

A COMPARATIVE STUDY OF THE LEGAL FRAMEWORK OF THE STRUCTURES  
OF POLICE SYSTEMS IN NIGERIA AND THE UNITED STATES OF AMERICA

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**Abstract**

*Nigeria is the only federation that operates a federal system with a single police force. This unique feature of the Nigerian Federation has created a number of challenges: it hampers the discharge of the major duty of the police which is protection of lives and property, makes prompt prevention and detection of crime difficult, and apprehension of offenders a herculean task. In contrast to Nigeria, the United States operates a federal system with multiple police forces that cater for the entire federation. Unlike Nigeria, each tier of government in the United States has its own police force with the local government or counties having the bulk of these forces. The presence of these police forces facilitates the detection and prevention of crime, makes apprehension of offender an easy task and ultimately ensures the protection of lives and property. It is against the backdrop of this contrast that this paper examines the structure of the police systems in Nigeria and the United States of America. This paper adopts a doctrinal method of analysis as it examines the legal framework of the structure of the police forces in Nigeria and the United States given the fact that both countries practice federalism. The paper concludes that the United States possesses a better structure than Nigeria, a finding that compels its writer to recommend that the latter should adopt the structure of the former.*

**Keywords:** Police, Structure, Federalism, Nigeria and America.

**1.0 Introduction.**

A close examination of the legal framework of the police systems in Nigeria and the United States shows clearly that it deals with the structure and power of the police in both countries. The United States operates a federal system made up of three tiers of government: federal, state and county<sup>1</sup>. Each level has its own

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1. J Kincaid, 'Intergovernmental Relationships: 'How the Three Levels of Government Work Together' (2021) (51) (2) *The Journal of Federalism*. 250; R Smith, 'The Three Branches of Government & U.S Government Structure'. (2021) (49) (5) *American Politics Research*

police organization charged with different responsibilities.<sup>2</sup>In contrast to the United States, Nigeria

operates a federal system with single police organization which operates throughout the country<sup>3</sup>This has generated a number of challenges: failure to prevent and detect crime, difficulty in apprehending offenders and failure to protect lives and property. This paper examines the structures of police systems in Nigeria and the United States in the light of this contrast. It also appraises the centralized structure of the Nigerian Police and determines whether it accords with the federal system. It equally examines the decentralized structure of the police system in the United States and assesses whether it provides a better option for Nigeria.

### 2.1 The Structure of Police System in Nigeria

The legal framework of police system in Nigeria makes provision for the structure of the police force. The Nigerian Police Force is a creation of the Constitution of the Federal Republic of Nigeria 1999.<sup>4</sup> Section 214(1) of the Constitution provides:

There shall be a police force for Nigeria, which shall be known as the Nigeria police force, and subject to the provisions of this section no other police force shall be established-for the federation or any part thereof.

Subject to the provision of this constitution;

(a) The Nigeria Police Force shall be organized and administered in accordance with such provision, as may be prescribed by an Act of the National Assembly.

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2.W King, The Structure of American Law Enforcement (2021) (38) (3). *Justice Quarterly* 547.: J Ruiz, 'Federal, State and Local Law Enforcement: A Comparative Analysis' *Justice* (2020) (45) (2)*American Journal of Criminal Justice* 270: G.GAlpert, The Organization of Law Enforcement in the United States (2020) (30) (3) ) (*Policing and Society*-263: K Novak Law Enforcement in the United States: A Federal, State and Local Perspective(2020) (43) (2)*Journal of Crime and Justice* 157.

3.Section 214(1) Constitution of the Federal Republic of Nigeria 1999.

4.Hereinafter referred to as the Constitution.

The main import of section 214(l) lies in the fact that it creates one police force for the whole federation. Subsection 2(a) gives the National Assembly powers to make laws for the administration and organization of the police force. The structure of this single Police Force that operates throughout Nigeria is also a creation of the Constitution.<sup>5</sup>The Constitution recognizes two organs in charge of the Nigeria Police Force: Nigeria Police Council (NPC) and Police Service Commission<sup>6</sup>(PSC).Sections153(l)(i) and 153 (l)(m) of the Constitution make provision for the establishment of Nigeria Police Council and Police Service Commission. The Third Schedule, Part I (L) paragraphs 27 and 28 make provision for the composition and functions of NPC. Paragraph 27 provides:

The Nigeria Police council shall comprise the following members:

- (a) The President who shall be the chairman
- (b) The Governor of each state of the federation
- (c) The Chairman of the Police Service Commission, and
- (d) The Inspector General of Police

Paragraph 28 provides:

The functions of the Nigerian Police Council shall include:

- (a) The organization and administration of the Nigeria Police and all other matters relating thereto (not being matters relating to the use and operational control of the force or the appointment, disciplinary control and dismissal of member of the force);
- (b) The General supervision of the Nigeria police force; and
- (c) Advising the President on the appointment of the Inspector-General of Police.

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5.E Alemika, 'History, Context and Crises of the Police in Nigeria' (a paper presented at the Biennial Retreat of the Police Service Commission on the theme "Repositioning the Nigeria Police to Meet the Challenges of Policing a Democratic Society in the Twenty-first Century", Le Meridian Hotel, Uyo, Akwa Ibom, State 2010), 8.

6.The Nigerian Police Council and Police Service Commission were present in the 1963 Constitution. But only the former was absent in the 1979 Constitution.

Paragraphs 29 and 30 of the Schedule make provision for composition and functions of the Police Service Commission.

Paragraph 29 provides:

(a) The Police Service Commission shall comprise the following member: a chairman, and

(b) Such member or other persons, not less than seven but not more than nine, as maybe prescribed by an Act of the National Assembly.

