Thesis

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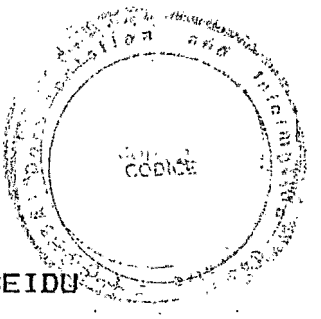
Justice Before Trial: a Study of Pretrial Police Practices in Kaduna State, Nigeria

June, 1994

JUSTICE BEFORE TRIAL:
A STUDY OF PRETRIAL POLICE PRACTICES IN KADUNA STATE (NIGERIA)



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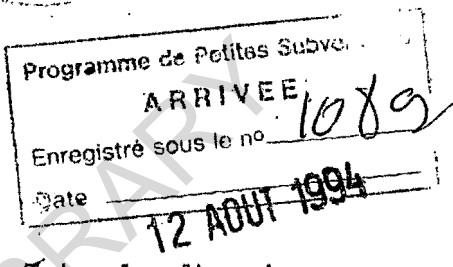

A Thesis Submitted to the Post-Graduate School, Ahmadu Bello University, Zaria, in Partial Fulfilment of the Requirements for the Award of the Degree of Master of Science (M.Sc.) Sociology

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DECLARATION

I hereby declare that this thesis is a product of my own research effort. It has not been presented in any previous application for a higher degree. All sources of information have been duly acknowledged by means of references

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CERTIFICATION

This thesis entitled ~~titled~~ "JUSTICE BEFORE TRIAL: A STUDY OF PRETRIAL POLICE PRACTICES IN KADUNA STATE" by Maliki, A. S. meets the regulations governing the award of the degree of Master of Science of Ahmadu Bello University, and is approved for its contribution to knowledge and literary presentation.

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DEDICATION

This work is dedicated to my uncle

Alhaji S. A. Afegbua

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ABSTRACT

This study examines the nature and character of pretrial practices in Kaduna State Police Stations. It does so with a view to unravelling its theoretical and practical implications for the 'rule of law', and those processed at the station respectively. More precisely, the study examines the stutuory framework of pretrial justice, the level of citizens awareness of legal rights, the proportion of cases disposed at the station and the pattern which such disposition adopt. Furthermore, the study is concerned with the manner in which policemen go about pretrial activities. It also analyses the influence of offenders' socio-demographic attributes on police decision.

The study employs qualitative as well as quantitative methods of gathering and analysing data. The findings reveal that policemen, though aware of "due process" provisions seldom uphold its ideals. The public is largely unaware of due process of the laws, but even the few who are aware of such laws, make virtually no effort to see them upheld. The result is that rule violation and discretionary dispositions are the order of the day. Over 80% of all cases reported for the duration of field work are "settled" at the police station - most of them, according to legally irrelevant criteria. Pretrial justice then adopts an economic quality whereby the well to do get off lightly.

In conclusion, two major factors are identified as being responsible for the character of pretrial police practices. First, Third World Institutions exist as caricatures of their western counterparts. The Police Force as one of such institutions is stunted by the lack of requisite material and personnel inputs. Secondly, the police force is negatively influenced by its social environment which do not only generate pressure towards eroding police institutional autonomy, but also subject individual policemen to serious pressures to by-pass 'due process' and make personal gains.

To reform pretrial process, it is suggested that the material and personnel problems of the force and the low legal awareness of the generality of citizens should be addressed. In the long term however, a meaningful and long lasting reform will require the country to either eliminate its "periphery" status within the international capitalist system or better still, to opt out of the system altogether.

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LIST OF ABBREVIATIONS

ASP	Assistant Superintendent of Police
CJS	Criminal Justice System
CP	Police Commissioner
CPC	Criminal Procedure Code
Cpl	Police Corporal
DCO	Divisional Crime Officer
DPO	Divisional Police Officer
IPO	Investigating Police Officer
NPF	Nigeria Police Force
PENAL CODE	Penal Code Law, Cap 89 Laws of Northern Nigeria
POLICE ACT	Police Act (cap - 359) Laws of the Federation of Nigeria, 1990

CHAPTER ONE

INTRODUCTION

It has for long been recognized that the manner in which the law is enforced, is more important than its enactment and interpretation (see Baker 1933). The government agency that is primarily responsible for law enforcement is the police. Of all the criminal justice agencies, the police is the most visible and the most proximate to crime. Its decisions to invoke the criminal process, largely determines the outer limits of the criminal justice system. In other words, the police is the gate keeper' of the criminal justice system (CJS).

The CJS is itself, composed of several agencies within which decision are made concerning whether, and how people processed as inputs in one, should be transferred to others in the network as outputs. for example, citizens make decisions concerning the reporting of offences to the police. The police make decisions concerning the invocation of law, and general pretrial processing of alleged offenders. They also make decisions regarding charging and prosecution. Trial judges make decision concerning sentencing and conviction. Prison administrators also make decisions concerning the running of the prisons. In fact, "when the criminal justice system is considered from a perspective of decisions, it

is apparent immediately that decisions are the stuff of that system" (Gottfredson and Gottfredson 1980:xxiv).

The Nigeria Police Force (NPF), is statutorily required, not only to apprehend offenders, but also to dispose as well as prosecute cases[1]. This confers considerable discretionary power on the police. They determine who will be arrested, who will be 'let off' at the police station and who will be prosecuted in court. the exercise of such powers has great consequences for both the CJS and for the individual.

The exercise of such powers is of significance to the CJS because the decision to terminate criminal proceedings at early stages of the criminal process, precludes review of same at later stages. Such decisions, according to Goldstein (1960:65) are:-

> "generally of low visibility and consequently are seldom the subject of review. Yet an opportunity for review and appraisal of non-enforcement decisions is essential to the functioning of the rule of law".

The exercise of such power is also of significance to the individual because police....

> "authority to arrest, to detain, to search and to use force is unique among governmental powers in the degree to which it is disruptive of freedom, invasive of privacy, and direct in its impact upon the individual" (Goldstein 1967:109).

The police station, as the "principal operational formation"[2] of the police force, is the setting where majority of police-citizen transactions take place. These citizens come to the station under a variety of roles. They come as complainants; victims of crime, accident or other disaster; witnesses, accused persons, and suspects. some come as defendants, wandering persons, destitutes, or missing persons, or lunatics. Others come as community representatives, elected politicians, professional expert, personnel of other arms of the CJS, and so on. There are also friends, relatives, and acquaintances of all the above.

The manner in which these human inputs are processed at the police stations has of late been attracting much public attention and concern in Nigeria. This has been directed mainly at police observance (or non-observance) of procedural rules in processing members of the public.

Majority of criminal justice commentators tend to argue that a strict or rigid adherence to procedural rules by the police is not possible (see Kadish, 1962; Lafave, 1965; Kaplan, 1965; Goldstein 1967; Wilson, 1968, Abrams, 1971; Okonkwo and Naish, 1980; Jefferson, 1990; e.t.c). Others argue that even if it is possible, it is not desirable as it would negate the principles of

flexibility, individuality, humanity, equity and expediency in the administration of justice.

The argument of those who maintain that a rigid enforcement of law is undesirable, is put in its most eloquent form by Brietel (1960:35). He declares thus:

> If every policeman, every prosecutor, every court, and every post-sentence agency perform his or its responsibility in strict accordance with the rule of law, precisely and narrowly laid down, the criminal law would be ordered but intolerable, living would be a sterile compliance with soul killing rules and taboos. By contrast a primitive tribal society would seem free indeed.

Other commentators, especially radically inclined ones, seriously question the attribute of benignity imputed to the exercise of discretionary power. They insist, that its exercise is more often than not, determined by systematic, mundane and primordial considerations which work to the disadvantage of the poor (see American Friends Service Committee (AFSC, 1971; Chambliss, 1974 and Reiman, 1979). It is important to note that all commentators, irrespective of their position on the advisability of discretionary power, tend to express concern over its high potential for abuse. Especially when measures to make it accountable are not put in place.

Perhaps, it is in recognition of this vulnerability to abuse, of discretionary power, that the relevant statute of Nigeria exhorts the policeman to "develop the attributes of integrity in refusing to allow religious, racial, political or personal feelings or other considerations to influence him in the execution of his duties"[3]. The extent to which Nigerian policemen have been heedful of this 'appeal' is however difficult to ascertain. The available indigenous criminological literature, contain only very little research into the area.

Clinard and Abbot (1973:26) rightly observes that "the criteria in terms of age, social class, religion, caste and tribal background, used by the police in the decision to arrest or release a suspect, are generally unknown in developing countries because studies have not been made". Ahire (1989a:13) also laments that in Nigeria, "informed commentators have ignored the wide discretionary power wielded by the Nigeria police as if it is natural, desirable and without grave consequences to the liberty of the citizens".

Brodeur (1986) attributes the apparent 'self-censorship in the research community' towards studying the police to the fact that, the police is an "object" which "deliberately resists attempts to know it". Bent

(1974: xii) also asserted that; "it must be admitted that it is difficult to do research of police departments. The prevailing atmosphere in the police is one of suspicion of outsiders, especially academicians". But as Smith (1975) notes, it is for such closed organisation that research is most needed rather than captive populations which tend to be overstudied.

While many commentators have found contentment in the cliche that "a nation gets the police force it observes"[4], this study is undertaken out of the conviction that police pretrial practices in Nigeria, has not attracted the research attention that it so richly deserves.

1.1 RESEARCH PROBLEM

Relevant statutes of Nigeria (criminal procedure code, criminal procedure Act, Nigeria police Act, etc) lay down, procedural rules to guide the police in its law enforcement duties. Reports of rule violation and inept handling of members of the public by the police, however continue to dog police performance. As a result, serious doubts and concern are being expressed from different quarters about the willingness, or even ability of Nigerian policemen to operate according to the letter and spirit of the law.

In the wake of the brutal suppression by men of the Nigeria Police Force (NPF), of a peaceful protest by students of Ahmadu Bello University in 1986, The Newswatch, a popular Nigerian weekly news Magazine, devoted all its June 1986, editions to running an expose of the NPF. The discreditable facts it revealed about the police, ranged from its inability to "move an inch from the colonial legacy of suppression"[5] to:

> its focus on, and single minded pursuit of cases involving helpless citizens who neither have the money nor possess the right connections to wade through or beat the labyrinth maze of the country's justice process. The result is that thousands of Nigerians are being kept in jail for committing minor crimes that would have fetched them at the most a strong tap on the wrists and a stern warning from the judge. Many times, judges have to visit the prisons to "liberate" detained suspects who have no business being behind bars.[6]

Allegations of partisanship in carrying out its duties have also been frequently levied against the NPF, especially during political eras when they allegedly become instrument of the ruling party for oppressing political opponents. A state governor belonging to an opposition party during the second republic, was so irked by this phenomena that he threatened to establish his own state's (Oyo state) police in defiance of the statutorily

imposed unitary structure of policing for the federation.[7] (see also Tinubu, 1969).

Commenting on police activities at pretrial stages of the criminal process, Agbareh (1991) notes that:

> "These days there are few words of praise by the public for our police. Terrible stories are told of police machinations at investigation stages of any matter with a criminal complex. I have heard it said that justice is on the side of the highest bidder. With all the good intentions in the world, and the practical steps taken to flush out bad eggs, the racket in police charge offices, investigation outfits and road beats still flourish. Complainants largely have to oil their way to get attention. The "suspect accused" have to bribe their way out on bail. It is a routine"[8].

Police calls for member of the public who have been unjustly treated, to report the police personnel responsible to the nearest police station"[9], is met by this cynical editorial reply in a national daily: "pray what is the safety guarantee for such complainant, assuming the hostility and unnecessary delays at the police stations can be overcome?"[10].

Many legal practicioners who by virtue of their profession are close to police activities, have been voicing their discontentment at police handling of the criminal process. For example, the president of the Nigeria Bar Association, Mrs. Priscilla Kuye, laments the fact that the police do not allow women to stand surety for bail when there is nothing in the statute books

barring them from doing so[11]. Another prominent Nigerian lawyer, Femi Falana, expresses horror at what goes on in police cells where he alleged that suspects are kept for longer than is legal. He also alleges that "the police stations had always connived with suspects in detention to carry on illegal collection of fees from those who were newly brought in for detention"[12].

Some human rights organisations such as the Committee for the Defence of Human rights (CDHR) and the Civil Liberties Organisation (CLO), have been consistent and persistent in their attack on the police for illegally instituionalizing "torture" as a means of extracting confessions from suspects. The spate of extra judicial killings of suspects (resulting from torture or outright execution) by the police have attracted the greatest ire of these organisation. some of such cases which made headlines includes: the murder of Nwogu Okere[13], John Udeogu[14], Anthony Nnaemeke[15] Segun Fakayode[16], Larry Elechi Igwe[17], the Oko Oba killings[18], and so on. In all those cases, the police allegedly constituted itself into the accuser, the prosecutor, the judge and the executor of the sentences of execution passed. Such action exceeds police constitutional power. Yet in none of the cases cited have the officers responsible been successfully brought to book. Instead relatives of victims, who tried to pursue such cases in

court have allegedly become victims of further police harassment and intimidation. Hence the Campaigner (1992:2) urges government to do something as such a "state of affairs pose a threat not only to the cause of justice but also to the lives of those in pursuit of it". It asserts furthermore that "our statutes contain adequate provisions which if enforced, will see an end to extra-judicial killings".

Top criminal justice administrators, traditionally noted for defending their men's actions, have not been left out of the general outcry against police malpractices. Not only did a serving police inspector-General (IG) publicly lament the falling standard of crime investigation in Nigeria,[19] he on another occasion lambasts his officers for sacrificing justice "to your desire for material needs and lust for power. A power that is based on false arrogance"[20]. Alhaji Kaltungo, the then Kaduna State police boss is also so "worried by reports of unlawful detention in his state" that he "threatens to prosecute any police officer under his command that detains anybody for minor offences[21]. And Justice Ligali of Lagos State comes out to identify police "failure to stick to official regulation as stipulated by law"[22] as the major obstacle against justice in Nigeria.

Apparently then, there is widespread dissatisfaction over the manner in which the police carry out its duties. The disquieting fact that emerges from all these, is that, the Nigeria police seems to have appropriated for itself, power in excess of that which it is statutorily given. It is alleged that the police do not only wields this power arbitrarily, but also abuse it. In handling and disposing criminal cases therefore, the police may choose to proceed upon criteria that bear no legal relevance. Yet for cases so disposed at the police station, the accused has no opportunity to present his own defence. Any violation of the principles of legality and due process by the police at such stages are precluded from review/redress by the courts.

Such a state of affairs raises serious theoretical and practical questions. At the theoretical level, this study is interested in knowing whether the guiding philosophy upon which the whole legal apparatus is built is being systematically thwarted by police manner of exercising discretion. furthermore it seeks to determine whether it is the guiding philosophy of the CJS that is defective or its translation into policy or just its human operators. The study is also interested in unravelling the implications of police decisions and actions on the activities of other arms of the criminal justice machinery. For example, how does police power to

dispose cases at the police station circumvent the adjudicatory functions of the courts or trial judges. In short, what implications does police use and abuse of discretionary power have for the operation of the rule of law in Kaduna State.

At the practical level, the study is concerned with questions of how those processed by the police take or react to their treatment, what opportunities exists for them to seek redress, whether they are aware of and do make use of such opportunities, what impression do they form of the CJS based on their treatment by the police, and so on. In short, what effect police use and abuse of discretion have on people processed by the police.

The practical and theoretical problems posed by the alleged state of affairs. Many be summarized in the following research questions:-

a) What proportion of cases reported to the police are disposed of at the police station?

b) To what extent are procedural laws observed, and/or violated in police handling of suspects, victims, complainants and other human inputs of the criminal justice system?

c) Are policemen aware of the existence of such laws?

d) What factors affect police observance of procedural laws.

e) to what extent are accused person aware of their legal rights?

f) What do the accused persons do when they feel unduly treated by the police?

1.2 AIMS AND OBJECTIVES OF STUDY

This study Seeks to make a modest addition to the existing literature on the behaviour of law enforcers through the following research objectives:

1. To examine the statutory framework under which the police make dispositional decisions.
2. To determine the volume or proportion of reported cases disposed of at the police stations in Kaduna State.
3. To identify the factors affecting police exercise of discretion in Kaduna State.
4. To determine the level of awareness of the legal process by accused persons in Kaduna State.

1.3 SIGNIFICANCE OF STUDY

This study is a pioneering effort both in the methods it employs and in the phenomena it seeks to study. The aim would be to unravel the "empirical face" of the law in its day to day operation. It is hoped that

its findings would have both theoretical and practical significance.

At the theoretical level, the study would: provide first hand information to students of criminology in Nigeria wishing to "really know" the police; contribute to the debate on inevitability/desirability of discretionary justice; and help to generate hypotheses for further discussions and study.

At the practical/policy level, the study would help uncover facts about the "invisible" or informal justice system, that should inform policies on crime and their execution.

1.4 LEGAL PROCEDURES GUIDING POLICE HANDLING OF COMPLAINANTS[28]

There are clearly defined rules, governing each of the stages that a criminal case undergoes at the police station. some of the relevant rules, are hereunder presented. They will serve as a basis for comparing the 'legality' (as contained in statutory documents) against the 'reality' (as observed in the course of this study) of police actions.

To structure the complaints process, it is statutorily required that all complaints be lodged in the police 'charge office'. This shall be open to the public

throughout the 24 hours of the day. The charge room officer is to ensure that all complainants are courteously received and that all complaints are taken to the stations' crime officer for perusal and appreciation. When complaints are refused, the charge room officer is required to make in his own hand writing, a record of such refusals. Whenever the 'station officer' refuses to accept the information brought by a complainant, he is required to 'notify the complainant in writing of his right to complain to a court' if the information is accepted however, the police is required to 'forthwith proceed to the spot and investigate the case, and if the offender is not already in custody, take such steps as may be necessary for his discovery and arrest'.

To protect the arrest process from arbitrariness and abuse, the police charge room is statutorily designated as the sole centre for 'the reception of arrested persons and the recording of the particulars of such persons'. In effecting the arrest itself, 'an arrested person shall not be subjected to more restraint than is necessary to prevent his escape,' and "the person making the arrest shall inform the person arrested of the cause of the arrest". For some offences, arrests cannot be made without warrant, and should this be contravened, 'an officer in charge of a police station shall report (it) as soon as reasonably possible to the appropriate local

government authority or superior police officer. The station officer or any other officer deputed to act for him can set any person that has been unjustly arrested free upon his arrival at the station. Besides, the arrestee can sue the police if he believes his arrest was illegal. And the court can order the police to pay compensation, if the arrest was really made "without sufficient ground"

As for the 'statement taking' process, the police are required to caution an accused person before taking statements from him. The caution is in the following words: "I have decided to make a complaint against you before a court. do you wish to say anything? you are not obliged to say anything unless you wish to do so, but what you say, may be put into writing and given in evidence". If the accused can, and is willing to write, he is allowed to write down the statement by himself. But if not, the police writes it down. After this, the statement is read over to the accused and he is required to append his signature or thumbprint, if the statement reflects what he said. Theoretically, the accused may refuse to sign if the statement differs in any sense from the one he willingly made.

To protect the interrogation process, the station crime officer is required to rigidly observe, and to

enforce "the rigid observance by members of the police station, of the Judges Rules in the interrogation of suspected and accused persons". Section 254 of the Criminal procedure code (C.P.C) further states that: "No influence by means of any promise or threat or otherwise shall be used to an accused to induce him to disclose or withhold any matter within his knowledge". Even when an accused is ready to, and in fact makes a confession, S.126(2) of the CPC states that "No police officer shall record any such confession unless after questioning the person making it, he is satisfied that it is made voluntarily".

To prevent malpractices and arbitrariness in investigation, the investigating police officer (IPO) is required for every case to open a case diary in which he shall set forth in chronological order' all actions regarding the particular case. Such, may include: The time when he began his investigation, all information received by him in connection with his investigation, and the time when such information reached him. The IPO is also expected to state: the places visited by him, any directions given by a court in the course of the investigation, and any facts ascertained as a result thereof. Other components of the crime diary are statements of witnesses, statement of the circumstances

ascertained through investigation, and the time when investigation was closed.

Since the case diary together with the police First Information Report (FIR) are submitted to the court, it allows for judicial review of investigational procedures and practices. Note however that an officer in charge of a station can terminate investigations without an inquiry or trial, 'after entering in the case diary a summary of the case and his reasons for terminating the investigation'. But, he "shall forthwith inform the court and the court shall thereupon endorse upon the first information Report the fact of such termination ...provided that the court may, if it is not satisfied from the information given that the investigation has been properly terminated, order that the investigation be continued and the case diary be re-opened".

