) education of the public, that is, the objective of making a clear distinct between good and bad conduct by punishing bad conduct;
 - (f) retribution, that is the objective of giving the Convict the Punishment he deserves and giving the Society or the Victim revenge; and
 - (g) restitution, that is, the Objective of compensating the Victim or family of the Victim of the Offence.
- 416.(1) Punishment of Death is inflicted by hanging the Convict by the neck till he is dead or by Lethal Injection. Provided that no Execution may, be inflicted by means of any Crucifixion, Decapitation or torture such as Impalement. Capital Sentence.
- (2) Sentence of Death shall be pronounced by the Court in the following form: "The Sentence of the Court upon you is that you be hanged by the neck until you are dead or by Lethal Injection"
417. Where Sentence of Death has been passed, the Sentence shall only be carried out in accordance with the provisions of this Part How death Sentence is to be Carried Out.
418. Where a woman found guilty of a Capital Offence is pregnant, the Sentence of Death shall be passed on her but its Execution shall be suspended until the child is delivered and weaned. Sentencing in the Case of Pregnancy.
419. Where a Convict who in the opinion of the Court had not attained the age of eighteen (18) years at the time the Offence was committed is found guilty of a Capital Offence, the Sentence of Death shall not be pronounced or recorded but in lieu of it, the Court shall Sentence the child to Life Imprisonment or to such other term as the Court may deem appropriate in consideration of the Principles in Section (A 15) of this Law. Sentencing in the Case of a Child Offender.
420. A Certificate by the Registrar, or other Officer of the Court, that such Sentence has been passed, and naming the Convict, against whom it has been passed shall be sufficient Authority for the Detention of such Convict. Authority for Detention of Convict.
421. Judge's Certificate of Death Sentence to be sufficient and full Authority for Execution of Convict, unless he is pardoned or reprieved. Judge's Certificate of Death Sentence to be Sufficient and Full Authority for Execution of Convict, Unless He is Pardoned or Reprieved.
- A Judge who pronounces a Sentence of Death shall issue, under his hand and the seal of the Court, a certificate to the effect that Sentence of Death has been pronounced upon the Convict named in the certificate, and the certificate shall be sufficient and full Authority in Law for the detention of the Convict in safe Custody until the sentence of Death pronounced upon him can be carried into

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effect and for carrying the Sentence of Death into effect, subject to the direction of the Governor, in accordance with provisions of this Law.

422. The Registrar of a Court that sentences a person to Death by hanging shall, as soon as practicable after sentence has been pronounced:

Steps to be taken by Registrar

- (a) hand over one copy each of the Certificate issued by the Judge under the provisions of Section , 419; of this Law to the Commissioner of Police and the Prison Officer responsible for the safe Custody of the Convict or other Officer in Charge of the Prison in which the person is to be confined.
- (b) transmit to the Sheriff and Attorney General a copy of the said Certificate; and
- (c) file one copy of the said Certificate with the Record of Proceedings in the Case.

423. The Judge who passed a Sentence of Death or life imprisonment shall, within six (6) weeks after sentence has been pronounced, transmit to the Attorney General a Certified True Copy of the Record of Proceedings at the Trial, together with a copy of the Certificate issue by him in the case where the provisions of Section 419, applies and a Report in writing signed by him containing any Recommendations or Observations with respect to the Convict and with respect to the Trial that he deems fit to make for the purpose of enabling the Advisory Committee on Prerogative of Mercy to advise the Governor on any exercise of Prerogative of Mercy.

Judge to Forward Report to Attorney-General

- 424.(1) Where a Convict has been Sentenced to Death and has exercised his Legal Rights of Appeal against the Conviction and Sentence and the Conviction and Sentence have not been quashed or the Sentence has not been reduced, or has failed to exercise his Legal Rights of Appeal or having filed an Application for Leave to Appeal, or an Appellant has failed to perfect or prosecute the Application or Appeal within the time prescribed by Law; or
- (2) Where the Convict desires to have his Case considered by the Committee on Prerogative of Mercy; he shall forward his request, together with a Certified True Copy of the Judgement of his Case, through his Legal Practitioner or Officer in Charge of the Prison in which he is confined to the Committee on Prerogative of Mercy.

Convict may send request Committee on Prerogative of Mercy

- (3) The Committee on Prerogative of Mercy may consider the request and advise the Governor on the exercise of the Prerogative of Mercy Provided that a Convict shall not simultaneously exercise any Right of Appeal concurrently with a request for exercise of Prerogative of Mercy by the Committee or Governor.

- 425.(1) Where a Defendant has been sentenced to Death, and has exercised his Legal Rights of Appeal against the Sentence and the Conviction and the Sentence have not been quashed or reduced or has failed to perfect or prosecute such Application or Appeal within the time prescribed by Law, the Governor shall, after considering the Report made under Section 424 (3) of this Law, if any, and after obtaining the advice of the Advisory Council on Prerogative of Mercy of the State decide whether or not to approve that the Sentence should be commuted to imprisonment for Life, or that the Sentence should be commuted to any specific period or that the Convict should be otherwise Pardoned or reprieved.

Stage at which Governor is to consider Report

- (2) Where, for the purpose of sub-section (1), the Advisory Council on the Prerogative of Mercy is required to Advise the Governor in relation to any person sentenced to Death, the Attorney-General shall cause a Record of the Case to be prepared and placed before the Advisory Council on Prerogative of

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Mercy, and the Advisory Council shall, in giving its advice, have regard to the matters set out in that Record, and the effect a pardon or release of the Convict will have on the Society the Victim as well as Members of his Family.

- 426.(1) Where the Governor decides that the Sentence should be commuted or that the Convict should be otherwise pardoned or reprieved, he shall issue an Order, a copy of which shall be sent to the Superintendent or other Officer in Charge of the Prison in which the Convict is confined, and another copy of it shall be sent to the Sheriff, directing that the Execution should not proceed and that the Convict be imprisoned in accordance with the Recommendation, or that the Convict be released, subject to such conditions, if any, as shall be specified. Provided that he shall consult and inform the Attorney-General of his decision,
- (2) The Sheriff and the Superintendent or other Officer in Charge of the Prison in which the Offender is confined shall comply with and give effect to every Order issued under the provisions of sub-section (1).
- 427.(1) Where the Governor decides that the Sentence should not be commuted or that the Convict should not be pardoned or reprieved, the Order of the Governor shall be duly signed by him and sealed as in one of the forms set out in the Fourth Schedule of this Law or as near to it as circumstances permit.
- (2) The Order of the Governor:
- (a) shall state the place and time, where and when the Execution is to be and give directions as to the place of burial, cremation or disposal of the body; or
- (b) may direct that the Execution shall take place at such time and such place and the body of the Convict executed shall be buried, cremated or disposed at such place as shall be appointed by some Officer specified in the Order.
- (3) When the place or time of Execution or the place of burial is appointed by some person and is not stated in the Order of the Governor, the specified Officer shall endorse on the Order, in his signature the place and time of Execution and place of burial, cremation or disposal of the body.
428. A copy of the Order issued by the Governor shall be forwarded to the Official in Charge of the Prison in which the Convict is confined, and the Official in Charge of the Prison shall give effect to the Order of Execution.

Where Pardon
or Reprieved
granted

Where Pardon
or Reprieved
not Granted

PART 39**PROCEDURE WHERE WOMAN CONVICTED OF CAPITAL OFFENCE IS ALLEGED TO BE PREGNANT**

- 429.(1) Where a woman convicted of an offence punishable with Death alleges that she is pregnant, the Court shall, before Sentence is passed on her, determine the question whether or not she is pregnant.
- (2) The question whether the woman is pregnant or not shall be determined by the Court on such evidence as may be presented to the Court by the woman or on her behalf or by the Prosecutor.
- (3) Where, in Proceedings under this Section, the Court finds that the woman in question is not pregnant, the Court shall pronounce Sentence of Death upon her.
- (4) Where in the Proceedings under this Section, the Court finds the woman in question to be pregnant, the Court shall Sentence her to Death subject to the provision of Section 418 of this Law.

Procedure
where a
woman
convicted of a
capital offence
is Alleged to
be pregnant or
who becomes
Pregnant

PART 40

SENTENCING GENERALLY OTHER THAN CAPITAL SENTENCE,

430.(1) On conviction, a Court may Sentence the Convict to a term of Imprisonment as prescribed by Law.

Court to
determine
Term
imprisonment.

(2) In exercising its discretion of sentencing or review of Sentence, the Court shall take into consideration the following factors; in addition to the provisions of Section 415 of this Law:

- (a) each Case should be treated on its own merit;
- (b) the objectives of sentencing, including the Principles of Reformation, should be borne in mind in sentencing a Convict;
- (c) an Appeal Court may in a proper Case reduce the sentence imposed by the Trial Court, especially where it is excessive or based on wrong Principles; or an Appeal Court may increase the Sentence imposed by the Trial Court especially where it is inadequate;
- (d) the period spent in Prison Custody awaiting or undergoing Trial shall be considered and computed in sentencing a Convict in a Case not involving the death Sentence or Sentence of Life Imprisonment;
- (e) trial Court shall conduct an inquiry into the Convict before sentencing;
- (f) it may be desirable to adjourn for sentencing in order to have time to consider any evidence adduced at the sentencing hearing in accordance with Section 324 of this Law;
- (g) where there is doubt as to whether the Defendant or Convict has attained the age of eighteen (18) years, the Court should resolve the doubt in his favour;
- (h) a Defendant may not be given consecutive Sentences for two (2) or more Offences committed in the same transaction;
- (i) an Appeal Court shall not increase the Sentence of a lower Court beyond the maximum number of years the lower Court has Power to impose; and
- (j) sentencing to a Term of Imprisonment shall apply only to those Offenders who should be isolated from Society and with whom other Forms of Punishment have failed or is likely to fail.

431. Imprisonment shall be with labour unless otherwise ordered.

Imprisonment to
Be with Labour.
Power to Order
Detention (or
One (1) Day in
Precincts of the
Court.

432(1) Where the Court has Power to pass a Sentence of Imprisonment, the Court, may order that the Offender be detained within the precincts of the Court or at any Police Station until such Sentence is passed.

(2) Before making an Order of Detention under this Section, the Court shall take into consideration the distance between the Place of Detention and the Convict's abode, if his abode is known or ascertainable, the Court shall not make any such Order of Detention under this Section as will deprive the Offender of a reasonable opportunity of returning to his abode on the day on which such order of Detention is made

433.(1) Where a Sentence of Imprisonment is passed on any person by a Court, the Court may Order that the Sentence shall commence at the expiration of any other Term of Imprisonment to which that person has been previously sentenced by any competent Court in Nigeria.

Consecutive
Sentences of
Imprisonment.

(2) Where two (2) or more Sentences passed by the Magistrates' Court are ordered to run consecutively, the aggregate Term of Imprisonment shall not exceed four (4) years or the limit of Jurisdiction of the adjudicating Magistrate whichever is greater.

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| 434. | A Sentence of Imprisonment takes effect from and includes the whole of the day of the date on which it was pronounced, provided that in reckoning with the Length of Imprisonment, the Court may direct that any period of Detention prior to Conviction shall be taken into consideration. | Date from Which Sentence Commences. |
| 435.(1) | In a Case of a Conviction in the High Court, where no amount is stipulated, the amount of the Fine shall be at the discretion of the Court, and any Term of Imprisonment imposed in default of payment of the Fine shall not exceed two (2) years. | Default in Payment of Fine. |
| (2) | In the Case of a Conviction in a Magistrates' Court: | |
| (a) | the amount of the Fine shall be at the discretion of the Court but shall not exceed the maximum Fine authorized to be imposed by the Magistrate under the Law; | |
| (b) | no Term of Imprisonment imposed in default of payment of the Fine shall exceed the maximum fixed in relation to the amount of the Fine by the scale specified in the Fourth Schedule to this Law. | |
| (3) | In no Case shall any Term of Imprisonment imposed in default of payment of a Fine which has been imposed by virtue of the power in that behalf contained in sub-section (1) of this Section exceed the maximum term authorized as Punishment for the Offence by the Law. | |
| (4) | The provisions of this Section shall not apply in any Case where a Law provide a minimum period of Imprisonment to be imposed for the commission of an Offence | |
| 436. | Where Sentence of Imprisonment is passed on an escaped Convict, the Sentence shall take effect after he has served Imprisonment for a further period equal to that which at the time of his escape remained unexpired of his former Sentence. | Execution of Sentence on Escaped Convict. |
| 437. | A Defendant convicted of an Offence punishable by: | Fine in Default of Imprisonment |
| (a) | imprisonment as well as Fine, and sentenced to pay a Fine whether with or without imprisonment; or | |
| (b) | imprisonment or Fine, and sentenced to pay a Fine: may be ordered to suffer imprisonment, in default of payment of the Fine, for a certain term, which Imprisonment shall be in addition to any other Imprisonment to which he may have been sentenced. | |
| 438(1) | The Governor may review from time to time, the provisions for the amount of Fines, Compensation or other sums of money prescribed under this Law. | General provision on Review of Sums of Amount. |
| (2) | Such provisions as may be reviewed and effective date shall be published in the Gazette of the Government of Ogun State. | |
| 439. | Where, by any Law, the Court is empowered to impose a penalty for a Summary Conviction Offence, it may, in the absence of express provisions to the contrary in the same or any other Law, order a Defendant who is convicted of such Offence, in default of payment of the sum of money adjudged to be paid by the Order, either immediately or at the time specified in the Order, as the Case may be, to be imprisoned, in accordance with the Scale set out in the Fourth Schedule of this Law. | General Power of Awarding Imprisonment in Default of Payment of Penalty. |
| 440. | Subject in every Case to the provisions of the Law on which the Order is founded, the period of Imprisonment, which is imposed by the Court in respect of the non-payment of a sum of money ordered to be paid by another shall be such period as in the opinion of the Court will satisfy the Justice of the Case but shall not exceed the maximum fixed in the Scale set out in Fourth Schedule to this Law. | Scale of Imprisonment for Non-Payment of Money Ordered to be Paid. |
| 441. | A Commitment for non-payment of a Fine shall not be for a longer period than two (2) years. except where the Law under which the Conviction has taken place prescribes or allows a longer period. | Limitation of Imprisonment in Default of Payment of fine. |

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- 442 (1) A Court, in fixing the amount of a Fine to be imposed on a Convict shall take into consideration, amongst other things, the means of the Convict as they appear or are known to the Court. Payment and Allocation of Fine
- (2) Where a Fine is imposed, the payment of the Court Fees and other Legal expenses payable in the Case, up to and including Conviction, shall not be taken into consideration in fixing the amount of the Fine or be imposed in addition to the Fine, but the amount of the Fine, or of such part as may be paid or recovered, shall be applied as follows:
- (a) in the first instance, in the payment to the Informant or Complainant of any Court or other Fees paid by him and Ordered by the Court to be repaid, to him;
- (b) in the second instance, in the payment of any outstanding Court Fees not already paid by the Informant or Complainant which may be payable under the Rules of Court; and
- (c) the balance, if any, remaining after the above payments have been made shall be paid into the Consolidated Revenue Fund of the State.
443. In a Case where an Order is made against a Defendant for the payment of a sum of money and the Defendant is in default of payment and is liable to be imprisoned, the Court may do all or any of the following: Power commit Defendant in certain Case
- (a) issue a Warrant of Committal;
- (b) allow time for the payment of the said sum not exceeding a period of thirty (30) days;
- (c) direct payment of the said sum to be made by instalments; or
- (d) direct that the person liable to pay the said sum shall be at liberty to give to the satisfaction of the Court, Security, either with or without a Surety or Sureties, for the payment of the said sum or any Instalment.
444. (1) Where Time has been allowed for the payment of a sum adjudged to be paid upon Conviction or Order, further Time, may, on an application by or on behalf of the Convict liable to pay the sum, be allowed by a Court having Jurisdiction to issue Warrant of Committal in respect of the non-payment of that sum, the Court may, subject as aforesaid direct payment by Instalments of the sum so adjudged to be paid, Allowance of further Time and payment by instalments;
- (2) Where a sum of money is directed to be paid by Instalments and default is made in the payment of any one (1) Instalment, the same Proceedings may be taken as if default had been made in the payment of all Instalments remaining unpaid.
- (3) Where before the expiration of the Time allowed, the person convicted surrenders himself to the Court having Jurisdiction 6082 to issue a Warrant of Committal in respect of the non-payment of the sum, and states that he prefers immediate Committal to awaiting the expiration of the Time allowed, the Court may, if it deems fit issue a Warrant committing him to Prison.
- (4) A Warrant of Committal issued under the provisions of this Section may be executed on any day, including a Sunday or a Public Holiday.
445. In all Cases where a Convict, against whom a Warrant of Committal for non-payment of a sum of money adjudged to be paid by an Order is issued, pays or tenders to the person having the Execution of the Warrant, the sum or sums mentioned in the Warrant together with the amount of the expenses of such Warrant up to the Time of the payment or tender, the person having the execution of Warrant shall not execute the Warrant. Payment of Penalty to to Person Executing warrant
446. Where a Convict is brought to a Prison to be imprisoned by virtue of a Warrant of Committal, there shall be endorsed on such Warrant, the day on which such Convict was arrested by virtue of it and the Imprisonment shall be computed Commence-ment of Imprisonment Pursuant to a Warrant

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from that day and inclusive with no Remission of Term.