Paragraph 30 provides

The Commission shall have power to

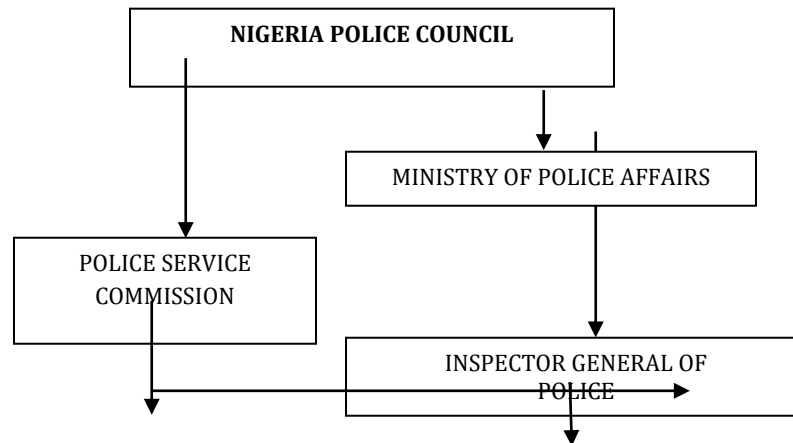
(a) appoint persons to office (other than the office of the Inspector-General of Police) in the Nigeria police force; and

(b) Dismiss and exercise disciplinary control over persons holding any office referred to in sub paragraph (a) of this paragraph.

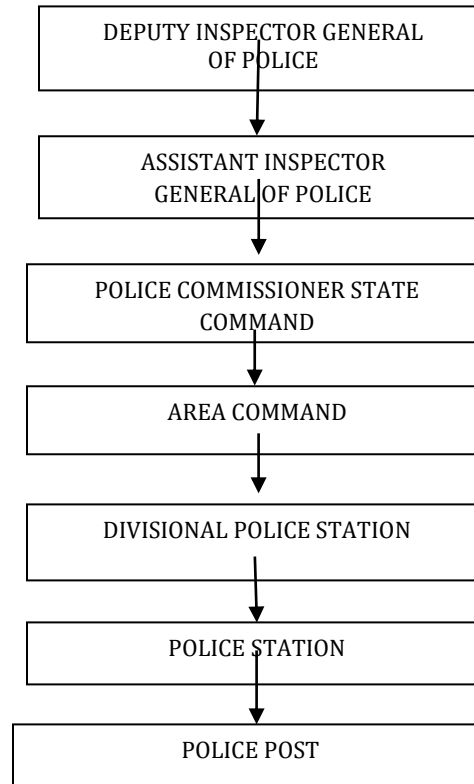
A close scrutiny of the above provisions shows that at the zenith of the structure is the NPC. The functions of the council as enunciated in the Constitution give it the power to control the Nigeria Police Force. As chairman of the council, the President possesses enormous powers which he may delegate to Inspector-General of Police or any other member by virtue of section 216(1) of the Constitution. In reality, the President exercises his powers through the Minister of Police Affairs in charge of the Ministry of Police Affairs. The Ministry supervises the police force on behalf of the President. The only aspects of supervision that are outside the purview of the Ministry are appointment and discipline which are handled by the Police Service Commission. Both the Service Commission and Ministry of Police Affairs communicate their decision to the NPC through the Inspector General of Police who is the Head of the Force. Section 215(1) provides that there shall be an Inspector-General of Police who shall be appointed by the President on the advice of the Nigeria Police Council from among serving members of the Nigeria Police force. The Inspector-General occupies the apex of the command structure.

Pursuant to the power vested on it by section 47 of the former Police Act,<sup>7</sup> which was amended in 2020, the Federal Military Government introduced changes in the administration and organization of the police force

by creating five directorates; operations, finance, criminal investigation, supplies and training. Two were later added: research and planning and information technology. Each of these is headed by a Deputy Inspector-General of Police. The Federal Military Government also created Zonal Commands headed by an Assistant Inspector-General of Police. The Zones are currently twelve in number. Each zone is divided into states. Each state is under the command of a Police Commissioner. Section 215(2) of the Constitution provides that each state shall be under the command of a Police Commissioner. Each state is divided into three senatorial districts known as Area Command. Each district is under an Area Commander. Each Area Command is in turn divided into divisions headed by a Divisional Police Officer. Under each division, there are different police stations. Under each police station is a police post. The relationship between the above offices and positions can be graphically represented thus:



7. Cap 36 Laws of the Federation of Nigeria (LFN) 2004.



The diagram above shows clearly that the structure of the Nigeria police force is unitary in nature as power is concentrated in the hands of the President and the Inspector General of Police.

Section 214(1) of the constitution makes provision for the establishment of a single police force to serve the entire Nigerian Federation. And Item 45 in Part 1 of the Second Schedule of the Constitution places the police and other government security services established by law under the Exclusive Legislative List. The legal implication of the combined effect of these provisions is that only the Federal Government can administer and control the Police in Nigeria. In other words, the various states that make up the Nigerian Federation are excluded from having influence over the police force stationed in their domain.

The only influence or power given to the states over the police force is captured in section 215(4) which provides as follows:

Subject to the provisions of this section the governor of a state or such commissioner of the Government of the state as he may authorize in that behalf, may give to the Commissioner of Police of that state such lawful direction with respect to the maintenance and securing of public safety within the state as he may consider necessary, and the Commissioner of Police shall comply with these directions or cause them to be complied with.