As for the pretrial release decision, the law provides that any person accused of an offence punishable with imprisonment not exceeding 3 years, or is detained without warrant, "shall be released on bail unless the officer or court, for reasons to be recorded in writing considers that by reason of the granting of bail, the proper investigation of the offence would be prejudiced or a serious risk of the accused escaping from justice be occasioned". Such offender must of course be prepared to

give security which "shall be fixed with due regard to the circumstances of the case and shall not be excessive".

A person arrested without warrant, is to be taken 'without unnecessary delay' before a court competent to take cognizance of the case. Furthermore, "no police officer shall detain in custody a person arrested without warrant for a longer period than in the circumstances of the case is reasonable. Such period shall not in the absence of an order of a court exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the court and of any intervening public holiday. It is to be noted however, that while accused persons are normally not allowed to be detained for more than 24 hours, "the court may from time to time, on the application of the officer in charge of a police station, authorise the detention of the person under arrest in such custody as it thinks fit for a time not exceeding fifteen days, and shall record its reason for doing so".

In the area of charging, the police in the northern parts of Nigeria unlike their counterparts in the south, do not frame charges. They can only suggest the section of the penal code upon which they intend to base their prosecution. This suggestion is contained in the police

first information report that is submitted to the court at the first hearing in a case. The task of framing charges then devolves on the courts who are guided as to the nature of the offence alleged; from the First Information Report (FIR).

One way in which prosecutorial arbitrainess is checked in the northern states, is the bringing in of the courts quite early, in the decision to prosecute. For example, since the 'court must frame any charge preferred against an accused', and the court would only frame a charge when it is satisfied that there is a prima facie case against the accused, it follows that prosecution cannot be undertaken by the police in a case, which a court competent to try and punish has refused to form a charge. A court can amend charges in the police F.I.R, it can order that a case be terminated, and it can also order that the case be reopened. It can even decide to grant bail against the wish of the police after the preliminary hearing. And so, in all the manner described above, the CPC seeks to ensure that prosecutorial decisions are not left to the police alone.

The efficacy of the foregoing procedural laws in safeguarding citizen's rights form a major concern of this study, as will become obvious in subsequent chapters.

CHAPTER TWO

THE POLICE AND PRETRIAL JUSTICE: THEORETICAL CONSIDERATIONS

2.1 INTRODUCTION

The Multiplicity of Sociological commentaries available on the police can be broadly subsumed under three major theoretical perspectives. They are structural functionalism, social interactionism, and Marxism. in the pages that follow, the relevant literature are reviewed within those perspectives.

2.2. STRUCTURAL FUNCTIONALIST PERSPECTIVE

The structural functionalist perspective, conceptualizes society as a self contained system comprising interrelated and interdependent structures. These structures or parts of society, exist in a mutually reinforcing state of equilibrium (see Brown 1935). The function of each structure is its contribution towards maintaining society's structural continuity. A social problem is then said to "Manifest itself when one or more of society's need is not met or when its continued existence is threatened" (Merton 1960). Situations of imbalance brought about by social problems are corrected by certain vectors. Those vectors are automatically

generated by society through its in-built processes of self-adjustment.

The police is viewed by structural-functionalists, as one of such corrective vectors. The police comes into being in every society as a "functional imperative' to contain the "socially dysfunctional stresses' that accompany development. According to Bent (1974:ix), the police is "undoubtedly, the control agency of last resort, made obligatory by the inadequacies of the primary agents of social control". Skolnick (1966:7) also argues thus: "The *raison d'etre* of the policeman and the criminal law, the underlying collectively held sentiments which justify penal sanctions, arises ultimately from the threat of violence and the possibility of danger to the community". Society responds to threat against its cherished values by enacting laws. Such laws proscribe certain acts and prescribe others. According to structural functionalists, the laws embody collective interests and communally agreed upon values. This argument is premised upon the assumption that there is value consensus in society. that is all members of society are agreed upon what is good behaviour and what is unacceptable behaviour. The logical conclusion then is that the law is fair, impartial and beneficent. Furthermore, functionalists, argue that the police which

gives visible expression to the law, is also characterised by those attributes of law.

Moreover, structural functionalists, holds the individual policeman to be capable of great flexibility. This according to the perspective, enable the policemen to adapt his personality to societal needs. The perspectives overall stance is then one of optimism. It posits that problems associated with the police can be corrected through reform, rather than complete transformation of society. Such reforms are to be informed by "systematic empirical studies based upon representative sample and quatifiable data " (Gattfredson and Gottfredson 1980:153).

Typical of structural - functionalists, they do not make any explicit statement about the specific ways in which such reforms may be brought about. Their idea of how social problems can be surmounted consists, in the main, of "pointing to factors that enhance consensus building "(Etzioni 1976:7). For example, the police is pointed at, as a consensus building structure of society which combat the social problem of crime. The problem that structural functionalist run into, as a result of this conception of the police, is that it becomes nigh impossible to conceptualise the police as a possible source of social problems.

To get out of the self-created impasse, some structural functionalists revert to individualistic explanations that are inconsistent with the perspectives epistemological foundations. Such explanations place the blame for police ills not on society, but on the individual policeman's pathology or his family background (See Etzioni 1976:7). Others attribute the ills, to the existence of deviant subcultures within the police force. For example, Stoddard (1970:68) asserts that, there is a:

> functioning informal social system (within the force) whose practices are at variance with legal statutes.... In these tight informal cliques within the larger police force, certain exploratory gestures involving the acceptance of small bribes and favours can occur. There is a hazy boundary between grateful citizens paying their respects to a proud profession, and 'good' citizens involved in corruption wishing to buy future favours.

Westley (1956.92) gives an indication of why such illegality could thrive, when he stated that:

> It is an unwritten law in police department that police officers must never testify against their brother officer. ..... (this) norm of secrecy emerges from common occupational needs, is collectively supported, and is considered of such importance that policemen will break the law to support it.

Others have tried to explain away pervasive police discrimination corruption and other abuses of office, by attributing same to the individual characteristics of a few "rotten apples" in the force (see Goldstein H. 1975).

So while this perspective explains police functions in terms of structures or societal needs, it explains police 'failures' in terms of individual characteristics. By so doing it fails to truthfully follow the widely accepted distinction that Mill (1959) makes between social issues (structural) and 'personal' troubles (individual). According to Humphries and Greenberg (1981:210), the perspective is 'at best incomplete'. This is because it fails to "specify how the outcome (crime control) is connected to the cause (functional need of the system)"

Structural - functionalist's conception of the police, as impartial and benign enforcers of law is predicated on the assumption that the law and the police are exemplifications of communally agreed upon values. Aiderson (1975:8) for Instance, declares thus:

> there is no substitute in a civilized society for policing by consensus, however tenuous that notion may seem at times. The strength of the police... do not rest on bigger battalions, fire power, or legal and administrative power but on a partnership between people, government and police: (see Tamuno 1970, Bent 1974, Marshal 1975 for similar views).

Marxists however discountenances the idea of a consensual police force, enforcing a communually agreed upon law. Taylor *et al.* (1973:214) articulates the Marxist position thus:

> The idea that individuals freely or wilfully enter into contracts with the State, and that these contracts coalesce as law ignores the material basis of power. Where material condition express themselves as relationships of inequality and exploitation, as under capitalism, the idea that law bears anything other than a very indirect relationship to will is utopian.

Without the prop of societal consensus on values, a substantial proportion of structural functionalist discourse on the police collapses. Its credibility as a conceptual frame of reference for any study is also considerably undermined.

Structural - functionalist concern with structural continuities and its sweeping abstract generalization further limits its usefulness as a theoretical frame for the present study. The macro-analytical framework that the theory proffers, is inadequate for conceptualising and appreciating the intricacies of the informal justice process. Structural functionalist survey methods are also, not suitable for under taking an exploratory study of a closed organisation like the police. This is because such methods would only show the cause and effect relationship between variables without showing the "how" and the "why" of such relationships. The findings would not show what actually motivate members of the organisation to act in particular ways:

> "....we do not know the run of their experiences which induced an organisation of their views, nor do we know what that organisation is; we do not know

> the social atmosphere or code in their social circles, we do not know the reinforcements and rationalisations that come from their fellows; We do not know the defining process in their circles; we do not know the pressures, the incitants, and the models that come from niches in the social structure; we do not know how their ethnical sensitivities are organized and so what they would tolerate -----(Blumer 1969:131).

Yet a valid characterization of the informal justice process required that the above are known about its principal actors - the police. In criticising structural-functionalists methodology, Blumer was also outlining the basic premises of the social interactionist methodology. Social interactionists, argue that police working personalities and reactions are not static, but highly dynamic and malleable. As such, information on those attributes cannot be elicited by questionnaires or other survey methods. To really know the police, there is a need to get close to the police organisation and be part of it for a period of time. This can be achieved through the participant observation method.

Functionalists however criticises social interactionist findings as lacking objectivity and scientificity. Structural functionalists argue that a social science becomes more objective, the more its methods approximate those of the natural sciences (Etzioni 1976). They therefore tend to reckon only with quantifiable data and undertake quantitative analysis. Cuff and Payne (1979:50) however insists that no social

science can claim total objectivity. They argue that even the very concept that structural-functionalists use belie their claim to objectivity. Those concepts, "e.g. equlibrium, disequilibrium, normal, pathological, functional, dysfunctional etc. do imply an evaluative view of society" (Cuff and Payne 1979:50).

Quinney (1975), arguing from a Marxist viewpoint posits that, the notion of objectivity is just a shield behind which functionalists hide their support for the *status quo*. It enables them to reckon only with conditions that are given and to operate only with the official reality. Furthermore, it allows them to take the legal order for granted, and to direct research towards how the system works rather than on what a just system would look like.

2.3 SOCIAL INTERACTIONIST PERSPECTIVE

The focus of social interactionists is not on society nor its social structures, but on the immediate context or process by which certain behaviours are considered as problematic. Criminological researches from the social interactionist perspective, emphasises the "processes" by which persons are defined as deviants.

Pilliavin and Briar (1964), Cicourel (1967) and Terry 91967), all studied the decision of law enforcement

agents relating to juveniles. Their findings were similar.

Pilliavin and Briar (1964) found that male juveniles are more likely to be arrested. This is more so if their "group affiliation, age, race, grooming, dress and demeanour" indicated to the police 'that they are' rough guys'.

Cicourel (1967) found that the juvenile officers decision is largely determined by the extent to which the juvenile matches his preconceived notions of the typical delinquent. The typical delinquent from the officers view point comes from a poor broken home, or from a slummish neighbourhood. He might also be from an ethnic minority, dressed in hippy fashion and lacks grooming. He generally has no respect for constituted authority. In other words, Cicourel (1967) found that legally irrelevant variables or 'cues' were the major correlates of the juvenile officers decision to book and process alleged delinquents.

Cicourel however notes that such officers do not just act on the basis of their preconceived ideas. Rather, a 'process of negotiation' occurs between the two parties, during which the officers notions are more often than not, confirmed.

Cicorel (1967) also found that the amount of crime recorded by social control agents varied directly with the pressure from the public demanding that the police should act, and the intensity of "the heat" from the police boss. He reached two conclusions. First, justice is a product of negotiation between the alleged offender and law enforcement agents. Secondly, crime is created by the agencies of social control.

Police creation of crime is at two levels. At the first, fluctuations in crime figures is seen as a product of police (rather than actual criminal) activities. At a second level the 'criminal process' is itself seen as criminogenic. This is because the deviant identity or *stigma*' that a person acquire from being processed by the criminal justice machinery, bars him from assuming normal societal roles (see Becker 1963, Goftman 1961, 1963). As such he is denied access to legitimate means of earning a living. He may as a result be propelled into secondary and more serious criminal acts, to survive (Lemart 1972).

Skolnick (1966) gives precedence to the policeman's working personality among the factors shaping his behaviour. This personality, according to Skolnick, is itself shaped by the conditions under which the policeman works. The conditions are: the constant threat of danger to the policeman, the policeman's constant need to

exercise authority in counteracting danger, and the constant pressure on the policeman to appear effective in the face of it all. It is as a result of the policeman's pre-occupation with violence or the above condition, that he develops a perceptual shorthand for identifying the 'symbolic assailant'.

Skolnick admits that policemen are very conservative, and do strive to preserve the *status quo* as it is. He attributes this conservatism to the fact that:

> if a policeman did not believe in the system of laws that he was responsible for enforcing, he would have to go on living in a state of conflicting cognitions. A condition which a number of social psychologists agree is painful. (Skolnick 1966)

Only a very few studies have been conducted on the Nigerian police from the social interactionist perspective. Chambliss, though more known as a Marxist, adopted the social Interactionist method of participant observation in carrying out a comparative study of crime in Ibadan (Nigeria) and Seattle (U.S.A). He found that corruption and extra-legal disposition were pervasive features of both legal systems. He attributed this, to the capitalistic socio-economic order of both countries, and concluded on this note:

> Law-enforcement systems are not organized to reduce crime or to enforce public morality. They are rather organized to manage crime by cooperating with the most criminal groups and enforcing laws against those whose crime are a

> minimal threat to society. In so doing. the law enforcers end up as crime producers (Chambliss (1975:177).

The strength of the social interactionist perspective over the structural functionalist perspective, emanates mainly from its emphasis on contextual and processual aspects of justice. The micro-analytical framework that the perspective proffers, more ably conceptualizes the problem of this study than the sweeping structural generalizations of structural functionalism. Ditto for methodology which are implied in each perspective. The qualitative methods of social interactionsm are superior for a largely exploratory study as the present one. The methods of social interactionism can paint a more "accurate picture of patterns and phenomenological reality" of the police station.

Yet another strength of the social interactionist perspective over the structural-functionalist perspective, is that it recognises the existence of social conflict and competing societal rules. The social interactionist perspective is then able to ask questions concerning who make rules, in whose interests are such rules made, and in whose interest are they enforced? (See Becker, 1963). Such questions are considered fundamental to any meaningful conceptualization of pretrial or informal justice by the police. But structural

functionalist shield themselves from such question by taking value consensus for granted and clinging to tenuous arguments about objectivity.

It is within the strengths of the social interactionist perspective, that its weaknesses are also found. Firstly, because of its narrow focus on interaction situations to the neglect of external structures that may have a bearing on same, social interactionist cognition of the role of conflict in society is not explored to its logical roots in class antagonism. Their conception of police exercise of power is therefore not linked to economic relations in society but conceived in terms of policemen's interpretations of a situation and what response they think is appropriate. Social interactionsts lack a theory of power. As such their assertion that rules are made by powerful people in society is left "hanging in space.

Social Interactionists end up portraying policemen as free agents who act subjectively on the basis of 'meanings' that they carry in their heads. The source of such 'meanings' is not questioned or accounted for by social interactionists. For example, Pilliavin and Briar (1964), Terry (1967), and Cicourel (1967) all came out with similar findings; namely that police disposition decisions are influenced by the alleged offenders social

characteristics. But none of them explains why the police associate particular attributes of the offender, e.g. low socio-economic status, poor grooming etc, with criminality. Nor do they explain how the police come to attach so much importance to such 'cues'.

So, social interactionists who accuse structural functionalists of neglecting the will or consciousness of the individual policemen and thereby portraying him as simply reacting to societal stimuli, also make the opposite mistake. They totally neglect structures outside the immediate interaction situation that may have a bearing on it. Social interactionist thereby portray the individual police man as fully conscious and totally independent of external structures. The 'Processes through which consciousness forms and actors acquire subjective interests' are left unexplored (Humphries Greenberg 1981:212).

Secondly, the exclusive use of qualitative methods as advocated by some social interactionists is fraught with its own problems. A study that relies on qualitative methods alone, suffers serious reliability and validity problems. This is because so much is left to the sensitivity and observational skills of the researcher. Replication of such studies have tended to produce widely

varying results, thereby putting their claims to scientificity in serious doubt.

Furthermore, qualitative research can only describe observed characteristics of any given social phenomena. it cannot account for the forms and variations that the phenomena displays. Accounting for forms and variations requires a progress from descriptive analysis (i.e. qualitative) to explanatory analysis (i.e. quantitative or statistical). Incidentally it is partly this study's objective, to account for patterns observed in the field. An exclusive use of social interactionist methodology would render this objective unrealizable.

To the extent that the perspective puts forth no solution to the pervasive problem of police deviancy that it identifies, it is further wanting as a conceptual frame. The social interactionist perspective, insists that problems such as 'police deviancy' or general miscarriage of justice, would continue no matter what is done. This according to them is because mankind shall always live with the 'universal difficulties of communication, ambiguities of meanings, difficulties of interpersonal transactions, and the abuses which arises as those are dealt with "(Etzioni 1976:33). All of which give rise to police (mis)interpretation of 'cues' and the resultant behaviour displayed. In other words, the

approach is inherently pessimistic about human capacity to reform or change the police in a permanent sense - not even through a social revolution. Such a self-defeating approach is incompatible with the purpose of research in general, and with the objectives of this research in particular.

2.4 MARXIST PERSPECTIVE

Marxists argue that the ownership and control structure of the 'means of production' divides a capitalist society into two major antagonistic classes. The capitalist or ruling class owns and control the means of material and mental production, while the working or subordinate class has only its labour to sell. According to Marx (1945:48), "these existing relations of production between individuals must necessarily express themselves also as political and legal relations".

Under a Marxian criminology therefore:

> ....general questions of law and crime, of societal control and consent, of legality and illegality, of conformity, legitimation and opposition, belong and must ultimately be posed unambiguously in relation to the question of the state and class struggle [Hall *et al.* 1978:175).

The Marxist perspective holds that, the capitalist class by virtue of its dominant economic power is in alliance with the state, and dominate the state

apparatus. One of the many tactics by which the capitalist class seeks to perpetuate the existing *status quo* is criminalization. By this process, it 'defines as illegal, and tries to punish actions that threatens its interest' (Humphries and Greenberg 1981:213).

Marxists trace, and are able to link the very existence of the police, to the development of capitalism. They assert that it is not mere coincidence that police forces as they are known today, emerged in the early stages of capitalist development (see Reiman 1979). The first modern police force emerged in 19th Century Europe to create a favourable atmosphere for the emergent capitalist class which was a product of the industrial revolution. Marxists argue that the police was needed to suppress dissent from the mass of dispossessedd peasants who were simultaneously being moulded into the new working class.

From the Marxist perspective therefore, policing in capitalist societies has always been, and is still being targeted "against the real economic and political threat posed by organised class struggle (Green 1991:1). The police was needed in the early nineteenth century to order Europe in ways conducive to capitalist development. It was also needed in the colonial era, to conform colonised territories to the demands of international

capitalism and to facilitate the exploitation of such territories.

Ahire (1991) argues that law and the police were introduced into colonial Nigeria in order to facilitate European exploitation of her (Nigeria's) indigenous resources. The role of post independence "Nigeria police force" NPF, has remained essentially, the protection and perpetuation of the capitalist social order. This is so because, the interest of the indigenous capitalist who stepped into positions vacated by the colonial masters, are not different from the interests of the erstwhile masters (see Ahire, 1991 and Omaji, 1984).

Marxist methodology is mainly historiographical. It examines society's productive forces with a view to determining the dominant relationships characterizing different historical epoch. The rationale for that methodology is articulated by Marx thus:

> In the social production of their existence men inevitably enter into definite relations which are independent of their will, namely relations of production appropriate to a given stage in the development of their material forces of production. The totality of these relations of production constitute the economic structure of society, the real foundation, on which arises a legal and political super-structure and to which corresponds definite forms of social consciousness (see Rubel 1968).

Marxists are therefore, able to handle and ask with greater emphasis, the question that social

interactionists poses but do not answer, namely; "who makes the rules and why" (Taylor *et al.* 1973:221). They posit that the ruling class makes law in furtherance of its interests. Since the interest of the ruling class stands opposed to those of the subordinate class, it follows that the law is biased against the subordinate class. Furthermore, Marxist argue that the police in enforcing these bias law, further discriminate against the poor powerless members of the lower class. This is so, because the police in determining where to look for crime, who to arrest, what charges to frame and how to observe due process, cannot afford to antagonise members of the ruling class, who control their allocation.

Reiman (1979: 104-105) articulates the Marxist view of police law enforcement activities eloquently:

> The policeman who guard the access road to prison make sure that more lower class people will make the trip than well-to-do people... The decision about whom to investigate, arrest or charge is not made simply on the basis of the offence committed or the danger posed. It is a decision that is distorted by a systematic economic bias that works to the disadvantage of the poor.