447. Where a person has been committed to Prison by the Court for default in finding a Surety or Sureties, the Court may, on application made to it by such person or by some person acting on his behalf, inquire into the case of such person and if on new evidence produced to the Court or proof of a Change of Circumstances, the Court deems fit to all the Circumstances of the Case that it is just so to do, the Court may;
- (a) reduce the amount for which it was Ordered that the Surety or Sureties should be bound; or
- (b) dispense with the Surety or Sureties; or
- (c) otherwise deal with the Case as the Court may deem just.
- 448.(1) Where a Convict has been committed to Prison by the Court for non-payment of a sum of money adjudged to be paid by an Order, such Convict may pay or cause to be paid to the Court the sum mentioned in the Warrant of Commitment together with the amount of the costs, charges and payment expenses, if any, and the Court shall direct the Officer in Charge of the Prison to discharge such person, unless he is in his Custody for some other matter.
- (2) In a Case where under sub-section (1) of this Section, a sum has been received by the Court in part satisfaction of a sum due from a Prisoner in consequence of the Conviction of the Court, such sum shall be applied:
- (a) towards the payment in full or in part of any costs or damages or Compensation which the Court may have ordered to be paid to the Complainant; and
- (b) secondly towards the payment of the Fine, if any, imposed on the Prisoner.
- (3) Subject to the provisions of sub-section (2) of this Section where an amount is paid towards a Fine;
- (a) the Imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which such person is committed as the sum so paid towards the Fine bears the amount of the Fine for which such person is liable; and
- (b) The Superintendent or other Officer in Charge of a Prison in which a person who has made the part payment is confined shall as soon as practicable therefore take such person before a Court who shall;
- (i) certify the amount by which the Term of Imprisonment originally awarded is reduced by such payment in part satisfaction; and
- (ii) make such Order as the Circumstances require.
- (4) In reckoning;
- (a) the number of days by which a Term of Imprisonment would be reduced under this Section, the first day of Imprisonment shall not be taken into account; and
- (b) the sum which will secure the reduction of a Term of Imprisonment, fractions of a Naira shall be omitted.
449. Where, under the provision of this Law or any other Law, the Court imposes a Fine or Compensation or any pecuniary penalty whether or not that Fine or Compensation or penalty is accompanied by a power to impose Imprisonment, and no special provision other than recovery by Distress is made for the recovery of the fine or penalty, the Court may;
- (a) order the fine or Compensation or penalty to be recoverable by Distress; and

Varying or
Discharging
Order for
Sureties

Right of
Person
Imprisoned in
Default to be
Released on
Paying Sum
and Effect of
Part Payment

Fines or
Compensation
may be ordered
be
Recoverable
Distress.

- (b) In default of the Distress satisfying the amount of the Fine or Compensation or penalty as mentioned, order that the offender be imprisoned, with or without labour as the Case may be, in accordance with the scale set out in the Fourth Schedule to this Law.
450. Where the Court orders a sum to be recoverable by Distress, it shall issue a Warrant which shall be in writing for the purpose of recovering same, such Warrant shall be signed by the Court, authorizing the person charged with the Execution of the Warrant to take any money as well as any goods of the person against whom Distress is levied and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the Warrant.
451. In the execution of a Distress Warrant the following provisions shall have effect:
- (a) Warrant of Distress shall be executed by or under the direction of the Sheriff;
 - (b) Where the person charged with the Execution of the Warrant is prevented from executing the Warrant by the fastening of doors or otherwise, the Judge or Magistrate may, by writing under his hand endorsed on the Warrant, authorize him to use such force as may be necessary to enable him to execute the Warrant;
 - (c) The wearing apparel and beddings of the person and of his family and to the value of Twenty thousand (N20,000:00) Naira, the tools and implements of his trade, shall not be taken;
 - (d) except as provided in paragraph (e) of this sub-section and so far as the person on whose movable Property the Distress is levied consents in writing to an earlier sale, the goods distrained on shall be sold at public auction not less than five (5) days and not more than fourteen (14) days after the making of the Distress; but where consent in writing is so given, the sale may be in accordance with such consent.
 - (e) subject to paragraph (d) of this Section the goods distrained shall be sold within the time fixed by the warrant, unless the sum or charges, if any, of taking and keeping the goods distrained for which the warrant was issued, are sooner paid;
 - (f) where a person charged with the execution of a warrant of distress:
 - (i) wilfully retains from the proceeds of any property sold to satisfy the distress, or
 - (ii) otherwise exacts, any greater costs or Charges than those to which he, is for the time being, entitled by Law, or makes any improper Charge, he is liable, on Summary Conviction before a Magistrate, to a Penalty not exceeding Twenty Thousand (N20,000:00) Naira:
Provided that nothing in this Paragraph shall affect the liability of the person to be prosecuted or punished for Extortion; or for the return of the sum of money or value of the item extorted, by the person.
 - (g) a written account of the costs and Charges incurred in respect of the Execution of a Warrant of Distress shall, as soon as practicable, be delivered by the person charged with the Execution of the Warrant to the Judge or Magistrate; and the Convict on whose movable Property the Distress was levied may, any time within one month after the making of the Distress, inspect the account, without payment of any Fee or reward, at any during office hours, and to take a copy of the account;

Warrant of
DistressProcedure
on
execution of
a Distress
Warrant

Administration of Criminal Justice and Other Related Matters Law of Ogun State, 2017.

- (h) A person charged with the Execution of a Warrant of Distress shall sell the distress or cause the distress to be sold, and may deduct out of the amount realized by the sale all costs and charges actually incurred in effecting the sale, and shall pay to the Court or to person some person specified by the Court, the remainder of such amount, in Order that:
- i the amount may be applied in payment of the sum for which the Warrant was issued, and of the proper costs and Charges of the execution of the Warrant; and
 - ii the surplus, if any, may be rendered to the person on whose movable Property the Distress was levied.
452. Where a part only of the amount ordered to be recovered by part payment to reduce Period of Imprisonment in proportion distress is so recovered, the period of imprisonment ordered to be suffered in default of recovery of the amount imposed shall be reduced accordingly and shall bear the same Proportion to the full period as the amount recovered bears to the total amount ordered to be recovered, and the warrant of Commitment under the provisions of Section 441 of this Law, shall apply.

Part Payment
to Reduce
Period of
Imprisonment
in
Proportion

PART 41**DETENTION IN A SAFE CUSTODY OR SUITABLE PLACE OTHER THAN PRISON OR MENTAL HEALTH ASYLUM**

- 453.(1) Where a Person is ordered to be detained in a Safe Custody or suitable place other than Prison or Mental Health Asylum, he is notwithstanding anything in this Law or in any other Law, liable to be detained in a Prison or Asylum or such other place' as provided in this Law or any other Law as the Attorney-General may direct and whilst so detained shall be deemed to be in Legal Custody.
- (2) A person detained in a Safe Custody or suitable place other than Prison or Mental Health Asylum may at anytime be discharged by the Attorney-General on Licence.
- (3) The Attorney-General may, at any time revoke or vary any Licence and where a License has been revoked, the person to whom the Licence relates shall proceed to the places as the Attorney-General may, direct and if he fails to do so may be arrested without Warrant and taken to the place and remanded there.

Conditions
Attached to
Detention in
a Safe
Custody or
Suitable
Place Other
Than Prison
Mental
Asylum

PART 42**DEPORTATION**

454. In this Part of this Law, Deportation means the Legal Expulsion or Removal from Nigeria of a person not being a Citizen of Nigeria, to his Country.
455. Where a Defendant is convicted of an Offence punishable by Imprisonment without the option of a Fine, the Court may, in addition to, or instead of any other Punishment, make Recommendation to the Minister with responsibility for the Interior that the Convict be deported where it appears to the Court to be in the Interest of Peace, order and good governance of the State.
456. Where, on a deposed Information or Sworn Affidavit it appears to a Court that there is reason to believe that any person in the State who is not a Citizen of Nigeria is about to commit a Breach of the Peace, or that his conduct is likely to produce or excite; to a breach of the Peace, the Court, after due inquiry at which the person concerned shall be present, may order him to give Security in two (2) or more Sureties for Peace and good behaviour, and in default, may recommend to the Minister with responsibility for the Interior that he be deported.

Meaning of
Deportation

Court may
Recommend
Deportation
for Offences
Punishable
by
Imprison-
ment
Without
Option of
Fine

Deportation
in Default of
Security for
Peace.

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- to the Minister with responsibility for the Interior that he be deported.
457. Where it is shown by sworn Affidavit on Oath to the satisfaction of a Court that a Defendant in the State who is not a Citizen of Nigeria:
- (a) is conducting or has conducted himself so as to constitute a threat or be dangerous to Peace and Order of the State;
 - (b) is endeavouring or has endeavoured to incite enmity between any Section of the people of the State or the Federal Republic of Nigeria; or,
 - (c) is intriguing or has intrigued against constituted Power and Authority in the State or in Nigeria: the Court may recommend to the Minister of Interior that he be deported.
- 458.(1) Where a Defendant required to give Security under Sections 456 and 457 of this Law, and the Court contemplates on recommending to the Minister with responsibility for the Interior, the Deportation of a Defendant to whom Section 457 of this Law applies, before making any such Recommendation, the Court shall require the person concerned to attend before the Court and, being informed of the Allegations made against him, be given an opportunity to show cause why he should not be deported.
- (2) After considering the Representation, if any, of the person concerned and the facts upon which the Proceedings are founded, the Court shall decide whether or not to recommend to the Minister with responsibility for the Interior that the person concerned be deported.
- Provided that: the Court shall take into consideration provisions relating to the African Charter on Human and Peoples Rights (Enforcement) Act, Laws of the Federation, 2004.
459. Where the Court decides to recommend to the Minister with responsibility for the Interior the Deportation of any person under Sections 456, 457 or 458, it shall forward to the Minister, the Recommendation together with a Report setting out the reasons why the Court considers it necessary to make the Recommendation and a Certified True Copy of any Proceedings relating thereto.
460. Where a Recommendation for Deportation has been made in respect of a person to whom Sections 456 and 458 of this Law relate, such person may be detained in Custody pending the decision of the Minister with responsibility for the Interior and during such time shall be deemed to be in Lawful Custody.
461. The Minister with responsibility for the Interior shall subject to Sections 455, 459 and 460, in the Interest of Peace, Order and good governance, make an Order of Deportation and issue a written Order directing that the Defendant be deported to another Country or removed from Ogun State.
462. If the Minister of Interior decides that no Order of Deportation shall be made, he shall inform the Court, which shall proceed to make such Order of Imprisonment or other Punishment as may be authorized by Law.
463. Nothing in this Law shall be construed as authorizing the Removal or Deportation of a Citizen of Nigeria to a place outside Nigeria or Ogun State.
464. Where a Defendant ordered to be deported is sentenced to a Term of Imprisonment, the Sentence of Imprisonment shall be served before the Order of Deportation is carried into effect.
465. An Order of Deportation may be expressed to be in force for a limited time or for an unlimited time and may require the deported Defendant to report himself to the nearest Immigration Office or Police Station at intervals of not less than fifteen (15) days.
- 466.(1) An Order of Deportation shall be sufficient Authority to all persons to whom it is directed or delivered for Execution to receive and detain the Defendant named

Deportation of
a Person
Threatening
Peace and
Order

Procedure
Prior to Court
Recommend-
ing
Deportation
Under
Sections 450
and 457.

Procedure for
Recommendation
of
Deportation
under Section
(455), (457)
and (458).

Detention of
Person
Concerned.

Order of
Deportation,

Minister of
Interior may
Withhold Order
and Remit
Case to Court.

Citizens of
Nigeria shall
not be
Deported.
Provisions as
to Sentence of
Deportation
Deportation
Order may be
Limited.

Execution of
Deportation
Order

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- (2) Where a Defendant leaves or attempts to leave the District or place to which he has been confined prior to Deportation, while the Order of Deportation is still in force, without the written consent of the Minister of Interior which consent shall be given subject to any terms as to Security for good behaviour or otherwise as to the Minister of Interior shall deem fit or wilfully neglects or refuses to report himself as Ordered, such person shall be Summarily Liable to Imprisonment for six (6) months and to be deported on a fresh Warrant under the original Order or under a new Order.

PART 43**JUVENILE OFFENDERS**

- 467.(1) Where a child or young person is alleged to have committed an Offence, the provisions of the Children and Young Persons Law and the Child Rights Law shall apply.
- (2) Notwithstanding sub-section (1) of this Section, the provisions of this Law relating to Bail shall apply to Bail Proceedings of a Child or young Offender.

Procedure for
frying
Juvenile
Offenders.

PART 44**PROBATION AND NON-CUSTODIAL ALTERNATIVES**

468. In this Part, "Probation Order" means an Order containing a condition specified in Section 470 of this Law.
- 469.(1) Where a Defendant is charged before a Court with an Offence Triable Summarily and the Court finds that the Charge is proved but is of the opinion that having regard to:
- (a) The character, antecedents, age, health or mental condition of the Defendant charged;
 - (b) The trivial nature of the Offence; or
 - (c) The extenuating circumstances under which the offence was committed; it is inexpedient to impose any Punishment or any Order than a Nominal Punishment, or that it is expedient to release the Defendant on Probation, the Court may, without Proceeding to Conviction make an Order specified in Sub-Section (2) of this Section.
- (2) The Court may make an Order under sub-section (1) of this Section:
- (a) Discharging the Defendant conditionally on his entering into a Recognisance, with or without Sureties, to be of good behaviour for a period not less than one (1) year and not exceeding three (3) years as may be specified in the Order; or
 - (b) Dismissing the Charge.
- (3) The Court may, in addition to any such Order made under sub-section (2) of this Section, Order:
- (a) The Defendant to pay such damages for injury or Compensation for any loss suffered by a person by reason of the conduct or Commission of the Defendant and to pay such Cost of the Proceedings as the Court thinks reasonable; and
 - (b) the parent or guardian of the Defendant to pay the Damages and Cost specified in Paragraph (a) of this Section where the Defendant has not attained the age of eighteen (18) years and it appears to the Court that the parent or guardian of the Offender has condoned to the commission of the Offence.
- Provided that: the Defendant may have some other Sanction as may be deemed fit imposed upon him in lieu of Defendant of the guardian or parent.

Meaning of
Probation
Order.
Conditional
Release of
Defendants
and Payment
of
Compensa-
tion for Loss
of Injury and
of Costs.

- (4) Where an Order is made under this Section the Order:
- (a) for the purpose of reinvesting, reverting or restoring stolen Property and of enabling the Court to make Orders as to the Restitution or Delivery of Property to the Owner; and
 - (b) as to the payment of money upon or in connection with such Restitution or Delivery; shall have the like effect as a Conviction.
- 470.(1) A Recognisance ordered to be entered into under this Part shall, where the Court so Orders, contain a condition that the Defendant be under the Supervision of such person or persons of the same sex, called a Probation Officer, as may, with the consent of such Probation Officer, be named in the Order during the period specified in the Order.
- (2) A Recognisance under this Part may contain such additional Conditions with respect to residence, abstinence or abstention from intoxicating liquor or substance and any other matters as the Court may, having regard to the particular Circumstances of the Case, consider necessary for preventing a repetition of the same Offence or the commission of other Offences.
- (3) The Court, by which a Probation Order is made, shall furnish to the Defendant a Notice in writing stating in simple terms the Conditions he is required to observe.
471. The Probation Officer may, at any time be relieved of his duties and in a such Case or in Case of the Death of the person so named, another person may by consent be substituted by the Court before which the Offender is bound by his Recognisance to appear for Conviction or Sentence.
- 472(1) A Probation Officer shall, subject to the directions of the Court:
- (a) where the person on Probation is not actually with the Probation Officer, visit or receive Report on the person under Supervision at such reason-able intervals as may be specified in the Probation Order or subject as the Probation Officer may deem fit;
 - (b) see that he observes the Conditions of his Recognisance;
 - (c) report to the Court as to his behaviour; and
 - (d) advise, assist and befriend him and when necessary to endeavour to find him suitable employment.
- (2) The Attorney-General upon Consultation with the Commissioner for Youth and Sports and Women Affairs and Social Development in Ogun State shall make regulations with respect to the Appointment of Probation Officers, including Designation of persons of good character as Probation Officers from which list a Court within the District or Division where the Probation Officer resides may make its Appointment under Section 470 of this Law.
473. The Court before which a Defendant is bound by a Recognisance under this part to appear for Conviction and probation Sentence or for Sentence may:
- (a) at any time if it appears to it on the application of the Probation Officer that it is expedient that the Terms or Conditions of the Recognisance should be varied, Summon the person bound by the Recognisance to appear before it and if he fails to show cause why such Variation should not be made:
 - (i) vary the Terms of the Recognisance by extending reducing or diminishing the duration, which shall not exceed three (3) years from the date of the original Order; or
 - (ii) alter the Conditions or insert additional Conditions; or
 - (b) On application being made by the Probation Officer, and on being

Probation
Orders and
Conditions
of
Recognisance

Relieving
Probation of
His Duties
Officers.