Provided that before carrying out any such direction under the foregoing provisions of this subsection the Commissioner of police may request that the matter be referred to the president or such minister of the government of the federation as may be authorized in that behalf by the President for his direction.

The above proviso appears to have eroded the power given to the State Government in the first paragraph of 215(4) in the sense that the Police Commissioner can only obey the State Governor when the President or Minister authorizes him to do so. At this point it is pertinent to raise one question, what is the propriety of sections 214(1) and 215(4) given the fact that Nigeria practices federalism?

This issue was raised in the case of *Attorney General of Anambra State v. Attorney General of the Federation and others*.<sup>8</sup> The facts of this case show that in 2003, Chris Ngige was sworn in as Governor of Anambra State. Shortly after assuming office as governor, Ngige fell out of favour with his political godfather Chris Uba who took a number of steps to oust him. First in July 2003, the Nigeria Police Force through the Inspector General of police abducted Ngige under the pretext that he had resigned from office. Second, having obtained a court order given by Justice Stanley Nnaji of the High Court in Enugu, the Federal Government withdrew the security details attached to Government House Akwa. And then finally in November 2004, a group of arsonists acting on the orders of Chris Uba, in what appeared like an attempt to cause the Federal Government to declare a state of emergency in Anambra State, unleashed mayhem on the Governor's official residence and other government buildings without the intervention of the police.

In order to protect itself, the Anambra State Government approached the Supreme Court praying it to make the following declarations: one, that the President or Inspector - General of Police has no constitutional authority to

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8.(2005)7 M. J. S. C. 1.

remove or withdraw police protection from any governor, or arbitrarily impose a state of emergency in the state; two, that the Governor has the power to give direction to the Commissioner of Police in order to maintain public order in the state without interference by the Federal Government. On the first issue the court held that the declaration sought by Anambra State was hypothetical and speculative as there was no evidence of a declaration of a state of emergency in Anambra State or threat to declare one that would necessitate the intervention of the court. On the second issue, the court held that the Governor of a state has the constitutional authority to give rightful directions to the State's Police Commissioner, but refused to condemn the withdrawal of Police men from Anambra State house because the withdrawal was based on a court order.

With due respect to my Lords, this judgment is flawed on many grounds. Firstly, the Supreme Court tried to run away from its duty of doing justice. The Supreme Court would have done justice if it had interpreted Section 215(4) in the light of Section 176(2) of the Constitution which recognized the Governor as chief executive officer of the State. By virtue of this recognition, the authority of the Governor must take primacy over the authority of the Police Commissioner in matters of the enforcement of the means of internal security in a state. It does not make sense to recognize the Governor as the chief security officer of a state and the same Constitution takes away the means of enforcing internal security and gives it to the Minister who is outside the State as there is no way the latter can have better knowledge of the security situation of the State than the former. Justice would have been done if the Supreme Court had resolved this contradiction.<sup>9</sup> Justice in this

context means providing a legal solution to resolve a contradiction that poses a legal challenge. The Supreme Court lost this opportunity to provide this solution when it deliberately refused to comment on the propriety of the lawful directive being subjected to the approval of the Minister. Furthermore, the Supreme Court would have come to the right conclusion if it had considered the purpose of the lawful direction which is the enforcement of the means of internal security within the States. The best person to achieve this purpose is the Governor because he has better knowledge of the security situation of the State<sup>10</sup> by virtue of the fact that he lives in the State and saddled with the responsibility of providing security. Unlike the Governor, the Minister lives outside the State and

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9.A.P Chiamogu, and U.P Chiamogu, 'Decentralizing the Nigerian Police Force: A Plausible Approach to Hinterland Security'. *Journal of Africa Conflicts and Peace Studies* (2023) (5) (21). 1

10.I.D Omwudiwe, 'The Future of State Police in Nigeria: A Focus on South east'. (2024 (14) (1) *African Journal of Criminology and Justice Studies* 3.

does not have a profound knowledge of the security situation except what he is told by the Police Commissioner through the Inspector General. Therefore, for the purpose of the lawful directive to be realized, it does not stand to reason to subject the directive of the Governor to the approval of the Minister. by holding that the State Governor has right to give lawful directive to the Commissioner of Police without saying more, the Supreme Court lost the opportunity to correct the flaw in the proviso to section 215(4) which is to the effect that such lawful directive should be referred to the President or Minister for approval. This proviso makes the Governor a subordinate or an agent of the President or Minister in a country that practices federalism.<sup>11</sup>

For the purpose of accountability, there is need to ask one question: is the Nigerian Police Force effective in the provision of internal security which is the primary responsibility of the Government?<sup>12</sup>The Police maintain law and orders, protect lives and properties and prevent and investigate crime within a defined area.<sup>13</sup>The success of a security outfit depends on its strategies and structure.<sup>14</sup>The Nigerian Police Force has suitable strategies, but is challenged by lack of appropriate structure.<sup>15</sup> As noted in the abstract of this paper, Nigeria is the only federation that has a single police force<sup>16</sup>that caters for the whole federation. This structure hampers the effective discharge of police duties. The consequence of this is that the performance of Nigerian Police Force is not only unsatisfactory<sup>17</sup>but has created a situation where there is no security in Nigeria.

This same flaw was replicated in the case of *Attorney General of Kano State v. Attorney General of the Federation*.<sup>18</sup> In this case, the Kano State government set up the Hisbah Corps to enforce Islamic law in Kano State. The activities of this group soon brought it into conflict with the Nigeria Police. The Inspector-General reacted to the conflict by issuing a ban on the activities of the Hisbah Corps.