In a similar vein, the American Friends Service Committee (hereafter AFSC, 1971), argue that the very existence of police discretion is because the dominant class finds it useful. First, it makes life easier for their members, for whom life under rigid enforcement of

laws would be intolerable. Secondly, police discretion is useful to the ruling class for purposes of political expediency. For example, laws which the legislators do not want, but which the public insists upon, can be passed to palliate public desires but with no intention of their ever being enforced. Thirdly, police discretion provides protection for members of the dominant class by making it possible for police to make exceptions in cases involving them.

AFSC (1971) argues further that in 12th and 13th Century Europe, the CJS provided escape hatches exclusively for upper class members in the form of banishment, church asylum and clerical immunity. In present day society, police respond to the need to provide escape hatches for members of the upper class through the exercise of discretion. The AFSC (1971:36) articulates this view thus:

> By and large, functionaries of a criminal justice system are either members of the politically and economically dominant classes of the society or totally subservient to these classes. Generally, these functionaries make exceptions only when they identify with the cultural values of the defendant or when the defendant is not seen as a threat to the dominant political, moral or economic systems, or when the defendant can exert power or influence on the political system.

It is on the same note, that Newswatch Magazine indicts the NPF for "its focus on, and single minded

pursuit of cases involving helpless citizens who neither have the money nor possess the right connections to wade through the labyrinthine maze of the country's judicial process"[24]. The magazine illustrates this indictment by featuring the story of two aged night watchmen who are charged with negligent conduct and detained for over two years without trial because the police were still investigating a robbery. The robbery was in the premises of a company where those guards keep watch. This news story is contrasted with that of a multi-millionaire culprit of murder, who is allowed to go scot free because he remained mute throughout interrogation. The write up is concluded on this note: "while the poor citizenry or common man continue to bear the brunt of the police crime fighting efforts, wealthy and highly placed Nigerians may get away with murder. For them the arm of the law is too short to serve as a deterrent'[25].

From the Marxist perspective, corruption is held to be endemic to the capitalist socio-economic environment. It is a canker-worm that eats into every sphere of human activity. This phenomena, according to (Marx, 1971:44), is because the capitalist epoch is one in which everything has been transformed into a commercial commodity. It is the time of general corruption, of universal bribery. Murphy (1973:3) explains further that, under capitalism, the business ethic, anything for a

price, establishes a climate in which corruption is rationalized as just something everybody is doing".

Chambliss (1975:172) found that in Nigeria, "payment of bribes to the police is usually possible whenever an arrest is likely". Agbareh (1991.7) also assets that in Nigerian police stations, "complainants have to oil their way to get attention. The suspect accused have to bribe their way out on bail"[26]. The African Guardian also reports as follow: To many Nigerians, corruption is second nature in the public service. It is common knowledge that nothing gets done for free. Instances abound in which top government officially demand bribes before they carry out duties for which they are being paid[27].

Indigenous studies of the Nigerian police, conducted from Marxian perspectives have approached the subject from the structural/historial context. The findings of the various studies in a nut shell amounts to this: The the *raison d'etre* of the NPF is the protection and perpetuation of the capitalist socio-economic order (see Ahire, 1991. Omaji, 1984). Given such broad conceptualizations, the reader is left to make inferences about the situational, character of particular instances of police/citizen encounters. It is easy to infer that police actions in such close up situations would work to

the disadvantage of interests opposed to the established order. That is, against the interest of the working class.

The strength of the Marxist perspective over the other perspectives earlier reviewed lies firstly in its ability to show that conflict characterises all social relations. Note that it traces the root of such conflicts to class or economic relations. Secondly, the Marxist perspective proceeds upon the realist paradigm. It is concerned with objective reality but at the some time committed to subjectivity. This reflexibility enables it to borrow from the insights of other perspectives without being methodologically strait jacketed. While maintaining its basically structural outlook, Marxism can adapt itself to situational or contextual analysis, which is more suitable for handling the phenomenological intricacies of this study's subject.

The theoretical perspectives have been reviewed in ascending order of their adequacy for this study. The Marxist perspective is apparently the most adequate as a conceptual framework for conceiving the research problem. The perspective is however, not without its critics.

Social interactionists criticize Marxists for ignoring; the will of the individual policeman, the meanings he (policeman) attaches to his actions, and the

processes leading to his decision to apply the deviant label to some people and not others. Social interactionists argue that Marxism then end up portraying policemen as robots who merely pitch according to the dictates of the economic infrastructure. This view of Marxist criminology as a 'crude, and one dimensional economic determinism' is however not correct. Marxist are aware of the ways in which social control can lead to deviation just like the social interactionists. The difference is that Marxists are able to situate such situational processes within their proper historical and structural contexts, which social interactionists are not able to (see Taylor *et al.*, 1973).

Marxism has also been criticized for wrongly conceptualizing the police as mere tools of the ruling class. This allegation is again not strictly correct. Marxism recognises police relative autonomy. Even Marx and Engels recognized this fact. Hence Engels (1890:403) writes that the state "while having, in the main to follow the movement of production, reacts in its turn, by virtue of it is inherent relative independence".

Another criticism levied against Marxism, is that the approach is inherently pessimistic over the possibility that police reform may achieve anything. That the perspective believes in an inexorable automatic

movement of society towards the socialist revolution that is supposed to bring the police into harmony with objective reality. Such critics go further to argue that revolutions do not come easy and that even when they come, experience has shown that they do not end all problems. The main thesis of this group of critics is that Marxism is intellectually stultifying. They argue that the inevitable conclusion of any work conducted within the perspective, is to ask that we wait for the socialist revolution as nothing can be done to change the present state of things under capitalism (see Nwosu 1984).

Cliff and Payne (1979) however, argue that Marx was fully aware that man must take action if changes in the relations of production are to occur. So there was no inevitability of change for him. Though Green (1991) dismisses as anti-theoretical, the "reformism, particularly the concept of police reform that today characterises much of what passes as left wing criminology", she later clarify the Marxist position on police reforms thus:

> Accountability is an important question and Marxists do not oppose reforms to the police. However, because the police are seen to represent interests in fundamental conflict with those of the working class, police reform must be considered a relatively minor tactical issue, to the balance of power between the two opposing interests. For a Marxist analysis, the central question must not be how the police are

> organized, but how the working class is organized. (Green 1991:5).

Marxists have also been criticised for giving centrality to class struggle as the source of social conflict, while neglecting ethnic, regional, racial and other conflicts which are based not on economic factors but on authority (see Dahrendorf, 1959). This is perhaps the only valid criticism of Marxism so far. As Humphries and Greenberg (1981:212), notes even when a crime control measure does embody the interest of a class, the form that measure takes, can rarely be explained in terms of the interest alone. In pursuing its interest, a class is checked by many constraints". But even this criticism has been described as unfounded by Westergaard (1975). He asserts that, though capitalism has witnessed great changes, modern society is still largely built around the private ownership of the means of production. Social life, is therefore, still shaped, basically by that fact.

It can be concluded that most of the criticisms against Marxism are based upon on inadequate grasping of the approach and are as such unfounded. The Marxist perspective is adopted as the theoretical frame for this study in agreement with Ahire's (1985:227) conclusion that:

> The police institution cannot be understood outside of the historical and political context in which it operates. Only such a context can reveal the concrete material conditions of

> existence, how these generate particular social relations between dominant and dominated groups, and the role played by the police in mediating inter-class conflict and other social contradictions.

2.5 CONCLUSION

From the foregoing review, the Marxist perspective clearly emerges as the most appropriate for conceiving the research problem. It is also obvious however, that the strengths of the different perspectives tend to be in different areas. The pertinent question at this juncture is whether to supplement Marxism with insights from the two other perspectives. Cuff and Payne (1979:186) says no. According to them;

> To a great extent, each perspective offer a 'complete' a self-contained way of thinking about and studying the social world. In a very real sense, to see the promise of an alternative perspective is to go a long way to abandoning the presently held perspective. It is for this reason that a unified sociology cannot be brought about by simplistically adding together the 'best bits' of each perspective.

Collin and Newly (1977) however argue that espousal of 'epistemological exclusivism' is only tenable for the natural science. Or when the discipline of sociology is conceived in Kuhnian terms as a paradigm. But sociology according to them is preparadigmatic. They thereafter declare their support for 'methodological pluralism' or a combination of perspectives. They argue furthermore, that in practice, the methodology that the different

sociological theories have used in their studies, are not as sharply distinct as apostles of methodological exclusivism tend to portray. To buttress this argument, Collin and Newby (1977:27) claim to have found "among Marxists, an astonishing range of methodologies, many of them reflecting an unremitting positivism which in other contexts they are so concerned to discard".

Lofland (1969) also argues that Karl Marx 'employed functionalist logic' in his works. Even Cuff and Payne (1979) admits that positivist's emphasis on 'predictive power' is reflected in the works of Marx. They also described the tendency to characterise social interactionist exclusively in terms of qualitative methods as unfounded.

With particular reference to police behaviour, Jefferson (1990), argues for a combination of perspectives. According to him, functionalist's naive assumption that police exercise discretion benignly, 'enabled the belief in impartial law enforcement to survive more or less intact' Marxists, in emphasising the 'class based outcomes of discretionary decision making exposed the hidden politics of policing' Social interactionists ensured 'an understanding of the processes through which such outcomes were routinely achieved'. Jefferson (1990:131) then concludes that:

> What was needed was a combination of the strengths of the radical critique (with its attention to outcomes, that is the social function of law enforcement) and those of the liberal critique (with its attention to processes, that is the means, through which such out comes are achieved.

In the light of the foregoing discussion, the proposed study, need not be rigidly forced into one perspective. Hence while the Marxist perspective forms to the major conceptual frame of reference it shall be supplemented with compatible insights from the other perspectives where necessary.

CHAPTER THREE

RESEARCH DESIGN

3.1 LOCATION

The research sites were, Zaria (Sabogari) divisional police headquarters and Samaru divisional police headquarters. The consideration for selecting these sites include the following: first, they adequately represent police organisations and practices throughout Kaduna State. Secondly they handle a large number of cases. These cases evolve from a cosmopolitan population made up of people with diverse cultural and socio-economic backgrounds. From such an heterogeneous population, heterogeneity could be expected also, in crimes committed, thereby enriching the data generated.

The research sites were also chosen out of considerations of convenience. Their proximity to my usual 'base' enable me to cut down considerably on the financial cost of hotel accommodation, and the daily expenses of taxi-fares to, and from the research sites. My familiarity with the geography and languages spoken in these towns also made interaction with all participants easier. Moreover, the official permission from the state's police boss for me to proceed with the study took cognisance of the fact that I have visited both station

several times and my identity was known to their respective heads

3.2 PILOT STUDY/RAPPORT

My first attempt to gain access into the research sites, consisted of my approaching the Divisional Police Officers (DPO) of the respective police stations. In each case I was armed with my 'identity card', and an 'introductory letter' from my department stating the purpose of the study and asking for permission to carry it out. Both D.P.O's refused to grant the permission.

The D.P.O. at Zaria, in his angry retort, said:

> 'You students should stop coming here to disturb us. We are busy people and police work is not a joke. If you want to know about the police, finish your school and join..... get out. I have work to do'.

It took several trips to the state capital, and the formal intervention of the State's commissioner of police, before I was finally allowed to carry out the study.

On finally gaining entry into the police setting, I conducted a two-week pilot study to familiarize myself with police practices and procedures in general. More specifically, the purpose of the pilot study included; firstly, to gain the confidence and rapport of the

policemen before the actual study. Secondly to determine how best to win the confidence and rapport of the relatively transient arrestees and cell inmates. Thirdly, to select the most effective, efficient and rewarding time for the field work. The pilot study was also, to help work out the most appropriate modes of interviewing/observation, and the recording of same. Fifthly, the pilot study was to help determine what question in the interview schedules are to be modified, re-phrased or expunged and what new ones to be brought in. Finally, the pilot study was needed to help me discover and acquaint myself with hitherto unknown aspects or nuances of pretrial justice as dispensed by the police.

Establishing rapport with policemen of Samaru Station was quite easy. This was facilitated by the station's DPO. He personally took me round to all the offices, introducing me to officers and demanding that they cooperate with me. Winning the confidence of accused persons at Samaru was even easier. They were glad and eager to talk to someone who will listen. These discussions with suspects or other persons were again, facilitated by the station D.P.O. He allocated a room to me, where I could discuss privately with suspects or any other person, without policemen breathing down our necks.

The same cannot be said for Zaria (Sabo-Gari) police station. The D.P.O. persisted with his uncooperative stance though grudgingly giving his assent for the study after the intervention by the police commissioner. Hence I was not taken round for introduction to the officers. The consequence of this, was that I had to keep Introducing myself to each set of new faces on a shift, who would then go to 'oga' to confirm before allowing me to continue "meddling". This became quite disconcerting and I had to insist upon a formal introduction, after which an officer was delegated to do the job of explaining my presence to the policemen. All in all, I was past the week of pilot study and already in the actual study before I could say with any certainly that I had the trust and confidence of policemen at the Zaria Station.

Gaining the rapport of suspects at Zaria was as smooth as in Samaru. The only problem was that, while in Samaru I could take any person I wished to discuss with, to a private room, I had no such privilege in Zaria. I either conducted my interviews in the I.P.O's office to the hearing and in full view of police officers, or in cells to the hearing and in full view of other Inmates. These difficulties were however substantially reduced later on, after I had gained acceptance.

The pilot study indicated that 7.00 a.m to 6.00 p.m. daily, was the most rewarding for field observation. Field notes could then be written up at night. Also based on findings of the pilot study, the predetermined modes of generating data for the actual study were slightly altered. Interview schedules had hitherto been designed to elicit standardized information from suspects, police, complainants and witness. The aim was to generate quantitative data on these categories. It was however found that, that aim was only feasible for the suspect category.

I found that, generating quantitative data on all the categories tantamount to getting myself into a strongly quantitative 'frame of mind' which will only divert my attention 'away from the major features of the on-going setting itself'. It is simply not possible to administer a schedule of over 40 questions to samples of suspects, another of about 20 question to samples of complainants, another schedule of 30 questions to samples of policemen, and yet another schedule of 20 question to samples of witnesses, while simultaneously finding time to observe the several other features and "goings on" within the setting.

Secondly, I found that in respect of police respondents, the necessary range of variations in responses to questions was lacking. Police responses to questions of law enforcement were uniform, thereby rendering meaningful quantitative analysis impossible.

Thirdly, generating quantitative data would involve introducing some instruments for measuring variations in variables into the setting. For example, questionnaire, pencils, tapes, research assistants to help handle the large sample of respondents etc, would be needed. All these would prove socially disruptive in a setting where my presence alone was already generating some ill feeling among the policemen.

Finally, a representative sample of respondents is needed for quantitative analysis. I found that representative samples could not be obtained from Complainants and witnesses.

3.3 SAMPLING

There was no sampling frame from which to draw a representative sample, from the complainant and witnesses population. It was at the same time not feasible to Interview all the element constituting those population. As a result, the 'reliance on available subject' method

of non-probability sampling was used in determining who to interview. The major considerations were: first, whether the subject could and was willing to spare the time, secondly whether I was free to spare the time and thirdly, whether something more important was not happening elsewhere. Note that the data so generated were used for the qualitative analysis. A representative sample, which I could not obtain, is a prerequisite for quantitative analysis.

The responses of policemen to standardize question lacked variations. Data so generated were also statistically not relevant, though a representative sample could be obtained from the population. for purposes of qualitative analysis therefore, the purposive or judgemental sampling method was used to select those to engage in in-depth unstructured interviews. The criteria for selecting 'who' to interview were based on: first, my prior knowledge of the different professional roles that they play in the station, secondly the level of rapport already established with them, and thirdly their willingness to be part of such on Interview.

For the fourth population, namely accused persons, it was possible to obtain a representative sample by interviewing all arrestees brought to the Stations for

the duration of the study. It was data from this population that form the core of the statistical or quantitative analysis.

3.4 VARIABLES

Quantitatively, three categories of variable were examined. They are first, socio-demographic attributes of accused person. Secondly, disposition decision of the police. Legal influences on police decision were the third category of variables considered.

These categories of variable are logical correctes of the major working hypothesis of this study. The hypothesis is that "socially disadvantaged arrested are more likely than the advantaged to be detained, tortured and prosecuted".

The Socio-demographic characteristics of an arrestee which make him either socially advantaged or disadvantaged were operationalized into the following variable: His socio-economic status, ethnic status, age status, gender status, prior record status and residence status. Those variables constitute the independent variables of this study as far as statistical analysis is concerned.

The police decision were operationalized into decision about torture, prosecution and how long to detain offenders. These are the dependent variable. They were cross-tabulated with the independent variable listed above, in order to determine their relationship.

The third category of variable consists of factor that may intervene in the relationship between offender's socio-demographic characteristic and police decision making. These factors are the control variables. They were operationlized into offence type, complainants dispositional preference, relational distance between complainant and alleged offender and demeanour of accused person.

For the purpose of qualitative analysis, a much broader spectrum of variable were examined. In fact, the target was to 'observe everything' within the field of study. In addition to recording data for the quantitative variables outlined above, I was also concerned with noting every occurrence, wether legal, extra legal or outrightly illegal. Moreover, I was all the time trying to discern their possible bearing on the outcome of each and every case. Some variable that I was Interested in were simply not amenable to open solicitation for information. For example, questioning respondents about

their illigal activities is not only likely to produce false responses, but may also jeopardise rapport. Prominent among such illegal activities was the prevalence of the offering and taking of bribe or gratification in both stations studied.

3.5 MODES OF DATA COLLECTION

In carrying out this study, three complementary modes of data collection were used. they are namely; direct observation, unstructured interviewing, and structured interviewing. The choice of these methods was informed by the nature of the research problem. Other considerations were; the accessibility of data required, the use that the data are to be put, and the compatibility of the data so generated with the study's overall conceptual frame.

3.5.1 Direct Observation

Direct observation was adopted as the major method of this study, because of its advantages over other methods. It ensures a deep and comprehensive understanding of the elusive phenomena called informal justice. Informal or pretrial justice is largely invisible justice. To capture the several nuances of attitude and behaviour characterizing it, it must be

understood within its natural setting. This thesis is supported by Omaji's (1984:54) finding. This was in his attempt to analyse the operation of the Nigerian criminal law. He found that "the rules which govern the processes of law enforcement become only comprehensible when they are seen in action. In the abstract they seen a hopelessly abstruse and confusing muddle".

Furthermore, informal justice is best studied by direct observation because as a social process over time, it is not amenable to the static or variable analysis of survey methods.

In adopting the direct observation method, I opted for the known observer" status. This, if for no other reason is because it was inevitable. There is simply no way an "outsider" can carry out a covert observational study of the police, in the police station for six consecutive weeks (or 42 consecutive days) without being discovered and running into serious trouble. But even if it had been possible to adopt the unknown (covert) observer status, I would still have chosen the known observer status. This is because it afforded me the following advantages: As a known observer, I was able to move about, observe and ask questions unrestricted. Having being introduced round as a student researcher,

many policemen saw me as a 'novice' on a sort of industrial attachment to gain practical experience. Naturally then, I was expected to have a wide range of curiosity in enquiring about events around me. I exploited this advantage to the fullest. The policemen, especially after rapport was established, were quite forthcoming in enlightening me, on my 'naive' question.

Secondly, the known observer status allowed me to structure my movement and time as I wished. Decisions about where to be and when, were almost entirely mine. For example, when to be in the interrogation room, when to be by the "counter", when to be in the IPO's office, when to be with the inmates, when to take notes or jottings in front of everyone, when to withdraw to a quiet place to take down more confidential notes, and so on.

Moreover, as a known observer, I did not have to battle with ethical questions of deception or twinges of conscience that accompany covert research. The participants knew I was there to observe them, and that was precisely what I was doing.

The known observer status is however, not without its own disadvantages. Prominent among them is the fact that the presence of an observer which the participant

are aware of, might cause on alteration in the normal behaviour patterns of the participant. This may ultimately defeat the purpose of the research. In this particular study, such negative effect of the researchers presence where negligible. This is because, after the initial period of battling with problems of acceptance and rapport, I blended successfully with the policemen to become almost one of them, a true participant. But I never did lose sight of my objective of being there.

I learnt to take my observer role not just as the act of looking, but the interweaving of looking, listening and asking. I frequently engaged units of the diverse participants of the setting in conversation. This was to cement good relations as well as eliciting information. Such conversation or "casual interviewing" proved quite helpful in the face of the difficulties of conducting intensive or even structured interviews with the myriads of participant.