Duties of
Probation
Officers.

Variation of
Terms and
Conditions
of Probation

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satisfied that the conduct of the Defendant bound by the

Recognisance has been such as to make it unnecessary for him to be under Supervision, discharge the Recognisance.

Provisions in
case of Convict
Failing to
Observe
conditions of
Release

- 474.(1) Where the Court before which a Defendant or a Convict is bound by his Recognisance under this Part to appear for Conviction or Sentence is satisfied by Information on Oath that the Defendant or Convict has failed to observed any of the Conditions of his Recognisance, it may issue a Warrant for his arrest or may, where it deems fit instead of issuing a Warrant in the first instance, issue a Summons to the Defendant or Convict and his Sureties, if any, requiring him or them to appeared in Court and at such time as may be specified in the Summons.
- (2) The Defendant or Convict where arrested shall, if not brought forthwith before the Court before which he is bound by his Recognisance to appear for Conviction or Sentence, be brought before another Court.
- (3) The Court before which a Defendant or Convict on arrest is brought or before which he appears in pursuance of such Summons may where it is not the Court before which he is bound by his Recognisance to appear for Conviction or Sentence, Remand him in Custody or on Bail until he can be brought before the last mentioned Court.
- (4) A Court before which a Defendant is bound by his Recognisance to appear for Conviction and Sentence on being satisfied that he has failed to observe a Condition of his Recognisance may, without further proof of his guilt, Convict and Sentence him for the original Offence.
- (5) A Defendant so remanded in Custody may be committed during Remand to a Prison to which the Court having Power to Convict or Sentence him has power to commit Prisoners.
- 475.(1) Notwithstanding the provision of any other Law creating an Offence, where the Court considers, it may order that the community Sentence imposed on the Convict be, with or without service Conditions, Suspended, in which Case, the Convict shall be required to serve the Sentence in accordance with the Conditions of the Suspension.
- (2) The Court may, with or without Conditions, sentence the Convict to perform specified Service in his Community or such Community or place as the Court may direct.
- (3) A Convict shall not be Sentenced to suspended sentence or to Community Service for a Felony involving robbery, cultism, forcible occupation of landed Property, the use of arms, offensive weapon, sexual Offences or for an Offence which the punishment exceeds Imprisonment for a term of three (3) years.
- (4) The Court, in exercising its power under sub-sections (1) or (2) of this Section shall have regard to the need to:
- Reduce Congestion in Prisons;
 - Rehabilitate Prisoners by making them to undertake productive work; and
 - Prevent Convict who commit simple Offences from mixing with hardened Criminals.
- 476.(1) A person convicted of an Offence Triable Summarily may be ordered by the Court to render Community Service in lieu of Sentence or Fine.
- (2) The Community Service Order shall contain such requirement as the Court may consider necessary for effective Supervision and Rehabilitation of the Offender.
- (3) A Community Service Order shall be in the nature of
- environmental Sanitation; or
 - Assisting to work on farms, construction or mining sites: and

Suspended
Sentence and
Community
Services.

Rules
Governing
Community
service*

- (c) going to primary, post primary and tertiary institution both public and private, motor parks and identified youth organisations, to give talks in public and enlightenment on the danger and consequences of committing the kind of Crime for which he is undergoing Community Service or Crime generally.
- (d) any other type of Service which in the opinion of the Court would have a beneficial, reformatory and salutary effect on the character of the Offender.
- (i) The Community Service Officer and the person against whom the Order is made shall enter into a written Agreement specifying the number of hours of service that would be rendered on a daily or weekly basis.
- (ii) The written Agreement referred to in sub-section(3) paragraph (i) above shall be filed in the Court's Registry by the Community Service Officer.
- (iii) Where the person against whom the Order is made refuses or defaults to enter into the written Agreement or where he breaches the terms of the Agreements on more than three (3) occasions without any Lawful Justification or excuse, the Court on the application of the Community Service Officer, shall issue a Bench Warrant for his arrest.
- (iv) The person against whom the Order was made shall bear the burden of showing any Lawful or valid excuse justifying or excusing the breach of the written Agreement in which Case the Court may permit the continuation of the Community Service Order.
- (v) The Court, if satisfied, that the person against whom the Order was made has no Lawful or valid excuse, shall impose Custodial Sentence or Fine having regard to the Punishment prescribed for the Offence to which he was charged the Length of Community Service already performed.
- (4) A Community Service Officer shall be appointed in each Magisterial District in the State by the Attorney General after consultation with the Commissioners responsible for Education, Women Affairs and Social Development, Youth and Sports and Agriculture in Ogun State.
- 477.(1) There shall be established by the Attorney-General of the State in conjunction with the Commissioners responsible for Local Government, Education, Information, and Youth and Sports a Community Service Centre to be headed by a Director who shall be responsible for overseeing the Execution of Community Service Orders in the State.
- (2) The Director shall be assisted by suitable Personnel who shall supervise the Implementation of Community Service Orders that may be handed down by the Courts.
- (3) The functions of the Community Service Centre include:
- (a) documenting and keeping detailed information about Convicts sentenced to Community Service including the:
- (i) name of the Convict,
- (ii) Sentence and the date of the Sentence,
- (iii) nature, duration and location of the Community Service,
- (iv) residential address of the Convict, height, photograph, full fingerprint impressions, and
- (v) other means of identification as may be appropriate;

Arrangements for Community Service.

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- (b) providing assistance to the Court in arriving at appropriate Community Service Order in each Case;
 - (c) monitoring the operation of Community Service in all its aspects;
 - (d) counselling Offenders with a view to bringing about their Reformation;
 - (e) recommending to the Court a review of the Sentence of Offenders on Community Service who have shown remorse;
 - (f) proposing to the Attorney General and the Chief Judge measures for effective operation of Community Service Orders;
 - (g) ensuring that supervising Officers perform their Duties in accordance with the Law; and
 - (h) Performing such other functions as may be necessary for the smooth Administration of Community Service Orders
- (4) Where the Court has made an Order committing the Convict to render Community Service, the Community Service shall be in the nature of:
- (a) environmental Sanitation, including landscaping, clearance of drainages, cleaning the environment and public places and roads;
 - (b) assisting to work on farms, construction, or mining sites; and
 - (c) attending primary, post primary and tertiary institution both public and private, motor parks and identified youth organisations, to give talks in civics, social ethics and public enlightenment on the danger and consequences of committing the kind of Crime for which he is under going Community Service or Crime generally.
 - (d) Any other type of Service which in the opinion of the Court would have a beneficial and reformatory effect on the character of the Convict.
- (5) The Community Service Sentence shall be performed as close as possible to the place where the Convict ordinarily resides to ensure that the Community can monitor his movement with sufficient attention paid to the need for wide publicity.
- (6) Before passing a Community Service Order, the Court shall consider the Circumstances, character, antecedents of the Convict and other factors that may be brought to its attention by the Director of the Community Service Centre.
- (7) A Convict sentenced to Community Service shall not at the same time be sentenced to a Term of Imprisonment for the same Offence, but may in default of performing his Community Service diligently and to the satisfaction of the Court, be sentenced to a Term of Imprisonment for the remaining part of his Community Service to which he is in Default or neglect.
- (8) Upon Sentence to Community Service, a Convict shall be required to produce a Guarantor who shall undertake to produce the Convict if he absconds from Community Service.
- (9) The Guarantor shall be a relation of the Convict or any other responsible person of adequate means or substance who shall produce the Convict when required by the Court, failing which the Guarantor shall be liable to a Fine of one hundred thousand naira (N100,000.00) or more as the circumstances of each Case may require.
- 478.(1) The Community Service Order shall be performed for a period of not more than six (6) months and the Convict shall not work for more than six (6) hours a day.
- (2) The Convict shall be under the supervision of a supervising Officer or Officers or Non-Governmental Organizations as may be designated by the Community Service Centre.
- (3) The Community Service Order shall contain such directives as the Court may consider necessary for the supervision of the Convict.

Performance
of Community
Service Order.

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- (4) The Registrar of the Court making the Community Service Order shall forward to the Director of the Community Service Centre a copy of the Order together with any other Documents and Information relating to the Case.
- 479.(1) Where at any time during the Community Service Period, the Director of the Community Service Centre informs the Court of the Default of the Convict in complying with the directives of the Community Service Order, the Court may issue a Summons requiring the Convict to appear before it.
- (2) Where the Convict fails, refuses or neglects to appear in obedience to the Summons, the Court may issue a Warrant of Arrest.
- (3) Where it is proved to the satisfaction of the Court that the Convict has failed to comply with any of the requirements of the Community Service Order, the Court may:
- Vary the Order to suit the Circumstances of the Case; or
 - Impose on him a fine not exceeding one hundred thousand naira (N100,000.00) or revoke the Order and Sentence the Convict to any Punishment which could have been imposed in respect of the Offence, but the period of Community Service already performed may count in the reduction of the Sentence.
- (4) A supervising Officer shall not employ the Convict for his or her personal benefit.
- (5) Where a supervising Officer employs the Convict for his or her personal benefit, the Officer is liable to a fine of one hundred thousand naira (N100,000.00) or more, or such other Punishment as the Court considers fit.
480. Where a Convict has been Ordered to undergo Community Service on Conviction by an original Court but has committed another Offence during the period of Community Service, the following rules shall apply:
- the subsequent Court may add to the Sentence or impose a Term of Imprisonment which might have been passed by the original Court and cancel the Order of Community Service;
 - the subsequent Court may take into account the period of Community Service served in reduction of the Term of Imprisonment;
 - where the original Court is a High Court and the subsequent Court is a subordinate Court, the subordinate Court shall send the Copy of the Proceedings to the High Court and on receipt of the Proceedings from the subordinate Court, the High Court shall proceed under Paragraphs (a) and (b) of this Section; and
 - where the original Court is a subordinate Court and the subsequent Court is a High Court dealing with the matter at first instance or on Appeal, the High Court shall proceed under Paragraphs (a) and (b) of this Section.
- 481.(1) A Convict undergoing Community Service who intends to change his or her place of Residence shall inform the Supervising Officer of his intention to do so in the community.
- (2) On receipt of the Information, the Supervising Officer shall furnish the Director of the Community Service Centre with the Information, giving the details of the Case.
- (3) On application by the Director of the Community Service Centre, the Court shall make appropriate amendment in the Community Service Order and inform the Court having Jurisdiction for the Area where the Convict intends to reside.
- (4) The Court shall give the Convict a Copy of the amended Community Service Order which the Convict shall present to the subsequent Community Service Centre.

Default of
Convict in
Complying
with
Community
Service
Order.

Commission
of Further
Offence.

Amendment,
Review and
Discharge of
Community
Service
Order

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- 482.(1) Where a Convict has been ordered to undergo Community Service for a period of more than four (4) months, the Service supervising Officer shall, from time to time, give a Report to the Director on the Convict's performance and general conduct.
- (2) The supervising Court based on the Report made by the Director, may reduce the period of the Community Service specified in the Community Service Order by not more than one third (3) where the Convict is of good conduct.
- (3) The Director shall make a Report to the Supervising Court on the termination of a Community Service Order.
- (4) The Supervising Officer who is to be responsible for the supervision of a Convict shall be the Officer designated by the Director of the Community Service Centre and if that Supervising Officer dies or is unable for any reason to carry out his Duties, another Supervising Officer shall be appointed by the Director of the Community Service Centre.
- (5) Where the Convict is a female, the Supervising Officer shall be a female.
- (6) There shall be issued by the Governor, a Certificate expressing satisfaction with a Community Service Order expressing total discharge.
- 483.(1) A person serving a Custodial Sentence in respect of an infraction of any Law of Ogun State shall be required to spend the last six (6) months out of his remitted Sentence centre to undertake a Rehabilitation Programme in the Ogun State Community Service, Rehabilitation and Correctional Centre established under Part 50 of this Law.
- (2) The Ogun State Advisory Council on Prerogative of Mercy may recommend to the Governor that a Convict or Suspect considered and recommended for Amnesty or Pardon in accordance with Section 212 of the Constitution of Nigeria 1999 (As Amended) shall undergo a six (6) month Rehabilitation Programme of the State Community Service, Rehabilitation and Correctional Centre established by this Law.
- (3) A person convicted of an Offence Triable Summarily may be sentenced and ordered to serve the Sentence at the Rehabilitation and Correctional Centre established by the Ogun State Government in lieu of Imprisonment.
- (4) A Court in making an Order of Confinement at the Community Service, Rehabilitation and Correctional Centre shall have regard to the following:
- the age of the person Convicted;
 - state of health of the person Convicted;
 - the fact that the person Convicted is a first Offender; and
 - any other relevant Circumstances necessitating an Order of Confinement at the Community Service, Rehabilitation and Correctional Centre.
- (5) A Court may direct that a Child in Criminal Trial be remanded at a Community Service, Rehabilitation and Correctional Centre.

Confinement
in
Rehabilitation
and
Correctional
Centre

PART 45**PAROLE**

- 484.(1) Where the Comptroller of Prisons in the State with a prior consultation and approval of the Attorney-General makes a Report to the Court recommending that a Prisoner:
- Sentenced and serving his Sentence in Prison is of good behaviour; and

Court may
direct release
of Prisoner
before
Completion of
Sentence.

- (b) Has served at least two third of his prison term, where he is sentenced to Imprisonment for a term of at least fifteen (15) years or where he is sentenced to Life Imprisonment, the Court may, after hearing the Prosecution and the Prisoner or his Legal Representative, Order that the remaining Term of his Imprisonment be suspended, with or without Conditions, as the Court considers fit, and the Prisoner shall be released from Prison on the Order.
- (2) A Prisoner released under sub-section (1) of this Section shall undergo a Rehabilitation Programme in a Government o Rehabilitation Centre or any other appropriate Facility to enable him to be properly reintegrated to the Society.

PART 46**THE ADMINISTRATION OF CRIMINAL JUSTICE MONITORING COMMITTEE**

485. (1) There is hereby established a body to be known as the Administration of Criminal Justice Monitoring Committee (in this Law referred to as "the Committee").
- (2) The Committee shall consist of:
- (a) the Chief Judge of the State who shall be the Chairman;
 - (b) attorney-General of the State as Co-Chair-man;
 - (c) a Judge of the State High Court;
 - (d) the Commissioner of Police in the State or his Representative who shall not be below the rank of an Assistant Commissioner in the Nigeria Police Force, Ogun State Command;
 - (e) the Comptroller of Prisons Service in the State or his Representative who shall not be below the rank of Assistant Comptroller of Prisons;
 - (f) the Chairman of any of the Branches of the Nigeria Bar Association in the State to serve for two (2) years only in rotation;
 - (g) the Directors of the Departments of Public Prosecutions and Citizen's Rights of the Ministry of Justice;
 - (h) a Representative of the Civil Society working on Human Rights and Access to Justice or Women Rights to be appointed by the Governor to serve for a period of two (2) years only.
- (3) A Member not being a Public Officer may resign his Appointment by letter addressed to the Chairman or Co-Chairman.
- (4) Members of the Committee shall be paid such allowances similar to allowances as applicable to State Boards, Commissions and Agencies as may be determined by relevant Authorities of the State.
486. (1) The Committee shall be charged with the responsibility of ensuring effective and efficient application of this Law by the relevant Agencies.
- (2) Without prejudice to the generality of sub-section (1) of this Section, the Committee shall ensure that:
- (a) criminal Matters are speedily dealt with;
 - (b) congestion of Criminal Cases in Courts is consistently reduced;
 - (c) congestion in Prisons is reduced to the barest minimum possible;
 - (d) persons awaiting Trial are, as far as possible, not detained in Prison Custody;
 - (e) the relationship between the Organs charged with the responsibility for all aspects of the Administration of Justice is cordial and there exists maximum cooperation amongst the organs in the Administration of justice in Ogun State;
 - (f) collate, analyse and publish information in relation to the Administration

Establishment
of Administra-
tion of
Criminal
Justice
Monitoring
Committee.