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11. B.O. Nwabueze, *How Obasanjo Subverted Nigeria Federal System* (Gold Press, 2007), 415. In this book, Nwabueze criticized the treatment of State Governors as subordinates or agents of the Federal Government by Obasanjo as a carryover of military mentality.

12. Section 14(2) (b) Constitution Federal Republic of Nigeria 1999.

13. E.J. Miller, 'The Concept of the Police' (2023) (17) *Criminal Law And Philosophy* 580.

14. H. Obi-Anike, 'Strategic Restructuring for Effective Police System in Nigeria' (2014) *Journal of Governance and Regulation* 1.

15. *Ibid* 1.

16. A. Onoja, et al' Policing: A Viable Alternative to Unitary Policing System and Crime Control in Contemporary Nigeria.' (2024) (4) (3) *Gusau Journal of Sociology* 293.

17. I. Alkali and J. Yaya, 'An Assessment on the Role of Nigerian Police Force in detecting and preventing Crime in Fagge Local Government Area' (2019) (2). *International Journal of Intellectual Discourse* 270.

18. (2007) 6 M.J.S.C. 161.

Challenging this ban, the Kano State Government asked the Supreme Court to declare the establishment of the Hisbah Corps as consistent with her constitutional powers to legislate for the peace, order and good government of the state, and to restrain the Inspector-General from arresting Hisbah members. The court held that since the conflict did not entail a constitutional confrontation over the relative powers of the federation and its constituent state, it has no jurisdiction to entertain the subject matter of the suit. The court explained that the conflict involved an administrative dispute between an agency of Kano State and two agencies of the Federal Government (the Police Force and Federal Ministry of Information).

Again, by handing down this judgment, the Supreme Court shied away from making a definitive statement on the propriety of section 214(1) of the Constitution in a country that practices federalism. The flaw of this judgment is at once obvious when one considers the relationship between an agent and its principal. The law on agency states that the act of the agent is binding on the principal with respect to dealings of the agent with a third party except where an agent is on a frolic of his own.<sup>19</sup>In this case, the police and the Federal Ministry of Information are agents of the Federal Government, While Hisbah is an agent of Kano State. If a dispute arises between an agency of a state government and federal agency acting on behalf of the Federal Government, it cannot be said that the dispute does not involve the Federal Government and the State Government in their capacities as principals. The Supreme Court had to deliver this judgment in order to escape the task of identifying the flaws in the Constitution of the Federal Republic of Nigeria 1999.

Beyond the escapist attitude of the Supreme Court lies the question: do sections 214(1) and 215(4) of the Constitution offend the principles of federalism with respect to the structure of the police system? To answer this question, one has to examine the meaning of federalism. Justice Niki Tobi JSC (as he then was) argued strongly in *Olafisoye v Federal Republic of Nigeria*<sup>20</sup> that federalism can only mean what the Constitution says it is. In other words, the meaning of federalism can only be identified within the confines of a particular constitution. This view has drawn flaks from a number of scholars prominent amongst whom are Sagay and Nwabueze. While criticizing Tobi's view, Sagay made this observation:

With due respect, his lordship was wrong. I agree entirely with professor Nwabueze's response to the above statement that his

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19. *NNPC & Anor. V Trinity Mills Insurance Brokers & Ors* (2018) LPELR – 44251 (SC).

20. (2004) 4 NWLR (part 664) 580.

lordship rationalization simply reduces federalism or federal government to a concept without a specific meaning, it empties it of all content, for it would mean that whatever a particular constitution by its provisions say it is. That would be absurd. Federalism like any other concept must have some core or basic principle which defines its essence or it does not exist as a constitutional or political concept.<sup>21</sup>

There are two main principles of federalism: the existence of at least two levels of government, centre and units, which share power according to a legislative list of competence in a constitution; two, the two levels of government are autonomous or independent of each other within the legislative list of competence within the concurrent list. The problem with federalism the way it is practiced in Nigeria is not that power is not shared between the two levels of governments, the problem lies in the manner power is shared. Power is shared in such a way that the centre carries too many responsibilities to the detriment of the States or units in the Federation.<sup>22</sup> For instance, the Federal Government alone has sixty-six items on the Exclusive List, while the States and Federal Government have concurrent jurisdiction over fourteen items in the Concurrent list<sup>23</sup>By the application of the principles of the co-existence of power and the doctrine of covering the field,<sup>24</sup> the Federal Government has access to the entire eighty items in both Concurrent and Exclusive list, while the States have access to only ten items. The immediate result of carrying too many responsibilities is that Nigeria is faced with a situation where the Federal Government is ineffective in the discharge of these responsibilities. Nowhere else is this inefficiency more glaring than in the provision of internal security which is the primary responsibility of the police.<sup>25</sup>This lopsidedness in the sharing of power offends

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21.I Sagay 'Nigeria: The Unfinished Federal Project', (a Paper Presented at the Eight Justice Idigbe Memorial Lecture of the Faculty of Law, University of Benin, Akin Deko Auditorium 2008), 20.

22.N. A. Inegbedion and E. Omoregie, 'Federalism in Nigeria: a Re-appraisal', *Journal of Commonwealth Law and Legal Education*, (2006): (14), (1) 74; B.O. Nwabueze, *Federalism in Nigeria Under the Presidential Constitution*, 2<sup>nd</sup> ed. (Sweet & Maxwell, 2003) 26; A Ipaye, "Incidental Powers and the Fundamental Objectives of State Policy as Source of Legislative Jurisdiction: A Review of the Supreme Court's Decision in *AG Ondo State v. A.G. Federation & Ors*" (2009): (1) (1) *Appellate Review*, 29; R T Suberu, 'The Supreme Court and Federalism in Nigeria', (2008): (46). (3) *Journal of Modern Africa studies*, 456; and C.U Okoboh, 'Violation of Federalism in the Fourth Republic', (2006): (4) *Igbiniedion University Law Journal* 261.