On completion of each day's field work, I settled down at night to the business of writing field notes concerning events of the day. These field notes were a detailed rewriting of the jotted or mental notes made in the field. They consisted of running description of events and people at the station, descriptions of

facilities available and uses made of them, things that I heard or overheard, conversation among and between the different categories of participants, and my own conversation with participants. Other components of the field notes included: descriptions of persisting social regularities in the setting or a change in such patterns, occurrences that I previously forgot to record but which I now remember, any unusual or strange occurrences of the day, and those items on which I will need further information or clarification. The field notes, also contained my personal impressions and feelings about people and event in the station. Each entry in the field note is complete with chronological details as date and time. Most importantly, the field notes also contained my analytical ideas and inferences regarding how 'thing' seem to be patterned or working in the police station.

Writing the field notes was not always easy. Apart from my exhausted state at the end of each days field work, the task of writing up the large material was complicated by the fact that whatever I write could only represent a sample of my actual observation. I was very often confronted with the difficulty of deciding on what was important enough to go into the field note and what not. What line of tentative analysis to adopt. What event to summarize and which one to give a lot of details, and

so on were other problematic question faced. These difficulties were not made any easier by the fast that the field notes had to include empirical observation as well as my interpretations of them.

Even the field setting presented its own difficulties. There were occasion when observation became impossible because the police had taken the parties involved in a case to an office and shut the door. There were officers who were not happy about my presence and made no pretence of hiding their displeasure. One officer told me to my face that I am a nuisance. I frequently experienced feelings of helplessness at my powerlessness to help arrestees who were always begging me to intervene in one form or another to ameriorate their conditions.

I tried to compensate for any disturbing effect that my presence may have caused the police by making myself useful and in the process blend with them. I helped to take written statements from accused and others thereby reducing the work load on some officers. In some cases I acted as interpreter when certain people cannot effectively communicate with the police. For the inmates there were many that I helped to contact relatives or friends not aware they have been detained. I helped others to procure food, or drugs for their ailments.

3.5.2. Unstructured Interview

Unstructured Interview is more appropriate for qualitative or exploratory research, than its structured variant.

The flexibility afforded by the method enabled me to make my questions understood and to probe inadequate or unclear responses. Hence I was able to obtain detailed narratives in the interviewee's own words. From the large amount of rich qualitative material generated, I became sensitized to some subtle and dynamic aspects of informal justice previously unknown to me.

The population samples with which I conducted these interviews came from all the population categories earlier delineated. Unfortunately, the involvement, concentration, and time required for such in-depth interviews, coupled with the problem of managing the large amount of information so generated, severely restricted the number of respondents interviewed in this manner. But at least two people from each category was interviewed. Data from in-depth interviews were supplemented by data from 'casual Interviewing' which is another form of unstructured interview.

Problems encountered in conducting the constructed Interviews included *inter alia*: I had to take down everything in long hand as the police turned down my request to bring a tape recorder to the station. This was a quite tedious work, for while some statements of the interviewees could be summarized, others needed to be quoted verbatim. Secondly, I sometimes had problems in securing privacy for such interviews. There were also the peculiar problems of how to, on the one hand remain detached so as not to lead the interviewee and on the other hand to show sufficient interest. How to stop him from digressing without appearing to be controlling him, etc. But these are generally known problems of the method. I was prepared against them.

3.5.3 Structured Interviews

Three major consideration informed my decision to use structured interviews and quantitative methods. They are as follows:

First, there is a danger in relying exclusively on the qualitative data generated by the in-depth interviews and observational methods. This is because the qualitative researcher, no matter how well prepared he is against such, runs the constant risk of biased

observation or interpretation of some. The collection and analysis of structured quantifiable data was needed to augment my qualitative data by providing checks and safeguards against selective perception or misinterpretation.

Secondly, qualitative studies can only describe characteristics of phenomena. Their attempts at explanation, no matter how well articulated can only be regarded as conjectures to be tested in later studies. One of the stated aims of this study is to move beyond mere conjectures to test actual hypothesis and thus provide causal explanation. Only quantitative analysis can help achieve this aim. Hence the need to generate standardized statistical data as afforded by structured interview.

Finally, the population of accused persons, relative to any of the other groups, is quite large (over 400). To describe the characteristics of such a large number of respondents, structured interviews as a survey method is superior to any qualitative method.

Statistical analysis of variables of accused persons in relation to police decisions was possible, firstly because it was possible to interview all elements in the accused persons population. So a representative sample

was obtainable. Secondly, because I know enough about criminal process to be able to formulate questions and predetermine answers by structured interview.

Some problems were however encountered in using this method. First, limiting the interviewed population to the suspect category, did not totally eliminate the problem of social disruption in normal activities of the station. There were occasional when the police had to wait for me to conclude my interviews with particular suspects before doing anything further with them. For example, before releasing them on bail, or even before taking them to court for prosecution. Secondly, I found that one session of interviewing was usually not enough. There were some questions that suspect could not answer as they were yet to reach that stage with the police. Some respondents changed their initial answers to certain questions after sometime in custody. Finally, there was also the problem of inflexibility of the Interview schedule as a survey Instrument. Since questions and answer option were preformed, asking new question or recording 'unplanned' for answers posed a little problem. This was resolved by writing out all such, on blank spaces in the schedule. Codes were assigned to them, prior to computer analysis.

3.6 DATA PROCESSING AND ANALYSES

Qualitative Aspect:- the collection and analysis of qualitative data was interwoven. My field notes did not just contain description of occurrences in the field, but also analytical ideas and inferences about them.

The steps I took, towards developing these tentative analytical ideas into full blown analysis and empirical generalization began with the reading and rereading of the field notes several times. Files were than created to accommodate each of the several patterns of action that characterize the police setting. The source material for these files were of course, the field notes. I did not have to search far for abstract ordering categories to name patterns and their files. I simply used the well known terminologies of the CJS. As such, files holding the various patterns or phases in criminal process were variously labelled with titles as: 'arrest', complaints, interrogation, prosecution, pretrial release, and so on.

In each of the files, I took pains to explicitly compare the meaningfulness of the alternative inferences that can be drawn from any set of occurrences at the station. The list of possible inferences can be narrowed down to two types: first, is the participants own causal

explanation for any observed event or occurrence, and secondly, my own causal explanation of events witnessed.

These inferences sometimes conflicted. Balancing the conflicting explanations and deciding which one to adopt was determined largely by what I had trained myself to be alert for in carrying out the observation. I was particularly alert for similarities and dissimilarities in police handling of the different participants. I was also alert from the start to discovering norms of behaviour characterising each participant category. My preoccupation with noting patterns did not stultify my sensitivity to differences but made me more alert to them.

My analytical conclusion regarding any aspect of each area of pretrial justice were included in the relevant files covering such area. In this way, the storage and retrieval of materials was made more flexible and easily accessible. Having made up my mind on the kind of overall design that I wanted the analysis to take, it was easy to delve into any of the files for any information. The final analysis was guided by the study's conceptual frame.

Quantitative Aspect:- The respondents for the statistical analyses are constituted by the accused

persons population. Altogether, there were 443 respondents - 201 from Samaru station and 242 from Zaria police station. Because of this large volume of respondents and the sheer volume of variable involved the processing and analysis of data was done mainly by the computer.

To make the data readable and manipulatable by the computer, a code book was created in which a coding scheme was worked out. The coding scheme translated relevant variable and attributes pertaining to them, into 'codes' by assigning machine - readable numbers to them.

The main problem faced at the coding stage, concerned how to make the coding scheme as appropriate as possible to the theoretical concepts being examined in the study. This study is being conducted within the Marxian conceptual frame, and Marxist analysis is class analysis. But measuring the concept of 'class' itself, in Marxian terms posed some difficulties. This is because the manner in which one participated in the labour market is no longer a good indicator of his socio-economic status. To scale this hurdle, I decided to operationalise 'class' using three variable, namely; income, education and occupation. There were however, still problems in coding those variable to reflect their proper

operationalisms. For example the variable of occupation has a number of pre-established coding schemes. these Include: (a) coding along a continuum of skilled and unskilled location, (b) coding according to whether one is in government or private employment (c) whether in paid or self employment (which theoretically, approximates Marxist notions the most) (d) coding according to what sector of the economy one works (i.e. whether health sector, military education, commerce etc.), and so on.

The problem was in choosing which of those schemes, approximate Marxist definition of class most, while at the same time reflecting the realities of class privileges in present day society.

The SPSS-X (statistical package for the social Sciences) method of analysis was required from the computer. The analysis was done at three levels, namely: The univariate, bivariate and multivariate level of analysis.

At the univariate level, the computer print out described the characteristics or central tendencies of forty-two (42) variables. This was done by the computation of frequencies, percentages, cumulative percentages and various measures of central tendency.

At the bivariate level of analysis, eighteen (18) Independent variable were each correlated or cross-tabulated with nine (9) dependent variable. The respective values of the relevant measures of association and significance between variable were computed.

At the multivariate level of analysis, the established bivariate relationship were again examined, while controlling for the effect of a third variable. The two analysis when compared gave information about the gross (bivariate) and net (multivariate) effects of offenders socio-demographic characteristics on police decisions.

3.7 FIELD PROBLEMS

Discussions under the various subtitles so far dealt with, have included problems encountered at each stage of the research and how they were surmounted. It suffices to just add that the research was very demanding. For the three months duration of field work there was no social life for me. My working hours were wholly taken up by the research. I was either in the field observing or at home writing footnotes.

CHAPTER FOUR

THE NATURE AND CHARACTER OF PRETRIAL ACTIVITIES IN KADUNA STATE POLICE STATIONS

4.1 INTRODUCTION

This chapter presents the characteristics of pretrial justice, the forms it assumes, and the variations it displays. The delineation of the forms of police station activities is accomplished largely through the use of qualitative materials and descriptive statistics. The aim is to ensure an orderly presentation of rich descriptive detail.

4.2 THE COMPLAINT

Police charge rooms, are centres for the lodgement of complaints by members of the public. It devolves on charge room officers to ascertain the nature of every complaint made, and to decide on whether to proceed or not. When a charge room officer is satisfied that a complaint has merit, he records it in the crime diary under an appropriate charge. Then he refers the case to an IPO for investigation.

Sometimes, it is not because a case lacked merit, but out of a desire to 'settle' it informally, that charge room officers decide not to proceed. For example,

in a case of 'assault' involving neighbours, that was reported at the Zaria station, the desk sergeant tried to make the complainant understand that, it was a domestic matter. In an attempt to settle them amicable, he asked the accused to tender a verbal apology to the complainant. The accused person complied, but the complainant rejected the apology, insisting that the case must go to court. It took shrewdness and subtle persuasion on the part of the sergeant, to convince the complainant to drop the case - if only for the Interest of good neighbourly relationships. Eventually, the complainant agreed to drop the case.

Also, at the Samaru station, a complainant who dragged an accused to the station for practising "black Magic" on his junior brother was persuaded to drop the case. The complainant had claimed that the accused touched his junior brother with an evil-looking walking stick. He was adamant that such action portends evil and that his brother might die. When the police eventually succeeded in impressing upon the complainant that they cannot arrest or prosecute a man on such circumstantial evidence, the complainant demanded that the accused's particulars" should at least be taken down. The police obliged, and only then was the complainant pacified.

The aforementioned examples not withstanding, it must be stated emphatically, that it is only on very rare occasions that cases are disposed of at the counter. In fact, only in eight (or 3.04%) of recorded cases, did the desk sergeant (or charge room officer) dispose of cases at the counter. This is without prejudice to the fact that the vast majority of cases were settled at the police station. The point being made is that such informal disposition at the police station, usually entail the detention of suspects, and the involvement of officers of higher ranks/posts than the desk sergeant.

The routine detention of alleged offenders, and the involvement of senior officers in virtually all cases is linked to the illegal institutionalization of gratifications in both stations. Every case presents an opportunity for the police to make some illegal money - through bribe taking. A case disposed of at the counter yields no 'dividend' to the police as accused are under no pressure to bribe their way out. The same pre-occupation, partly accounts for the greater interest shown by the police in cases with known suspects than cases of "unknown". Complainants are usually persuaded against their own convictions, to come up with names of possible suspects for the particular crime such suspects are promptly arrested and detained. To regain their

freedom they must part with some amount of money. The giving and taking of gratification is in fact, a most pervasive feature of all station house activities. It is fully discussed in the concluding section of this chapter.

In both station, complainants have to pay for stationaries needed for recording their statements. Furthermore, they are expected to transport the police to the scene of the crime, and to transport to the police and arrestee(s) back to the station. Sometimes, the complainant is also responsible for the cost of transporting the police and defendant to court.

Complainants could be grouped into two broad categories: The police, and members of public. Members of the public as complainants cut across all strata of society. They are however, preponderantly from the lower class(es). Most of them have been victims or witnesses of one crime or the other. Some come to the station, not so much out of any faith in police capabilities for redressing the wrong,, but out of a sense of civil responsibility. Others come with the intention to use the police to achieve private objectives and are ready to pay for the service. Majority of complainants from the latter group are rich people who prefer to take their complaints

straight to the station head rather than the charge room, statutorily designated for such purposes. Its either they want to "teach somebody a lesson" or they want justice according to certain specifications. These complainants category range from parents wanting the police to punish their way ward children, to businessmen demanding that their defaulting customers be detained. It may also include respected community elders demanding that certain morally loose characters in their neighbourhood should be warned, and so on. For example, a Samaru business-man brought his houseboy to be detained and tortured for allegedly stealing his money. An Alhaji who suspected his driver of removing N64,000 from his car, withdrew the case from Sabo Police station and brought it to Samaru. The reasons he gave was that the Samaru D.P.O. is a personal friend and would do a better job of getting the suspect to confess. The Zaria post master general also brought two of his workers to the adjacent Zaria police station and specifically requested that they should be detained until they confess to having tampered with mail. In all those cited cases, the police obliged the complainants. Informal inquiry by the researcher reveals that they all paid for this service.

A vast majority of complainants, have the belief that "something" most be offered to the police before a

case can be handled satisfactorily. Apparently, there are grounds for this belief, for the police took more interest in a case after accepting such offers. The police however do not agree that such offers of money or other things amount to bribery. Rather, "it is prior appreciation which is culturally acceptable."

In some cases, where no 'prior' appreciation is forth coming from complainants, but he makes some promise to do so later, or the police expect to extort some form of appreciation later, they pursued the case with zeal. To illustrate: there was a case in Zaria police station, in which the police went all out to help a complainant recover the N2000 he was cheated out of. The complainant on observing the frenzy with which the police were going about his case had confided to me thus: "who say poor man no get brother, na lie he talk. Police na poor man brother". He later modified his opinion when the police on recovering the money gave him only N1200 while keeping the balance of N800 as cost of their efforts. Similarly, in Samaru, a woman whom the police helped to recover six bags of stolen pepper worth N1,000 each, started cursing when she was made to understand that she would pay N300 per bag as costs of police efforts in recovering them.

It can be concluded that police handling of the complaint process is characterized by elements of informality, which often translate into private gains for policemen. The extent to which such informality complement or subvert criminal justice aims is difficult to ascertain, but its existence certainly violates the precepts of the "rule of law"

4.3 THE CHARGE

Statutorily, the police in Kaduna State and indeed, in the whole Northern States of Nigeria, are not required to frame charges. They can only suggest to the court, the section of the penal code on which they wish to base their prosecution. The suggestion is contained in the police first information report (FIR). The court may amend such suggestion after the first hearing.

The arrangement outlined above not withstanding, every complaint made at the police station is recorded in the crime diary under an appropriate charge. The most frequently recorded charges at the stations under study are: Theft, assault and Criminal force, Criminal breach of trust, mischief, and cheating. Others include; belonging to a gang of criminals, receiving stolen property, disturbance of public peace and resisting arrest.

The first five of the charges listed above usually results from complaints made by members of the public. The others arise mostly from police initiated action and frequently involves the simultaneous arrest of many people on the same charge. On one occasion, 33 people were arrested and brought to the Samaru Police Station in a hired van. The charge was; "belonging to a gang of criminals". It is important to keep the distinction between public initiated and police initiated proceedings in mind. It helps to understand the different channels by which the two categories of cases are processed.

The police are able to find suitable charges for all arrests made, no matter how arbitrary the arrest may seem. For example, a boy who was taking his stereo set for repairs, was stopped on the street by a policeman and questioned about the ownership of the stereo. Because he could not immediately produce the receipt of the purchase, he was arrested, charged with 'unlawful possession of stolen property, and detained. Another boy who did not know that the plain cloth man asking him "embarrassing question" is a policeman, told him to go to hell. He was arrested, charged with 'use of insulting language' and detained.

The most misused charge in the police stations is the charge of 'belonging to a gang of criminals'. Under the auspices of this charge, any number of people could be arrested from anywhere and detained. Police suspicions alone is all that is required to make one liable to arrest under the charge. As a crime officer at Samaru station put it, "government say no more wandering or idling, so now, we charge them with belonging". On occasions when suspects insists on their rights or question police behaviour, policemen do not show any sign of anxiety. In most of such case the police simply added "and resisting lawful arrest" to whatever charges has been recorded against the suspect.

The police, especially at Zaria Police Station also have a penchant for combining charges as a way of impressing upon the suspect, the gravity of his offence. It is common to see three, four or even five charges listed against a suspect for what he perceives as one offence. For example it is usual for the police to precede any complaints against criminal force with other charges. The culprit in criminal force may find that he is charged with, criminal trespass, intimidation, assault and criminal force" just because the use of force took place in the complainants compound. It is to be noted however that the police do not make formal charges. As

such, many offenders are not even aware of the charges against them. The police only make effort to inform suspects of the charges against them when it would serve a purpose for the police, e.g. to let suspects realise the gravity of their offence as earlier mention.

The conclusion is that charges are routinely manipulated (sometimes manufactured) to suit police purposes regarding any particular case. The disregard for legal technicalities and the ease with which charges are modified in line with developments in a case, may be due however to police awareness of the tentative status of their charges. For ultimately, it is the courts that frame charges - at least in those cases that reach the court.

4.4 THE INVESTIGATION

For each complaint accepted at the police station, an I.P.O. is assigned to handle investigations. The first action of the I.P.O is usually to visit the scene of crime for preliminary enquiries. From the visit, the I.P.O. is expected to ascertain from available evidence, the circumstances of the crime. He is also expected to question some people, and to invite (or arrest) some to the station.

It is the duty of the I.P.O. to obtain written statement from the complainant(s), witnesses, and accused persons. Statement taking from complainants and witnesses is a straight forward matter. They are simply asked to state whatever they know about the case. The process is a little more complicated for accused person. For them, the statement of caution must first be administered by the police.

Out of a total of 427 accused persons interviewed, 190 (or 44.5%) were never asked to make written statement by the police. Of the remaining 237 (or 55.5%) who made written statements, 107 (or 45.15%) were asked to make the statement shortly after their arrival at the station. The remaining 130 (or 54.85%) were not asked to make written statements until after they have spent some time in detention. Of the overall total who made written statement (i.e. 237), 18 (or 7.59%) were not formally cautioned before making their statements.

Police investigation in public initiated complaints where no suspect can be identified, consist in visiting the scene of crime, and asking the complainant to report any subsequent development. The complainant is also assured that the police would keep their eyes and ears open. Most unknown cases (i.e. cases with no known

suspect) remain open and uncleared. When a suspect can be identified in a case, investigation consists mainly of interrogating him and any other person that may be mentioned in connection with the case.

In police initiated complaints, there is usually no need for further investigation. Suspects are simply arrested and detained. Many of such are routinely tortured until they confess to the crime or bribe their way out to freedom. A few of those who confessed were prosecuted.

In any case, when the IPO has reasons to believe that a case would go to court, he opens a case diary or file. The contents of the case file include: (a) The file cover. (b) police first information report, (c) Index to the case diary, (d) A list of exhibits, (e) Extract from crime diary, (f) Police investigation report (these are the findings and suggestions of the IPO), (g) Officer minute sheet, (h) the various statements of the complainant, witnesses, accused, e.t.c., and (i) The police bail bond, if any.

The IPO's interviewed were unanimous in their preference for cases with clear evidence or exhibits, if they must prosecute. Many of them do not, for example

want to be saddled with rape cases, because it is "most complicated and difficult to prove".

Police investigatory prowess is constrained by resource availability. In the absence of sophisticated technical aids, investigation is seldom more than what is outlined above. Investigation in the textbook sense of gathering minute clues or forensic evidence for laboratory analysis is virtually non-existent. The police find it difficult to even undertake trips which are essential components of investigation, for lack of funds. The consequence is that complainant who want thorough investigation have to pay for it from their pockets.

The conclusion, once again, is that in the face of material constraints, justice is being bought and sold at the police station.

