



The Maiden Regional Conference On Criminal Justice Administration

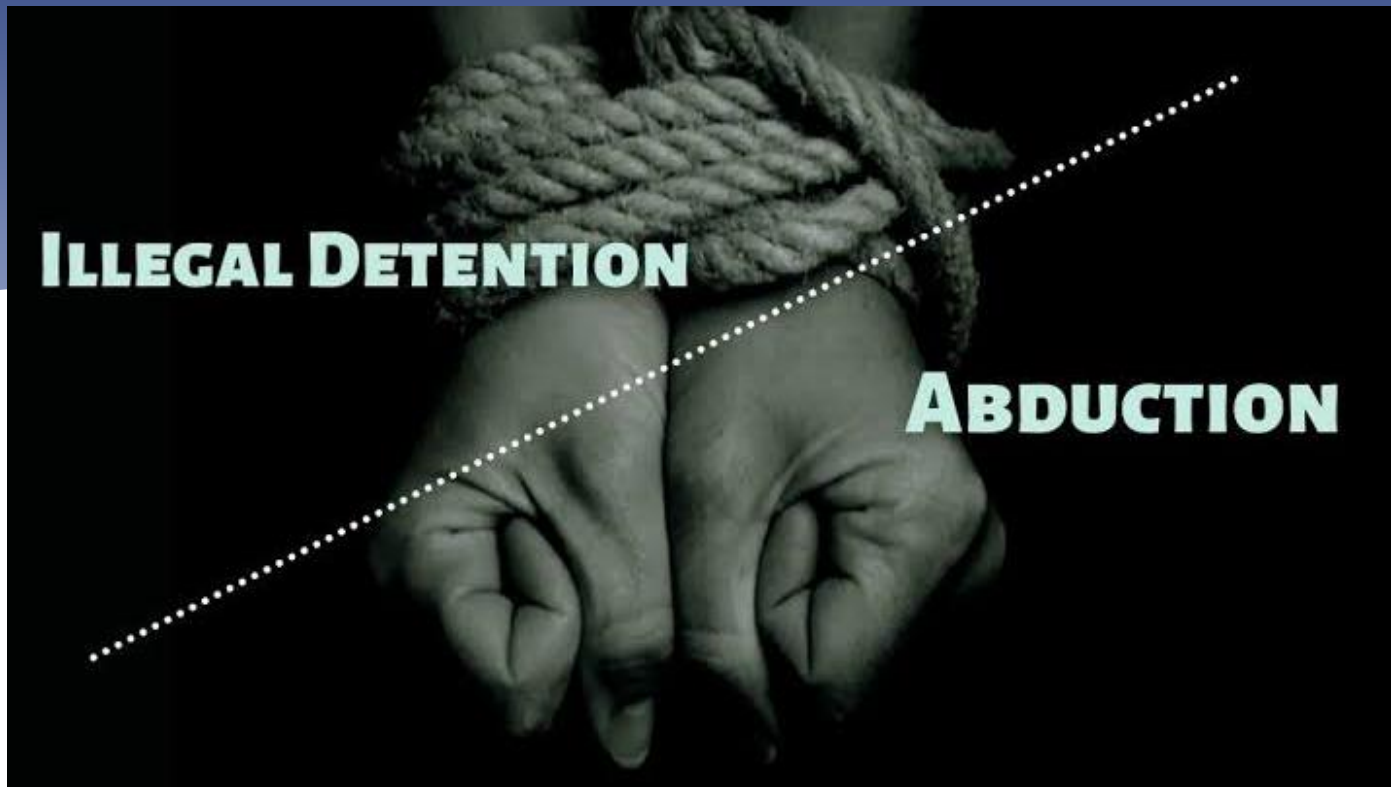
**Theme: Consolidating Reforms In Criminal Justice and
Its Administration – Best Practices**

**1 – 4 November 2022
FCT Abuja, Nigeria**

**Effective Mechanisms for the Management of pre-trial
Detention in Sub-Saharan Africa: *Visiting Detention Facilities*
*By Magistrates-What we Have Achieved***

BY

BAYO AKINLADE, ESQ



- #What's the difference between illegal detention, kidnapping and abduction?**
- #How does it affect the psyche of the person detained especially if he/she is innocent?**
- #How should the law remedy this?**
- #How is Justice seen to be done in this regard?**