23.Second Schedule Part 1 and 2 Constitution of the Federal Republic of Nigeria, 1999.

24.Section 4(5) Constitution Federal Republic of Nigeria 1999.

25.O.A. Aso, 'Federalism and Political Re Structuring in Nigeria: Addressing the State Police Conundrum'. (2025) (9) (2) *UniPort Law Review* (242).

the first principle of federalism in that it gives Nigeria a unitary outlook or structure.<sup>26</sup>

This view was given judicial notice in *Attorney General of Abia State v Attorney General of the Federation*<sup>27</sup> where his lordship H.M Ogunwumiju (JSC) made this remark:

The Nigerian brand of federalism, as outlined in the 1999 Constitution, differs from other federalism brands due to its quasi-federal or elevated unitary system of government rather than the theoretical brand of federalism envisaged by political and legal theorists.

In the provision of internal security, power is concentrated at the Centre. The Commissioner is responsible to the Inspector General of Police.<sup>28</sup> The implication of these provisions is that the State Governors do not have the means of enforcing law and order within their States. "A State Government that does not have the means to enforce law and order within its territory is not a government but an administrative agency or an appendage of the Federal Government."<sup>29</sup> How can a nation like Nigeria with all her diversities have one police force to cater for the security of the entire Nation? The fact that Nigeria is the only federation in the whole world where there is one police force that caters for the internal security of the entire nation raises a question about the efficiency of the structure of the police system in Nigeria.

Furthermore, this concentration of power at the centre to the detriment of the states in the Nigerian federation has led to a situation where the federal government regards the state government as its agent or subordinate.<sup>30</sup> The subjugation of the lawful directive of the Governor to the approval of the Minister is a reflection of centralization of the means of the enforcing internal security in Nigeria. The implication of this centralization is that in the issue of

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<sup>26</sup>Y. Isa, and Y. Saidu, 'Ownership and Control of Mineral Resources and Emergency (2018) Trends' *Nigerian Institute of Advance Legal Studies Journal of Public Law*, 22; J.A. Magbonika, 'Nigerian Federalism: Problem and Prospects (2016)' *Kogi State University Bi Annual Journal of Public Law* 14.

<sup>27</sup>. (2022) LPELR – 57010 (SC) 130.

<sup>28</sup>. Section 215(2) Constitution Federal Republic of Nigeria 1999.

<sup>29</sup>. J.A. Bamidele, 'Regional Security Outfit and Governance, Structure in Nigeria: A Road Map in Sustainable Development (2020)' (5) *International Journal of Arts, Language, and Business Studies* 195.

<sup>30</sup>. B.O. Nwabueze, *How Obasanjo Subverted Nigeria Federal System* (Gold Press (Enugu, 2007), 415. In this book, Nwabueze criticized the treatment of state governors as subordinates or agents of the Federal Government by Obasanjo as a carryover of military mentality.

internal security which affects public safety, the State Governor is not independent of the President. Here in lies a contradiction of the second principle of federalism. This contradiction becomes more worrisome when one considers the fact that the same constitution makes State Governors the chief executive officers of their respective states.<sup>31</sup> By virtue of this fact, the Governor is chief security officer of the State.

While section 11(1) of the Constitution empowers the National Assembly to make laws for public order and the provision of supplies and services, subsection 11(2) empowers the House of Assembly of the various States to make laws for public safety and the provision of supplies and services. The implication of 11(2) is that the Constitution imposes a burden on the various State Governments to supply materials and services to the police for the purpose of ensuring public safety. When section 11(2) is juxtaposed by 214(4), one draws the conclusion that the Constitution promotes a situation in which the State Governors are required to support a police force over which they have no control. Consequently, we have a situation in which the

Federal Government maintains control over the police while sharing the burden of financial support with the States.

### **3.1 The Structure of the Police System in the United States of America.**

The legal framework of police system in the United States of is woven around two topics, structure and power. The preamble of the Constitution of the United States<sup>32</sup> provides as follows:

We the people of the United States in order to form a more perfect union, establish justice, ensure domestic tranquility,

provide for the common defence, promote the general welfare, and secure the Blessings of Liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.<sup>33</sup>

The use of the word Union in the above preamble draws attention to the relationship between the Central Government and the States. It is a relationship in which power is shared between the Central Government and the States with respect to the legislative list of competence. This system of government

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31. Section 176(2) Constitution of the Federal Republic of Nigeria 1999.

32. Hereinafter referred to as the Constitution.

33. This is the part of the Constitution that acts as introduction

otherwise known as federalism creates two lists, Exclusive and Residuary. Article 1(1") of the Constitution provides that all legislative powers herein granted shall be vested in the Congress of the United States of America which are consist of Senate and House of Representatives. Article 1(8) of the Constitution identifies all the items which only the congress can legislate upon. This article provides as follows: The congress shall have power:

1. To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the Unites States;
2. To borrow money on the credit of the United States;
3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;
4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;
5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;
6. To provide for the punishment of counterfeiting the securities and current coin of the United States;
7. To establish post offices and post roads;
8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;
9. To constitute tribunals inferior to the Supreme Court;
10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marquee and reprisal, and make rules concerning captures on land and water;

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever, over such District(not exceeding ten miles square)as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of torts, magazines, arsenals, dockyards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

The Tenth Amendment to the Constitution makes provision for the powers which can be exercised by the various states that make up the United States. This Amendment provides that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States or to the people. Article 1(10) of the Constitution provides for powers prohibited by the Constitution to the States. This article provides;

No state shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing

its inspection laws; and. the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United

States; and all such laws shall be subject to the revision and control of the Congress.