4.5 THE ARREST

The kinds of arrests considered in this study could be broadly divided into two categories: (a) Those made by the police and (b) Those made by private persons.

The data reveals that, 87 (or 20.09%) of the total arrests were made by private persons, while 346 (or 79.99%) arrests were made by the police. Out of the 346 arrests made by the police, 33 (or 9.54%) arrestees

claimed to have been handcuffed by the police while the police were effecting their arrests. Precisely 143 (or 41.33%) of those arrested by the police alleged the use of force in the arrests.

Statutorily, an arestee should be informed of the reason for his arrest, at the spot of arrest by the police. If arrested by private person, he should be formally informed of the reason, the moment that the police is brought in (see S.38 of C.P.C.). The data however shows that, 127 (or 29.33%) of the accused persons were never informed of the reason for their arrests. The data further reveals that 90 (or 29.60%) of those informed of the reason for their arrests, were not so informed until after they had spent some time in police cell.

Arrests made by the police may be 'reactive' i.e. in response to reports by members of the public. They may also be proactive i.e. as preventive or pre-emptive measures initiated by the police itself. Proactive arrests may come from 'busts', 'raids' or from routine patrols. In 'busts', the police, usually acting on a tip-off, swoops upon a drug or any other illicit hide-out, with the aim of 'busting' the illegal trade. 'Raids' involves the raiding by the police of designated trouble

spots with the aim of arresting potential trouble makers or unearthing illegal goods.

To carry out raids, the police usually borrow vans from private or public organisation. About ten to twenty armed policemen then go about in such vans arresting people. Places usually visited during such raids include; hotels, car parks, gambling houses, film houses, hard drug joints, and so on. The raids may be carried out at any time of day. When the vehicle is filled, the police sometimes come to the police station to unload the human cargo, and then go for another round of arrests. From my on the spot observation on the one occasion I went along for a raid, and from my discussion with cultivated informants among the police, such arrests are indiscriminate. The police simply arrest any one in sight at the targeted area. Any body who resists arrest is forcibly arrested. The charge is usually; "belonging to a gang of criminals.

Arrests through raiding serve two purposes. First, it serves a law enforcement purpose. For example raids are carried out on Fridays. At the time of this study, there was so much religious and tribal tension in the areas of study. These tensions tend to erupt on Fridays. It is conceivable that the visibility of the heavily

armed policemen together with their activities helped keep the tension in check. Police raiding activities could also have nipped many criminal plans in the bud, for the areas raided are ones traditionally frequented by criminals. The second but unstated purpose of raiding is to raise fund for the police. Arrestees from raids are detained usually with no intention of prosecuting them. They regain their freedom upon paying a sum of money i.e. bribe. According to my informants, the going rate for regaining freedom at the time of this study was between N100 and N400. The arrestees on calculating the odds, usually find that it is in their interest to pay up. For apart from the horrible cell conditons, they run the risk of conviction with the attendant grave consequences, should the case go to court.

Occasionally, raids are carried out against dealers in spare parts and/or second hand goods. The charges against arrestees from these raids are either 'receiving stolen property' or 'unlawful possession of stolen property'. Only very rarely would any of those arrest result in a prosecution. A particular arrestee from such a raid divulged that they (arrestees) have an association under whose auspices, payments are regularly made to the police to keep them from harassing the dealers. According to him, this occasional harassment is police way of

reminding them, that they are "defaulting on payment". It was later gathered that the same kind of arrangement exists between the police and prostitutes, hoteliers, gambling houses, illegal commercial video house operators and so on.

Arrests from routine police patrols are similar in nature to those from raids. The arrestees from such patrols usually consists of people returning from late movies, late parties, or late night drinking. While some bear parlours can remain open for the whole night, others who have not "cooperated" can have their proprietor and available customers arrested on spurious charges like "disturbance of public peace" or "selling beer at late hour of night.

There was however, one spectacular display of vigilance by a police patrol in the course of this study. It happened when patrolmen from Samaru noticed that a passenger who had just alighted from a bus was trailing blood. They stopped him for questioning. Upon searching his bag, they discovered a blood soaked trouser and a pistol. The suspect, who had a fresh bullet would on his thigh was arrested. Upon further interrogation, he confessed to having been part of an armed robbery

operation in Kano. The suspect also disclosed the names and whereabouts of his three accomplices.

Majority of arrests made by private individual in the course of this study were made by vigilante groups. These groups consists of community members selected and mandated by the various communities to supplement police efforts at combating crime. To the extent that they made many arrests on their own, these groups can be described as fulfilling communal expectations. The problem however, lies with the manner in which those arrests are effected. The vigilante group tend to operate above their powers as private citizens. They torture and subject arrestees to all sorts of humiliating and dehumanising treatment. The typical pattern is well illustrated in the case of accused 112b. This accused who the vigilante group of Tundun-Wada Zaria alleged to be a dealer in stolen motorcycles was striped naked, flogged, tied to an electric pole, and with an allegedly stolen motorbike in front of him, he was photographed. Then he was made to carry the motorcycle on his head, and forced to dance round town with it, to the accompaniment of drumming from vigilante members. By the time he was brought to the station, he had all kinds of fresh wounds on his body and could hardly stand on his feet.

The above is the classic pattern in all vigilante initiated arrests. The suspect is beaten and marched round town. At every stop, the vigilante members receive monetary donation from an apparently appreciative public. Such procedures tantamount to adjudging the suspect guilty before trial. Furthermore, the stigmatization that it entails is far more than the formal criminal justice machine would allow. Yet the police hardly question the methods of the vigilante groups when eventually after the march round town, such suspects are discharged to the police. I questioned a number of policemen on why such action is condoned. The DPO of Samaru, was eloquent in his response:

> The police do not have the power to delegate power to another group (i.e. vigilante). But we have done so because we find it expedient ..... Their tendency to always misuse that power is a source of worry to us too. They use all sorts of crude and unlawful methods, but their use of such methods enjoy much support from their community heads and even members. So controlling them becomes a problem. In some communities, they now set up vigilante groups without even seeking for permission from us..... We are aware of the problem and something is being done about it.

Vigilante groups, as private persons, have no right to process anyone arrested. Their duty is to hand over arrested persons to the police without unnecessary delay" (see C.P.C. S39(1)).

In general, the preponderant majority of arrested people are from the lower class. For example, for the duration of the field work, only six (or 1.39%) of those arrested were on a monthly income of ₦3000 or above. Precisely 12 (or 2.77%) of them were white collar workers, while only 15 (or 3.46%) had tertiary education.

In conclusion, it can be stated, that the arrest procedure is being grossly violated by the police. It is to some extent true, that their disregard for legal technicalities surrounding the arrests process facilitates an expedient and flexible justice administration. But the abuse of the power resulting therefrom, especially the economic motivation behind the weilding of the power, defeats any gain from such informality.

4.6 THE INTERROGATION

Interrogation is the act of examining persons (witnessess, victims, suspects etc) by asking them questions. It is the main source of information in investigating crime, and its perpetrators. This is irrespective of the much acclaimed successes achieved in the scientific examination of mute material evidence.

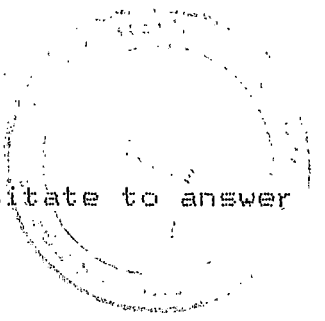
The reliance on interrogation for investigative information is even more acute in the stations studied. This is because they lack basic technical aids for examining mute material evidence. Information obtained through interrogation, may be obtained by merely putting question to the examinee by persuading him, or by putting him under some form of duress. The police often resort to the last option (in the form of torture) when the first two fails, but they are convinced that the examinee is withholding information.

The Samaru station has a specialized unit of five policemen called the "suspect squad". Their specialized function is that of extracting confessions from suspects using various methods of torture. In Zaria station, the IPO carries out the torture by himself. When he is unable to make a head way he hands the suspect over to the crack squad. The crack squad is a unit of the Zonal command whose function is similar to that of the Samaru suspect squad.

There are a variety of ways by which torture is administered: firstly, 'tear gas' may be sprayed directly into the suspect's eyes. The effect in the words of one suspect, is like the "eyes are on fire". Doses of the tear gas are repeatedly used in like manner, until the

police are convinced that there is nothing more to be gained. On one occasion, so much tear gas was expended on a suspect, that the gas drifted out of the torture room into the charge room at Samaru. Not long after, everyone around - police, detainees, members of the public - started sneezing and shedding gas induced tears. Several times at the Zaria station, suspects were taken out at night to a nearby bush, to be tortured with tear gas.

A second method is when the exposed end of a live electric wire is brought into contact with the suspect's sex organ. In yet another method, a rectangle made up of two wooden and two wiry sides is slipped over the head of the suspect and then systematically tightened from one end. The effect according to an IPO is " like the brain is being squeezed out, and the suspect is bound to develop instant headache". Sometimes, the suspect is stripped to the waist, handcuffed to the vertical bar in the middle of a window, and systematically whipped on choice part of his body with cow hide (koboko). In that position, the suspect is totally helpless and vulnerable. He cannot word off blows, nor rub the welts they leave on his naked skin. He can neither sit, nor stand upright. the fifth method of administering torture involves no complicated procedure. The suspect is simply hit - with



fists, clubs, boots etc - whenever he hesitate to answer a question or it is felt that he is lying.

In fairness to the police, it must be admitted that their much vaunted knack for identifying the lying criminal is not totally unfounded. For example, only 93 (or 21.48%) of the accused persons were tortured. Most of them did confess to committing the alleged offences after torture.

The above not withstanding, it must be stated that the practice is fraught with abuses and dangers. For example, at the Zaria police station, two suspects who were picked from the streets and charged with "belonging to a gang of criminals" were repeatedly tortured. Eventually they did not only confess to being criminals but were forced to name three of their accomplices. The named persons were arrested and charged with 'receiving stolen property'. It was later, while making my rounds of the cells that I was confronted with the unsettling spectacle of the tortured suspects fervently begging the named accomplices to forgive them for falsely naming them as such. The suspects revealed to me that they had to mention their acquaintances as accomplices in order to escape further torture. They further stated that even their admitting to being criminals is not the truth but a

desperate bid to save their lives. The suspects claimed that as the torture took place in the night, in the bush, they were afraid that they would be killed if they fail to admit to the allegations made against them.

What is even more disquieting about the case is that the police seemed to know that all the arrested suspects were innocent. For the so called accomplices were all released on the day of their arrest after paying some amount (bribe) to the police. The real suspect had no money to pay, but they were released without being prosecuted after eleven days in cell. So, other than arresting and extorting money from named accomplices, the suspects confessional statements were not acted upon.

In my interviews with policemen, many of them refused to talk on the issue of torture, while some outrightly denied its existence. For example, the "crime-inspector" at Samaru denied the existence of torture, when what led to my posing the question at that material time was the tortured screams emanating from the torture room. When I drew her attention to the screams, she merely smiled and told me that what I was hearing were not screams but laughter.

The Samaru DPO was more forthcoming. He does not think torture can be dispensed with in a setting like

Nigeria where technical aids for police investigative activities are lacking. To compound the situation, a very heavy burden is placed upon the "prosecution" to prove guilt. He however said that, he does "not allow the use of torture for minor cases in my station, but only for serious ones like homicide, rape, armed robbery" and so on.

To the extent that guide-lines laid down by the Judges Rules are not being followed, interrogation as it is informally administered violates legal provision and the rule of law. The character it assumes in practice serves a useful purpose as far as gathering evidence to proceed upon is concerned. The problem is, it is being abused and deliberately used to extort money, instead of for strictly law enforcement purposes.

4.7 THE BAIL/DETENTION

Bail is the only form of pretrials release facility granted to suspects/accused in both stations. Section 340(1) of the C.P.C. prescribes that any person accused of a minor offence "shall be released on bail unless the officer or court for reasons to be recorded in writing considers that by reason of the granting of bail the proper investigation of the offence would be prejudiced or a serious risk of the accused escaping from justice be

occasioned". The reality of the situation however, is that bail is the exception and detention the rule.

Only in negligible number of cases is bail granted without the offender being routinely detained. The practice is to detain first and then negotiate bail after. Such negotiations invariably centre more on how much the detainee would pay for bail than on legal criteria of assessing bail worthiness. Until the accused or his relations come up with an acceptable amount, bail is denied. In response to my enquiries about this state of affairs, the police are usually quick to attribute their denial of bail to the non-availability or unsuitability of sureties. It is interesting to note that the police rarely cite "flight risk", "prejudicing further investigation" or "endangering the community" as reasons for not granting bail. The strength of the accused person's "communal ties" is also not considered. The implication is that anyone can obtain bail provided an acceptable surety comes forward. Acceptability of sureties, as earlier noted, is most often synonymous with coming up with the required sum of money i.e. bribe.

Most members of the public, even the very literate ones, are not aware that bail is free, or that the surety only forfeit a stipulated amount when the accused jumps

bail. Thus, many believe that to pay for bail is to fulfil a legal requirement. The police help to perpetuate this misconception by not giving signatories to the bail bond, opportunities to read the contents. In fact it is only seldom that bail bonds are issued. When issued, they are usually in form of handwritten words on plain sheets of paper rather than the legally prescribed form. Most alleged offenders, especially from police initiated arrests, are released on bail, verbally.

Beside their ignorance about bail procedures, three major factors also contribute to the readiness and haste with which citizens offer money to get bail. Firstly, many are made to understand that the only way to escape continued detention is by offering bribe. Secondly, they are also made to understand that securing bail is a decisive step towards securing unconditional release. In most cases, the police become more friendly and switch side to that of the accused after he pays for bail. They now start advising complainants to drop the case in the interest of good relation, or that the evidence is too flimsy to stand up in court, etc.

The third major reason why suspects willingly pay for bail is the appalling conditions of detention. The available cells are almost always over crowed. This is

compounded by poor ventilation and the permanent stench pervading the cells. Moreover, inmates sleep on the bare floor of the cell, which they share with rodents. No provision is made for bathing and only very inadequate provision exists for other toilet functions. Between 6.00pm and 6.00am, inmates are not allowed outside the cells to answer any call of nature. Further more, they are fed only twice a day with a horrible looking food that tastes even more horribly. Medical provision are totally lacking. Inmates are at the mercy of various skin and other diseases. The only form of segregation practiced is gender based. Apart from that, all detainees, irrespective of age, prior record, or nature of alleged offence are lumped together in the same cell.

Detainees react differently to their plight. The majority are placid and merely wait for the time they could secure bail/release, or be taken to court. There were however a few aggressive ones who were belligerent in their dealings with the police. Accused 6a spent about half the night of his first day in detention hurling abuses at the police. His grouse was police refusal to let him light mosquito coil inside the cell. Accused 22b was not only abusive, he also tried to implicate unfriendly policemen by naming them as accomplices in his alleged N180,000 theft.

A third category consists of habitual criminals who are well known to the police. Surprisingly, it is this group that the police are most friendly with. For example, accused 97b was brought for detention on the orders of a court, for "cheating". But because of his long acquaintance with the police, he is not usually detained until a few minutes before he is expected to make the next court appearance. Note that accused 97b calls practically every policeman at Zaria's station by their first names. Each time he makes an appearance at the station he distribute N20 notes to all officer within the charge room. Other habitual criminals are not so rich, but they secure the good will of the police through other services. For example, accused 17b was able to secure unconditional release, on the three separate occasions he was arrested during the course of this study, by colluding with the police to implicate suspected and innocent people.

The cooperation between accused 17b and the police worked in this manner: Accused 17b would lead the police to his casual acquaintances and claim that such acquaintance had in the past bought or received stolen property from him. Sometimes, it is the policemen who points out a suspect or somebody they have been itching to "deal with". Accused 17b would then repeat the same

allegation of having received stolen property from him, again anyone fingered by the police, regardless or the fact that he may never have seen such persons in his life. All persons pointed out by accused 17b (he even makes written statements to the effect of his allegations) are subsequently arrested and charged with receiving stolen property. The arrested persons are then detained while accused 17b is set free. The aim in such cases is never to prosecute but to extort money from the arrested persons. They, soon enough pay up (between N100 and N500) and regain their freedom. It is curious that none of such detainees ever brought a law suit against the police, not even those who claimed not to have met accused 17b ever before. One of such detainees however reported his ordeal to a relative who is a police officer in a different station. Upon his intervention, the detainee's money (N300) was returned to him.

In general, majority of the suspects/accused persons were appearing at a police station in such capacity for the first time in their lives. The data reveals that, 313 (or 72.97%) of the suspect/accused persons are first offenders. This fact is disquieting even when allowance is made for respondents who most have lied about their prior arrest records. It shows that more and more of the

citizens are being drawn into the criminal ambit on false pretexts.

Furthermore, it is interesting to note that, not all arrestees or detainees are human beings. There were non-human detainees in both station. A duck and her brood of 15 ducklings were detained because their ownership was in dispute. The irony is that, for the five days that the case lasted at the police station, the disputing parties were coming from their homes, while the duck and her brood were in detention. Goats and sheep are also frequently detained. It is either that their ownership is in dispute, or that such domesticated animals had wrought mischief for which their owners has refused to pay compensation, or cannot be found.

The conclusion once again, is that, the economic motive shapes the informal character of police decision to grant or deny bail. It also underlie police relationship with detainees. Detention is used as a tool for extorting money. People are routinely detained, and they routinely pay to escape detention police pursuit of private gains at the expense of legal provisions do not only subvert the principle of the rule of law, it puts the rationalisation of the whole legal apparatus into doubt.

4.8 THE PROSECUTION

When any case is approved for prosecution, the I.P.O. handling the case, hands over the case file to the police prosecutor. The prosecutor is a policeman permanently stationed at the court for the sole purpose of conducting prosecution.

The stations under study can prosecute all cases except culpable homicide and armed robbery. Yet, it is only rarely that conduct of prosecution are undertaken. Hence only 75 (or 7.32%) of the accused persons were prosecuted. This may be due to the fact that majority of the offences recorded are minor offences that should not even have resulted in arrests, in the first place. For example, there are reasons to suggest that most police initiated arrests seldom lead to prosecution because it is more of an "arm-twisting" tactic to extort money from arrestees, than a strictly law enforcement activity. This may also explain why cases are grossly under recorded at the station. For while the researcher unofficially recorded 262 cases leading to 443 arrests, official records for the same period, puts the number of cases at 100 cases, and the arrests resulting therefrom at 96 arrests.

The effects of Socio-demographic variable of offenders on police decision to prosecute are analysed in the next chapter. But whatever the case may be, the inescapable fact, is that a substantial proportion of cases drop out of the criminal justice system at the police station. I asked the heads of the respective station, what factors they consider in making their prosecutional decision. Both declared "strength of evidence" as their most important consideration. When I mentioned the possible influence of mitigating circumstance on the decision to prosecute, both officers said that that decision (i.e. on mitigating circumstances) is best left to the courts. Samaru's D.P.O. was particular irked by my mention of "economic desperation" as a mitigating circumstance. According to him, "if someone is hungry, he does not have to go and steal. He can go begging".

It is interesting to note that the two officers Interpreted the concept of "public interest" differently. "Public interest" (according to Reg. 318. Para. VI of the police Act, and section 117 of CPC) is also supposed to guide police decision to prosecute or not to. The Samaru's DPO, while admitting that the concept is "difficult to understand", stated that to him, "it means when somebody is not taken to court just to punish him or

to oppress him". To Zaria Station's D.P.O., it means that "the police should be careful how they handle cases in which prosecution may lead to upheaval in the town".

As a result of transportation difficulties suspects are usually taken to court in commercial vehicles. The task of taking them devolves on the I.P.O. handling the particular case. To ensure that suspects do not escape in transit, they are usually handcuffed. In other words, the suspect is made to look like a criminal to the public even before his trial. this is regardless of how minor his allege offence may be.

Finally, the decision to conduct, and the actual conduct of prosecution is less prone to the abuses of earlier stages. The decision is structured not so much by illegal or informal elements as by the knowledge that it would be reviewed by legal experts. On the whole, the police pay more attention to legal procedure, when they know that a case may culminate in prosecution.

4.9 LEGAL AWARENESS IN THE POLICE STATION

Policemen in the crime branches of both station have high level of legal awareness. They know the relevant substantive and procedural laws guiding their sphere of operation. Any policeman in doubt over any point of law,

consults the statutory documents (e.g. the C.P.C., the police Act, the penal code) copies of which have been thoughtfully made available in the I.P.O.'s office.