WHAT ARE THE PRIORITIES OF ACJL

Protecting the Rights of Pre-trial Detainees



Facilitating Support for SAs of the ACA 2015

- For the effective administration of the Criminal Justice System
- To Ensure that those who break the Law suffer the consequences
- To ensure that the Rule of Law is upheld
- To ensure fair and equal treatment of all those accused of a crime
- To ensure speedy trials
- To provide alternative means of punishment i.e Restorative Justice, Community sentencing etc
- To decongest the Courts and Prisons
- To stop and counter indiscriminate Arrest and detention by the Police
- And so On...



THE PRINCIPAL LAW: S. 33 ACJA 2015



33. (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.

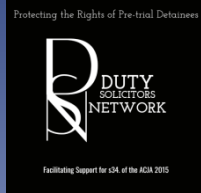
(2) The report shall contain the particulars of the suspects arrested as prescribed in section 15 of this Act.

(3) The Magistrate shall on receipt of the reports, forward them to the Criminal Justice Monitoring Committee which shall analyze the reports and advise the Attorney-General of the Federation as to the trends of arrests, bail and related matters.

(4) The Attorney-General of the Federation shall upon request by the National Human Rights Commission, the Legal Aid Council of Nigeria or a Non-Governmental Organization 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 of the State and the Attorney-General of the State for appropriate remedial action.

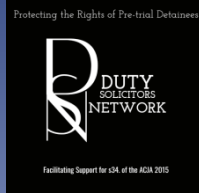
(6) With respect to the Federal Capital Territory, Abuja such report referred to in subsection (5) of this section shall be forwarded to the Chief Judge of the Federal Capital Territory, Abuja and the Attorney-General of the Federation for remedial action.



THE LAW: S. 34

OVERSIGHT VISITS BY Magistrates.

34. (1) The Chief Magistrate, or where there is no Chief Magistrate within the 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.



(2) During a visit, a 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 subsection (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 subsection.



WHAT ABOUT OTHER DETENTION FACILITIES ASIDE THE POLICE....such as the EFCC, NDLEA, CUSTOMS, IMMIGRATION.... etc

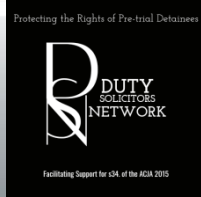
(4) With respect to other Federal Government agencies authorized to make arrests, the **High Court** having jurisdiction shall visit such detention facilities for the purpose provided in this section.

No High Court Judge is been known to have undertaken these visits

WHY???????



What happens when the Police refuses to cooperate with the Magistrate or Judge?



SANCTIONS

(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 subsection (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.

THIS SANCTION IS UNSUFFICIENT IN MY OPINION

I recommend strongly that in addition, the officer in question should be arrested immediately and brought before another Magistrate within 24 hours to answer to an offence for obstruction of Justice.



THE ACJMC: PART 46 – SECTION 469 TO 476

The Administration of Criminal Justice Monitoring Committee Consist of the following members:

1. The CJ as Chairman
2. The AG or his rep not below rank of Director
3. A judge of the FHC
4. The IGP or his Rep not below rank of CP
5. The Comptroller of the Correctional services or rep not below rank of Comptroller of Prisons
6. Executive Secretary of the NHRC or rep not below rank of Director
7. Chairman of any local branch of NBA to serve for 2 years only
8. DG LACON or rep not below rank of Director
9. A rep from CSOs appointed by the committee to serve for only 2 years

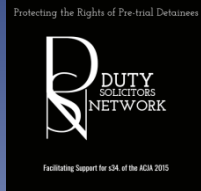
THE VISITS: What we have achieved through DSN



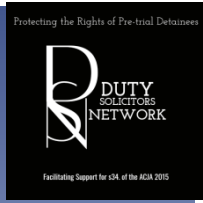
Magistrates in the Company of Volunteer Lawyers from the NBA and the Legal Aid Council of Nigeria visit police stations in Lagos, FCT and Ogun State