Functions of
the
Committee

- of Criminal Justice Sector in Ogun State;
- (g) submit report quarterly to the Chief Justice of the State to keep the Chief Justice abreast of developments towards improved Criminal Justice delivery and for necessary action; and
 - (h) carry out such other activities as are necessary for the effective and efficient Administration of Criminal Justice.
- 487.(1) The Committee shall establish and maintain a Secretariat with such number of Staff as it considers necessary for the efficient running of its Affairs. Secretariat of the Committee.
- (2) The Secretariat shall be headed by a Secretary who shall be appointed by the Attorney-General of the State. The Secretary shall be a Legal Practitioner of not less than ten (10) years post call experience and shall possess sound knowledge of the practical functioning of the Criminal Justice System and adequate experience in Justice System Administration.
 - (4) The Secretary shall be responsible for the execution of the Policy of the Committee and the day-to-day running of the Affairs of the Committee.
 - (5) The Secretary shall hold Office for a first term of four (4) years and may, subject to satisfactory performance of his functions, be re-appointed for another term of four (4) years and no more, on such terms as to emoluments and otherwise as may be specified in his letter of Appointment.
 - (6) Nothing in this Law shall prevent the Appointment of a Law Officer not below the rank of a Deputy Director in the Ogun State Ministry of Justice with the relevant and necessary experience to be appointed Secretary to the Commissioner on part time basis.
 - (7) Where the Secretary is appointed as prescribed in sub-section (6) of this Section, he shall only be entitled to such allowances which may enable him perform the functions of his Office as may be approved by the Committees.
488. There is hereby established for the Committee a Fund into which shall be paid:
- (a) Budgetary allocation to it through the Office of the Attorney-General of the State;
 - (b) Such monies as may, from time to time, be provided for the Committee by any Public, Private or International Organisation by way of a grant, support or assistance on such terms as are consistent with its functions; and
 - (c) Such monies as may be received by the Committee in relation to the exercise of its functions in this Law. Fund of the Committee.
- 489.(1) The Secretary shall submit to the Attorney-General of the State not later than 30th August in each Financial Year, an Estimate of its Expenditure and Income for the next Financial Year. Annual Estimates and Accounts.
- (2) The Committee shall keep proper Accounts and Records in respect of each Financial Year and shall cause its Accounts to be audited not later than two (2) months from the end of each such Financial Year.
490. The Committee shall prepare and publish an Annual Report of its activities. Annual Report Committee.
- 491.(1) For the purpose of carrying out the functions conferred on the Committee under this Law, it:
- (a) shall have a right of access to all the Records of any of the Organs in the Administration of Justice Sector to which this Law applies; and
 - (b) May by Notice in writing served on any person in charge of any such Organs require that person to furnish information on such matters as may be specified in the Notice.
- (2) A person required to furnish information pursuant to sub-section (1) of this Section shall comply with the Notice within a stipulated time.

- 492(1) The Committee may make Standing Orders regulating its Proceedings.
- (2) The quorum at a meeting of the Committee shall consist of the Chairman or in his absence, the Attorney-General of the State and two (2) other Members of the Committee.
- (3) Subject to the provisions of the applicable Standing Order, the Committee shall meet at least once a quarter.
- (4) At a meeting of the Committee, the Chairman or in his absence the Attorney-General of the State shall preside at that meeting.
- (5) Where on a special occasion the Committee desires to obtain the advice of a person on a particular matter, it may co-opt that person to be a Member for as many meetings as may be necessary.
- (6) The Validity of Proceedings of the Committee is not affected by:
- a vacancy in the Membership of the Committee; or
 - a defect in the Appointment of a Member of the Committee.
- (7) A Member of the Committee who has a personal interest in any Arrangement entered into or proposed to be considered by the Committee shall disclose his interest to the Committee and shall not vote on any question relating to the Arrangement.

PART 47**TRIAL OF CORPORATION**

- 493.(1) In this Part "Corporation" means anybody Corporate, incorporated in Nigeria or elsewhere. Interpretation
under this Part
- (2) In this Part, "Representative" in relation to a Corporation means a person duly appointed by the Corporation to represent it for the purpose of doing any act or thing which the Representative of a Corporation is by this Part authorized to do, but a person so appointed shall not by virtue only of being so appointed, be qualified to act on behalf of the Corporation before any Court for any other purpose.
- (3) A Representative for the purposes of this Part need not be appointed under the Seal of the Corporation, and a Statement s name called) having, or being one (1) of persons having the Management of the Affairs of the Corporation, to the effect that the person named in the Statement has been appointed as the Representative of the Corporation for the purposes of this Part, shall be admissible without further proof as prima facie evidence that the person has been so appointed.
494. Where a Corporation is called upon to plead to any Charge or information (including a new Charge or Information framed under the provisions of this Law or Charge or Information added to or altered under the provisions of this Law it may enter in writing by its Representative a Plea of Guilty or not Guilty or any Plea which may be entered under this Law and if either the Corporation does not appear by a Representative, or though it does so appear, fails to enter as afore said any Plea, the Court shall order a Plea of Not Guilty to be entered and the Trial shall proceed as though the Corporation had duly entered a Plea of Not Guilty. Plea by
Corporation.
495. An Information may be preferred against a Corporation after the preparation of the proofs of evidence relating to the Charge. Information
Against a
Corporation.
496. An Information under Section 495 may include, either in Substitution for or in addition to counts charging the Offence for which Proofs of Evidence have been prepared, counts which may be Lawfully joined in the same Information and are founded on facts or evidence disclosed in the Proofs of Evidence. Joinder of
Counts in same
Information.

497. A Representative may on behalf of a Corporation:
- state whether the Corporation is ready to be tried on a Charge or Information or altered Charge or, Information to which the Corporation has been called on to plead;
 - consent to the hearing and determination of a Complaint before the return date of Summons;
 - express assent to the trial of the Corporation on Information, notwithstanding that a Copy of the Information and Notice of Trial have not been served on the Corporation three (3) days or more before the date on which the Corporation is to be tried.
498. Where a Representative appears, any Requirement of this Law that anything shall be done in the presence of the Defendant, or shall be read or said or explained to the Defendant, shall be construed as a Requirement that that thing shall be done in the presence of the Representative or read or said or explained to the Representative.
499. Where a Representative does not appear, any such Requirement as is referred to in Section 494, shall not apply.
- 500.(1) Subject to the preceding provisions of this part, the provisions of this Law relating to the inquiry into and trial of offences shall apply to a Corporation as they apply to Against
- (2) A corporation may be charged jointly and tried with an individual for any offence.

Power of
Representa-
tive.

Matters to be
Read or Said
or Explained
to
Representa-
tive,

Non-
Appearance
of
Representa-
tive

saving under
this part and
joint Charge
Against
Corporation
and
Individual

PART 48

APPEALS FROM MAGISTRATE COURTS TO HIGH COURTS

- 501.(1) Appeals from the magistrate Court to the High Courts in Appeals from Magistrate Courts criminal matters shall be in accordance with the High Court Laws of the State or any rules made under any such Law.
- (2) Where a Defendant has been acquitted or an Order of dismissal made by a magistrate Court, the Prosecutor may appeal to the High Court from such acquittal or dismissal on the ground that it is erroneous in Law, or that the Proceedings or any part thereof were in excess of the Jurisdiction of the Magistrate Court.
- (3) An Appeal in accordance with the provisions of this Part shall be commenced by the Appellant by giving Notice to the Registrar of the Court from which the Appeal is brought; such Notice of Appeal shall be signed by the Appellant
- (4) The Notice of Appeal shall be given in every Case before the expiration of the thirtieth (30th) day after the day on which the Court had made the decision appealed against.
- (5) An Appellant shall file many Copies of his Notice of Appeal as there are Parties to be served in addition to the Copies for the Court.
- (6) An Appellant in an Appeal brought in accordance with the provisions of this Part shall within thirty (30) days of the pronouncing of the decision appealed against, file with the Registrar of the Court from which the Appeal is brought, a brief setting forth, the grounds of his Appeal which shall be signed by the Appellant or the Legal Practitioner representing him.
- (7) An Appellant shall file as many Copies of his brief of grounds of his Appeal, as there are Parties to be served, in addition to the Copies for the Court.
- (8) In his brief of grounds of Appeal, the Appellant shall,
- set forth in separate ground of Appeal each error, omission, irregularity or other matter on which he relies or of which he

Appeals From
magistrate
Courts

Complains with particulars sufficient to give the Respondent due Notice thereof.

- (ii) without prejudice to the generality of sub-section(8)(i), the brief of ground of Appeal may set forth all or any of the following grounds:
 - (a) that the lower Court has no Jurisdiction in the Case; or
 - (b) that the lower Court has exceeded its Jurisdiction in the Case; or
 - (c) that the decision has been obtained by fraud; or
 - (d) that the Case has already been heard or tried and decided by or forms the subject of Hearing or Trial pending before a competent Court; or
 - (e) that admissible Evidence has been rejected, or inadmissible Evidence has been admitted/by the Lower Court and that in the later Case there is not sufficient admissible Evidence to sustain the decision after rejecting such inadmissible Evidence; or
 - (f) that the decision is unreasonable or cannot be supported having regard to the Evidence; or
 - (g) that the decision is erroneous in Point of Law; or
 - (h) that some other specific illegality, not herein before mentioned and substantially affecting the merits of the Case, has been committed in the course of the Proceedings in the Case; or
 - (i) that the Sentence passed on Conviction is excessive or inadequate, unless the Sentence is one fixed by Law.
- (9) Where the Appellant relies upon the grounds of Appeal mentioned in sub-section 8 (ii) (d) the name of the Court shall be stated and, if it is alleged that a decision has been made, date of such decision.
- (10) Where the Appellant relies upon the ground of Appeal mentioned in sub-section (8) (ii) (g) the nature of the error shall be stated and where he relies upon the ground of Appeal mentioned in Paragraph (h) of sub-section 8, the illegality complained of shall be clearly specified.
- (11) A Sentence by a Magistrate Court shall take effect notwithstanding an Appeal, unless:
 - (a) a Warrant has been issued under Section 339 of this Law when no sale of Property shall take place until the Sentence has been confirmed or the Appeal decided or
 - (b) An order for release on bail pending any further Proceedings has been made by a competent Court when the time during which the convicted person had been so released shall be excluded in computing the period of any Sentence which he has ultimately to undergo.
- (12) A High Court exercising appellate Jurisdiction shall not in the exercise of such Jurisdiction interfere with the finding or Sentence or other Order of the lower Court on the ground only that Evidence has been wrongly admitted or that there has been a technical irregularity in procedure unless it is satisfied that a failure of Justice has been occasioned by such admission or irregularity.

PART 49

FEES AND MISCELLANEOUS PROVISIONS

- 502. Subject to the provisions of this Law, such Fees as may be prescribed under this Law, shall be paid in any Proceedings before a Court.
- 503. A Court may, in any Proceedings in which good cause appears to the Court for so doing, suspend payment of any Fees payable until the conclusion of such Proceedings and the Court may then direct such Fees to be paid as costs by

Payment of
Fees

Suspension
of Payment
of Fees

Administration of Criminal Justice and Other Related Matters Law of Ogun State, 2017.

- any Party to the Proceedings by whom the Court has power to order cost to be paid or remit the payment of such Fees.
504. The provisions of this Law relating to Fees and to the giving of Security shall not apply to the State or any Public Officer acting in his Official capacity.
- 505.(1) Subject to the express provisions, if any, of the Rules of Court, the Forms and precedents contained in the Schedules to this Law may, in accordance with any instructions contained in the forms, and with such variations as the Circumstances of the particular Case may require, be used in the Cases to which they apply.
- (2) The Forms in the said Schedules may be added to or varied by the Rules in all respects as if they had originally been so made.
- 506.(1) The Chief Judge of Ogun State may make Rules in respect of any or all of the following matters:
- fees, cost or Compensation or to be paid in this Law and period review of the same;
 - forms to be used for the process and procedure of the Courts;
 - accounts to be rendered of moneys received by any person in this Law;
 - the method of issue of process in this Law and the manner of receipt of and accounting for Fees in respect of such process;
 - prescribing any Rule required to be prescribed under the provisions of this Law;
 - prescribing rules of Custodial Interrogation; and
 - generally for carrying into effect the purposes of this Law.
- (2) Where Rules are made under this Section, separate Rules shall be made in respect of the practice and procedure in Magistrates' Courts, save where the procedure prescribed by these Rules applies equally to the High Court and to the Magistrates' Courts.
507. Where no other sanction is provided for in this Law, failure on the part of a person to discharge his responsibility under this Law without reasonable cause shall be treated as, Misconduct by the appropriate Authority.
- 508.(1) Nothing in this Law shall affect the use or validity of any Forms in respect of any Procedure or Offence specified under the provisions of any other written Law nor the Validity of any other procure provided by any other written Law.
- (2) Nothing in this Law shall affect the use or Validity of any Charge, information or proceeding initiated or commenced under any other Law as far as the Proceeding was initiated or commenced before this Law came into force.
- (3) Where there are no express provisions in this Law, the Court may apply any Procedure that will meet the Justice of the Case.

State not require to Pay fees

Use of Forms in Schedule

Power to make Rules of Court

Non-Compliance

Saving as to Other Forms and Procedure.

PART 50***ESTABLISHMENT OF THE OGUN STATE COMMUNITY SERVICE, REHABILITATION AND CORRECTIONAL CENTRE.***

509. (i) There is hereby established a Centre to be known as the Ogun State Community Service, Rehabilitation and Correctional Centre (hereinafter referred to as "the Centre").
- (ii) The Centre shall:
- Be a Corporate Body with perpetual succession and a Common Seal;
 - Have power to Sue and be sued in its Corporate Name;
 - be capable of holding, purchasing, acquiring and disposing of Property movable and immovable for the purpose of carrying out its functions under this Law.

Establishment of the Ogun State Community Service, Rehabilitation and Correctional Centre.

Administration of Criminal Justice and Other Related Matters Law of Ogun State, 2017.

510(1) There is established for the Centre a Governing Board and Membership (referred to in this Law as the Board) which shall be responsible for the day to day Administration of the Centre.

Establishment
and Membership
of the
Governing
Board of the
Centre.

(2) The Board shall consist of:

- (a) the Chairman, who shall be a person with requisite Social Work Experience, shall be appointed by the Governor on the recommendation of the Attorney -General;
- (b) the Coordinator of the Centre;
- (c) the Representative of the Attorney- General of the State or his Representative;
- (d) the Representative of the Chief Judge of the State or his Representative not below the rank of a Magistrate or its equivalent in Ogun State Judiciary;
- (e) the Commissioner with responsibility for Women Affairs or his Representative not below grade level 16 in the State's Civil Service.
- (f) the Commissioner with responsibility for Education or his Representative not below grade level 16.
- (g) the Commissioner with responsibility for Community Development or his Representative not below grade level 16.
- (h) the Commissioner with responsibility for Agriculture or his representative not below grade level 16
- (i) the Commissioner of Police of the Ogun State Command or his Representative not below the rank of a Chief Superintendent of Police.
- (j) Ogun State Comptroller of Prisons .
- (k) four (4) other Members appointed by the Governor representing the following interests each;
 - (i) Non-Governmental Organisation or Non-State Actor;
 - (ii) Community Based Organisation;
 - (iii) Representative of the Christian Association of Nigeria (CAN) or other main Body of Christians in the State and the Muslim Society of Nigeria or other main body of Muslims in the State.

(3) The provisions contained in the seventh (17) Schedule to this Law shall have effect in relation to the Governing Board and Matters mentioned therein [Seventh Schedule.]

511.(1) Non Ex-Officio Members of the Board shall hold Office for a term of Four (4) years and may be re-appointed for another term.

(2) The remuneration of the Members of the Board shall be as Board may be determined by the Governor.

Tenure and
Remuneration
of Members
of the Board

512. The function of the Centre shall be to:

- (a) build or establish Community Service, Rehabilitation and Correctional Centres in the three (3) Senatorial Districts of Ogun State.
- (b) ensure the smooth day-to-day running of the Centres.
- (c) carry out public enlightenment and mobilisation of Communities towards the objectives and goals of the Centre;
- (d) mobilise all Ex-Convicts, resident in Ogun State, from all Prisons, Correctional or other Borstals in Ogun State, except those whose families satisfactory undertake to rehabilitate them, into the Centre;
- (e) execute Community Service Orders of Courts in the State;
- (f) provide, during the rehabilitation period, workshops and vocational training for the Ex-Convicts;

Functions of
the Centres.

Administration of Criminal Justice and Other Related Matters Law of Ogun State, 2017.