This high legal awareness not with standing, the police violate procedural rules at virtually every point in their processing of alleged offenders. Arrests are made illegally. Arestees are man-handled and detained without being charged. Statement are taken without cautioning the accused persons. Accuseds are asked to sign the statement without it being read to them. Suspects are routinely detained and tortured. Furthermore, the police engage in acts calculated to keep the public ignorant of their legal rights. For example many sureties/accused persons are prevented from reading their own bail bonds, so as not to sensitize them to the 'freeness' of bail.

The Police are antagonistic to lawyers who come to the station. A lawyer who wanted to know if there was any pending case for which the accused might require his services, was subjected to a humiliating interrogation by a semi-literate I.P.O. He had to leave in embarrassment. Another lawyer came in the role of complainant. He wanted his night guard arrested and prosecuted for "negligent conduct". The police refused the case on the ground that

the evidence adduced was too week. The lawyer was then mockingly told that, he, as a lawyer should know that. Such police antagonism are most probably, police ways of paying back the lawyers for the humiliation that policemen suffer at their hands in court.

The policemen also frequently manipulated their knowledge of legal processes to their advantage. For example, if determined to forge ahead with prosecution in a case where available evidence may not stand up against serious cross examination, the police takes such cases to Area Courts. In Area Courts, police prosecutors will not have to battle with defence lawyers. This is because, section 390 of the C.P.C. states that: "No legal practitioner shall be permitted to appear to act for or to assist any party before an area court".

The suspect/accused population are predominantly of low socio-economic - status and are predictably lacking in legal knowledge. For example, only 62 (or 14.32%) of this population know any procedural law. Even this knowledge is in most cases limited to a vague idea about not spending more than a day in police detention. Only one detainee made concerted efforts to press for this right. He was being detained for an offence committed by his junior brother because the junior brother could not

be found. He subsequently challenged his illegal detention in court.

The response of accused persons to the question of whether they intend to, or have indeed contacted a lawyer over their cases, further demonstrate the low level of legal awareness among this group. Only 15 (or 3.446%) replied with "yes". Precisely 313 (or 72.28%) said "no", while 98 (or 22.26%) were undecided. It is noteworthy that a substantial proportion of those who replied "no" to the question, do not even know what lawyers do.

Accused persons were also asked about their views of the police as law enforcers. Altogether, 39 (or 8.8%) of them viewed the police positively. Another 161 (or 36.34%) had negative views about the police as law enforcers. Precisely 33 (or 7.45%) gave neutral (i.e. neither positive nor negative) responses, while 210 (or 47.4%) declined to answer the question. It was apparent that the overwhelming majority of those who did not answer the question had negative views, but were unwilling to express them, for fear that it might affect their cases adversely. It can be conservatively estimated that over 70% of accused persons do not perceive the police to be performing its law enforcement duties properly. This perception is not out of any objective

assessment of police practices relative to what is in the law books, but out of a conviction that the way their cases have been handled is not proper.

Complainants, witnesses, and relations of accused persons are not much better than the accused themselves as far as legal awareness is concerned. Majority are also indigent and lack knowledge of basic procedural laws. Many complainants accompanied their complaints with offers or promises of money to policemen, to do their job. According to one complainant, "It is only a naive person in today's Nigeria, that would expect the police to act solely out a sense of duty". On several occasions, the police and complainants colluded to inflate the value of damages suffered in a crime. The excess value when paid, is shared between the police and the "cooperative" complainant.

Relation/acquaintances of accused persons, are usually too anxious to secure bail or release for their wards, to care about the legality of their actions. Many of them willingly offer and pay bribe knowing that it is illegal. A senior lecturer at Ahmadu Bello University tried desperately to make the police accept bribe from him, in lieu of prosecuting his ward. He did not succeed because by the time he made this gesture the court had

already known about the case, hence it could not be terminated midway. In another case, a major of the Nigerian Army insisted that the I.P.O. who had just written a bail bond for his ward should accept N100 from him. According to the major it was just as a token of his appreciation "not an attempt to corrupt a law officer". The I.P.O. accepted the money.

The conclusion is that legal awareness is low in police stations. The police who know legal procedures do not abide by them. Most members of the public are ignorant about procedures. The few of them who know, tend to view law as a hindrance, in their desperate bid to settle outside courts.

4.10 SUMMARY AND DISCUSSION

It is apparent from the foregoing analyses that the character of station - house activities is shaped by the offering and acceptance of gratification or bribe. Almost every participant is involved. This is in flagrant violation of sections 115-121 of the penal code.

One immediate consequence of police preoccupation with making illegal money is that they use the slightest excuse to arrest and detain people, the major objective

being to collect bribe money. Many of such arrests do not enter into the police monthly returns of crime data.

Because bribery is sensitive and shrouded in secrecy, it is difficult to collect statistical data on it. All the same, it was apparent that an overwhelming majority of cases handled at the police station, involved bribery at one point or the other. Some policemen denied the existence of bribery even when I saw them sharing such money. Others were however quite frank in admitting it. Among the latter, was Cpl. A, an IPO with Zaria police station. According to him, "It is the very existence of bribery that sustains and keeps the force going in Nigeria to day". He argued that acceptance of gratification helps alleviate the monetary problems of the force without necessarily compromising justice. His arguments are presented here under in detail:

The police force is grossly under-funded and its men grossly underpaid. If funds are not available for the essential services that the police must perform, policemen should not be expected to use their meagre salaries to fund such services. As it is, the policemen's monthly emolument is over-stretched. For instance, while every Nigerian worker is entitled to transport allowance that will take him to, and from work, more demand is made

upon the policemen's little transport allowance. First the policemen must transport himself to the police station to report for duty. Then he has to transport himself to his duty post of the day-to guard property, person, court, check point etc. After working hours, he must transport himself back to the police station to submit his gun and sign off. Then he has to transport himself, back to his house. Should it be any surprise then, that policemen want free rides or ask citizens for "50 kobo" to supplement their income?.

Secondly, the police sometimes find that the accused persons brought to the station have been brutally beaten and even mortally wounded by the angry public. The police have to take such injured persons to the hospital, pay hospital bills and buy prescribed drugs. The police themselves are frequently victims of violence in the course of their legitimate duties. Yet no special hospital exists to cater exclusively for the police, as is the case with their counterparts in the armed forces. The General Hospitals charge the police just as other citizens. Furthermore, the police have to procure stationeries for taking written statements (of complainant, accused persons, etc.) from their own pockets. They have to contact relatives of inmates, take suspects to court, feed detainees, travel extensively in

the course of investigations, and so on. In the absence of funds from the government, the police have to find alternative sources of funding their essential services. Bribe money comes in handy in this regard.

Cpl. A. further argues that the collection of money from minor offenders tend to complement rather than subvert justice goals. It is a way of punishing and deterring such offenders without clogging the courts. Furthermore, it helps avoid the stigmatization that results from formal criminal justice processing.

Cpl. A concluded his arguments on a defiant note, questioning the rationale for even expecting the police to be upright in a corruption ridden society like ours. He declared thus:

> Criminals become stinking rich overnight and every one hails them without bothering to ask how they got the money. But the moment they see a policeman in a flashy car, they start shouting corruption. Are we not human beings?. They call us all sort of annoying names like, 'oga wetin you carry', 'may my kola, partikola', or 50k tax collectors. But they respect custom officers, Immigration officers, and soldiers, who collect bribes in thousands and millions.

Zaria's D.C.O. was very strident in insisting that men of the police force are doing the best that can be expected of them, given the constraints of available resources. He cited records of achievements and laurels

won by the NPF in foreign lands. Then he asks rhetorically:

> Have you and others like you ever wondered why the NPF distinguishes itself so outstandingly each time it takes foreign assignments? It is because they are given all the necessary material assistance ..... Even if our society is corrupt, the police can still be honest, if given the material assistance.

Furthermore, the D.C.O. lamented the non-existence of a police union that can enlighten the public about police problems. Hence "the public keeps castigating us" ignorantly. Samaru's D.P.O. was also quick to point out that "my men are perfect. In fact their standard is higher than is required for a country like Nigeria". The administrative officer at Samaru station is a police A.S.P. When asked to comment on the problems and performance of the police, he refused to comment but directed my attention to one of the wall poster in his officer. On the poster, is printed in bold letters: "If you dislike the police, next time you are in trouble, call a thug".

In conclusion, there is no gainsaying that the material problems of the police are enormous. Their acceptance (or extortion) of gratification helps to some extent in alleviating the problems. The point however, is that this option of raising fund is illegal. It is fraught with abuses and dangers. For example, the "fund

raising" activities have taken preeminence over crime control and justice in the stations studied. It must however be stated that in the very few cases of felons and other serious offences recorded, the police did not allow bribes to dissuade them from prosecuting, or referring the case to higher authorities.

CHAPTER FIVE

POLICE DECISION MAKING AND SOCIO-DEMOGRAPHIC ATTRIBUTES OF ACCUSED PERSONS.

5.1 INTRODUCTION

This chapter examines the demographic attributes of offenders in relation to police decision-making. Specifically, it examines the hypothesis that: "Socially disadvantaged arrestees are more likely than socially advantaged ones, to be detained, tortured and prosecuted."

5.2 OFFENDER'S INCOME AND POLICE DECISION MAKING

An insight into the character of police decisions, is at first produced from a cursory look at the income profile of arrested persons. Only 7 (or 1.67%) of arrestees are on income levels of over N2,500.00 per month. Furthermore, none of the over 400 arrestees recorded, earn up to N5,000 per month. Yet it would be wrong to say that people on incomes of over N5,000, do not commit crimes known to the police. The validity of the assertion that police rarely arrest rich criminals is borne out by first-hand observation from this study.

In a certain case of 'criminal force' brought against a wealthy Alhaji, the people he paid to help him beat up the complainant were all arrested and detained.

But the Alhaji himself was never arrested. The complainant knew, and wrote that the Alhaji was behind the beating. The arrested culprit confessed that they were sent by the Alhaji. The Alhaji himself never denied his role. Yet the Alhaji did not for once come to the station for the duration of the case. Instead he engaged in a long distance dialogue with police through some intermediaries.

The few cases of corporate crimes reported at the stations, did not result in the arrest of any 'big shot'. A finance clerk in A.B.U. bookshop was arrested for a N12,000 deficit in earnings. His overall boss whom the accused claimed is equally suspect, became the official complainant in the fraud case. Two postal agency clerks were also arrested and detained for 'tampering with mail". They alleged that between them and the *'Oga patapata*" who discovered the 'tampering" and ordered their arrest, there were three other superior officers who also handled the mail. Any of those superior officers could equally have tampered with the mail. So the arrested clerks wonder why they too were not arrested. In cases involving theft of company property, it is usually the guards who are arrested and charged with 'negligent conduct', or junior workers who are arrested and charged with conspiracy and theft". Their bosses invariably

become the complainant in such cases. Yet they cannot be said to be above suspicion themselves.

This insight into arrest pattern notwithstanding, it must be stressed that this chapter is primarily concerned with observable decision within the police station, and not out-of-station arrest decisions that are typically invisible. The concern with arrests patterns, is then, to the extent that it help shed light on the quality of data generated about income. The fact that nobody on income of more than N5,000 is arrested implies that virtually all arrested persons are in the low income (or lower class) cadre. This considerably undermine the comparative analysis of disposition patterns for cases involving lower and upper class members.

It becomes necessary to redefine low and high income in terms that would accommodate the available data. On this wise, low income arrestees become those on income levels of below N500 per month. Middle income arrestees are those who earn between N501 and N2,500 per month, while those who earn above N2,500 per month are regarded as being on high income levels.

When offender income is correlated with police detention decisions, the data reveals that none of the high income arretees was detained for more than 24 hours. Meanwhile, 94 (or 23.58%) of low income arrestees were

detained for more than 24 hours. On the spot observation shows the police to be more favourably disposed towards arrestees with money. This attitude is not unconnected with the economically advantaged position of high income arrestees in relation to their lower income colleagues. They are better placed to gratify the police for 'services rendered". The table below presents the relationship in an easily readable form.

Table 1: The relationship between income of offenders and length of their detention by the police.

Length Of Detention	Income per Month: Low +	Low %	Middle +	Middle %	High +	High %	Total +	Total %
Not Detained	6	1.43	31	7.38	1	0.24	38	9.05
Less than 24hrs	99	23.57	121	28.80	6	1.43	226	53.80
Over 24 hrs	94	22.38	62	14.76	0	0	156	37.14
TOTAL	199	47.58	214	50.95	7	1.67	420	100

$X^2 = 35.06$, $r = -0.43$

Low (N500 or less) Middle (N501-N2,500) High (Above N2,500)

The assertion that detention practices is biased in favour of arrestee on higher income is supported by statistical computations of data presented above. The gamma value of -0.43 suggests that a moderately inverse relationship exists between offenders income and duration of detention. Note that the concern with detention length rather than whether bail was granted or denied stems from two reasons; first, offenders are routinely detained. Second, the police insists that bail is available to everyone, provided acceptable sureties come forward.

Those who remain in police custody therefore, remain not because they are denied bail, but because they cannot afford bail.

Available data also suggest that an inverse relationship exist between income levels of arrestees and police decision to interrogate by torture. Precisely 61 (or 65.59%) of those tortured are from the low income group. The remaining 32 (or 34.41%) come from the middle cadre. None of the arrestees on income of above N2,500 per month was tortured. Furthermore, it is instructive to note that the 61 arrestees tortured from the low income group constitute 30.65% of that group, while the 32 arrested tortured from the middle income group constitute only 14.95% of that group. The calculated gamma value of -0.45 lends support to the hypothesis that, "arrestees on low income are more likely than those on higher incomes to be tortured".

The police however denied any such influence. According to Cpl D; "torture is only resorted to, when the police are convinced that an accused is holding back useful information and this is irrespective of his status". His claim is negated by empirical observation for torture in many cases is not used to extract information but just to punish. In other words, it is sometimes an end in itself rather than a means to an end.

Beside, the police know that evidence obtained under duress cannot stand up in court. The conclusion then, is that torture is selectively used. It's use and non-use can be determined by the offering of gratification to the police. In this regard, offenders on higher income are in an economically better position and so, fare better.

Available data, both from qualitative observation and from statistical computations, suggests that there is no significant relationship between income and police decision to prosecute. All the policemen interviewed maintain that strength of evidence and gravity of offence were the major determinants of the prosecutorial decision. On the spot observation by the researcher supports that assertion. Furthermore the values of chi-square and gamma are not significant.

In summary, it can be stated that the findings of this study only supports the hypothesis that offenders with low income are more likely than those on higher incomes to be detained for long and to be tortured. Trying to determine if this relationship still hold, when possible intervening variables are controlled proved quite problematic: offences were not sufficiently varied in gravity to allow for a meaningful statistical control of "offence type". For example, only three fellows (2 armed robbery cases and one culpable homicide) were

recorded for the duration of the research. Virtually all the other offences could be classed as misdemeanours or minor offences, which normally do not earn more than a prison term of three years if offender is convicted. Even when serious charges are levied by the police, such charges are usually spurious and meant to achieve other aims. For example, while "receiving stolen properly" and "belonging to a gang of criminals" are punishable with prison terms that may extend to 14 years, the police were merely using those charges to arrest people indiscrimately. The aim as earlier stated, is to extort money from arrestees, so charged. The charge of 'abduction" which is punishable by up to 10 years imprisonment is frequently use to arrest and harass any man with a live-in girl friend, when the girl's parent lay complaints. The charge of 'rape; which can be punished with prison terms of up to "life imprisonment", is freely used whenever a prostitute reports that a man refused to fulfil the financial aspect of their sex bargain. The implication of all these, is that over 95% of recorded cases are minor offences. Controlling for offence type in terms of gravity becomes meaningless. Yet when other measurements of offence type (e.g. whether person or property offences) are used, they tend to present a distorted picture.

It was also difficult to statistically control for the effect of other possible intervening variables, such as "strength of evidence, "complainant's preference" "relational distance between offender and complainant", and, "demeanour of alleged offender". Strength of evidence and offenders demeanour could not be objectively measured as to ensure statistically relevant data. Complainant's preferences tended to be unstable and data on it was not regular. Some irregularity of data also applies to relational distance.

Nevertheless, conscious effort was made qualitatively, to assess the possible effects of those intervening variables on the hypothesized relationship.

The conclusion is this: As far as most offences recorded can be broadly subsumed under the broad category of misdemeanours, "identified potentially intervening variable have negligible or no effect on observed patterns of relationship. All findings reported in subsequent pages of this chapter should be seen against this background.

5.3 OFFENDERS' OCCUPATION AND POLICE DECISION MAKING

The data contained very little of the big entrepreneurs or owners of businesses that are normally referred to as upper class members. There were also very

few of the managerial/professional cadre of workers, and none of the upper echelons of the military class or other specialised professions. As earlier stated, the arrest pattern is preponderantly of people that would normally be classed as of low socio-economic-status.

To make the available data measurable on the ordinal scale, the occupational variable was categorised into; Low level occupation, middle level occupation and high level occupation. The unemployed, peasant farmers, and unskilled labourers were subsumed under the low level category. The middle level category was constituted by clerks and artisans. White collar employees were categorised as being in high level occupation.

The data reveals that 12 (or 2.82%) of arrestees are in high level occupations. Precisely 190 (or 44.6%) are in middle level occupations, while 224 (or 52.68%) are in the low level occupational category.

When the data above is correlated with data on detention length, the following information is revealed; Precisely two (or 16.67%) of arrestees in high level occupation are detained for over 24 hours. But 79 (or 35.2%) of those in low level occupations are detained for over 24 hrs. Furthermore, the data shows that six (or 50%) of white collar arrestees are not detained at all, while only 19 (or 8.48%) of blue collar (i.e. low level)

arrestees are not detained at all. All these tend to suggest that arrestees in low level jobs are more likely than their white collar counterparts to be detained and detained for longer periods. This view is supported by the calculated gamma value of -0.4 which translates into moderately inverse relationship between the two variables.

The same indirect tendency is observed in the relationship between offender's occupation level and police decision to interrogate suspects under duress i.e. torture. while no arrestees in the high occupation cadre is subjected to this method of interrogation precisely 51 (or 22.77%) of those in the low level category were tortured. The information is summarized in the table below:

Table 2: The Relationship Between Offenders Occupation And Police Decision To Interrogate By Torture.

	Occupation Level							
Torture	Low		Middle		High		Total	
	+	%	+	%	+	%	+	%
Not tortured	173	40.61	148	34.74	12	2.82	333	78.1
Tortured	51	11.97	42	9.86	0	0	93	21.83
Total	224	52.88	190	44.60	12	2.82	426	100

X^2 = 5.47, r = -0.9

Low (unemployed /peasant farmers/labourers)
Middle (Clerks/artisans)
High (White collar)

The data from the table above supports the hypothesis that arrestees in low level occupations are

more likely than those in high level occupation to be tortured by the police.

Available evidence however, do not warrant the imputation of any relationship between offenders occupational status and police prosecutorial decision. Neither statistical computations, nor on the spot observation suggests any significant relationship between the two variables. Though a greater proportion of arrestees from low level occupation are prosecuted the evidence is not strong enough to suggest a definite relationships. Hence the calculated chi-square value of 5.15 is not statistically significant at 0.05 level of significance. The gamma value of -0.28 is also too weak.

The only conclusion that can be drawn from the evidence presented so far under this section, is that; 'occupationally advantaged arrestees are less likely to be detained or tortured than their occupationally disadvantaged counterparts". The qualifications made with respect to findings on income and police decision are also applicable to the findings here.

5.4 Offenders Educational Attainment And Police Decision Making

Similar to observed patterns in income and occupation, the educational profile of arrestees, shows that a preponderant majority are with low educational

attainment. Only 15 (or 3.5%) of arrestees are educated up to the tertiary level. Precisely 126 (or 29.58%) of them had attended secondary or trade school. The highest educational attainment of the remaining 285 (or 66.9%) arrestees is primary school.

For the purpose of this study, arrestees with "primary/koranic/no formal education" qualifications are ranked under low education level. The middle level category is made up of those with educational attainments higher than primary school but lower than tertiary education; Arrestees with tertiary education are subsumed under the high education level category.

The pattern observed, is that the police on the whole tend to follow legal procedures more, when the alleged offender's educational level is high. This is understandable, given that educated arrestees are more likely to know their rights, insists upon their observance, and to make use of legal counsel. In consonance with observations, the data reveals that 46.67% of arrestees in high education level were not detained at all, while only 5.6% of those on low education level were not detained. Furthermore, only three (or 20%) of arrestees in the high education cadre were detained for over 24hrs, while 107 (or 37.54%) of those in the low cadre were detained for over 24 hrs. All

these tend to give support to the hypothesis that "arrestees with low educational attainment are more likely to be detained, and to be detained longer, than others with higher educational attainments".