COMMON CONSTRAINTS



- FUNDING
- LOGISTICS : Mobility, Distance, support staff
- MAGISTRATE'S WORKLOAD
- REPORTING: Forms, time it takes to fill out the forms etc
- PERSONAL INTERESTS: motivation of the Visiting magistrate



MODELS THAT WORK.... AN EXAMPLE OF LAGOS STATE

FUNDING:

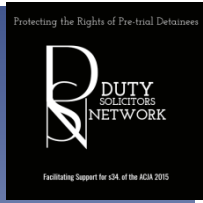
Section 472

- ❖ A committee to be set up
- ❖ Budget from office of the AG
- ❖ Funding from other sources allowed



**Lagos State Judiciary
provides N10,000 Per
Month to each designated
Magistrate**





MODELS THAT WORK.... AN EXAMPLE OF LAGOS STATE

LOGISTICS : Mobility, Distance, support staff

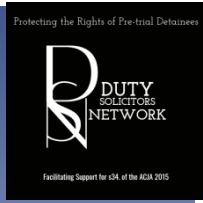


Protecting the Rights of Pre-trial Detainees



Facilitating Support for s34. of the ACJA 2015

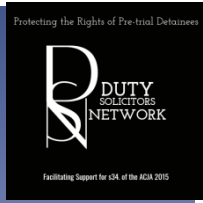
Section 471 of ACJA, 2015
Administration, staffing etc
(MOJ to take care of staffing)



MODELS THAT WORK.... AN EXAMPLE OF LAGOS STATE

A Magistrate's Workload: Optimizing Case Management Techniques



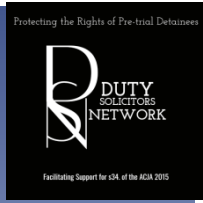


MODELS THAT WORK.... AN EXAMPLE OF LAGOS STATE

REPORTING:

Forms of reporting, time it takes to report

- Magistrates developed their own forms
- Volunteers developed their own forms
- Funding organizations develop their own forms



MODELS THAT WORK.... AN EXAMPLE OF LAGOS STATE

PERSONAL INTERESTS: Motivation of the Visiting magistrate



The Maiden Regional Conference on Criminal Justice Administration

Bayo Akinlade, Esq

PARTNERSHIPS is the WAY to GO!



Protecting the Rights of Pre-trial Detainees

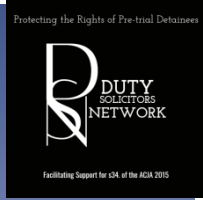


Facilitating Support for s34. of the ACJA 2015





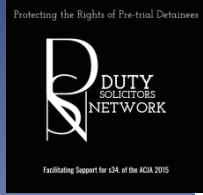
SUCCESSSES



- ❖ There has been a decline in indiscriminate arrests and detention.
- ❖ Decongestion of Police Cells and Court dockets
- ❖ Suspects are released during the visits
- ❖ Civil cases are distinguished
- ❖ Parties settle their issues quickly with the intervention of the visiting magistrates
- ❖ Conditions of the police cells have improved
- ❖ Suspects are hardly ever detained for more than 24 to 48 hours where the Magistrates visit are consistent and where PDSS is active
- ❖ More respect for Human Rights etc



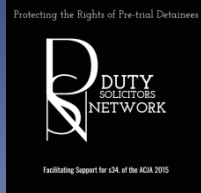
CHALLENGES



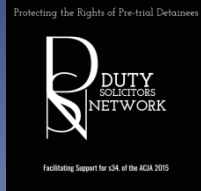
- ❑ Maintaining the element of surprise - One of the most important aspects of the visit is not to let the police know when the magistrate is undertaking the visit
- ❑ The police have the tendency to hide suspects
- ❑ Lack of full cooperation from the police
- ❑ Funding and mobility
- ❑ Case load of the Magistrate



SOLUTIONS



- An effective ACJMC is required
- Membership of the ACJMC requires review.
Most principal members are already very busy
Public and Civil Servants
- The ACJMC should be headed by an independent person with no government ties
- The ACJA should recognize and give effect to the Police Duty Solicitors Scheme (PDSS)
- The DPP filtering initiative should be given legal backing



COMMENTS, QUESTIONS AND ANSWERS



THANK YOU

**Magistrates Visits to Detention
Facilities under the ACJA:**

BY

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