-
- (g) establish and or identify Farm Settlement Areas for the training of and getting the Ex-Convicts, who choose farming as their vocation, employed immediately after their release;
 - (h) design further rehabilitation curricula which is of benefit to the Ex-Convicts and general Society at large;
 - (i) organize the parents or family and the Community of the Ex- Convicts to participate in the efforts of the Centre to rehabilitate their wards including obtaining appropriate undertakings from the parents .family or Community of the Ex- Convict for proper monitoring of the Ex-Convicts after release from the Centre;
 - (e) transport and re-unite Ex-Convicts who are not indigenes of Ogun State to their parents .family or Community in other States within Nigeria as well as obtain appropriate assurances from Sureties of the Ex-Convicts places of residence with a view to ensure that they do not re-offend in Ogun State;
 - (k) obtain adequate data or information on Ex-Convicts for the purpose of ensuring that he/she does not re-offend in Ogun State and if he does to facilitate immediate apprehension in consultation with Law Enforcement Agencies;
 - (i) create a data base for identifying and monitoring the life of the Ex-Convicts with a view to ensuring that they become better and responsible citizens of Ogun State as well as discourage them from re-offending;
 - (m) prepare and submit to the State Government, a Consolidated Annual Budget, a work plan for its Funds and quarterly Reports of its Financial Expenditure;
 - (n) ensure that regular Progress Reports are submitted to the State Government and other appropriate bodies through the Attorney-General;
 - (o) ensure Annual Auditing of its Accounts;
 - (p) On the day of the final release of the Ex-Convicts may provide and distribute working equipment or tools to the rehabilitated Ex Convicts in the presence of their parents, relations, guardians and Community Leaders.
 - (q) carry on any activities in that behalf either alone or in association with any other person or body lawfully empowered to do so in accordance with the provision of this Law;
 - (r) do all such acts as appears to it to be requisite, advantageous, convenient for or in connection with the carrying out of its functions or to be incidental to their proper discharge;
- 513.(1) The Board shall have power to:
- (a) employ such Staff as it may consider necessary for the purpose of carrying out its functions under this Law and may in accordance with the procedure applicable in respect of transfer of Officers in the Public Service .accept Officers on Secondment to the Centre as soon as possible after the Commencement of this Law;
 - (b) determine the remuneration for its Staff as applicable in the State Civil Service;
 - (c) promote and exercise disciplinary control over such Staff;
 - (d) do all things that will advance the skills of its employees including the provision of facilities for training, education and research

Powers of
the
Board.

- (e) establish and promote training programmes for its Staff and Members of the Community with regards to their duty towards the Centre.
 - (f) collect, collate and make available through publications and other means basic Scientific Data and other information about the Centre.
 - (g) acquire any land for the purpose of planning, designing, transferring, managing, constructing, operating and maintaining a centre in accordance with existing Laws of the State;
 - (h) enter into Agreement with individual, Government or Organisation for funding purposes or which may be necessary for and incidental to the discharge of its functions under this Law or any other enactment;
 - (i) enter into contract with Local Governments, State Agencies, Regional Authorities and Private Persons, Corporate or Non-Corporate, to provide Funds, in accordance with the provisions of this Law, for the planning, designing, constructing, managing, operating and maintaining a Centre ;
- (2) The Supervisory Agency of the Centre shall be the Office of the Attorney-General of Ogun State.
- 514(1) There shall be a Co-ordinator of the Centre, with cognate experience in social work, who may be a Civil Servant in Ogun State Service, appointed by the Governor after consultation with the Board.
- (2) The Co-ordinator shall be responsible for the implementation of the decisions of the Board, execution of the Policy and the day to day Administration of the Affairs, of the Centre in accordance with the provisions of the Law.
- (3) The Secretary shall:
- (a) keep the records and conduct the correspondence of the Board;
 - (b) make arrangement for the Meetings of the Board;
 - (c) prepare the Agenda and Minutes of such Meeting; and
 - (d) perform such other Duties as the Co-ordinator may from time to time assign to him.
- 515(1) The Funds of the Centre shall comprise:
- (a) money budgeted for the Centre by the State Government;
 - (b) monies realised from contracts entered into with Local Governments, State Agencies, Local and International Donor Agencies, Private Persons, Corporate and Non-Corporate Organisations, to provide Funds, in accordance with the provisions of this Law, for the planning, designing, constructing, managing, operating and maintaining a Centre;
 - (c) donations or moneys which may from time to time be granted to or invested in the Centre by other Philanthropists, Companies or Corporations within and outside the State; and
 - (d) sums earned or arising from any Properly or Investment acquired by or vested in the Centre.
 - (e) All other sums accruing to the Centre from any other Sources;
- (2) The Funds of the Centre shall be administered by the Centre in such manner as the Centre may deem fit.
516. The Centre shall cause to be prepared and submitted to the Attorney-General of the State not later than the 31st day of August in each year, an Account of the Expenditure and Income of the Centre for the next succeeding Financial Year.
- 517(1) The Centre shall cause to be kept, proper Accounts in respect of its Revenue and Expenditure from time to time and shall, within three (3) months after the end of each Financial Year, prepare an Annual Statement of Account showing in

Appointment
of the
Coordinator
of the Centre
and the
Secretary
of the Board.

Financial
Provision.

Annual
Accounts.

Account and
Audit.

Administration of Criminal Justice and Other Related Matters Law of Ogun State, 2017.

- a fair and accurate manner the Financial position of the Centre.
- (2) The Annual Statement of Account shall be audited by State Auditor-General.
 - (3) As soon as the Annual Statement of Account has been audited, the Authority shall forward Copies of same together with Copies of the Audit Report for confirmation to the Governor through the Attorney-General.
 - 518. The Centre shall submit Bi-Annual Report of its activities to the Governor through the Attorney-General. Bi-Annual Report.
 - 519. The Centre shall as soon as possible after the end of each Financial Year and in any Case not later than the end of March of each Year, submit the Annual Report of its activities to the State Governor through the Attorney-General. Annual Report.
 - 520. The Board may, in consultation with the Attorney General and with the approval of the Governor make regulations for the efficient implementation of the provisions of this Law. Power to make Regulations.

PART 51**SENTENCING HEARING IN RESPECT OF MURDER, GRIEVOUS BODILY HARM AND SEXUAL OFFENCES**

- 521(1) In respect of the Offences of Murder, Grievous Bodily Harm and Sexual Offences of whatever nature, after Conviction is entered but before Sentence is pronounced by the Court, there shall be held a proceeding called a Sentencing hearing. Procedure for Sentencing Hearing.
- (2) At the Sentencing Hearing, a Sentencing Witness Testimony shall be taken for the purpose of influencing or mitigating the Sentence to be imposed by the Court on the Convict.
- (3) The evidence presented at the Sentencing Hearing Trial shall not be confined to evidence admitted at the Trial and the rules of evidence shall not apply at such Sentencing Hearing.
- (4) At the Sentencing Hearing, the Victim, his relations or any other person of his choice shall be afforded the opportunity to personally present any information that could influence the Sentence to be imposed by the Court on the Convict. (5) The Convict and or his relations or such other persons of his choice shall, at the Sentencing Hearing, be afforded the opportunity to personally present any information which may influence in Mitigation of the Sentence to be imposed by the Court on him.
- (6) The Victim and the Convict shall have the right to present or call Witnesses for the Sentencing Hearing.
- (7) Neither the Victim nor the Convict or their Witnesses shall be led in Evidence, cross-examined or re-examined by a Legal Practitioner at the Sentencing Hearing.
- (8) Sentencing Hearing shall be by way of oral statements or evidence elicited by the Court from the Victim and his Witnesses as well as from the Convict and his Witnesses.
- (9) Each of the Victim and the Convict shall not be entitled to call more than two (2) Witnesses in addition to their own Testimonies, if any.
- (10) Every Witness giving Evidence at a Sentencing Hearing shall be entitled to a maximum of ten (10) minutes for his Testimony.
- (11) No written addresses and or depositions shall be entertained or admissible by the Court at any of the Sentencing Hearing Proceeding.

PART 52. MISCELLANEOUS PROVISIONS**522. Prohibition of Publication of the Identity of Victims of Sexual Offences**

- (1) As from the commencement of this Law, any person or group of persons who disseminates, publishes or publicises or reports by any form of mass media including print, radio, television, internet or by any other means howsoever described, information about the name, address or identity of a victim of any sexual offence committed in Ogun State without the consent of the victim will be deemed to have obstructed, prevented, perverted, or acted to defeat the course of justice and liable on conviction:
- (a) in the case of an individual to a term of imprisonment of 18 months or a fine of One Million (N1,000,000.00) Naira as well as compensation of One Million (N1,000,000.00) Naira to the victim whose name was published or publicised;
 - (b) in the case of an internet social media, the administrator of such media to imprisonment for 3 years or a fine of Two Million (N2,000,000.00) Naira as well as compensation of Three Million (N3,000,000.00) Naira to the victim whose name was published or publicised; and
 - (c) in the case of any other media outfit; the news director or Editor of the Print Media to 5 years imprisonment or a fine of Five Million Naira (N5,000,000.00) as well as compensation of Five Million (N5,000,000.00) Naira to the victim whose name was published or publicised.
- (2) The prosecution of any person for sexual offences shall not be compromised or compounded by the outcome of step(s) taken under subsection (1) (a), (b) and (c) of this section.

PART 53. REPEAL AND TRANSITION

523. The Criminal Procedure Law of Ogun State, 2006 is hereby repealed **PROVIDED** that the Criminal Procedure Law of Ogun State, 2006 shall continue to apply to such Cases and Trials undertaken, commenced or otherwise not concluded or terminated before the Date of Commencement of this Law.

FORM No. 2

ORDER OF RECOGNISANCE TO KEEP THE PEACE, AND BE OF GOOD BEHAVIOUR
(General Title-Form No. 1)

Before the High/Magistrate Court of the.....

In the..... Judicial Division/Magisterial District

Sitting at.....

A. B., having made Complaint that C. D., hereinafter called the Defendant, on the

.....day of.....20.....at.....in the.....

aforesaid Judicial Division/ Magisterial District, did.....It

is adjudged that the Defendant do forthwith to the satisfaction of.....enter into

a Recognisance in the sum of.....with.....Surety/Sureties.....

in the sum of.....(each) to keep the peace and be of good behaviour within the

State and towards all persons, and especially towards the Complainant, for the term of

.....

.....now next ensuing:

And it is adjudged that if the Defendant fails to comply with this Order he be

Imprisoned in the Prison at.....for period

of.....unless he sooner complies with the Order.

(If costs are ordered, add)

And it is ordered that the Defendant pay to the said.....the sum of

.....for costs (by instalments paid) forthwith (or) [on the.....

day of.....20.....]:

And in Default of Payment it is ordered that the sum due be levied by Distress and sale of the

Defendant goods, and in Default of Sufficient Distress that the Defendant be

imprisoned in the said Prison for the space of.....commencing at the termination

of the Imprisonment before ordered, unless the said sum and all costs and charged of the said Distress

and commitment be sooner paid.

.....
Judge [or Magistrate]

FORM No. 3 FORM D
SEARCH WARRANT
(TITLE OF PROCEEDING)
In the Magistrate Court of

To

Whereas information on Oath and in writing this day has been made that there is reasonable ground for believing that there is in (state the place to be searched and state what is to be searched for in terms of (a), (b) or (c) of Section (144;(1) of this Law.)

You are hereby commanded in the name of the Federal Republic of Nigeria, with proper assistance, to enter the above-named (state the place to be searched) and there diligently search for the objects aforesaid and where the same or any part thereof found on search, to bring the object found, and also the said (name the Occupier of the place to be searched) before this Court to be dealt with according to Law.

This Warrant may be executed at any time on any day, including a Sunday or Public Holiday and may also be executed at any hour during day or night. Issued at Magistrate

INVENTORY OF ITEMS RECOVERED DURING EXECUTION OF SEARCH WARRANT |
IN TERMS OF SECTION 144

A. LIST OF ITEMS DETAINED AND PLACE OF SUCH DETENTION

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

B. LIST OF ITEMS RELEASED TO THE OWNER(S)

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

WITNESSES

NAME/RANK. FORCE No OF OFFICER
EXECUTING THE WARRANT

NAME/TITLE OF OCCUPIER OF THE
THE PLACE SEARCHED

NAME/RANK.FORCE No OF
ACCOUNTING OFFICER.

NAME, TITLE OF AN
INDEPENDENT WITNESS

FORM No. 3
SUMMONS TO DEFENDANT
(General Title-Form No. 1)

To A. B.,
of.....
Complaint has been made this day by.....that you on
the.....day of.....20.....at.....in the.....aforesaid

did [*state concisely the substance of the Complaint]
.....
.....
.....

You are here by summoned to appear before the High/Magistrates' Court

sitting at.....on the.....day of.....20.....
at the hour of.....in the.....noon to answer to the said Complaint.

Dated this.....day of....., 20.....

.....
Judge [or Magistrate]

FORM No. 4

WARRANT FOR ARREST OF DEFENDANT WHO HAS DISOBEYED SUMMONS
(General Title-Form No. 1)

To Police Officer or To each and all Police Officers,

Complaints have been made on the.....day of.....20.....that

A B. herein after called the Defendant on the:.....
day of.....20....., at.....in the aforesaid, did ["state concisely the
substance of the Complaint]

.....
And the Defendant was thereupon summoned to appear before the High/Magistrates'
Court of the.....in the.....Judicial Division/Magisterial
District sitting at.....on the.....day of.....20.....
at the hour of.....in the.....noon, to answer to the said Charge:

An Oath has been made that the Defendant was duly served with the Summons, but did not appear, and
that such Complaint is true.

You are ordered to bring Evidence that the Defendant was duly served with the Summons, but did not
appear, and that such Complaint is true.

You are ordered to bring the Defendant before the High/Magistrates Court of.....
in the Judicial Division/Magisterial District sitting at.....forthwith to answer to
the said Complaint and be further dealt with according to Law.

Dated the.....day of.....20.....

.....
Judge [or Magistrate]

FORM No. 5
SUMMONS TO WITNESS
(General Title-Form No. 1)

To E.F.

A. B., has been charged by.....for that he on the.....day of
.....20.....at.....in the.....
aforesaid, did[*state concisely the substance of the Complaint]

.....
and it appearing to me at the instance of.....that you are likely to give
material evidence therein on behalf of the.....
.....and will not voluntarily appear for that purpose.

You are therefore hereby summoned to appear before the High/Magistrates'

Court of the.....in the Judicial Division/Magisterial
District sitting at.....on.....the day of.....20.....,
at the hour of.....in the noon, to testify what you know in such matter.

Dated the.....day of.....20.....

.....
Judge {or Magistrate]

FORM No. 6
CONVICTION (FORFEITED RECOGNISANCE)
(General Title-Form No. 1)

Before the High/Magistrates' Court of.....in the Judicial
Division/Magisterial District sitting at.....on the.....day of.....20.....
A. B" hereinafter called the Defendant, was by his Recognisance entered into on the
.....day of....., bound in the sum of....., and his Sureties
C. D. and E. F. in the sum of.....each, the Condition of the Recognisance
being that the said Defendant should

.....
And it being now proved that the Defendant was on the.....day of.....20.....
convicted of the Offence of having.....

.....same being a breach of the said Condition:
It is therefore adjudged that the said Recognisance be forfeited, and that the said
.....pay to.....the sum of.....and the further sum of
.....for costs (by instalments of.....for every.....days, the
first instalment to be paid] forthwith [or on the.....day of.....20.....]

And in Default of Payment, it is ordered that the sum due from the said
under this adjudication be levied by Distress and sale of his goods, and in Default of
sufficient Distress that he be imprisoned in the Prison at.....for the space of
.....unless the said sums [and all Costs and Charges of the (said Distress and
committed] be sooner paid.

.....
Judge (or Magistrate]

FORM No. 7

WARRANT FOR ARREST OF A WITNESS
(General Title-Form No. 1)

To.....Police Officer (or) To each and all the Officers of.....
E. F. was duly summoned to appear before the High / Magistrates' Court of
.....Judicial Division/Magisterial District sitting at.....on the
.....day of.....20.....at the hour of.....in the noon, to
testify what he should know concerning a certain Complaint against A. B. And he has neither appeared
thereto, nor offered any just excuse for his neglect. And it had been proved on Oath that the Summons
has been duly served on him [and that a reasonable sum has been paid (or tendered) to him for his
Costs and Expenses in that behalf].

You are therefore hereby commanded to bring him before the High/Magistrates' Court
of.....in the Judicial Division/Magisterial District sitting at.....forthwith to
testify what he knows concerning the said matter.

Dated the.....day of.....20.....

.....
Judge [or Magistrate]

FORM No. 8

WARRANT FOR ARREST OF A WITNESS IN FIRST INSTANCE
(General Title-Form No.

To.....
A. B. has been charged by.....for that he on the
.....day of.....20.....At.....in the
.....aforesaid did [*state concisely the substance of
the Complaint.]

And it appears to me at the instance of the.....; that E. F. is likely to
give Material Evidence concerning the said matter; and that it is probable he will not attend to give
evidence unless compelled so to do:

You are therefore hereby commanded to bring him before the High/Magisterial District
sitting at.....forthwith, to testify what he knows concerning the said
matter.

Dated the.....day of.....20.....

.....
Judge [or Magistrate]

FORM No. 9
WARRANT OF COMMITMENT OF WITNESS
(General Title-Form No. 1)

To.....Police Officer and to the Superintendent of.....Prisons
E. F. having appeared or being brought before the High/Magistrates' Court of the
.....in the Judicial Division/Magisterial District sitting at....., on
.....the.....day of.....20....., to testify what he should know
concerning a certain matter against A. B. refused to take an Oath [or having taken an Oath] refused
to answer any [or a certain] question put him concerning the premises and did not offer any just
excuse for his refusal.