No states shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact

with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

Although there is no list of powers not delegated to the Federal Government of the United States, from a consideration of the combined effect of Article 1 (10), Article 1 (8) and the Tenth Amendment, one can rightly say that the power to legislate on the police is one of such powers that are not delegated to the Central Government<sup>34</sup> or prohibited to the States. As one of such powers, states that make up the Federation can legislate on the police. Pursuant to this power and the power to provide for the common defence and general welfare of the United States as contained in Article I(8)(a) of the Constitution, both the Federal and State Governments have powers to legislate on the police. Consequently, policing in the United States is the responsibility of a combination of federal, state and local agencies<sup>35</sup>. In line with the principle of autonomy, each level of government has its own police system made up of several police forces whose jurisdictions are clearly defined.

### 3.1.1 The Federal Police System

Policing at the Federal level in the United States is achieved through the establishment of a number of police forces charged with the responsibility of implementing federal laws. According to Marenin:

Policing at the federal level can be dated to 1790, when congress established a revenue marine force, subsequently called Revenue Cutter service and has long since been known as the U.S. Coast Guard, to police the nation Coast and to enforce the revenue laws of the country. Between 1790 and 2011, the number of police forces has increased greatly. At the moment there are eighty federal law enforcement agencies.<sup>36</sup>

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34. CG Bradley, *State Police and Tenth Amendment Jurisprudence* (2021) (44) (1) *Harvard Journal of Law and Public Policy* 159.

35. F Adler, et al, *Criminal Justice, an Introduction* 2<sup>nd</sup>ed. (McGraw-Hill Higher Education, 1996), 112.

36. O Marenin, 'The Police in a Federal System: The Case of USA', In ed Philipp Fluri and Murlene Urschler (eds) *Policing in Federal States*, Geneva Centre for the Democratic Control of Armed Forces (2011), 36.

This number increased to eighty-three in 2020.<sup>37</sup>Some of the prominent Federal agencies include the following: one, Federal Bureau of Investigation (FBI) which has jurisdiction over all matters in which the United States is an interested party and enforcement of federal laws not assigned to other agencies;<sup>38</sup>two, Bureau of Alcohol, Tobacco, Firearms and Explosives(ATF) which has jurisdiction over issuance of Federal Firearms licenses and permit for import and

export of Firearms, voluntary compliance with Federal Alcohol and Tobacco taxes and enforcement of Federal Firearms Law;<sup>39</sup> three, Immigration and Naturalization Service (INS) whose jurisdiction is to oversee the admission, naturalization, exclusion and deportation of illegal aliens; four, Immigration and Customs Enforcement (ICE) whose jurisdiction is to check persons crossing the border at checkpoints;<sup>40</sup>Five, The United States Secret Service whose jurisdiction is to protect the President and Vice President, their families, Presidential candidates and visiting Heads of States<sup>41</sup>six, United States Marshals whose jurisdiction is to implement court rulings, transport prisoners and enforce court orders.<sup>42</sup>

Over the years, the Federal Government of the United States has created other police forces to tackle security problems. The first of this is the Special Weapons and Tactics (SWAT) Teams. This force was created in response to violent urban crimes. Members of this force are trained by military, and they employ military tactics in quelling security upraising. Another of such force is the Homeland Security. This was created in response to terrorist attack in September 11; 2001. The department usually relies on local Police in its investigation, information acquisition and arrest of offenders.

### 3.1.2 State Police System

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37. Congressional Research Service, Federal Law Enforcement Agency: Authorities and Actions (2020) Report number R4 5774.

38. FBI Fact Sheet, <http://www.fbi.gov/general/facts>. accessed 22<sup>nd</sup> May 2024,

39. Bureau of Alcohol, Tobacco, and Firearms,

1997. Report, <http://www.atf.ustreas.gov/pub/report97.htm>. accessed 29<sup>th</sup> May 2024.

40. Border Patrol Today, <http://www.usbp.com/today.htm> July 29 1988 accessed 29<sup>th</sup> May 2024.

41. B Reaves. *Profile of State and Local Law Enforcement Agencies* (, A.C: Department Of Justice, Bureau of Justice Statistics, Washington, 1997), 3.

42. The U. S Marshal Service's World-Wide Website

<http://www.usdoj.gov/marshalls/overview.htm/>. accessed May 28, 2024.

While the Police Forces at the federal level mainly enforce federal laws, all other police forces in the United States enforce State laws which derive validity from the Constitutions of the various States. Hence, they are known as State Police or Troopers. On the basis - of their territorially defined jurisdiction, state police can be classified into those that operate state wide, those that operate countywide and those that operate within the municipalities. The last two groups constitute local police system.