The same inverse trend is discernible in the pattern of relationship between offender's educational attainment and police decision to use torture. The data shows that proportions of 28.57%, 18.4%, and 6.67% of arrestees are respectively tortured from the low, middle and high education categories. The calculated chi-quare value suggests a relationship of significance. Moreover, calculated gamma value of -0.39 also support the hypothesis that; arrestees with lower educational attainment are more likely than those with higher educational qualifications to be tortured by the police.

One of the few exceptions to the pattern described above is worth mentioning: Arrestee 106b is a lecturer at Federal College of Education, Zaria, who was forcibly arrested and charged with abduction. The girl he was accused of abducting is a 24 year old student who against the admonitions of her parents willingly packed her belonging to go and live with the lecturer. So the lecturer starts talking about being illegally arrested, about the girl being over 18 years and an adult with free choice, and generally making a lot of threats about going

to the court. A policeman tells him to his face that he is merely 'blowing grammar" which will get him no where. This lecturer was then man-handled and shoved into cell. He did not regain his freedom until two days later. By then he is sober and repentant. Furthermore, he had paid bribe and written an undertaking not to have further dealings with the girl. It was later gathered that the girl is from one of the wealthy and influential families in Zaria.

Available evidence do not suggest that offender educational attainment has any significant influence on police prosecutorial decision. The tendency as in all previously described relationship involving prosecution, is that legal consideration feature more prominently. As earlier reported there is high legal awareness among the police. In the few cases where prosecution was embarked upon without sufficient legal grounds, the police made sure that such prosecutions were conducted in low grade Area Court. Such courts are presided over by a not-too-literate *Alkali* (judge), who seem to be in league with the police in disposing spurious cases of "belonging to criminal gangs." They are also very strident in enforcing the rule that bars legal counsel from appearing in his court.

The data on educational attainment and police prosecutorial decision is summarized in the table below.

Table 3: The Relationship Between Offenders Educational Attainment and Police Decision to Prosecute.

Prosecution	Education Level							
	Low		Middle		High		Total	
	+	%	+	%	+	%	+	%
Not prosecuted	218	52.28	111	26.67	13	3.05	342	82.1
Prosecuted	60	14.39	13	3.05	2	0.48	75	17.99
Total	278	66.67	124	29.74	15	3.6	417	100

X^2 = 7.39, r = -0.28

Low (Little/no education)
Middle (Secondary/Trade School)
High (Tertiary education)

No clear pattern is discernible from the table above. About the some proportion of offenders in the middle and high education categories are prosecuted. Though the calculated gamma value of -0.28 suggest a weak inverse relationship, it is not sufficiently strong to warrant the imputation of any significance. The conclusion is that offenders level of education do not have any significant effect on the prosecutorial decision of the police.

5.5. OFFENDERS AGE AND POLICE DECISION MAKING

The legal procedures for the diversion of children and young persons from formal criminal justice process are not observed in practice. Children as young as six years are arrested and detained along with adult

offenders. Age is not used as a basis for segregation in cells. Further more, the data suggests that police post-arrest decisions are tilted against younger offenders.

A breakdown of the 427 valid responses received on the relevant variables, reveals that 34 (or 7.9%) of arrested offenders are below 18 years of age. Precisely 310 (or 72.6%) are between the ages of 18 and 40 years. The remaining 83 (or 19.44%) are aged over 40 years.

Only one (or 2.90%) of offenders below 18 years of age was not detained. But 18 (or 21.69%) of those over 40 years of age were not detained. That offence type could be responsible for this discrepant pattern of detention is not tenable. This is because the juveniles offences were consistently less serious than those of adults. If offence type is exerting any influence therefore, one would have expected it to be in the opposite direction from what was observed in detention pattern. Moreover, a greater proportion of younger offenders were detained for over 24 hrs.

When the data is cross-tabulated and computed, the calculated chi-square value, suggests that a relationship of significance exists between offenders age and police detention decisions. When the age categories are ranked as low middle and high, gamma's computation suggests an inverse relationship between the two variables. All these

tend to lend support to the hypothesis that "younger offenders are more likely than the older ones, to be detained, and to be detained for lengthier periods". The table below summarizes the data on offenders age and police detention decision.

Table 4: The relationship between offenders age and length of detention.

Length of detention	Age							
	Low		Middle		High		Total	
	+	%	+	%	+	%	+	%
Not detained	1	0.23	24	5.62	18	4.21	43	10.07
Detained less 24 hours	20	4.68	159	39.24	51	11.94	230	53.86
Deatained over 24 hours	13	3.04	127	29.74	14	3.28	154	36.07
Total	34	7.96	310	72.60	83	19.446	427	100

X^2 = 26.81 r = -0.39

Low (Below 18 years)
Middle (18-40 years)
High (Over 40 years)

Available evidence also supports the hypothesis that an inverse relationship exist between offenders age and police use of torture during interrogation. Only two or 3.85%) of offenders over the age of 40 years were tortured. But 85 (or 24.93%) of those between the ages of 18 and 40 years received the same treatment. Precisely six (or 18.8%) of offenders below 18 years (i.e. Juveniles) were tortured.

Some of the policemen interviewed, disclosed that it is natural for the police to be more reluctant in subjecting older arrestees to the debasement of torture

or lengthening the period in cell. According to one of them; "no policeman, no matter how tough, would derive any joy fromspraying tear gas into the eyes of a man old enough to be his father". He however went further to say that when the offence is quite serious and evidence is weighty, the police would go ahead with torture, if its the only other means left for extracting confession. In this case age would have no influence at all. In addition to the psychological predisposition to respect elders, two other factors can be identified to be responsible for the relatively better treatment that older arrestees receive. The first is economic - It can be safely assumed that older arrestees are higher on the socio-economic scale and could better gratify the police. Secondly they are more likely to know their rights and to insist upon their observance. It is to be noted however, that those two factors only count, when we compare arrested below 18 years with those above.

In the case of prosecutorial decisions, they are not found to be significantly influenced by age. Though increasingly smaller proportions of more highly ranked age category were prosecuted, and this is supported by a negative gamma value of -0.27. The pattern is not strong enough to suggest any relationship of significance.

In conclusion it can be stated that the evidence presented in this section support the hypothesis that; younger offenders stands a higher chance of being detained and tortured than the older ones. No relationship could be established between offenders age and police prosecutorial decisions.

5.6. OFFENDERS SEX AND POLICE DECISION MAKING

The data reveals that only 27 (or 6.34%) of the total arrestees are females while the remaining 399 (or 93.66%) are males. This disproportionate representation of gender poses two problems. First it is doubtful whether it truly reflect the pattern of female involvement in criminality. For as available evidence suggests, the police tend to be reluctant in arresting females. The second problems is that of ensuring a meaningful comparative analysis based on proprtionality, given the disproportionate representation. In the light of those problems, the analysis in this section is necessarily more descriptive and conjectural, than statistical.

Though the arrest decision could not be observed at the station, it was reliably gathered from some police interviewees that females can more easily get away with resisting arrest. According to one policeman, using force to effect the arrest of a female offender can "land a policeman in serious trouble". He explained further that

"the woman can easily claim that she was molested, and people, especially in this part of the country are very sensitive to that". Policemen, then have to exercise much restraint and caution when handling female offenders - be it in effecting arrests, searching her person, conditions of detention, interrogation etc. The number of female police available is unfortunately not sufficient to assign them exclusively to handling cases involving females. The few available policewomen are either not efficient or they are not being used efficiently. For example, there is no policewoman among the ten IPOs in Zaria police station. There are only two women in the whole crime branch, and they are permanently stationed behind the 'counter'. One of those women was attacked by a female offender in the researcher's presence.

The attacker who is a prostitute by profession claimed that the policewomen 'hissed something" about debased womanhood at her. Before she could be stopped, she flew at the policewoman, and in the brief but fierce struggle that ensued, the police woman lost two of her brass buttons and the epaulette bearers on her shoulders. Yet the attacker was only asked to pay for the cost of putting the uniform back in order. A male offender doing the some thing to a policeman would have been beaten very severely by other policemen present.

The tendency to treat females more lightly is also noticeable in the data on police detention decision. The data reveals that 22.22% of females were not detained at all, while only 8.27% of males were not. Furthermore, 150 (or 39.09%) of male arrestees were detained for over 24hrs, but only one (or 3.7%) of the females was detained for that long.

The probable explanation for the shorter detention period for female offenders are two; first, while the police often ignore rules concerning other forms of segregation in cells, they are compelled to enforce segregation by sex. The unavailability of facilities to enforce such segregation has the effect of making the police anxious to release females. For example, at the Samaru station there is only one functional cell. Detained females share the space behind the counter with policemen. In Zaria, there are two functional cells. But enforcing segregation may mean that only one female may occupy one of the cells at a time, while over thirty male detainees are crammed into the other one. The second probable reason has to do with society's patronising attitude towards females. This usually translates into sentiments, about cells not being the place for females. Hence everyone, including the police and the female offender herself, tries everything to see that a form of release is secured for her.

The same reluctance to subject women to any form of debasement is observable in police use of torture as a means of interrogation. The data reveals that the totality of 93 arrestees tortured were all males. In other words no female offender was interrogated under duress. This should however not be interpreted to mean that females have a zero or a perfectly negative chance of being tortured. Some of the policemen interviewed revealed that females are sometimes tortured, albeit rarely. According to them it all depends upon gravity of offence alleged, strength of available evidence and how cooperative the female offender is towards police questioning.

Attempt was made to determine the probable intervening effect of offence type on the discernible pattern of relationship identified between offender's sex and police decisions about detention and torture. The data reveals that offence type is indeed related to sex. Females tended to be arrested more for crimes like cheating, disturbance of public peace, assault and so on. They are hardly arrested for criminal force or trespass. The charge of belonging to a gang of criminals" which was so rampant in the data was levelled exclusively against males. Yet the manner in which serious charges are indiscriminately used and the general misdemeanour character of offences committed suggests that the

offences are not sufficiently varied in gravity to warrant attributing discerned patterns to offence type. As earlier said, over 95% of offences recorded, whether against, persons or properly or administration of justice etc. fall under the category of misdemeanours as far as realistic ranking of offence is concerned. As such, they could not have accounted for the disparate pattern of police decisions relative to males and females.

As in previous cases, no significant relationship could be established between offenders' sex and police prosecutorial decision. The data shows that four (or 16%) of female arrestees were prosecuted. About the same proprtion of male arrestee specifically 71 (or 17.07%) were also prosecuted. The calculated chi-square value of 0.07 is not statistically significant at one degree of freedom, given .05 level of significance. This tend to suggest that no significant relationship exists between the two variables.

In conclusion, it can only be stated that available evidence, support the hypothesis that male offenders are more likely than their female counterparts to be detained and tortured.

5.7 OFFENDER'S PRIOR ARREST-RECORD AND POLICE DECISION MAKING

Prior record is here measured in terms of prior arrest record in same station rather than prior conviction record. This became necessary as the arrestees were understandably reluctant to disclose that they are ex-convicts. Furthermore the police themselves hardly know who is an ex-convict or not unless processed by their station.

It is a well known fact that the law of sentencing works against those with criminal records. It may then seem logical to assume that police decisions would also be tilted against arrestees with records. The validity of this assumption is however not borne out by the available evidence. In fact a contrary tendency is observed, namely that habitual criminals fare relatively better than new offenders at the hands of the police. This is however not strong enough to conclude that any relationship of significance exist between prior record and any of the three police decisions of interest here. Moreso, as offence type could not be meaningfully controlled.

In the case of detention, the data reveals that 27 (or 8.62%) of offenders with no record were not detained, while 10 (or 10.87%) of offenders with records of over three previous arrest were not detained. Furthermore, 114

(or 36.42%) of offenders with no records were detained for over 24 hours while only six (or 28.85%) of those with over three previous arrests were detained for longer than 24 hours. Though the pattern from those data suggests that arrestees with records are relatively well off, the differences in proportion or percentages is not strong enough to be convincing.

The data on records versus police decision to interrogated by torture also reveals no significant relationship. About the same proportion (i.e. 19%) of offenders from both the "no record" and the "over 3 previous arrests" categories are interrogated under duress. This data is summarized in the table below.

Table 5: The relationship between offenders prior record and police decision to interrogate by 'torture'

Torture	Prior Arrest Record: Low		Middle		High		Total	
	+	%	+	%	+	%	+	%
Not Tortured	253	59.39	63	14.79	17	3.99	333	78.17
Tortuted	60	14.08	29	6.81	4	0.94	93	21.83
Total	313	73.47	92	21.60	21	4.93	42	100

X^2 = 6.45 r = 0.24
Low (No record)
Middle (1- 3 times)
High (Over 3 times)

No significant relationship could also be established between offender's prior record and police prosecutorial decisions. It is interesting to note however, that the lowest proportion of prosecuted

offenders comes from the category with highest previous records of arrests (i.e over 3 times). Among this category, only 11.11% of offenders are prosecuted, but 16.18% of arrestees with no prior record were prosecuted too.

The pattern in all the relationship described above is that, those with records of over three previous arrests tend to fare better. It should be noted however that this pattern only holds when the middle category i.e. those with records of 1-3 previous arrest is not considered. When it is considered, it is seen that they (i.e. arrestees in middle category) consistently fare worse than those with no records. In the light of this observation, and given negligible values of statistical test of association in all the cross tabulations, it can only be concluded that no relationship of significance exists between prior record and police decisions. In some instances those with records fare better than those without records. This advantage may come from the fact that they are known to the police, they 'know the ropes' and can fix things with the police or they can be used as cultivated informants, and so on. But on other occasions the fact that they have records and are seen as hardened criminals may work against them, making them fare worse than new offenders. So no clear pattern could really be established.

5.8. DURATION OF OFFENDERS RESIDENCE IN COMMUNITY AND POLICE DECISION MAKING

Hardly any weight is given to communal ties, or length of residence in the making of pretrial decision by the police. As mentioned in the preceding chapter, none of the policemen interviewed gave 'flight risk" as possible reason for denying bail. They all tied the bail decision to acceptability of sureties; which as earlier noted is often synonymous with acceptability of bribe money. It is hence, not surprising that even those who were arrested in transit (i.e not resident in environs of study) competed favourably with 'locals" in terms of period spent under detention. The data reveals that 89.28% of offenders who had spent less than one year in the community or station locality were detained. But it also reveals that 89.58% of those who had spent over 10 years were also detained. This supports the assertion that no relationship of significance exists between residence length and police detention decision. It should however be noted that a greater proportion of residents of "less than one year." (50%) were detained for more than one day. Only 34% of residents of "over ten years were detained for over one day." The table below summarizes the data on residence length and police detention decisions.

Table 6: The relationship between duration of offenders residence in community and police detention decision.

Length of Detention	Duration of Residence: Low		Middle		High		Total	
	+	%	+	%	+	%	+	%
Not detained	3	0.7	11	2.59	25	5.88	39	9.18
Less than 24 hours	11	2.59	86	20.24	133	31.29	230	54.12
Over 24 hours	14	3.29	60	14.12	82	19.29	156	36.71
Total	28	6.59	157	36.94	240	56.48	425	100

X^2 = 4.37 r = -0.13
Low (Less than 1 year)
Middle (1 - 10 years)
High (Over 10 years)

The data also, do not suggest that any significant relationship exists between offenders length of residence and police decision to interrogate by torture. Though increasingly smaller proportions of each of the "residence length" categories are tortured as one moves up to categories with more years of residence, the differences are not strong enough to warrant imputing a relatively of significance. Hence the X^2 value of 4.37 is not statistically significant at 0.05 levels of significance. The gamma value, though negative, is also negligibly low.

In the case of prosecution, the data reveals that five (or 18.52%) offenders who have resided in the community for less than one to 10 year were prosecuted. From the category of offenders who have been in residence for one- 10 years, 24 (or 15.58%) were prosecuted. While 46 (or 19.66%) of offenders who have been in the

community for "over 20 years" were also prosecuted. The fact that the proportion of prosecuted offenders from each of the residence categories cluster around the same point, suggests that prosecution decisions are not influenced by residence length. This suggestion is supported by the value of X^2 after cross tabulating the two variables. The value of the calculated X^2 is not statistically significant, and the gamma value of 0.1 is also negligible.

It can be concluded that no relationship of significance exists between offenders length of residence in community and police decision making.

5.9 OFFENDERS ETHNIC BACKGROUND AND POLICE DECISION MAKING

The empirical data do not reveal any consistent pattern of influence between offenders ethnicity and police decision making. It is true that many individual policemen have formed stereotypes about criminal tendencies inherent in particular tribes. But such stereotypes are neither rigid, nor are they observed to exert any influence. Thus a particular, desk sergeant at Samaru station was observed on separate occasions to describe Hausa, Ibo, Yoruba, Tiv, Igala, "Bendel people" and so on as typical criminals. When several "Hausa boys" were arrested for "belonging" he castigated the hausa

people for not training their children but making them roam the streets as "almajiris" who later mature into criminals as they are not equipped for any other job. When an Ibo spare parts dealer was arrested for "unlawful possession of stolen property" this same officer lambasted all Ibos as thieves and car snatchers whose speciality is "butchering" stolen vehicles into spare parts. On another occasion when a complainant reported some items stolen from his car in a mechanics workshop, this some sergeant ordered the arrest of all the 'mechanics' who incidentally were all Yorubas, with this remark: "Yoruba people are the most untrustworthy people in this world. They can sell their mothers for money imagine, a car taken to their workshop for repairs, and they start stealing from it". He calls all accused persons of Edo or Delta State origin, Anini brothers - Anini is the name of a notorious armed robber from the former Bendel State, which has now been split into Edo and Delta states. The same sergeant describes people from Rivers, Cross River, and Akwa Ibom states as born thieves whose penchant for jobs as house helps is suspect. Their ulterior motive according to the sergeant is to wait for an opportunity for the house to be empty, and then to pack all property and disappear. So offenders from minority and majority tribes alike are described as typifying the criminal inclinations of their tribes

depending on the mood of the relevant officer or on the circumstance of the crime.

The widely held belief that minority ethnic status is a social disadvantage, as members tend to suffer from victimization and marginalisation by majority groups, does not hold true as far as police decisions are concerned. On this point, both the qualitative and quantitative data concur. For example, the table below summarized the relationship between offender's ethnic status and police decision to torture.

Table 7: The relationship between offender's ethnic background and police decision to interrogate by torture.

Length of Detention	Ethinicity: Low +	Low %	Middle +	Middle %	High +	High %	Total +	Total %
Not tortured	105	24.65	64	15.02	164	38.50	333	78.17
Tortured	23	5.40	20	4.69	50	11.74	93	21.83
Total	120	30.05	84	19.72	214	50.23	426	100

X^2 = 1.59 r = 0.11
Low (Minority)
Middle (Yoruba/Ibo)
High (Hausa/Fulani)

The table above reveals that even less proportion of offenders from minority ethnic grouping are tortured then those from majority tribes. While only 23 (or 17.97%) of minority tribes were tortured, 50 (or 23.36%) of Hausa/Fulani origins were tortured. The negligible values of the computed test of associations, further reveals that the differences in proportion of each category of

tortured offenders in not strong enough to suggest a significant relationship.

No significant relationship is also found between the variable of offenders ethnicity, and police detention/prosecutorial decisions. The proportion of offenders not detained at all" from each of the three ethnic categories ranges from 8% to 10.7%. The proportion detained for over 24 hrs" ranges from 32% to 39%. All these tend to suggest that ethnicity is not a significant determinant of police detention decision.

The pattern is not much different in the case of prosecution. The data reveals that 21 (or 16.67%) of offenders from minority tribes were prosecuted. Precisely 11 (or 13.75%) of the Ibos/Yorubas were prosecuted, while 43 (or 20.47%) of Hause/Fulani were also prosecuted. This data when combined with the negligible values of the tests of associations also suggests that ethnicity is not a significant determinant of police prosecutorial decisions.

It can be concluded that offenders ethnic background has little or no influence on police decision making.

5.10 SUMMARY AND DISCUSSION

This chapter correlates eight independent variables with three dependent variables. The eight independent

variables the relationship with the two dependent variables comprises socio-demographic attributes of alleged offenders namely: their income, occupation education, sex, age, prior record, residence length, and ethnic background. Those independent variables were correlated with police decision concerning torture, detention, and prosecution, which are the dependent variables.

The findings reveals that, of the eight independent variables examined, three consistently had no significant relationship with any of the dependent variables. These three are: offenders prior arrest record, ethnicity, and length of residence. Further more, no significant relationship could be established between any of the eight independent variable and police prosecutorial decisions.