You, the said Police Officer, are hereby commanded to convey the said E. F. safely to the said
Prison, and there deliver him to the Superintendent thereof, together with the Warrant, and you, the
Superintendent of the said Prison, to receive him into your
Custody, and keep him for the space of.....unless he in the meantime
consents to be examined and answer concerning the premise.

Dated the.....day of.....20.....

.....
Judge [or Magistrate]

FORM No. 10
COMMITMENT ON REMAND
(General Title-Form No. 1)

To each and all of the Officers of the Nigeria Police Force and the Superintendent
of.....prison
A. B. hereinafter called the Defendant being brought before the High/Magistrates' Court
of the.....in the Judicial Division/Magisterial District sitting
at.....Pursuant to Section 221 charged with having.....

The hearing of the Case being adjourned;

You, the said Police Officer, are hereby commanded to convey the Defendant to the said Prison, and
there to deliver him to the Superintendent thereof, together with this Warrant, and you, the
Superintendent of the said Prison, to receive him into your Custody,
and keep him until the.....day of.....20.....and on that day
you the said Police Officer or you the Superintendent are hereby commanded to convey
him before the High/Magistrates' Court of the.....in the Judicial Division/
Magisterial District sitting at.....at the hour of.....
in the noon, to be further dealt with according to Law.

Dated the.....day of.....20.....

.....
Judge [or Magistrate]

ENDORSEMENT WHERE BAIL IS ALLOWED

I hereby certify that I consent to the Defendant being bailed, himself in

.....
N.....and.....Sureties in N.....each.

.....
Judge [or Magistrate]

FORM No. 11
CONVICTION (WITH SECURITY)
(General Title-Form No. 1)

Before the High/Magistrates' Court of the.....in the
Judicial Division/Magisterial District sitting at.....on the.....day
of.....20.....

A. B. hereinafter called the Defendant, is this day convicted for.....
that he, on the.....day of.....20.....at.....

In the aforesaid, did [*state concisely the substance of the Complaint.]

.....
.....
But the Court being of the opinion that the said Offence was so trifling in nature that it is inexpedient to impose any [or any other than a Nominal] Punishment, and the Defendant having given Security to the satisfaction of this Court to appear for Sentence when called upon [or to be of good behaviour], he is discharged.

[If costs are ordered, add]

And it is ordered that the Defendant pay to the.....the sum of
N.....for Costs [by instalments of N.....for every.....days,
the first instalment to be paid] forthwith [or on the.....day of.....20.....]
And in Default of Payment it is ordered that the sum due be levied by Distress and sale of the
Defendant's goods, and in Default of sufficient Distress that the Defendant be remanded in the Prison
at.....for the space of.....unless
the said sum [and all Costs and Charges of the (said Distress and) commitment- be sooner paid].

.....
Judge [or Magistrate]

FORM No. 13
ORDER FOR MONEY (NOT A CIVIL DEBT)
(General Title-Form No. 1)

Before the High/Magistrates' Court of the.....in the Judicial
Division/Magisterial District sitting at.....on the.....day of.....20
A. B., having made a Complaint that C. D. hereinafter called the Defendant, on the
.....day of20.....at.....within the
.....aforesaid, did [*state concisely the substance of the Complaint]
.....

On hearing the said Complaint, it is ordered that the Defendant pay to the said
.....the sum of N.....and also the sum of N.....for
costs [by instalments of N.....for every.....days, the first instalment
to be paid] forthwith [or on the.....day of.....20.....]

And it is ordered that the Defendant pay to the said.....the sum of N.....
for costs [by instalments of N.....for every.....days, the first
instalment to be paid] forthwith [or on the.....day of.....20.....]
And in Default of Payment, it is ordered that the sum due be levied by Distress and sale of the
Defendant's goods and in Default of sufficient Distress that the Defendant be imprisoned in the said
Prison for the space of.....commencing at
the Termination of the Imprisonment before adjudged, unless the said sum [and all Costs and Charges
of the (said Distress and) commitment be sooner paid].

.....
Judge [or Magistrate]

FORM No. 14

ORDER OF DISMISSAL WITH DAMAGES
(General Title-Form No. 1)

Before the High/Magistrates' Court of the.....in the Judicial
Division/Magisterial District sitting at.....on the.....day
Of.....20.....

A. B., having made a Complaint that C. D. hereinafter called the Defendant, on the
.....day of20.....atwithin the
.....aforesaid, did[*state concisely the substance
of the Complaint.].....
.....

Complaint has been made by A. B. that C. D. hereinafter called the Defendant, on
the.....day of20.....atin the
.....aforesaid did [*state concisely the substance of
the Complaint.]

.....
.....

And the Court being of the opinion that though the said Charge is proved, the Offence is of a trivial
nature that is inexpedient to impose any Punishment, hereby dismiss the said information:
But do Order that the Defendant pay the Complainant N.....for Damages and
N.....for Costs [by instalments of N.....for every.....
days, the first instalment to be paid] forthwith [or on the.....day of.....
20.....]:

And in Default of Payment, it is ordered that the sum be levied by Distress and sale of the Defendant's
goods and in Default of sufficient Distress that the Defendant be remanded
in the Prison at.....for the space of.....unless
the said sums [and all Costs and Charges of the (said Distress) and commitment be sooner paid].

.....
Judge [or Magistrate]

FORM No. 15
ORDER FOR OTHER MATTERS
(General Title-Form No. 1)

Before the High/Magistrates' Court of the.....in the Judicial
Division/Magisterial District sitting at.....the
.....day of.....20.....

A. B., having made a Complaint that C. D. hereinafter called the Defendant, on the
.....day of.....20.....at.....within the
.....aforesaid, did [*state concisely the substance of the Complaint.]

.....
On hearing the said Complaint, it is ordered that the Defendant do.....
.....

[If costs are ordered, add]

And in Default of Payment, it is ordered that [the sum due be levied by Distress and
sale of the Defendant's goods and in Default of sufficient Distress that] the Defendant
be remanded in the Prison at.....and there kept to labour [or
without labour] for the space of.....unless the said sum [and all Costs
and Charges of the (said Distress and) commitment be sooner paid].

.....
Judge [or Magistrate]

FORM No. 16
ORDER OF DISMISSAL
(General Title-Form No. 1)

Before the High/Magistrates' Court of the.....in the
Judicial Division/Magisterial District sitting at.....the.....
day of.....20.....

Complaint has been made this by.....A. B. hereinafter called the Defendant,
on the.....day of.....20.....at.....in the.....aforesaid
did [*state concisely the substance of the Complaint.]

.....
.....
This Court having heard and determine the said Complaint dismiss the same: * [on its
merits or without prejudice to its being brought again.] [If costs are ordered, add]

And it is ordered that the Complaint pay to the Defendant the sum of.....for
costs [by instalments of N.....for every.....days, the first instalment
to be paid] forthwith [or on the.....day of.....20.....]:
And in Default of Payment, it is ordered that the sumbe levied by Distress and sale of
the Complainant's goods and in Default of sufficient Distress that the Complainant
be remanded in the Prison at.....for the space of.....unless
the said sums [and all Costs and Charges of the (said Distress and) commitment]
be sooner paid].

.....
Judge [or Magistrate]

FORM No. 17
CONVICTION ON PLEA OF GUILTY
(General Title-Form No. 1)

Before the High/Magistrates' Court of the.....in the Judicial
Division/Magisterial District sitting at.....the
.....day of.....20.....

A. B., having made a Complaint that C. D. hereinafter called the Defendant, on the
.....day of.....20.....
at.....within the.....
aforesaid, did[*state concisely the substance of the Complaint.]

.....
.....
On hearing the said Complaint, it is ordered that the Defendant do

.....
[If costs are Ordered, add]

And in Default of Payment, it is ordered that [the sum due be levied by Distress and sale of the
Defendant's goods and in Default of sufficient Distress that] the Defendant
be remanded in the Prison at.....and there kept to labour [or
without labour] for the space of.....unless the said sum [and all Costs
and Charges of the (said Distress and) commitment be sooner paid].

.....
Judge [or Magistrate]

ENDORSEMENT WHERE SECURITY FOR PAYMENT IS PERMITTED

It is ordered that the Defendant be at liberty to give to the satisfaction of [this Court]
Security in the sum of N.....with.....Surety in the sum of
N.....each] for the due payment of the said sums as adjudged.

.....
Judge [or Magistrate]

FORM No. 19
WARRANT OF DISTRESS (FOR PENALTY)
(General Title-Form No. 1)

To..... A. B., hereinafter
called the Defendant, was on the..... Day of.....
20..... convicted before the High/Magistrates' Court of Summary Jurisdiction
sitting at..... that he, on the..... day of.....
20..... at..... in the aforesaid, did [*state concisely the substance of
the Complaint.]

And it was adjudged that the Defendant for the said Offence should be imprisoned [of
forfeit and pay the sum of N..... for Compensation and should also pay
the sum of N..... for Costs [by instalments of N..... for
every..... days, the first instalment to be paid] forthwith [or on the.....
day of..... 20.....].

You are hereby commanded to make Distress of the goods the Defendant (except the wearing
forthwith to make Distress of the goods the Defendant (except the wearing apparel and bedding of him
and his family, and, to the value of ten (N10.00) naira, the tools and implements of his trade); and if
within the space of five (5) clear days next after the making of such Distress, unless he consents in
writing to an earlier sale, the sum stated at the foot of this Warrant, together with the reasonable Costs
and Charges of the making and keeping of the said Distress, be not paid, then to sell the said goods, and
pay the money arising there from to the Registrar of that Court and if no such Distress can be found, to
testify the same to that Court.

.....
Judge [or Magistrate]

Amount adjudged.....
Paid.....
Remaining due.....
Cost issuing this Warrant Total amount to be levied.....

NOTICE OF TRIAL

A.B Take Notice that you will be tried on the information of which this is a copy, at the
Session to be held at.....
Also, find attached is the..... to complete and
return to the Registry of this Court within Fourteen (14) days of service on you of this Notice of Trial.

FORM NO. 20
COMPLAINT
(General Title-Form No. 1)

The Complainant of CD (address and description), who upon Oath (or affirmation) states that A. B of (address and description) on the.....20..... above-mentioned, did

Judge (or Magistrate

FORM NO. 21
WARRANT FOR ARREST OF DEFENDANT IN FIRST INSTANCE
(General Title-Form No. 1)

To
Complaint on Oath has been made on the of
by
the above-mentioned
did*

*State concisely the substance of the Complaint

You are hereby commanded to bring the Defendant before High/Magistrate Court of the said
Complaint and be dealt with according to Law.

Dated the

Judge [or Magistrate]

REPORT AND REQUEST FORM FOR REMAND BETWEEN

COMMISSIONER OF POLICE
DIRECTOR OF PUBLIC PROSECUTIONS

Applicant

AND

Respondent

XYZ

To: The Registrar of the Court

The Court is hereby informed that there is a probable cause to Order the remand of XYZ (State particulars of the Respondent, namely age, sex, occupation) of (state details of the Respondent

description as possible of the location of the Respondent place of abode) in Remand Custody in.....(State the exact place of Custody in which the Applicant proposes to remand the Respondent such as the name and location of the Prison or other Detention place) who is reasonably suspected to have committed the Offence of.....Contrary to Section.....of the.....Within.....High Division/Magisterial District on or about.....(state the date or approximate date or the period of commission of the alleged Offence) on grounds stated below:.....

Dated this.....day of.....20.....

GROUND **S FOR THE REQUEST FOR REMAND**

1. Place, Time and Circumstance of Arrest:.....
2. Arrested with Exhibit(s).....Yes.....No (Tick appropriately)
(disregard (3) and (4) below if the Respondent was not arrested with Exhibit(s))
3. If arrested with Exhibit(s), state clearly the particulars of the Exhibit(s)
4. If arrested with Exhibit(s), state clearly how the items are related to or
linked with the Committal of the alleged Offence.....
5. State particulars of other Evidence or Report linking the Respondent to the committing of
the Offence such as Forensic Evidence, marks or finger prints, etc.
6. Confessional Statement.....Yes.....No
7. previous conviction for the same or similar Offence.....Yes.....No
8. If (7) above is Yes, state the particulars of previous Conviction(s)
-
-
- Found in Custody or Possession of Offensive weapon, object of
substance.....Yes.....No

9. Identification by Victim(s) or Witness(es).....Yes.....No
 (state the particulars of such Victim(s) or Witness(es))
- (i) Name:
 Age
 Sex
 Address:
 Occupation:
- (ii) Name:
 Age
 Sex
 Address:
 Occupation:
- (iii) Name:
 Age
 Sex
 Address:
 Occupation:
- (iv) Name:
 Age
 Sex
 Address:
 Occupation:
- (v) Name:
 Age
 Sex
 Address:
 Occupation:
- (vi) Name:
 Age
 Sex
 Address:
 Occupation:
10. Need for further investigationYes.....No
11. Period/duration required for further investigation.....(state approximate days/weeks/months required to complete investigation)
12. Any further relevant information.....

Signed

(Commissioner of Police/ Director of Public Prosecution /
 Law Officer/Police Officer)

FORM OF INFORMATION
FORM NO. 23

STATE v. CD

In the High Court of
In the Judicial Division of

STATE v. CD

At the Sessions holding at
On the

Court is informed by the Attorney-General on behalf of the State that CD is charged j with the following Offences, [or Offences], (and Statement of Offence [Offences].

SECOND SCHEDULE
CHARGES UNDER CRIMINAL CODE WITH ONE HEAD

1. That you, on the day of.....20.....at.....Being a Witness upon the Trial of a Case in the Magistrates' Court of the.....Magisterial District sitting at.....which one.....was Complainant and one was Defendant, knowing, falsely swore that you saw one M. N. commit an Offence at the.....day of.....20.....and thereby committed an Offence punishable under Section 118 of the Criminal Code
2. That you, on the day of.....20.....at.....with intent to mislead the Court in the course of the Trial of fabricated Evidence by means other than Perjury to wit:.....and thereby committed an Offence against Section 120 (1) of the Criminal Code.
3. That you, being a common prostitute, on the.....day of20.....at.....behaved in an indecent manner exposing your nakedness and thereby committed an Offence punishable under Section 249 (a) (1) of the Criminal Code.
4. That you, on the day of.....20.....at.....unlawfully killed C. D. and thereby committed an Offence punishable under Section 325 of the Criminal Code.
5. That you, on the day of.....20.....at.....aided A. B. in killing himself and thereby committed an Offence punishable under Section 326 (3) of the Criminal Code.
6. That you, on the.....day.....of.....20.....at.....unlawfully wounded C. C. with intent to main, disfigure or disable or to do some grievous harm or to resist the lawful arrest of yourself and thereby committed an Offence punishable under Section 332 (1) of the Criminal Code.
7. That you, on the.....day of.....20.....at.....unlawfully wounded CD. and thereby committed an Offence punishable under Section 338 (1) of the Criminal Code.
8. That you, on the day of.....20.....at.....unlawfully and indecently assaulted M. S. and thereby committed an Offence punishable under Section 360 of the Criminal Code.

B: CHARGES WITH TWO OR MORE HEADS

9. First-That you, on the
at intended to be unlawfully used to procure the miscarriage of a woman and thereby committed an Offence punishable under Section 230 of the Criminal Code. Secondly - That you, on or about the (state thing procured) knowing that it was intended to be unlawfully used to procure the miscarriage of a woman and thereby committed an Offence punishable under Section 230 of the Criminal Code.

10. First - That you, on the
at

Offence punishable under Section 248 (a) of the Criminal Code Secondly- That you, on the purposes of sale of matches made with white (yellow) phosphorus and thereby committed an Offence punishable under Section 248 (a) of the Criminal Code.

11. First - That you, on the
at

Offence punishable under Section 390 of the Criminal Code Secondly - That you, on the by CD for you to retain in safe Custody and thereby committed an Offence punishable under Section 390 (8) (b) of the Criminal Code. Thirdly - That you, on the of

at
account of CD and thereby committed an Offence punishable under Section(8) (c) of the Criminal Code

THIRD SCHEDULE
INFORMATION PRECEDENT

1. SECTION 118 STATEMENT OF OFFENCE

Perjury, contrary to Section 118 of the Criminal Code

Particulars of offence

A.B., on the.....day of.....20.....in the Division of, being a Witness upon the Trial of an action in the High Court in which one.....was Plaintiff, and one.....was Defendant, knowingly gave False Testimony that he saw one M.W in the Street called Oke-Ilewo, Abeokuta, on the.....day of.....20.....

2. STATEMENT OF OFFENCE

Uttering Counterfeit coin, Contrary to Section 151 of the Criminal Code .

Particulars of Offence

A.B., on the.....day of.....20.....at.....Market in the Division of.....uttered a Counterfeit Naira coins/notes, knowing the same to be counterfeit.