There are fifty states in the United States of America. Apart from Hawaii which does not have state police force, a close examination of the police forces in the other states shows that there are three types of law enforcement agencies: the state police, highway patrols and state investigative agencies.<sup>43</sup> While some states like Oklahoma have all the three types, others like Michigan have collapsed the three into one.<sup>44</sup> The main

jurisdiction of State Police is the control of traffic on the highway system, tracing stolen cars and lending a helping hand to the Local Police in crowd control.<sup>45</sup> They also provide protection to the Governor and state

properties. Beside these, State Police carry out investigation of crime. The extent to which the State Police carry out these roles is dependent on the size of the local police force in a particular state.<sup>46</sup> In states where there are many sheriff departments, the State Police jurisdiction is usually confined to the highway, whereas in states where the sheriff department is small, State Police is saddled with the duty of investigating crimes.<sup>47</sup> In furtherance of their role of investigation, all States Police with the exception of two states maintain intelligence unit.<sup>48</sup> Most states also have forensic laboratories from where forensic services are made available to the local police agencies within the state.<sup>49</sup>

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43.B Reaves (n26). 127

44.D A. Torres, *Handbook of State Police Highway Patrols and Investigative Agencies* (Greenwood Press, 1987), 12.

45.Ibid,14.

46.B Reaves. (n26). 6

47.L j Siegel, *Criminology*, 10<sup>th</sup> ed. (Thompson Higher Education, 2006), 486.

48.F Adler, et al (n21): 126.

49.P Finn and D M Gillis, 'Public Safety at the State Level: A Survey of Major Services', *a Journal of Criminal Justice* (1990): 133.

### 3.1.3 Local Police System

The local police system is made up of the County Police Forces and MunicipalPoliceForces.

#### a. County Police

The County Police<sup>50</sup> has jurisdiction over a County. It is headed by Sheriff who is elected by the people in the county. As an elected officer, the Sheriff wields enormous political powers. The Sheriff is the chief executive officer and conservator of the peace of the county. As an officer the sheriff shall

1. Arrest and commit to prison all persons who break the peace, attempt to break it and all persons guilty of public offences;
2. Defend the county against those who by riot or otherwise endanger public peace and safety;
3. Execute the process and orders of the courts of justice or judicial officers when delivered for that purpose according to law;
4. Execute all warrant delivered for that purpose by other public officers according to the provisions of particular statutes;
5. Attend the section of courts of record within the county and obey their lawful order and direction;
6. Keep and preserve the peace in the respective counties and suppress all affrays, riot, unlawful assemblies and insurrections.<sup>51</sup> It is important to mention that with the exception of some counties like Honolulu, Baltimore, St Louis, Assau and Suffolk that maintain police departments, most counties are run by means of sheriff's agency.<sup>52</sup>

#### b. Municipal Police Forces

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50. The States in the United States except Alaska are divided into smaller political units for administrative purpose. The political units that exist in the rural areas are called Counties, while those in the urban areas with high population are called Municipal. The equivalent of counties and Municipal is the Local Government Council in Nigeria.

51. Section 36 *Washington Criminal, Vehicle and Related Statute. Olympia, WA: 2022*

52. B Reaves, 16 (n26).

These are Police Forces that exist in large cities usually with high population. And because they cater for the need of many people in the city, municipal police forces are one of the largest governmental employers of labour. The Municipal Police Department use military terms to designate the rank of the officers, such terms include captain, lieutenant, sergeant etc.

### **3.1.4 Private Police**

This Police Force forms an integral part of the police system in the United States. It is a force set up by individuals who provide security for citizens who can afford it. These individuals form private security companies for the purpose of dispensing this service.<sup>53</sup>

### **3.1.5 Special Purpose Police**

These are police forces that possess powers within specified jurisdictional limit that cuts across political boundaries, Examples include Transit Police, Public Housing Police, Airport Police, Public School Police, and Park Police. These Police Forces maintain security within the territory where they have authority, for instance, the Airport Police Force has authority within the precinct of the airport.<sup>54</sup>

## **4.1 The Characteristics of the Police Forces in the United States of America**

The United States has so many police forces. In fact, each state (except Hawaii) has its own police force in addition to several police forces created by the Central Government. At the local government level, there are numerous police forces that cater for internal security. The enormous size of police forces operating in the United States of America is captured in the book *Public Order and the State: Policing in Great Britain, Northern Ireland, the Irish Republic, the USA Israel, South Africa and China*<sup>55</sup>

Since 1945, the police forces of the USA have remained among the most decentralized and locally-based of any in the world. Five types of police

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53.W F. Walsh and E J. Donovan, 'Private Security and Community Policing: Evaluation and Comment 1989' *Journal of Criminal Justice*, (17)187W C. Cunningham, et al, *Private Security: Patterns and Trends, Research in Brief* (, DC: National Institute of Justice, 1991),75.

54.Adler, et al (n26).

55.J O. Brewer et al, *The Police, Public Order and the State: Policing in Great Britain, Northern Ireland, the Irish Republic, the USA, Israel, South Africa and China*, 2nd ed. (Blackwell, 1983), 110.

agency can be identified: the Federal system which includes officers attached to the Department of Justice (the Federal Bureau of Investigation), the Bureau of Internal Revenue (specializing in tax evasion), the United States Secret Service, the Drug Enforcement Administration, and the Postal Inspection

Service; police forces and criminal investigation agencies established by each of the 50 states; sheriffs in 3000 counties and county police forces; police force in about 1000 cities and 2000 townships; and, finally, police forces based in 15 000 villages and boroughs, as well as special forces for Washington DC, for university campuses and for many tunnels, bridges, piers, and major installations. Today there are about 40000 police forces in the country ranging in size from New York City's 30000-strong Police Department down to one-man forces in many remote locations. 90 percent of all municipalities with more than 2500 inhabitants have their own force. And 80 per cent of all forces employ fewer than 10 policemen. About 3000 forces are based on counties, 3000 in cities, and the remaining 33000 are distributed throughout boroughs, towns and villages. The degree to which functional specialization exists within police forces varies according to size. Members of small forces in rural locations fulfill a wide range of roles, while members of very large city forces are dispersed among several precincts and specialize narrowly in distinct areas of police work, such as traffic, narcotics, or community relations. The concept of local autonomy prevails, and tends to reinforce the structural decentralization depicted here.