Available evidence suggests that significant relationship exists between each of the five remaining independent variables and the remaining two dependent variable. For the first four of the five independent variable is in the hypothesized direction i.e. they showed inverse relationships. In the case of the fifth independent variable (i.e sex) however, where masculinity as an advantaged status was ranked higher than femininity, the relationship was consistently and very

strongly in an opposite direction from the hypothesized one. In other words, females were shown to consistently fare better than their male counterparts at the hands of the police.

Thus, some aspect of the working hypothesis of this study are substantiated, while others are not. A modified version of the hypothesis, which now reflects the findings of the study may be stated thus:

> Arrestees on low income levels, or low occupational cadre, low age and masculine gender, ore more likely than their counterparts to be tortured, detained, and detained for longer periods.

This finding to a large extent, reflect the economic quality of police justice. It is also quite compatible with the major finding of the preceding chapter, namely; that station house activities are shaped overwhelmingly by the offering and taking of gratification. It is presumable that people with higher socio-economic-statuses are economically better placed to offer bribe. This is not just because they have the wherewithal, but also because, they, more than lower class members, have internalised the prevailing norm of the market economy. A norm which stipulates that everything goes for a price.

CHAPTER SIX

SUMMARY, CONCLUSION, AND RECOMMENDATIONS

6.1 INTRODUCTION

This study sets out to *inter alia*, determine the level of awareness of the legal process by the police, accused, and other participants of pretrial justice. Secondly, to find out the proportion of cases that are disposed of at the police station. Thirdly, to determine the extent of due process observance or violation by the police. Fourthly, to identify the factors affecting police decisions. And finally, to examine the statutory framework of police discretionary powers. The findings of the study are summarized below.

6.2 SUMMARY OF FINDINGS

Regarding awareness of legal process, it has been found that policemen in the crime section are very aware of procedural provisions. They have attended at least a post-primary institution before joining the police and do attend police training courses while in the force. Copies of the relevant statutory documents[see] are provided in the station for easy reach, should any doubt about procedure arise. Yet policemen rarely follow legal procedures in handling members of the public. The prevalent methods of handling cases are informal rather than formal. Many of

the policemen interviewed attributed this to none availability of requisite materials for formal methods. It was however observed that such informality also affords individual policeman the opportunity to make personal money through the acceptance of gratification.

The civil participants in the pretrial justice process are, unlike the policemen, largely ignorant of legal provisions. Most of them do not know their rights and could therefore not demand for them. Even the few who are aware of such rights do not usually consider it worthwhile to insist upon their being observed. Complainants and accused alike, have no confidence in the formal justice process. Many complainants would rather be compensated by culprits at the station, than undergo the tedious routines of a court trial. Most accused persons will rather pay off the police, and have their case dropped than go to court. In short, legal provision are pushed aside while most cases are informally settled at the police station.

It has been found in this study that over 80% of all reported cases are disposed of at the police station. Except in a few instances, the reasons for such dispositions are usually not recorded. In fact, majority of disposed cases are not entered into the monthly crime returns to the police headquarters. The implication of

such a large volume of unrecorded dispositions for the Criminal Justice System (CJS) are two fold: first it circumvents the adjudicatory functions of trial judges. Secondly, it undermines the usefulness of police crime records as the primary data base for overall criminal justice evaluation and planning. The practice of disposition without trial is facilitated by apparent collusion of all parties to avoid the formal trial process. These parties include; the accused, the complainants, the witnesses, the police and even other arms of the CJS. Pretrial disposition helps to relieve the pressures on the courts and even prisons. Hence the courts may not be overly concerned with ensuring that police adhere strictly to due process as that will certainly mean more referral rates.

It has been found in this study that due process provisions are rarely observed by the police in its dealing with members of the public. Arrests that require warrants are frequently carried out without warrants. Arrestees are often not informed of the reason for their arrests. Sometimes written statements are not taken from accused persons and when taken, it is often without first administering the required caution. Detention of suspects is routine and quite often it is for periods longer than the statutorily stipulated limits of 24 hours. Interrogation is frequently carried out by torture,

contrary to principles laid down by "Judges Rules". Detainees are often denied access to relatives and lawyers. Moreover, they are usually irregularly fed, denied medical care and not sufficiently segregated.

The hardships that accused persons undergo are to some extent ameliorated by their offering gratification to the police. Hence, it has been found in the study that the socially disadvantaged groups fare worse than the socially advantaged, in the hands of the police. Arrestees of low socio-economic status, youthfulness and masculine gender tend to be treated more harshly than their counterparts. In accepting complaints, making arrests, carrying out investigations, interrogations and in granting bail, policemen's actions and inactions are to a large extent influenced by how much the civil parties are willing to pay. That arrestees with higher socio-economic status fare better, is then a reflection of the economic quality of justice.

Regarding the statutory framework of police powers, it has been found that the law is vague about the precise amount of power that policemen can wield. The vague and overgeneralized provisions of the penal code engenders a wide use and abuse of discretion by the police[29]. The penal code also tend to be overcriminalizing in the wide range of activities subsumed under the rubric of crime[30].

Furthermore it contains some contradictory provisions[31]. The criminal procedure code also has its share of contradictions[32] and overgeneralization[33]. Same goes for the police Act[34]. These ambiguities and general lack of clarity makes it difficult to determine where police powers stop and citizen rights begin. So the procedural safeguards of citizens rights are to some extent undermined by the enormous discretionary power that the police enjoys as a result of the vague and imprecise character of statutes. That power is left virtually unchecked, first because the generality of citizens are too ignorant to seek redress in court and secondly, because the superior police officers who should check their men seldom do so.

6.3 CONCLUSION

From the findings of this study, it can be concluded that pretrial police practices in Nigeria fall short of the declared objectives. The lofty ideals of the 'rule of law' as embodied in the principles of legality and due process are not practically operative. Legally irrelevant criteria which in most cases translate to the advantage of the well-to-do, exert a major influence on police decisions. This situation does not arise from personality defects of individual policemen, nor is it even attributable to the institutional character of the police

force. Rather, it can be meaningfully located within the larger societal context in which the police operates. This society can be characterised predominantly in terms of its capitalist socio-economic order. But Nigerian capitalism like other third world capitalist economies, is a caricature of western capitalism. Its dependent or peripheral nature tends to stunt and distort all national institutions, the police force inclusive.

Hence, while the objectives for setting up the police may be similar in all capitalist societies, the requisite material and personnel input, together with the social environment for the realization of those objectives tend to differ. The Nigerian Police Force is ill-equipped, ill-trained, and operate within a decadent social environment. Given this factors, it is hardly surprising that it has assumed the character outline by this study.

The police force has also been unable to live up to the conception of the police as an impartial and benign enforcer of law, because it was created by colonialists primarily to protect the interest of capital (see Ahire, 1991). The interest of the emergent national bourgeoisie who stepped into positions vacated by the colonialists was and has remained similar to that of the colonialists. Hence only very little has been done to rid the police of

its obnoxious colonial heritage. The Nigeria Police Force, in spite of its efforts to proclaim its institutional autonomy remains partisan. However, when its status protection function and its crime prevention function directly conflicts in any particular case, the police have opportunities to assert its relative autonomy. In such cases, especially when the offence is grave and available evidence is strong, the police tries to bring the suspect to book regardless of his/her class status.

The police is also constrained by the fact that it must operate in awareness of existing realities. A strict adherence to due process will lead to higher referral rates to courts and may mean more inmates for the prisons. The police is aware that those other arms of the CJS are not equipped both in personnel and material terms to cope with the increased workload that will result from higher referral rates.

Furthermore, individual policemen are themselves daily exposed to the pervasive influence of a society that has imbibed a culture of corruption. Members of the public are usually the first to offer gratification to the police. It makes no difference whether they come as complainants or accused persons. It is difficult for policemen to resist such temptations, especially when

viewed against their often repeated complaint of being underpaid.

It should also be remembered that proceeds from gratifications do not all go into private pockets of policemen. part of it is used by the force to provide some basic material requirements of investigation. For example, policemen claimed that stationeries have not been received from the Force headquarters for years. Part of the gratification money is used to procure local stationeries for taking statements from accused and other persons.

It is now clear why pretrial police practices assumed the character and form described by this study. It is also clear that the character does not facilitate the achievement of criminal justice goals. the next section of this chapter offers proposals for the reform of pretrial police practices.

6.4 RECOMMENDATIONS

The government should mount a massive legal awareness campaign with a view to educating members of the public on due process and their legal rights. All organs of the mass media should be mobilized towards the realization of that goal. Moreover, introductory courses on basic constitutional rights and duties should be

introduced and taught at secondary schools level throughout Nigeria. Awareness of one's rights is a major step towards upholding them or insisting upon their observance by others.

The policemen, though aware of legal provisions, also need further education/training on the rational exercise of discretion. Much of the antagonisms between the police and the public arises from the inability of policy makers to strike a balance between police powers and citizen's rights. Yet any attempt at increasing citizen's right can only be successful at the expense of police power which will have to decrease. That will create its own problems. Loopholes would emerge for some offenders to escape the law, many new vices will emerge, and the police will complain of being handicapped. Since it is nigh impossible to pin-point a definite point of balance where police powers will be equal to citizen's rights, the solution is in education. There is a need to qualitatively educate policemen, such that though left with most of their powers they will exercise the powers in a consistent and rational manner. A crucial first step towards achieving this, is to raise the minimum entry qualification for personnel in the crime branch to a degree in social sciences, preferably criminology. Furthermore, the curriculum of the various 'Police Training Schools' should be upgraded such that emphasis

is laid upon socio-legal training, while the physical and paramilitary orientation inherited from the colonial era should be de-emphasized.

Mechanisms should also be put in place to ensure that the police record both its enforcement and non-enforcement decisions. Non-enforcement decisions are by nature largely invisible. When they are not recorded, they automatically become precluded from later reviews or appraisals. Any abuse or arbitrariness resulting from such decisions is not redressed. Furthermore, such decisions do not enter into police crime records and as such undermines the usefulness of official crime data for criminal justice evaluation, projection and planning. Towards ensuring that the police records its non-enforcement decisions, education is again very important. Policemen should be educated to realise the importance of doing so. Secondly, stiff penalties should be entrenched into statutes for any case of non-recording detected. The researcher was unable to find any categorical statement on punishment for non-enforcement/non-recording in existing statute documents.

To curtail the enormous discretionary powers of the police and the concomitant erosion of citizens rights, it is also suggested that the government should undertake substantive reviews of Nigerian legislation. Periodic

reviews will make laws more precise and make policemen's behaviour less arbitrary. It should also help in decriminalizing many of the activities presently included under the definition of crime. For example, idling[95], vagabond[96], use of insultive language[97], drunkenness[98] and so on.

At a general level, there is a pressing need for improvement in the quality and quantity of facilities provided for the police for its operation. This should begin from the very uniform that policemen put on. The uniform of many policemen are in a pathetic state. Many wear 'rubber' shoes to work, and for many of those who still wear 'leather' shoes, the leather shoes are more fit for the rubbish heaps than their feet. There is also very little uniformity in clothes put on as uniform by the police. The materials are poor, the colour run and many are thread bare and worn out. To command feeling of respect from the public, policemen appearance need to be improved. Other materials urgently needed by the police include *inter alia*: standardized stationeries for taking statements, sophisticated technical aids for investigation and interrogation, functional vehicles for patrol and for conveying suspects to courts or contacting their relations, modern telecommunication gadgets, adequate cell accommodation, police hospitals that would

cater exclusively for the needs of the police/suspects at subsidized rates and so on.

There is also an urgent need for the government to wage an all out war against corruption in the country. The public is as guilty as the police for the corrupt practices associated with pretrial activities. It takes a "giver" and a "taker" for the crime of unlawful gratification or bribery to occur. This campaign against corruption should adopt more seriousness than the lip service presently being paid to the "war against indiscipline and corruption". It can be more meaningfully waged when those in positions of authority are seen to be actually practicing what they preach. The law books already contain adequate provisions on the illegality of gratification (for example, see the penal code, S.115 - S. 121). Since the police, that is charged with upholding the law is already guilty of the charge, the option for a fundamental change in attitude towards bribery lies with the members of the public. They should be educated not to offer and to report to appropriate authorities when it is demanded. A more qualitatively educated police force would also not demand for gratification to do a job it is being paid to do. The campaign against corruption should be waged simultaneously with the campaign for legal awareness.

Finally, it must be pointed out that the recommendations outlined above are short term measures. Implementing them will not totally eradicate the ills identified with police station practices. In the long term, it is the capitalist socio-economic order which generates pressures towards such vices that must be addressed. Capitalism by its very nature thrives upon inequality. Hence upper class members fare better in the criminal justice system than lower class members. Capitalism is a system that subjects virtually everything to the market norm. Hence virtually everything, including justice and conscience, are commoditized. Justice then becomes a commodity for sale, and the highest bidder procures it. As Marx (1971:83) puts it, the era of capitalism is one in which:

> ....everything has been transformed into a commercial commodity. It is the time of general corruption, of universal bribery or, in the language of economics, it is the time when each object, physical as well as moral is put on the market as an object of exchange to be taxed at its correct value

Those ills are further aggravated in a dependent capitalist economy like Nigeria, where institutions like the police exist as mere caricatures of their advanced capitalist counterparts. For the long term reform of police pretrial practices, therefore, the fundamental cause of its present character must be addressed. In so

far as this has been identified as the 'dependent capitalist' status of the country, it would appear that Nigeria has two significant policy options: First, to eliminate its status of periphery/satelite *vis-a-vis* the metropole/centre and transform itself into a 'centre'. This option will lead to a considerable improvement in police performance. But it will not totally eradicate the socio-structural basis of police deviancy and unequal treatment of citizens. This is because inequality and corruption is endemic to all forms of capitalism - dependent or advanced. The second option is for Nigeria to opt out of the international capitalist orbit and adopt a more egalitarian socio-economic order. This option holds more promise than the first because it attacks the root cause of the problem, namely, the socio-economic order.

Given present day global realities, it has to be admitted that it would be difficult to bring about either of the options. But they are practicable. The precise means by which they can be achieved is beyond the limited scope of this study and is left to future research. Such research however, must be sensitive to the dynamics of international capitalism. It should recognise that the development of the western capitalist nations and the underdevelopment of third world countries are just two intricately linked sides of the same on-going process.

END NOTES

1 see, Police Act (Cap. 359) laws of the federation of Nigeria, 1990.

2 ibid, regulation 234

3. ibid, regulation 325, paragraph d.

4. see The Guardian; "A nation gets the police force it deserves" Newsreport Guardian Newspaper, limited: Lagos.

5. Dele Omotunde; "like in South Africa" News report in Newswatch Magazine Vol.3. No. 26, 30/6/86. p.17. Newswatch Communications Ltd., Lagos.

6. Editiorial: "Police: friend or foe?" News Editorial in Ibid; vol.3. No. 26. 30/6/86 p.13.

7 Editorial; "State police: A threat to Nigerians Unity" in Sunday Times 21/8/80; Daily Times Pub. Ltd., Lagos.

8. Agbareh; "Wanted: "A police force to make us proud"; Article in National Concord of 24/4/91, p.7, Concord Press Ltd. Lagos.

9. The Police Public Relations Officer, Mr. Frank Odita has made series of such calls in both the print and electronic media since 1991. for example, see National Concord Newspaper of 12/8/91, Or N.T.A. Network News, of 9/10/92.

10 Editorial; "Thinking corner" in National Concord of 12/8/91, Back page: opcit.

11. "Police not as bad as painted - CSP" New Nigeria 11/11/92 P.26; NNN Ltd; Kaduna.

12. ibid

13. "All the while, Madam was shouting', African Concord, vol. 6. No. 11, 15/7/91; pp 43-44 Concord Press, Lagos.

14. See The Campaigner; "When killers go free" Vol.1, No.2 March 1992 Civil Liberties Organisation Pub., Lagos.

15. ibid

16. ibid

17. Vanguard Newspaper; "How did Elechi Igwe die? family claims he was killed in detention police say no."Sunday Vanguard, 17/3/91. front page.

18. see The Campaigner, Ibid.

19. National Concord, "Police I.G. on declining standards of crime investigation" National Concord Newspaper, 20/2/91, p.1. op cit.

20. African Concord, "Police: A silver lining?" Exerpts from a speech delivered by the Inspector-General of the Nigeria police to force officers. vol. 6, No.16, August 19th 1991, p.54.

21. Vanguard, "Police chief may face prosecution over illegal detention" in Vanguard Newspapers, Friday July 5, 1991, front page.

22. National Concord, "Police I.G on Declining Standards of crime investigation" National Concord Newspaper, 20/2/91:1.

23. The statutory procedures described are as contained in two main statute documents, namely (a) The Nigeria Police Act: Laws of the Federal Republic of Nigeria 1968 & (b) The Criminal procedure Code (CPC) of Northern Nigeria.

24. Newswatch (1986)" Police: friend or foe", ~~cover story~~, June 30, vol.3: No 26 P.13.. Newswatch Communications Ltd, Lagos.

25. ibid; p. 17.

26. Agbareh S.O.(1991) "Wanted: A police force to make us proud" in National Concord, Wednesday, April 24, 1991. p.7. Concord Press Limited; Lagos.

27. African Guardian (1992) "Corruption unlimited" in "off the record" columm; The African Guardian, April 13 vol.7. No.12. p.42. The Guardian Press, Lagos.

28. Criminal procedure code, penal code , Police Act.

29. For example there is always a section of the penal code to charge anyone arrested no matter how arbitrary the arrest. According to the penal code, a person commits "abduction" when he by "any deceitful means induces another person to go from any place". He commits "assault" when by his gestures he causes any person present to apprehend that he who makes that gesture or preparation is about to use criminal force. The definition of "vagabond" includes any male who dresses or is attired in a fashion of the woman. A person is guilty of "disturbance of public peace" when he "in a public place disturbs the public peace. He is guity of "drunkenness in a public place" when he is "found drunk in a public place". He is guilty of "criminal trespass" when he "enters into or upon property in the possession of another with intent to commit an offence...." etc. Interpretation of the underlined words (emphases mine) above gives room for considerable exercise of discretion by the police, because it calls for their subjective judgement. "intent" to commit an unlawful act can easily be imputed to somebody's action without objective means of determining same.

30. "idleness" (or idle person) "vagabond", "use of insulting or abusive language", "word or gesture intended to insult the modesty of a woman", "drunkeness in private place! and so on are all punishable offence under the penal code law of Northern Nigeria.

31. Section 124, 126 and 254 of the criminal code (CPC) stresses the importance of ensuring that statements made by accused, are made voluntarily. Yet section 143 of the penal code states "whoever refuses to sign any statement made by him when required to sign that statement by a public servant legally competent to require that he shall sign that statement shall be punished with imprisonment for a term which may extend to three months or a fine....." So when statements do not reflect what an acused had said,and he consequently refuses to sign, he may find himself liable to punishment under this section.

32. For example while section 117(1) of the CPC empowers the police to drop cases if no public interest would be served by proceeding against him, S.45 of the same CPC states that "No person who has been arrested by a police officer or rearrested under section 39 shall be discharged except on his own bond or on bail or under special order of a court". Many policemen interprete this to mean that anybody arrested must first of all be detained, no matter how slight the evidence or how minor the offence.

33. The criminal procedure codes definition of person whom the police may arrest include, *inter alia* (a) "any person whom he reasonably suspects to be designing to commit an offence"; (b) "any person found taking precautions to conceal his presence in suspicious circumstances or who being found in suspicious circumstances has no ostensible means of subsistence or cannot give a satisfactory account of himself; (c) "any person in whose possession property is found which may reasonably be suspected to be stolen property or property in respect of which an offence has been committed..... or who may be reasonably suspected of having committed an offence with reference to such property", (d) "any person who obstructs a police officer while in execution of his duty" and so on.

Again the underlined words (emphasis mine) could be given any range of interpretation depending on the whims and caprices of the enforcing police officer. Yet it must be noted, that it would be two simplistic to assume that police abuse of discretion can be eliminated by defining their duties in more precise terms.

34. The Police Act warns police personnel against "unlawful or unnecessary exercise of authority", "unlawful or unnecessary arrests" , using any unnecessary violence to any prisoner or other person", "arresting anyone without a good and sufficient cause, or being uncivil to a member of the public. Contravening any of the above proscriptions is deemed to be an offence against discipline. But not only are the underlined words, loose and ambiguous, trying to firm them may create more problems than it will solve.

35. Section 405 of the penal code

36. Section 405 of the penal code

37. Section 399 of the penal code

38. Section 401 and 402 of the penal code.

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