3. STATEMENT OF OFFENCE

Murder, contrary to Section 319 of the Criminal Code

Particulars of Offence

A.B., on the.....day of.....20.....in the Division of.....murdered J.S.

4. STATEMENT OF OFFENCE

Accessory after the fact to murder, contrary to Section 322 of the Criminal Code

Particulars of Offence

A.B., well knowing that one, H.C, did on the day of.....20.....in the Division of.....murdered C.C., did on the.....day of.....20.....and other days thereafter receive, comfort, harbour, assist and maintain the said H.C.

5. STATEMENT OF OFFENCE

Manslaughter, contrary to Section 325 of the Criminal Code

Particulars of Offence

A.B., on the.....day of.....20.....in the Division of.....unlawfully killed J.S

6. STATEMENT OF OFFENCE-FIRST COUNT

Wounded with intent, contrary to Section 332V Sub-section (1) of the Criminal Code

Particulars of Offence

A.B., on the.....day of.....20.....in the Division of wounded CD., with intent to maim, disfigure or disable, or to do some grievous harm, or to resist the lawful arrest of him the said A.B

STATEMENT OF OFFENCE-SECOND COUNT

Wounding, Contrary to Section 338, Sub-section (1), of the Criminal Code

Particulars of Offence

A.B., on the.....day of.....20.....in the Division of.....unlawfully wounded CD.

7. **STATEMENT OF OFFENCE**

Rape, contrary to Section (358) of the Criminal Code

Particulars of Offence

A.B., on the day of.....,20.....in the Division of....., had carnal knowledge of E. F without her consent.

8. **STATEMENT OF OFFENCE**

Publishing Defamatory Matter, contrary to Section 375, of the Criminal Code

Particulars of Offence

A.B., on the.....day of.....,20.....in the Division.....published Defamatory Matter affecting E.F., in the form of a letter [book, pamphlet, picture, or as the case may be] [Innuendo should be stated where necessary]

9. **STATEMENT OF OFFENCE-FIRST COUNT**

Stealing Contrary to Section 390, Criminal Code

Particulars of Offence

A.B., on the.....day of.....,20.....in the Division of....., stole a bag, the Property of the CD.

STATEMENT OF OFFENCE-SECOND COUNT

Receiving stolen goods, Contrary to Section 427 of the Criminal Code

Particulars of Offence

A.B., on the.....day of.....,20.....in the Division of..... did receive a bag, the Property of CD., knowing the same to have been stolen.

10. **1 STATEMENT OF OFFENCE-FIRST COUNT**

Stealing by Clerks Contrary to Section 390 (6) of the Criminal Code

Particulars of Offence

A.B., on the.....day of.....,20.....in the Division of..... stole Two Hundred Naira (N200.00) which had been entrusted to him' by H.S., for him, the said A.B., to retain in safe Custody.

STATEMENT OF OFFENCE SECOND COUNT

Stealing by Agents and others, contrary to Section 390 (8) (b) of the Criminal Code

Particulars of Offence

A.B., on the.....day of.....,20.....in the Division of....., stole Two Hundred Naira (N200.00) which had been received by him for and on account of L.M.

11. **STATEMENT OF OFFENCE**

Robbery with violence, contrary to Section 402 of the Criminal Code

Particulars of Offence

A.B., on the.....day of.....,20.....in the Division of..... robbed CD of a watch, and at, or immediately before or immediately after, the time of such robbery did use to the said CD.

12. **STATEMENT OF OFFENCE**
Demanding Properly by written threats, Contrary to Section 402 of the Criminal Code
Particulars of Offence
A.B., on the.....day of.....,20.....in the Division of.....,
with intent to extort money from CD., caused the said CD. to receive a letter containing
threats of injury or detriment to be caused to E.F.
13. **STATEMENT OF OFFENCE**
Attempt to extort by threats contrary to Section 408, of the Criminal Code
Particulars of Offence
A.B., on the.....day of.....,20.....in the Division of.....
with intent to extort money from C.C., accused or threatened to accuse the said CD of an
unnatural Offence.
14. **STATEMENT OF OFFENCE**
Obtaining goods by false pretences, Contrary to Section 419, of the Criminal Code
Particulars of Offence
A.B., on the.....day of....., 20.....in the Division of.....,
with intent to Defraud, obtained from S.P. five yards of cloth by falsely pretending that
he, the said A.B., was a Servant to J.S., and that he, the said A.B., had then been sent by
the said J.S. to S.P. for the said cloth, and that he, the said A.B., was then authorized by
the said J.S. to receive the said cloth on behalf of the J.S.
15. **STATEMENT OF OFFENCE**
Burglary, Contrary to Section 411, and stealing, contrary to 390 (4) (b) of the
Criminal Code
Particulars of Offence
A.B., on the.....day of.....,20....., in the Division of.....,did
break and enter the dwelling house of CD., with intent to commit a Felony therein, namely
to steal therein, and did steal therein one watch, the Property of ST.
16. **STATEMENT OF OFFENCE**
Conspiracy to defraud, Contrary to Section 422 of the Criminal Code
Particulars of Offence
A.B., on the.....day of.....,20....., and on different days
between that day and the.....day of.....,20.....,in the
Division of.....conspired together with intent to defraud by
means of an advertisement inserted by them, the said A.B. and CD., in the H.S.
newspaper, falsely representing that A.B. and CD were then carrying
on a genuine business as jewellers at, in the Division of.....and that
they were then able to supply certain articles of jewellery to whomsoever
would remit to them the sum of N.....

17. **STATEMENT OF OFFENCE FIRST COUNT**

Fraudulent false accounting, contrary to Section (438) of the Criminal Code
Particulars of Offence

A.B., on the.....day of.....,20.....in the Division of.....,and on different days between that day and the.....day of 20.....being Clerk or Servant to CD., with intent to defraud, made, or was privy to making a false entry in a cash book belonging to the said CD. his employer, purporting to show that on the said day Two Hundred Naira (N200.000) had been paid to L.M

STATEMENT OF OFFENCE-SECOND COUNT

Fraudulent false accounting, contrary to Section 438 of the Criminal Code :
Particulars of Offence

A.B., on the.....day of.....,20.....in the Division of.....being Clerk or Servant to CD., with intent to defraud, omitted or was privy to omitting from a Cash Book belonging to the said CD., his employer, a material particular, that is to say, the receipt on the said day of One Hundred (N100.000) Naira from H.S.

18. **STATEMENT OF OFFENCE**

Arson, Contrary to Section 443, of the Criminal Code
Particulars of Offence

A.B., on the.....day of.....,20.....in the Division of.....wilfully and unlawfully set fire to a house.

19. **STATEMENT OF OFFENCE**

A.B., arson, contrary to Section (443), of the Criminal Code. CD., accessory before the fact to same Offence.

Particulars of Offence

A.B., on the.....day of.....,20.....in the Division of....., wilfully and unlawfully set fire to a house.

CD., on the same day, in the Division of....., did counsel or procure the said A.B. to commit the said Offence.

20. **STATEMENT OF OFFENCE-FIRST COUNT**

Offence under Section 449, Sub-Section (1), of the Criminal Code

Particulars of Offence

A.B., on the.....day of.....,20.....in the Division of.....with intent to obstruct the use of the Nigerian Railway, displaced a sleeper belonging to the said Railway.

STATEMENT OF OFFENCE-SECOND COUNT

Obstructing railway, Contrary to Section 459, of the Criminal Code

Particulars of Offence

A.B., on the.....day of.....,20.....in the Division of....., by unlawfully displacing a sleeper belonging to the Nigerian Railway, caused an engine or vehicle in use upon the said Railway to be obstructed in its passage.

21.

STATEMENT OF OFFENCE

Damaging Trees, contrary to Section 451 of the Criminal Code

*Particulars of Offence*A.B., on the.....day of.....20.....in the Division of.....
wilfully and unlawfully damaged a cocoa tree from growing.

22

STATEMENT OF OFFENCE-FIRST COUNT

Forgery, contrary to Section 467 (2), of the Criminal Code

*Particulars of Offence*A. B., on the.....day of.....20.....in
the Division of....., forged a certain will purporting to be the will of CD.**STATEMENT OF OFFENCE-SECOND COUNT**

Uttering a false document, Contrary to Section 468 of the Criminal Code

*Particulars of Offence*A.B., on the.....day of.....20.....in
the Division of....., knowingly and fraudulently uttered a certain
forged will purporting to be the will of CD.

23.

STATEMENT OF PREVIOUS CONVICTIONPrior to the Commission of the said Offence, the said A.B. has been
previously convicted of Burglary on the.....day of.....20....., at
the Sessions held at.....

FOURTH SCHEDULE

Item 1

SCALE OF IMPRISONMENT FOR NON-PAYMENT OF MONEY ORDERED TO BE PAID	
Where the fine;	The period of imprisonment shall not exceed;
Does not exceed Two Thousand Naira (N2,000.00)	Seven (7) Days;
exceeds Two Thousand Naira (N2,000.00) and does not exceed Five Thousand Naira (N5,000.00)	Fourteen (14) Days;
exceeds Five Thousand Naira (N5,000.00) and does not exceed Twenty Thousand Naira (N20,000.00)	One (1) Month;
exceeds Twenty Thousand Naira (N20,000.00) and does not exceed Sixty Thousand Naira (N60,000.00.00)	Two (2) Months;
exceeds Sixty Thousand Naira (N60,000.00) and does not exceed One Hundred Thousand Naira (N100,000.00.00)	Three (3) Months;
exceeds One Hundred Thousand Naira (N100,000.00) and does not exceed Two Hundred Thousand Naira (N200,000.00.00)	Four (4) Months;
exceeds Two Hundred Thousand Naira (N200,000.00.00) and does not exceeds Four Hundred Thousand Naira (N400,000.00)	Five (5) Months;
exceeds Four Hundred Thousand Naira (N400,000.00) but does not exceed Six Hundred Thousand Naira (N600,000.00)	Six (6) Months;
exceeds Six Hundred Thousand Naira (N600,000.00.00) and does not exceed One Million Naira (N1,000,000.00)	Seven (7) Months;
exceeds One million Naira (N1,000,000.00) and does not exceed Two Million Naira (N2,000,000.00)	Eight (8) Months;
exceeds Two Million Naira (N2,000,000.00) and does not exceed Five Million Naira (N5,000,000.00)	Nine (9) Months;
exceeds Five Million Naira (N5,000,000.00) and does not exceed Ten Million Naira (N10,000,000.00)	Ten (10) Months;
exceeds Ten Million Naira (N10,000,000.00)	to the discretion of the Judge from (18) Months and above

Item 2

Order for Sentence of Death to be Carried Out

ORDER FOR EXECUTION at the.....holding
at on the day.....of.....20.....one
.....was duly convicted of a Capital Offence
and was sentenced to Death:

AND WHEREAS information derived from the Record of the Case or elsewhere, having been duly taken into consideration at a meeting of the Council designated for the purpose by the Attorney General of the State in its own deliberate Judgement thereafter has decided to recommend to me that I should exercise my Powers in relation to the person so convicted:

AND WHEREAS I have decided in accordance with the advice of the said Council headed by the Attorney-General of the State to confirm the Sentence:

NOW THEREFORE I hereby order that the Sentence be carried out according to the Law and that the said.....be executed at
at a time and by the person appointed by you and that the body of the
said.....be buried in the usual place for internment for
condemned Criminals executed at the Place of Execution.

AND FOR SO DOING this shall be your Warrant.
under my hand and the Public Seal of the Ogun State Government
this.....day of.....20.....

.....
Governor

To the Sheriff at Ogun State

Item 3

ORDER FOR COMMUTATION OF SENTENCE

WHEREAS on the.....day of.....20.....
one.....was duly convicted
of a Capital Offence and was sentenced to Death by the.....holden
at.....

AND WHEREAS information derived from the Record of the Case or elsewhere, having been duly
taken into consideration at a meeting of the Ogun State Advisory Council on Prerogative of Mercy, the
Council thereafter has decided to recommend to me that I should exercise my Powers in relation to the
person so convicted:

AND WHEREAS I have decided in accordance with the advice of the appropriate Authority to
confirm the Sentence:

NOW THEREFORE I do hereby commute the Sentence and direct that the said
Sentence be not carried out, and that in lieu thereof the said.....be
imprisoned for.....

GIVEN under my hand and the Public Seal of the Ogun State Government
this.....day of.....20.....

.....
Governor

To the Sheriff at Ogun State

(for transmission to the appropriate Prisons Authority).

FIFTH SCHEDULE

Item 1

ENDORSEMENT ON WARRANT OF ARREST

Whereas proof has this day been before me that the
name.....subscribed to the within Warrant is in the handwriting of the
within mentioned.....I hereby authorize.....who
brings me this Warrant and all other persons to whom this Warrant was originally
directed and also all Police Officers of the.....to execute this
Warrant within.....and to within.....and to bring
the said.....if arrested within.....before me or before some
Magistrate of the.....to be dealt with according to Law.
GIVEN under my hand this.....20.....

.....
Magistrate

Item 2

ENDORSEMENT ON WARRANT OF DISTRESS

Whereas proof has this day been made before me that the name ofsubscribed to the within Warrant is in the handwriting of the within mentioned.....you.....are hereby ordered forthwith to make Distress of the goods of the Defendant (except the wearing apparel and bedding of him and his family, and, to the value of N.....the tools and implements of his trade); and if within the space of the five (5) clear days next after making of such Distress unless he consents in writing to an earlier sale, the sum stated in the within Warrant, together with the reasonable Cost and Charges of making and keeping of the said Distress, be not paid, then to sell the said goods, and pay the money arising therefrom to the Registrar of this Court, and if no such Distress can be found, to certify the same to this Court.

Dated the.....day of.....20.....

.....
Judge [or Magistrate].

Item 3

**RECOGNISANCE
(TITLE OF PROCEEDINGS)**

By this Recognisance the undersigned Principal Party [and Surety (or Sureties) acknowledges himself [or acknowledges themselves] bond to Forfeit to the State the sum of N.....K.

.....subject only to this Conditions, that if [here insert the Condition of the Recognisance] then this Recognisance shall be thereby discharged.

.....
Principal Party

.....

.....
Sureties

Taken before me at.....this.....day of.....20.....

Item 4

**WARRANT TO BRING A PRISONER BEFORE THE COURT
(TITLE OF PROCEEDINGS)**

To the Superintendent of Prisons at.....
Whereas.....a Prisoner under Custody is
required to be produced before the Court:

You are hereby commanded to produce the said Prisoner before the Court at
on the.....day of.....20.....at hour of nine o'clock before noon.

Issued.....at.....on.....the.....day of.....20.....

Court Fees:

Warrant:

Hearing:

Total:

.....
Judge [or Magistrate]

Item 5

**WARRANT REMITTING DEFENDANT TO ANOTHER COURT
(TITLE OF PROCEEDINGS)**

To.....And to the
Superintendent of.....Prison.
A. B., hereinafter called the Defendant, being brought before the above Court charged with having
committed the following Offence within the Magisterial District of (namely)
.....
(state the Offence).....
You are hereby commanded to receive and detain the Defendant and to carry him and
deliver him up to the.....Court without any delay.

Dated.....day of.....20.....

.....
Judge

Note: This form may be varied to suit the Case under Part (18) of the Law.

Item 6

SEARCH WARRANT
(TITLE OF PROCEEDINGS)

In the Magistrates' Court of.....Magisterial District

To.....

and.....

Whereas information on Oath and in writing has this day been made that there is reasonable ground for believing that there is in the (state a place to be searchedand State what is to be searched for in the terms of (a), (b), or (c) of Section 151 of the Law)

You are hereby commanded in the name of the Ogun State, with proper assistance to enter the above mentioned (state the place to be searched) and there diligently search for the things aforesaid and if the same or any part thereof are found on Search, to bring the things found, and also state (name of the occupier of the place to be searched) before this Court to be dealt with according to Law.

This Warrant shall be executed between the hours of 5:00 a.m. in the forenoon and 8:00 p.m. at night and may also be executed at any hour during day or night.

Issued.....at.....this.....day of.....20.....

.....
Magistrate

*Strike out if not authorized

Item 7

**WARRANT TO ARREST A PERSON FAILING TO APPEAR PURSUANT TO
RECOGNISANCE
(TITLE OF PROCEEDINGS)**

To.....
and.....
Whereas.....of.....is bound by Recognisance to
appear before this Court on.....(*state when) but has
failed so to appear:
You are hereby commanded to arrest the said.....
.....and bring him before me at
.....without delay.

.....
Judge (or Magistrate)

Item 8

**WARRANT TO CARRY OUT SENTENCE
(TITLE OF PROCEEDINGS)**

To.....and to the Superintendent of Prison:
The Defendant.....was on the.....day of.....20...., sentenced as follows:

No	Offence	Term, Fine, Compensation, Costs, or Strokes	Term in Default
----	---------	---	-----------------

The Defendant has made Default in Payment of the above sum (or sums, or 1 st and 2nd above- named sums, or as the Case may be.) The imprisonment is to commence forthwith [upon the expiration of any other Term of Imprisonment which the Defendant may be now serving] The Terms are to run concurrently [or consecutively, or concurrently as to theand....., and consecutively as to, or as the Case may be.] You are hereby commanded to take the said Defendant and Imprison him in accordance with the above Sentence and the Law.