Two characteristics of the structure of police forces in the United States are immediately noticeable from the above statement: firstly, that power is shared between the Central Government and the States in such a way that authority is decentralized; secondly, each police force is autonomous of the other. Again, unlike Nigeria where power is concentrated at the center, the United States operate a system in which power is decentralized. This decentralization of power creates a situation in which more authority is given to the police forces in the counties to perform the major duty of the police which is the protection of lives and property of the citizens. Each police force in the United States enjoys autonomy in the discharge of its duty. This autonomy exists because each tier of government is truly independent of each other. Were the states regarded as agents of the centre, this autonomy would have been compromised.

One other characteristic of the structure of police system in the United State of America is the existence of multiple police forces. One way by which the system has prevented conflict between these forces is by defining the jurisdiction of each force. In other words, the power of enforcing the law is confined to a specific territory. However, there could exist a situation in which more than one police

force may have jurisdiction. This kind of situation otherwise known as jurisdictional overlap constitutes one major drawback of the structure of the police system in the United States of America. Overlapping jurisdiction is a drawback because "it leads

to rivalries between police forces, duplication of effort and ultimately to a less efficient prosecution of criminals"<sup>56</sup>

### **5.1A Comparative Analysis of the Structure of Police Forces in Nigeria and the United States of America.**

A comparative analysis of the structures of police systems in Nigeria and the United States shows clearly that there are differences between both systems even though both countries practice federalism. The first noticeable difference is the fact that Nigeria runs a system that is made up of one police force that caters for the whole federation, while the United States runs a system that is made up of multiple police forces.

The reason for this difference is partly historical -in the case of Nigeria, the units that make up the Federation were created by the centre, whereas in the case of the United States, the centre was created by the units. Although the northern and western regions had their own local police forces called Native Authority Police, conscious efforts were made to merge these forces with the police force at the centre.<sup>57</sup> A number of reasons were advanced for this merger: one, the minority expressed fears that majority tribes may use the police force as a tool of domination;<sup>58</sup> two, local politicians in the western and northern regions of Nigeria used the police force to hunt down political enemies.<sup>59</sup> In the case of the United States, the centre was created by the States that came together to form the Union.<sup>60</sup> The initial States that came together to form the union had their separate police forces which remained autonomous after they became part of the United States.<sup>61</sup>

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56. Ibid, 111.

57. T.N Tamuno, *The Police in Modern Nigeria, 1861---1965: Origins, Development and Role* (Ibadan University Press 1970) 70.

58. O. Ohonbamu, 'The Dilemma of Police Organization Under a Federal System: The Nigerian Example' (1972)(6) *The Nigeria law journal* 86.

59. K. Rotimi, 'Local Police in Western Nigeria: End of an Era', In T.N Tamuno et al (eds) *Policing Nigeria: Past, Present and Future*, (Malthouse, 1993) 7.

60. H. W. Elson, *History of the United States of America* (Macmillan: (1904) 252.

61. G. Potter, *The History of Policing in the United States*, Part 1

[www.plsonline.eku.edu/insidelook/history-policing-united-states-part-1](http://www.plsonline.eku.edu/insidelook/history-policing-united-states-part-1) accessed 14th June 2024.

Another difference lies in the fact that in the police system in Nigeria power is centralized in the sense that it is concentrated at the top hierarchy of the force, whereas in the police system in the United States power is decentralized in the sense that it is concentrated in the police forces that exist at the local level. The immediate effect of this concentration of power at the top is that Nigeria has a police force that is characterized by inefficiency, bureaucracy, corruption and ignorance. For the United States, the effect of decentralization is that the police system is efficient and less corrupt

### **6.1 Findings**

In view of the foregoing, this paper identifies the following findings:

1. That in contrast to Nigeria, the Police System in the United State is made up of multiple police forces with the bulk of the forces stationed at the State level. Admittedly, this structure reflects the principle of Federalism, and does promote effective discharge of police duty.
2. The existence of a single police force in Nigeria that cater for both Federal and States is a violation of the principle of Federalism in the sense that the concentration of power at the centre hampers the effective discharge of the duties of police.

### **7.1 Recommendations**

From the foregoing, this paper hereby makes the following recommendations:

1. In line with the principle of autonomy which reflects federalism, there should be multiple police forces in Nigeria with each tier of government having its own police forces which is completely independent. Accordingly, sections 214, 215 and 216 of the Constitution should be amended. And Item 45 in Part 1 of the Second Schedule and Part L of the Third Schedule of the Constitution should be amended.
2. In consonance with the principle of subsidiarity, the power to enforce internal security within the State should be concentrated in the police forces at the State level. This principle directs powers should rest with the lower-level subunit of a political system unless allocating them to a higher-level central unit would ensure higher comparative efficiency.

**8.1 Conclusion:**

The paper has examined the structure of police system in Nigeria and the United States. A comparative study of the two reveals that while the former runs a police system made up of single police force, the latter runs a police system that is made up of multiple police forces. Besides, power is concentrated on the top hierarchy of the Nigeria police, while power is concentrated at the lower levels of government at the State level in the case of police forces in the United States. This writer argues that while the police system of Nigeria does not reflect the principle of autonomy, the police system in the United States does. The implication of this difference is that the police system in the United States is better and more efficient than the police system in Nigeria. It is therefore suggested that Nigeria should adopt the system of the police system in the United States.