Dated the.....day of.....,20.....

.....
Judge (or Magistrate)

Item 9
RECOGNISANCE OF WITNESS

In the Magistrate's Court of.....
CD. of.....(*address and occupation or profession)
acknowledges that he/she owes to the Ogun State Government the sum of N
.....payment thereof to be enforced against him/her by due process of Law
if he/she fails to comply with the Conditions endorsed hereon.

.....
Signature of CD

Taken before me this.....day of.....,20.....

.....
Magistrate (Judge)
(Endorsement)
Conditions

The Condition of this Recognisance is that whereas A.B (hereinafter called the Defendant) was this day charged before me (name of Magistrate), the above-mentioned Magistrate, with (state shortly Particulars of Offence):

If therefore the said CD. appears at the High Court of the State on a date to be notified to him later and there gives Evidence upon the Trial of any information against the Defendant and in all respects compiles with the requirements of any notice which he/she may subsequently receive relating to this Recognisance, then this Recognisance shall be void but otherwise shall remain in full force.

Item 10

RECOGNISANCE OF WITNESS CONDITIONALLY BOUND OVER

In the Magistrate's Court of.....CD
.....(*address and occupation or profession)

Signature of CD

Taken before me this.....day of....., 20.....

.....
Magistrate
(Endorsement)
Conditions

Whereas A.B (hereinafter called the Defendant) was this day charged before me (name of Magistrate), the above-mentioned Magistrate, with (state shortly Particulars Offence); and Whereas CD has been informed that he/she is only conditionally bound over to give Evidence at the Trial of A.B but that, after receiving a Notice that he/she will be required to give Evidence at the said Trial, he/she will then be firmly bound by the following Conditions:

If therefore the said CD. appears at the High Court of the State on a date to be notified to him/her later and there gives Evidence upon the Trial of any information against the Defendant and in all respects compiles with the requirements of any Notice which he may subsequently receive relating to this Recognisance, then this Recognisance shall be void but otherwise shall remain in full force.

Form 11

Notice to Witness that Defendant has not been Committed for Trial

In the Magistrate' Court of.....Whereas you CD
of.....(*address and occupation or profession)
were on the.....day of.....,20.....bound by a Recognisance
in the sum of N.....to appear on a date to be notified to you at the
High Court of Ogun State and give Evidence upon the Trial of A.B:
This is to give you Notice that the Magistrate has determined not to commit the said A.B for Trial
and that consequently you will not be required to appear at the High Court for the purpose above-
mentioned.

Dated the.....day of.....,20.....

.....
Judge (or Magistrate)

FORM 12

Notice to Witness bound over that he is to be treated as having been bound over conditionally

In the Magistrate' Court of.....Whereas you, CD of.....(*address and occupation or profession)were on the.....day of.....20.....bound by a Recognisance in the sum of N.....to appear at the.....Court of Ogun State on a date to be notified to you and there give Evidence upon the Trial of A.B:

And whereas the Magistrate has since committed the said A.B for Trial at the High Court of Ogun State and has directed that you are to be treated as having been bound over to attend the Trial conditionally upon Notice being given to you: This is to give you Notice that you are not bound by the Recognisance entered into by you until and unless you subsequently receive Notice that you will be required to give Evidence at the Trial of the accused A.B.

Dated the.....day of.....,20.....

.....
Judge (or Magistrate)

FORM 14

RE: C.O.P Vs.....
INFORMATION ON LEGAL PRESENTATION

The Office of the Attorney-General of Ogun State as determined that Criminal Proceedings shall continue against you as per the attached Legal Advice. Indicate whether you wish to be presented by a Legal Practitioner arranged by you or by the Office of the Public Defender or Legal Aid Council or any Organisation providing Legal Aid.

1. I wish to be presented by a Legal Practitioner arranged by me

.....
Name of Legal Practitioner

.....
Address of Legal Practitioner

.....
Telephone Number

.....
Signature of Suspect/Defendant

.....
Signature of Controller of Prisons (where applicable)

2. I wish to be represented by a Legal Practitioner by way of Legal Aid

.....
Name of Legal Aid Service Provider

.....
Signature of Suspect/Defendant

.....
Signature of Controller of Prisons (where applicable)

.....Date

FORM 15
FORM FOR REQUEST FOR REMAND

IN THE MAGISTRATES' COURT OF OGUN STATE
IN THE.....MAGISTERIAL DISTRICT

COMMISSIONER OF POLICE

Versus

XYZ

The Court is informed that there is probable cause to order the Remand of XYZ of No.
.....in Custody who is reasonably suspected to have committed
the Offence of.....within the Magisterial District on or about the
.....day of.....,20.....

GROUND(S) FOR THE REQUEST: ,

1. Place and Time of Arrest:
2. Arrest with Exhibit(s):
3. Fingerprint Evidence:
4. Confessional Statement:
5. Found in Custody or Possession of Offensive Weapon(s):
6. Identification by Victim or Witness:
7. Need for further Investigation:

.....
(Signed)
Police Officer

FORM 16

**OGUN STATE COMPTROLLER OF PRISONS RETURNS OF PERSON(S)
AWAITING TRIAL**

(Complete form in triplicate per individual)

To the: The Chief Judge of Ogun State and to the Attorney-General of Ogun State.

The Chief Judge of Ogun State and to the Attorney-General of Ogun State are hereby informed that these are the records of all persons awaiting trial held in Custody within the State for a period beyond One Hundred and Eighty (180) days from the Date of Arraignment.

- a. Name of person in Custody:.....
- b. Date of Arraignment:.....
- c. Court where arraigned:.....
- d. Particulars of the Offence charged with:.....
- e. Date of his Admission to Custody:.....
- f. Name of the Prosecuting Agency:.....
- g. Any other Relevant Information:.....

.....
Ogun State Comptroller of Prisons

SIXTH SCHEDULE
FORM 1

COMMUNITY SERVICE PROGRAMME:
COMMUNITY SERVICE COMMITAL ORDER

IN THE.....COURT AT.....

COURT CASE NO.....OF.....

COMMUNITY SERVICE COMMITAL ORDER NO.....

Whereas you:

(First name/Second Name/Surname)

have been convicted of the Offence of:.....

Contrary to Section of

And whereas the Court has explained to you terms of an intended Order for Community Service which you have agreed to undertake in Place of a Sentence of Imprisonment of:..... (Prison Sentence)

You are hereby ordered during a maximum period of Six (6) Months to undertake: hours of Community work under the Supervision of:.....

(Name of Supervisor) of:.....

(Name of Placement Institution).....at

(Address of Placement Institution)

This means that if during the Community Service period you fail to obey any of the provisions of this Order, you will be brought before this Court and may be sentenced for the Offence
The following are the Conditions which you are ordered to obey:

1. The nature of the work you will be required to undertake is as follows:
2. You will present yourself for work assignment as instructed by the Supervising Officer, starting on.....(day of the week), the (date).....
You shall work for.....days per week.....and.....hours per day
The hours ordered should be completed by (date, Six Months after the start of the Order)

You shall not work for more than 8 hours a day and 40 hours a week

3. In the event of any difficulty resulting from a change in your Circumstances, Supervising Officer or Probation Officer will inform the Court for appropriate action. In the event that the Officers refuse to pass on your concerns, you may report them personally to the Sentencing Court.

I hereby declare that I have understood the Conditions of the Order of the Court and its effects and that I fully accept them.

Signed (Offender).....

Given under my hand and seal of the Court this.....
of.....at.....

Signed (Judge/Magistrate).....
.....

N.B: Copies of the Pre-Sentences Report and the Community Service Order have to be sent to the District Probation Officer. The Offender and the Supervisor shall receive Copies of the Community Service Order.

FORM 2

OFFENCE SHEET FOR
COMMUNITY SERVICE OFFENDERS

Name of Offender.....
Charged under Reg: of the Community Service
Regulation Offence:.....

Statement of the Supervision Officer:

.....
.....
.....

Signature:.....

Statement of the Offender:

.....
.....
.....

Signature of the Offender:.....

Findings of the Community Service Officer:

.....
.....
.....

Punishment Awarded:

.....
.....

Signature of the Charging Officer:.....

FORM 3

WORK INSTRUCTIONS

This Form must be completed by the Community Service Officer and Supervising Officer with Copies to the Sentencing Magistrate/Judge and to the Chairperson of the District Ward/Village Community Service Committees

PART 1 (To be completed by the Community Service Officer)

Name:.....

Age:.....Sex:.....Tribe:.....Religion:.....

Marital Status:.....

Court and Criminal Case No.:.....

Offence:.....

You are today made subject to a Community Service Order for a period of:.....(hrs)

You are required to report to your Supervising Officer (Name):.....

.....

at:.....on:.....

.....for work assignment.....

.....

Signature:.....Date:.....

.....

(Offender)

Signature:.....Date:.....

.....

(Community Service Officer)

.....

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FORM 5

WORK PLACEMENT CONFIRMATION
(To be completed by Community Service Officer)

This is to confirm that a place is available for the Offender named below:

Name.....
Age:.....Sex.....Tribe.....Religion.....
Address.....
Occupation.....
Court.....
Criminal Case No.....
Offence:.....

Name and Address of Placement Agency.....
.....
.....

Type of Work.....
Area.....

Signature..... Date.....
(Community Service Officer)

To be attached to the Community Service Officer's Pre-Sentence Report

FORM 6

CERTIFICATE OF COMPLETION OF COMMUNITY SERVICE ORDER

This form must be completed by the Supervision Officer and counter-signed by the Community Service Officer where the Community Service Work has been ended and must be sent without delay to the Magistrate/Judge of the Sentencing Court with a carbon copy/photocopy to the Community Service Committee Chairman of District/ Ward/Village:

PART 1 (To be completed by the Supervision Officer)

Name of Offender:

Surname.....

First Name.....Other names.....

Court.....

Criminal Case No:.....

Offence Sentence :.....

Address of Offender.....

Name and Address of Institution.....

.....

Commencement date of Community Service.....

Total number of hours Offender was required to work.....

Total number of hours actually worked by Offender.....

Date Community Service ended or terminated.....

Signature.....Date.....

(Community Service Officer)

PART 2 (To be completed by the Community Service Officer)

Reasons why Community Service came to an end:

- (a) Offender's satisfactorily completed all hours of work as ordered by the Court
()
- (b) Offender committed further Offences and was arrested by the Police
()
- (c) Offender referred back to the Sentencing Court because he breached
Community Service Conditions
()
- (d) Offender fell ill and was admitted to a Clinic or Hospital
()
- (e) Community Service was terminated for reasons other than those
specified above (special reason) e.g. Death, Abscondment, etc.
()

Signature.....

Date.....
(Community Service Officer)

FORM 7

COMMUNITY SERVICE OFFICERS REPORT

Ref. No.					
CASE DETAILS					
Name		Gender		Age	
Charge					
Criminal Code			Court File No		
Section					
Court Name		Police Station			
Previous Conviction		Police File No			
Mention Date		Plea		Remanded/Bonded	
Particulars of Offence					
Circumstances of Officers					
Source of Information					
PERSONAL DETAILS					
Id/No.		Marital		Education	
		Status			
Occupation		Telephone		Religion	
Disability					
BACKGROUND INFORMATION					
Father		Mother		Spouse	
Defendants					
Siblings					
Family Type		Guardian		Contact Person	
District		Town		Landmark	
Division		Estate		Nearest Shop	
Location/Chief					
Sub Location/ Assistant Chief					
Village/Village Elder				Nearest Market	
Nearest School				Prominent Person	
Change of Residence					

OTHER DETAIL					
Conduct/character					
Health Status					
Drug and Substance Abuse					
Home Environment		Environment Means			
Community Ties		Leisure			
Employment		Social Status			
VICTIM INFORMATION					
Name		ID No.	DOB	Gender	
Relationship					

FORM T

COMMUNITY SERVICE OFFICERS REPORT

Victim Attitude				
Family Attitude				
Community Attitude				
CONCLUSION				
Summary				
Intervention Strategy				
Recommendation				
Author				
Date		Signature		

FORM 8

ABSCONDING REPORT

(To be completed by Community Service Office)

1. Offender's name:.....
2. Court:.....
3. Ethnic Group Age Religion.....
4. Address:
5. Sentence and Date Awarded:.....
6. Supervising Officer:.....
7. Date of Absconding:.....
8. Placement Agency:
9. Work that has been performed by Offender:.....
10. Steps taken to recapture the Offender:.....
11. Property taken by the Officer:.....
12. Value of Property:.....

DESCRIPTIONS:

Height:.....

Age:.....

Peculiarities of Body:.....

Colour:.....

Distinguishing characteristic (speech gesture, smoking etc.):.....

Last Address:.....

Local Government Leader:.....

Signature:.....Date:.....

.....
(Community Service Officer)

CC:

National Coordinator
Local Police Station
Court

FORM 9

IN THE.....COURT OF
AT.....
CRIMINAL CASE No.....OF

**APPLICATION FOR REVIEW AND VARIATION OF COMMUNITY SERVICE ORDERS
BY COMMUNITY SERVICE OFFICER/OFFENDER**

Whereas a Community Service was issued on.....by this Court
to have (Name of Offender).....
placed on Community Service under the Supervision of.....
(Name of the Supervision Officer) And whereas circumstances have changed to make the said Officer
unable to comply fully with conditions imposed in the said Order:

I,.....(Applicant) apply to
this Court to vary or review the Order made on.....and
to impose new conditions which the Offender will be/I am* able to comply with without suffering
much hardship and inconvenience. The reason for his/her/my* inability to comply with the previous
conditions are as follows:

Signed:.....Community Service Officer/Offender

DECISION OF THE COURT:

Variation/Review is allowed

.....
Judge/Magistrate

*Delete as appropriate

If review is allowed the new conditions are:

.....the Offender will
be

placed under the Supervision of:.....
.....

Signed:.....

Judge/Magistrate

Order explained and acknowledged by:.....Offender

FORM 10
BREACH OF ORDER
(To be completed by Community Service Office)

IN THE.....COURT OF
.....
AT.....
CRIMINAL CASE No.....OF.....

**APPLICATION FOR REVIEW AND VARIATION OF COMMUNITY
SERVICE ORDERS BY COMMUNITY SERVICE OFFICER/OFFENDER**

Whereas (Name):.....was convicted of the
Offence of.....
.....was placed on Community Service
Order by:.....(Court) under Section.....the
C o m m u n i t y S e r v i c e .

For a period of.....Years/Months.....
I,.....hereby make Oath and state as follows.
(Community Service Officer)

The said:.....has failed to observe the
(Name of Officer)
provisions of the said Order in that:.....

.....request that Summons/Warrant
of Arrest be issued in respect of the said Offender.

Signature:.....(Community Service Officer)

.....
(Community Service Officer or Supervision Officer)

SWORN Before me.....
Judge/Magistrate

SCHEDULE 7

**SUPPLEMENTARY PROVISIONS RELATING TO THE
GOVERNING BOARD OF THE CENTRE**

1. The quorum of the Governing Board of the Centre (hereinafter referred to as the Quorum Board) shall be Five (5) members.
2.
 - (i) The Board shall meet to carry out its business at least once every two (2) Meeting of the Board months at such place and time as the Chairman may by Notice determine.
 - (ii) A special meeting of the Board may be summoned at the request of the Chairman.
 - (iii) All meetings of the Board shall be summoned by the Secretary on the directive of the Chairman.
 - (iv) The Chairman shall preside at any meeting of the Board but in his absence the Board may elect one (1) of its Members present to preside.
 - (v) Every question for decision by the Board at any meeting shall be decided by a majority of the votes of Members present and voting.
 - (vi) The Chairman or the Member presiding in his absence shall at any meeting have a vote and in the case of an equality of votes, a second or casting vote.
 - (vii) The Co-ordinator and the Secretary of the Centre shall be in Attendance at all meetings of the Board and the Board may also require any of its Officers or Servants to attend such meeting and take part in the Proceedings but neither the Co-ordinator, Secretary nor any of the Officers or Servants of the Centre attending its meeting shall have a Right to vote on any matter.
3. The Validity of any Proceedings of the Board shall not be affected by any vacancy in the Membership of the Board or any defect in the Appointment of a Member or by reason that a person who is not entitled to do so took part in the Proceedings. Validity of Proceedings of the Board.

This printed impression has been carefully compared by me with the Bill which has been passed by the Ogun State House of Assembly and found by me to be a true and correct printed copy of the Bill.

'LANRE BISIRIYU

Clerk of the Ogun State House of Assembly

Assented to by me this 3rd day of April, 2018

SENATOR IBIKUNLE AMOSUN, CON, FCA

Governor, Ogun State of Nigeria.